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Deborah E. Nelson (Idaho State Bar # 5711)
GIVENS PURSLEY LLP
601 Bannock Street, Suite 200
P.O. Box 2720
Boise, ID 83701-2720
Telephone: (208) 388-1200
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Attorneys for Idaho Ground Water Appropriators, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE REQUEST FOR ADMINISTRATION IN WATER DISTRICT 120 AND THE REQUEST FOR DELIVERY OF WATER TO SENIOR SURFACE WATER RIGHTS BY A & B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY

Idaho Ground Water Appropriators, Inc. ("IGWA"), through its counsel Givens Pursley LLP and on behalf of its ground water district members, Aberdeen-American Falls Ground Water District, Magic Valley Ground Water District, Bingham Ground Water District, North Snake Ground Water District, Bonneville-Jefferson Ground Water District, Southwest Irrigation District, and Madison Ground Water District (the "Ground Water Districts"), pursuant to the Director’s April 19, 2005 Order ("Order"), hereby files with the Director, Idaho Department of
Water Resources ("Director") its Plan for Providing Replacement Water ("Replacement Water Plan").

INTRODUCTION

This Replacement Water Plan fulfills the requirement in paragraph 9, page 45, of the Director’s April 19, 2004 Order ("Order") requiring North Snake, Magic Valley, Aberdeen-American Falls, Bingham, and Bonneville-Jefferson Ground Water Districts, all of whom are located in Water Districts 120 and 130 (the "120/130 Districts") to "file a plan for providing . . . replacement water with the Director, to be received no later than 5:00 pm on April 29, 2005.” The Order specifies that such plan is to provide a minimum of 27,700 acre-feet of replacement water to certain members of the Surface Water Coalition ("SWC") during the 2005 irrigation season.

On February 8, 2005, the Ground Water Districts filed with the Department the Ground Water Districts Mitigation Plan for the American Falls Reach of the Snake River (the “February 2005 Mitigation Plan”) demonstrating how they would provide mitigation, as or when necessary, to surface water users in the American Falls reach of the Snake River ("AFR"), which is the reach measured by the Near-Blackfoot and Minidoka river gauges. The February 2005 Mitigation Plan is broad enough in scope and substance to satisfy the minimum requirements the Director’s Order imposes on the 120/130 Districts for 2005. This is particularly so with respect to the quantities of water that are expected to be available to the plan participants as replacement water, and the alternative or additional actions that they might undertake.

However, because the Director’s Order contains requirements not contemplated in the February 2005 Mitigation Plan, and because it provides a specific obligation for replacement water in 2005, this Replacement Water Plan is submitted to comply with the Director’s Order.
The Ground Water Districts are not proposing at this time to withdraw or amend the February 2005 Mitigation Plan.

To the extent that this Replacement Water Plan is deemed a mitigation plan under the Department’s Conjunctive Management Rules, and due to the extremely short period of time allowed by the Directors’ order to submit this document, the Ground Water Districts incorporate herein by reference each provision of the February 2005 Mitigation Plan as may be required by such rules to be included in a mitigation plan under consideration by the Department.

REPLACEMENT WATER PLAN

A. Replacement water to be provided in 2005.

1. 27,700 acre-feet. Paragraph 5, page 44, of the Order requires the 120/130 Districts to provide at least 27,700 acre-feet of replacement water to certain members of the Surface Water Coalition in 2005 for mitigation (the “2005 Replacement Obligation.”). Acting on behalf of the 120/130 Districts, IGWA hereby commits to make available 27,700 acre-feet of replacement water during the 2005 irrigation season to meet the 2005 Replacement Obligation from one or more of the sources shown in Attachment A.¹

   a. Documentation of the 120/130 Districts’ entitlement to these volumes of water for use as replacement water for mitigation purposes in 2005 is contained in Attachment B hereto.

   b. Unless the Director otherwise requires, IGWA will determine which of these water sources will be provided to meet the 2005 Replacement Obligation, and will, at the appropriate time, notify the Director in writing and authorize him to take

¹ IGWA assumes that the Order’s selection of 27,700 acre-feet in this context is based on a preliminary determination of material injury by the Director, and that this amount might be reduced based on information available to the Director during the course of the irrigation season. If it subsequently is determined that there is no material injury this water delivery will need to be credited back to IGWA.
immediate control of such water and instruct the District 1 Watermaster or other agents or employees to deliver it to fulfill the 2005 Replacement Obligation.

2. Disposition of Additional Water On-Hand During 2005. In addition to meeting the 2005 Replacement Obligation this year, IGWA will, on behalf of the 120/130 Districts, arrange for delivery through the North Side Canal of up to 45,500 acre-feet of water from one or more of the above-described sources.

a. This water is proposed to be used in the discretion of the North Snake Ground Water District and Magic Valley Ground Water District to: 1) provide water to the Sandy Pipeline Ponds to augment the water supply to water right holders in the Billingsley Creek subreach of the Thousand Springs Reach ("TSR"); 2) provide a surface water source for irrigation of lands previously converted from ground water irrigation as part of ongoing, stipulated and Department-approved mitigation actions of these Districts; and 3) potentially undertake small-scale, targeted recharge intended to augment the water supply to water right holders in the TSR.

b. At such time as required by the Director, IGWA may designate additional amounts of any remaining, on-hand water reserved by the Ground Water Districts for the Director to deliver to the account of certain members of the SWC. IGWA contemplates that unless the Director issues a subsequent order finding material injury during the 2005 irrigation season that cannot be satisfied by delivery of the 27,700 acre-feet, and requires additional water from the 120/130 Districts during the 2005 irrigation season, any

2 The 120/130 Districts request that the Department take necessary steps to insure that the Districts' supplies of mitigation water are properly represented in the District 01 storage accounting procedures so as to support the periodic delivery of replacement water at the direction of the 120/130 Districts in accordance with this Plan. Further, the 120/130 Districts request that they be given timely notice from the Department of any changes in their replacement water obligation due to the Director's ongoing review of potential material injury during the water year, and that they be given timely notice of any pending or potential reassignment of water from their mitigation account associated with end-of-year account closures, finalizations, book-overs or distributions.
additional amounts that the 120/130 Districts may provide to certain members of the SWC as mitigation in 2005 will be quantified and delivered concurrent with completion of the season-end Water District 01 surface water accounting.

B. Mitigation Credits

The 120/130 Districts intend to document and take full credit for all reach gains demonstrated by the Department’s ESPA model to accrue to the AFR in 2005 and subsequent years from: (a) all mitigation actions the 120/130 Districts undertake in 2005 beyond providing replacement water to satisfy the 2005 Replacement Obligation; and (b) mitigation actions they have undertaken in prior years pursuant to mitigation plans, substitute supply arrangements, or interim agreements that can be applied to any amounts of required mitigation remaining after the 2005 Replacement Obligation is satisfied. To the degree they accrue, these credits will be claimed as follows:

3. Mitigation credits for reach gains attributable to WD 130 mitigation actions. The 120/130 Districts will claim credit for all reach gain benefits that the Department’s ESPA model indicates will accrue to the AFR as a result of the actions described in paragraph 2 above.

4. Mitigation credits for reach gains attributable to voluntary curtailments of ground water withdrawals in 2005. The 120/130 Districts will claim credit for all reach gain benefits that the Department’s ESPA model indicates will accrue to the AFR as a result of any other actions they undertake that increase such reach gains, including, but not limited to, dry-year leasing of ground water-irrigated acres, cropland set-asides, District-wide percentage reductions

To the extent that any 2005 mitigation obligation is carried over to subsequent years or additional mitigation obligations accrue in subsequent years, the Districts will continue to document, obtain and apply to any remaining mitigation obligation set forth in the Director’s Order beyond the 2005 Replacement Obligation, mitigation credits from all residual reach gain benefits to the AFR resulting from 2005 and prior and subsequent years’ mitigation actions.
or individual reductions of irrigated acres under ground water rights of certain of the 120/130 Districts’ members.

5. **Mitigation credits for reach gains attributable to previous years’ mitigation actions.** The 120/130 Districts will claim credit for all reach gain benefits that the Department’s ESP A model indicates will accrue to the AFR as a result of specific mitigation actions implemented before April 2005 pursuant to mitigation plans, substitute supply arrangements, or interim agreements. Documented and estimated reach gains attributable to these prior year actions for which the 120/130 Districts currently seek credit are set forth in Attachment C.

6. **Recognition of mitigation credits for separate mitigation plans.** IGWA understands that certain mitigation plans, substitute supply arrangements, agreements, or entitlements already are in place in WD 120 and/or 130, and that additional mitigation plans may be submitted for the Director’s approval. Specifically, those wells within the Aberdeen-Springfield Canal Company service area identified in Attachment D hereto operate under approved mitigation pursuant to an agreement previously entered into by the Department, a copy of which agreement is contained in Attachment E hereto (the “Aberdeen-Springfield Canal Company Agreement”). By this Replacement Water Plan, IGWA and the WD 120 Ground Water Districts provide notice to the Department that the water rights listed in Attachment D, including those with priority dates of February 27, 1979 and later who have been served curtailment notices by the Department, are being mitigated pursuant to the 2002 Aberdeen-Springfield Canal Company Agreement. Once the Department determines the mitigation attributable to those wells for 2005, the 120/130 Districts will seek mitigation credit.
7. **Additional accounting for mitigation at season's end.**

After the 2005 irrigation season, IGWA will provide the Director with transient and steady state modeling results for all 2005 mitigation actions. This will allow all appropriate mitigation credits to be applied toward any 2005 mitigation obligation that might remain after accounting for all replacement water delivered in 2005 and/or any subsequent year mitigation requirement. If there is no such remaining obligation, then such credits will apply toward any potential obligation that may arise in subsequent years.

**NON-WAIVER OF RIGHTS**

By filing this Plan for Replacement Water and providing replacement or mitigation water IGWA and its members do not concede that ground water pumping from the ESPA has caused material injury to any surface water right and do not waive their right to challenge the Director’s Order, to seek its reconsideration or clarification, or to file other motions or pleadings concerning it or the delivery call giving rise to it.

RESPECTFULLY SUBMITTED this 29th day of April 2005.

GIVENSPURSLEY LLP

[Signature]

Jeffrey C. Fereday

[Signature]

Michael C. Creamer

*Attorneys for Idaho Ground Water Appropria tors, Inc.*
CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April 2005, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Mr. Karl J. Dreher
Director
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

C. Tom Arkoosh, Esq.
Arkoosh Law Offices, Chtd.
301 Main Street
P.O. Box 32
Gooding, ID 83330

W. Kent Fletcher, Esq.
Fletcher Law Office
P.O. Box 248
Burley, ID 83318-0248

Roger D. Ling, Esq.
Ling, Robinson & Walker
615 H St.
P.O. Box 396
Rupert, ID 83350-0396

John A. Rosholt, Esq.
John K. Simpson, Esq.
Travis L. Thompson, Esq.
Barker, Rosholt & Simpson
113 Main Avenue West, Ste. 303
Twin Falls, ID 83301-6167

Kathleen Marion Carr, Esq.
Office of the Field Solicitor
U.S. Department of the Interior
550 West Fort Street, MSC 020
Boise, ID 83724-0020

U.S. Mail
Facsimile
Overnight Mail
Hand Delivery
E-mail

U.S. Mail
Facsimile
Overnight Mail
Hand Delivery
E-mail

U.S. Mail
Facsimile
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U.S. Mail
Facsimile
Overnight Mail
Hand Delivery
E-mail
IGWA'S INITIAL PLAN FOR PROVIDING REPLACEMENT WATER—10
ATTACHMENT A
### Attachment A
2005 Replacement Water Sources

<table>
<thead>
<tr>
<th>Source</th>
<th>Acre-Feet</th>
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<tr>
<td>FMC Lease</td>
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<tr>
<td>New Sweden Irr. Dist.</td>
<td>15,000</td>
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<tr>
<td>Peoples Canal Co.</td>
<td>3,000</td>
</tr>
<tr>
<td>Snake River Valley Irr. Dist.</td>
<td>2,000</td>
</tr>
<tr>
<td>Grindstone-Butte, et al. (High-lift exchange)</td>
<td>47,970*</td>
</tr>
<tr>
<td>United Water Idaho (High-lift exchange)</td>
<td>9,833**</td>
</tr>
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**Subtotal – Surface water supplies** 84,623

| WD 120 Dry-Year Leasing                             | 2,522***  |

**Subtotal – Above Milner water** 87,145

---

* Based on total 2005 lease of 58,500 AF at 82% exchange credit from USBOR. Letter of Intent has been executed between Ground Water Districts and Lessors. Exchange Agreement with USBOR is pending.

** Based on total 2005 lease of 11,992 AF at 82% exchange credit from USBOR. Execution of lease agreement with Lessor and exchange agreement with USBOR are pending.

*** Eight separate dry-year lease agreements affecting 1,261 total acres in Bingham and Power Counties have been executed. Total associated consumptive use foregone in 2005 is 6,828 AF. First year reach gain increase in Blackfoot to Milner reach is 520 AF. Second year reach gain increase is 344 AF.
## LEASE PROGRAM OFFERS

### Groundwater Leases

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<tr>
<th>Name</th>
<th>W.R. #</th>
<th>Location</th>
<th>Pod</th>
<th>Total Acres</th>
<th>CFS</th>
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<td>KBC Farms LLC</td>
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<td>Bingham Co.</td>
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<td>J. Henry Olsen</td>
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<td>1005 W, Hwy 26</td>
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<td>Blackfoot, ID</td>
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<td>Foster Land and Cattle</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>P.O. Box 308</td>
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<td>Rigby, ID</td>
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<td>Bingham Co.</td>
<td>T=01N, R=33E, S=27</td>
<td>250</td>
<td>9</td>
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<tr>
<td>Howard &amp; Joyce Klempel</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>3080 W 1550 S Aberdeen, ID</td>
<td></td>
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</tr>
<tr>
<td>397-6328, 221-4236</td>
<td>35-2550</td>
<td>Bingham Co.</td>
<td>T=05S, R=30E, S=13</td>
<td>95</td>
<td>2.7</td>
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</tbody>
</table>

**Total Acres** | **Total CFS**
--- | ---
1261.00 | 26.18
Peoples Canal & Irrigation Co.
1050 West Hwy 39
Blackfoot, Idaho 83221
208-684-3105

April 28, 2005

To whom it may concern:

The Peoples Canal & Irrigation Co. has agreed to lease 3,000 A/F of water to the ground water users, represented by Lynn Tominaga. The water will be available upon receipt of payment for the water as agreed.

Thank you,

Steven H. Murdock—Sec.
Peoples Canal & Irrigation Co.
April 28, 2005

Dear Lynn Tominaga;

This letter is to confirm the agreement with Snake River Valley Irrigation District to lease water. The District agrees to lease 2000 af of water for the 2005 irrigation season. If you have any questions please feel free to call the District office at 209-357-3420.

Sincerely,

Snake River Valley Irrigation Board of Directors
Carlos S. Nielsen
Blaine Hillman
Larry Jacobsen
Fax: (208) 525-7177

State of Idaho
Water District 1
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402-1718

Fax MEMORANDUM (Page 1 of 3)

To: Mike Creese, Owens-Pursley (Fax: 208-1108)

FROM: Troy Glascock, Deputy Watermaster

DATE: April 20, 2005

SUBJECT: 2005 Private Lease Agreement

As requested by Lynn Tomlinson, attached is the 2005 Private Lease Agreement leasing 15,000 acre-feet of storage from New Sweden Irrigation to the Ground Water Districts for the 2005 season. Ronald Carlson, Watermaster, has not approved (signed) the lease yet, however, I suspect it is merely a formality and will probably occur before the 2005 storage allocations have been made to each District. Water District records indicate all the appropriate fees for the lease have been received, and I can assure you that New Sweden will receive a storage allocation sufficient to fill their commitment in the Ground Water Districts.
LETTER OF INTENT

This Letter of Intent is to set forth the Parties desires and intentions to act with due diligence and negotiate in good faith to enter into a binding and enforceable Lease Agreement ("Lease") and Option to Purchase ("Option") with respect to certain surfacewater rights in the Snake River. The basic terms of the proposed Lease and Option are set forth below.

(1) The Parties.
The parties to this Letter of Intent are various entities and individuals that own certain water rights in the Snake River below Milner dam, consisting of three groups of owners known as the Glenns Ferry, Murphy and Mountain Home Groups, (collectively “the Owners”) and the Idaho Groundwater Appropriators, Inc (IGWA), acting for and on behalf of its groundwater district members, American Falls-Aberdeen, Bingham, Bonneville-Jefferson, Magic Valley, North Snake and Southwest Irrigation Groundwater Districts (“the Districts”).

(2) The Purpose.
The purpose is to acquire water rights by lease and/or purchase to facilitate a Water Exchange Agreement with the Bureau of Reclamation ("Reclamation"). Pursuant to the Exchange Agreement the acquired water rights will be exchanged for water in the Upper Snake River Basin in order to augment Snake River flows above Milner Dam during the irrigation season to mitigate for ground water pumping in the East Snake Plain Acquifer ("ESPA").
(3) **Lease Agreement.**

A Lease Agreement will be entered into pursuant to which the Owners will lease to the Districts 58,500AF (water rights in the Snake River appurtenant to approximately 19,500 acres) for the 2005 irrigation season based upon a minimum of 3AFA. The rent will be:

- for 46,500AF subject to the Purchase Option ("Option") described below, and
- for 12,000AF not subject to the Option, a total rent of

The rent will be adjusted based on the actual acres and water rights available and qualifying for exchange and mitigation.

(4) **Purchase Option.**

The Owners grant to the Districts an irrevocable and exclusive Option to purchase approximately 53,100 AF (all water rights appurtenant to 15,500 acres subject to the Lease Agreement and an additional 2,200 acres not subject to the Lease Agreement). The agreed price is \( \text{per acre} \) for a total purchase price of , based upon the following terms:

(a) Payment of an Option payment of \( \text{AF} \), a total of payable upon the simultaneous execution of the Lease and Option Agreements and credited to the purchase price at closing. In addition \( \text{AF} \) of the \( \text{AF} \) lease payment will be credited to the purchase price at closing.

(b) The Option must be exercised by written notice to the Owners within 30 days of the qualified electors of the Districts approval of indebtedness to secure funds for the purchase of the water rights, no later than August 10th, 2005. The Districts will seek approval at the earliest available date an election can be scheduled.

(c) Upon exercise of the Option, the Districts must pay to the Owners a non-refundable earnest money deposit of \( \text{per acre} \), a total of which sum will be credited to the purchase price at closing.

(d) The balance of the purchase price shall be due and payable on or before September 30, 2005.

(e) At closing the Owners will deliver to the Districts free and clear title to the water rights purchased.

(f) The total Option payments and purchase price is based upon the estimated acreage of 17,700 and 3AFA of water qualifying for exchange and mitigation and is subject to adjustment up or down at the per acre rates set forth above should the actual water qualifying for exchange and mitigation be different.
(5) **Additional Terms and Conditions.**

The following additional terms and conditions shall apply:

(a) It will be necessary for IDWR to evaluate the Owners' water rights and determine eligible acres following the criteria set forth in IDWR's December 7, 2004 Snake River Basin Water Rights Acquisition Program, the terms and conditions of which are incorporated by reference.

(b) The Districts will have no responsibility for the operation or maintenance of the idled lands or any damages related to use of the idled lands. The Owners agree to a standard form indemnity provision to the Districts as a part of the Lease.

(c) It will be necessary for the Districts to obtain financing and secure authorization to incur indebtedness as required by Title 42, Chapter 5, Idaho Code.

**Dated: April 1, 2005**

IGWA for and on behalf of the Ground Water Districts:

By: Tim Deeg - President

For and on behalf of the Glenns Ferry, Murphy, Mountain Home Owner Groups:

By: Craig Castagneto

By: Mark Noble

(SEE SIGNATURES OF ALL DISTRICTS AND OWNERS TO BE ATTACHED)
AMERICAN FALLS - ABERDEEN GROUND WATER DISTRICT
By: Kevin Michaelson, Chairman
2590 Quigley
American Falls, ID 83211

BINGHAM GROUND WATER DISTRICT
By: Craig Evans, Chairman
1523 W. 300 N.
Blackfoot, Idaho 83221

SOUTHWEST IRRIGATION DISTRICT
By: Mike Cranney, Chairman
Rt. 1, Box 40D
Oakley, Idaho 83346

BONNEVILLE JEFFERSON GROUND WATER DISTRICT
By: William Taylor, Chairman
P.O. Box 51121
Idaho Falls, Idaho 83405-1121

MAGIC VALLEY UNDERGROUND PUMPERS ASSOCIATION
By: Orlo Maughan, Chairman
453 W. 90 N.
Rupert, ID 83350

NORTH SNAKE GROUND WATER DISTRICT
By: Mike Faulkner, Chairman
1989 S. 1875 E.
Goodyng, ID 83330
AMERICAN FALLS - ABERDEEN GROUND WATER DISTRICT

By:__________________________
Kevin Michaelson, Chairman
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By:__________________________
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Gooding, ID 83330
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P.O. Box 51121
Idaho Falls, Idaho 83405-1121

MAGIC VALLEY UNDERGROUND PUMPERS ASSOCIATION

By: ___________________
Orlo Maughan, Chairman
453 W. 90 N.
Rupert, ID 83350

NORTH SNAKE GROUND WATER DISTRICT

By: ___________________
Mike Faulkner, Chairman
1989 S. 1875 E.
Gooding, ID 83330
Glenns Ferry, Murphy, Mountain Home Groups (Owners)
Acres as of 21 April 2005 by Water Right Numbers

<table>
<thead>
<tr>
<th>Name</th>
<th>Water Right No.</th>
<th>For Lease/Option</th>
<th>For Lease Only</th>
<th>For Purchase Only</th>
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<td>d/b/a Sailor Creek Water Company</td>
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<td>G. Patrick Morris</td>
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<td>Falcon Butte Farms, Inc.</td>
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<td>• Murphy Flats Water Co. Inc.</td>
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<td>• Murphy Flats Water Co. Inc.</td>
<td>2-2251</td>
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<tr>
<td>• Jay Hulet</td>
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<td>Don Hartley</td>
<td></td>
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<td>• Murphy Flats Water Co. Inc.</td>
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<td>Total Acres</td>
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<td>14,174</td>
<td>6,600</td>
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</table>
Grindstone Dunes Mutual Canal Company (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

<table>
<thead>
<tr>
<th>Acres</th>
<th>Description</th>
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<tr>
<td>02 - 2314</td>
<td>492</td>
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<td>02 - 2262</td>
<td>675</td>
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<td>02 - 2162</td>
<td>1306</td>
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</table>

Signature: [Signature]
President
Date: April 21, 2005
The undersigned agrees to submit the following acres in accordance with the attached Idaho Ground Water Appropria tors, Inc. "Letter of Intent" dated April 1, 2005.

118
For 2005 Lease/Option to Sell

For 2005 Lease only

145
For option to sell only

[Signature]

Date April 21, 2005
The undersigned agrees to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

912.75 For 2005 Lease/Option to Sell

For 2005 Lease only

160.9 For option to sell only

Water Right Holder

[Signature]

Mickey Morris

Date 4/18/05

A. = acres
The undersigned agrees to submit the following acres in accordance with the attached Idaho Ground Water Appropriorate, Inc. "Letter of Intent" dated April 1, 2005.

4,063.0 Ac: For 2005 Lease/Option to Sell

4,063.0 Ac: For 2005 Lease only

640.0 Ac: For option to sell only

Water Right Holder: ALCANO FAMILY, LLC

Ever "San" Alcando

Signature

Date: 4/1/05
Falcon Butte Farms Inc. (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriate, Inc. "Letter of Intent" dated April 1, 2005.

- $4900 For 2005 Lease/Option to Sell
- $300 For 2005 Lease only
- For option to sell only

Total for lease 2005 5,200 acres

The undersigned shareholder in the Water Company agrees that his portion of the Water Company's obligation described above is as follows:

- For 2005 Lease/Option to Sell
- For 2005 Lease only
- For option to sell only

Signature: [Signature]
Date: 4/1/05
Murphy Flats Water Company, Inc. (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriatees, Inc. "Letter of Intent" dated April 1, 2005.

For 2005 Lease/Option to Sell

For 2005 Lease only

For option to sell only

The undersigned shareholder in the Water Company agrees that his portion of the Water Company's obligation described above is as follows:

For 2005 Lease/Option to Sell

For 2005 Lease only

For option to sell only

Signature  

Date 4-31-05
Murphy Flats Water Company, Inc. (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

600 Acres  For 2005 Lease/Option to Sell

______  For 2005 Lease only

______  For option to sell only

Any other water rights (X)

The undersigned shareholder in the Water Company agrees that his portion of the Water Company's obligation described above is as follows:

600 Acres  For 2005 Lease/Option to Sell

______  For 2005 Lease only

______  For option to sell only

Signature  [Signature]

Date  5-20-05
South Elmore Irrigation Co. (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriate, Inc. "Letter of Intent" dated April 1, 2005.

For 2005 Lease/Option to Sell

356.8

For 2005 Lease only

For option to sell only

The undersigned shareholder in the Water Company agrees that his portion of the Water Company's obligation described above is as follows:

For 2005 Lease/Option to Sell

356.8

For 2005 Lease only

For option to sell only

Signature

Date 4/13/05

Signature

Date 4/13/05
Clover Hollow LLC (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

For 2005 Lease/Option to Sell

For 2005 Lease only

For option to sell only

The undersigned shareholder in the Water Company agrees that his portion of the Water Company's obligation described above is as follows:

For 2005 Lease/Option to Sell

For 2005 Lease only

For option to sell only

Signature

Date 4/13/05

Signature

Date 4/13/05

Signature

Date 4/14/05

Signature

by Neal D. Bury
### Summary of Historical Mitigation Activity in 130

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<tr>
<th>Mitigation Activity</th>
<th>Year Undertaken</th>
<th>Gross Amount of Water Involved (AF)</th>
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<td>Sandy Pipeline deliveries</td>
<td>2003</td>
<td>9,000</td>
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<td>2004</td>
<td>12,814</td>
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<td></td>
<td>2005*</td>
<td>12,814</td>
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<tr>
<td>Pumping Reductions</td>
<td>2002</td>
<td>30,277</td>
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<tr>
<td>Conversions</td>
<td>2002</td>
<td>19,963</td>
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<td>2003</td>
<td>27,000</td>
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<tr>
<td></td>
<td>2005*</td>
<td>31,137</td>
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<tr>
<td>Curtailment</td>
<td>2004</td>
<td>3000 acres</td>
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<tr>
<td></td>
<td>2005*</td>
<td>10%</td>
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<tr>
<td>Targeted recharge</td>
<td>2005*</td>
<td>1,600</td>
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</table>

* Projected values for 2005

### Summary of 2005 Reach Gain Benefits, Blackfoot-Milner

- Pre-2005 Sandy Pipeline, Pumping Reductions, and Conversions in 130: 1,297
- 2005 Sandy Pipeline and Conversions in 130: 2
- 2005 Curtailment of 10% in 130: 65
- 2005 Targeted recharge of 1600 af in 130: 3

**Total**: 1,407
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<tr>
<th>NAME, LAST</th>
<th>NAME, FIRST</th>
<th>PARCEL NO.</th>
<th>SHARES</th>
<th>GROUNDWATER RIGHT NO.</th>
<th>GROUNDWATER RIGHT NO.</th>
<th>GROUNDWATER RIGHT NO.</th>
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<td>Barclay</td>
<td>Earl H.</td>
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<td>80</td>
<td>35-02525</td>
<td>35-12248</td>
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<td>Earl H.</td>
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EXHIBIT "A"  
List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant
### List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant

<table>
<thead>
<tr>
<th>Name, Last</th>
<th>Name, First</th>
<th>Parcel No.</th>
<th>Shares</th>
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<th>Groundwater Right No.</th>
<th>Groundwater Right No.</th>
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<tr>
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</tbody>
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List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant

EXHIBIT 'A'
<table>
<thead>
<tr>
<th>NAME, LAST</th>
<th>NAME, FIRST</th>
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List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant

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List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant
ATTACHMENT E
DESCRIPTIVE SUMMARY

This Settlement Agreement ("Agreement") is made by the State of Idaho, the Aberdeen-Springfield Canal Company, and the Idaho Department of Water Resources and is made in reference to the following facts.

RECITALS OF FACT

A. The Aberdeen-Springfield Canal Company objected to over one hundred recommendations for ground water rights in Basin 35 submitted to the Snake River Basin Adjudication ("SRBA") District Court by the Idaho Department of Water Resources (Consolidated Subcase No. 35-2315). The consolidated subcase is currently pending before the SRBA District Court and a trial is scheduled for April 22, 2002.

B. This Agreement addresses the future recommendations of the Idaho Department of Water Resources to the SRBA District Court regarding the surface water rights of the Aberdeen-Springfield Canal Company in Basin 01 and the issues in Consolidated Subcase No. 35-2315.

C. The issues in Consolidated Subcase No. 35-2315 relate to Aberdeen-Springfield Canal Company's surface water rights in Basin 01. In order to fully implement this Agreement and to resolve the issues in Consolidated Subcase No. 35-2315, the Idaho Department of Water Resources must file with the SRBA District Court its recommendations for the surface water rights in Basin 01. Since the Idaho Department of Water Resources is not scheduled to report its
recommendations for the water rights in Basin 01 until late 2002, a stay of proceedings under Consolidated Subcase No. 35-02315 is needed.

In consideration of the promises stated in this Agreement, the parties agree as follows:

1. Definitions

A. The term “Canal Company” means Aberdeen-Springfield Canal Company, P.O. Box Y, Aberdeen, Idaho, 83210.

B. The term “IDWR” means the Idaho Department of Water Resources, 1301 N. Orchard St, Boise, Idaho, 83706.

2. Recommendations of the Director

A. In the Director’s Report for Basin 01, IDWR will recommend the place of use for the Canal Company’s surface water rights from the Snake River to include both lands that were irrigated with the Canal Company’s surface water rights, as of 1987, as well as lands that were originally irrigated with the Canal Company’s surface water rights but as of 1987 were irrigated solely by ground water, so long as the Canal Company’s water rights remained appurtenant to lands irrigated by ground water and such lands continued to pay assessments to the Canal Company. IDWR will recommend all of the acreage for lands to which the Canal Company’s surface water rights are appurtenant and irrigated by shareholders using either surface water or ground water, as of 1987, as being authorized to divert and use surface water under the Canal Company’s water rights.
B. In the Director’s Report for Basin 01, IDWR will recommend “irrigation” and “recharge for irrigation” as the purposes of use for the Canal Company’s Basin 01 surface water rights. IDWR will recommend “recharge for irrigation” as a change in purpose of use under the accomplished transfer provision of Idaho Code § 42-1425. IDWR will consider use of stored water for “recharge for irrigation” as being a valid irrigation use under the existing licenses and subsequent decreed right of the U.S. Bureau of Reclamation.

C. In the Director’s Report for Basin 01, IDWR will recommend that the place of use pursuant to (A) be subdivided into two parts as follows. (1) the acreage irrigated directly by surface water (including acreage with supplemental ground water irrigation) as of 1987; and (2) the acreage originally irrigated by surface water for which authorization to divert surface water for direct irrigation continues but for which the additional purpose of use “recharge for irrigation” has been added as an accomplished transfer. IDWR will recommend the acreage from (1) as the minimum place of use authorized for direct irrigation using surface water and the sum of (1) and (2) as the maximum place of use authorized for direct irrigation using surface water. The acreage from (2) will be recommended as the place of use eligible for the mitigation credits described in paragraph E below. IDWR will recommend the place of use for the accomplished change to “recharge for irrigation” as consisting of the entire service area of the Canal Company.

D. In the Director’s Report for Basin 01, IDWR will recommend the maximum quantity of water (diversion rate) historically diverted and beneficially used for the combined use of “irrigation” and “recharge for irrigation,” as of 1987. IDWR will recommend the diversion rate in three components: (1) the minimum diversion rate for direct surface water irrigation will be the diversion rate associated with acreage directly irrigated with surface water as of 1987.
(including acreage with supplemental ground water rights) and will be determined as the total recommended diversion rate multiplied by the acreage directly irrigated with surface water as of 1987 divided by the total acreage originally irrigated with surface water; (2) the maximum diversion rate for direct surface water irrigation will be equal to the total recommended diversion rate; and (3) the maximum diversion rate for “recharge for irrigation” will be equal to the diversion rate from (1) subtracted from the total recommended diversion rate. The intent of this calculation together with (C) is to maximize the acreage authorized for direct surface water irrigation while fixing the maximum quantity of surface water that can be used for “recharge for irrigation” as an accomplished transfer.

E. Existing ground water rights used for irrigation within the service area of the Canal Company on lands paying assessments to the Canal Company and to which the Canal Company’s surface water rights have remained appurtenant will be given mitigation credit for the amount of water recharged against ground water depletions arising from the authorized diversion and use of ground water. The volume of water credited for mitigation in each year must be determined from measurements and accounting. Depletions resulting from ground water diversions eligible for mitigation credits, as described above, will be considered to have been mitigated in any year to the extent to which the recharge documented through measurements and accounting equals or exceeds ground water depletions in the same year. Mitigation credits will accrue only to the extent that surface water is diverted for recharge in a given year and will not carry over to future years. The amount credited for mitigation will be calculated as: (1) the amount of surface water diverted; (2) less the measured returns to the Snake River through wasteways or drains; (3) less 0.02 cfs multiplied by the number of acres irrigated with surface water (including those acres using supplemental ground water), multiplied by 1.98 acre
feet/cfs/day, multiplied by 214 days (the irrigation season), and multiplied by an appropriate factor (less than 1) to account for the Canal Company not constantly diverting the maximum amount needed for surface water irrigation throughout the entire irrigation season.

3. Duties of the Canal Companies

A. Upon execution of this Agreement, the Canal Company shall request a stay from the SRBA District Court in Consolidated Subcase No. 35-2315. The State of Idaho and IDWR will support this request and provide the SRBA District Court with the appropriate level of explanation, as needed.

B. Once IDWR has filed its recommendations for the Canal Company’s Basin 01 water rights as set forth in section 2 above and the SRBA District Court has issued partial decrees consistent with this Agreement, the Canal Company will withdraw all objections associated with the Consolidated Subcase No. 35-2315.

4. Action by the District Court

The parties acknowledge that the execution of this Agreement will not automatically result in approval by the SRBA District Court of IDWR’s recommendation for the Canal Company’s Basin 01 water rights and that a further hearing may be necessary.

5. Governing Law

Both parties agree that this Agreement shall be governed by, and construed in accordance with, the laws of the State of Idaho.
6. Entire Agreement

A. This Agreement sets forth all the covenants, promises, provisions, agreements, conditions, and understandings between the parties, and there are no covenants, provisions, promises, agreements, conditions, or understandings, either oral or written, between them other than are herein set forth.

B. This Agreement has been reached in the process of good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding.

7. Successors

This Agreement shall bind and inure to the benefit of the respective successors of the parties.

8. Effect of Section Headings

The section headings appearing in this Agreement are not to be construed as interpretations of the text but are inserted for convenience and reference only.

9. Duplicate Originals

This Agreement is executed in duplicate. Each of the two Agreements with an original signature of each party shall be an original.
IN WITNESS WHEREOF the parties executed this Agreement on the date following their respective signatures.

Entered into this 31\textsuperscript{st} day of May, 2002.

Roger Ling
Attorney for Aberdeen-Springfield Canal Company

Entered into this 7\textsuperscript{th} day of June, 2002.

Clive J. Strong
Deputy Attorney General
Chief, Natural Resource Division
Attorney for the State of Idaho

Entered into this 5\textsuperscript{th} day of June, 2002.

Karl J. Draper
Director, Idaho Department of Water Resources