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7/11/05

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

Please print or type. Attach pages with additional information. Instructions are included at the end of the form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right or adjudication claim number if there is no corresponding water right record on file with the department. If the change in ownership is limited to a portion of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).
<u>22-7293</u>	<u>same</u>	<u> </u>	<u> </u>
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2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Racquet Ball Co. Owners, Golden Linford,
Evan Meyers, Nancy Meyers, Valley Bank Trustees et.al
4. New Owner/Claimant(s) The New Sports & Fitness Club, Ltd.
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address Si South 100 East
- City, State and ZIP Code Rexburg, ID 83440
- New Telephone Number (208) 356-7008
5. Date you acquired the property October 15, 1991

**RECEIVED
JUL 12 2005
Department of Water Resources
Eastern Region**

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT		
(If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT		
(If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

Jerry R. Rigby, PRESIDENT
JERRY R. RIGBY

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Receipted by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

FILED FOR RECORD AT REQUEST OF
AND WHEN RECORDED RETURN TO:

Instrument # 293816

REXBURG, MADISON, IDAHO

2002-02-01

02:15:00 No. of Pages: 4

Recorded for : GORDON THATCHER

MARILYN R. RASMUSSEN

Fee: 12.00

Ex-Officio Recorder Deputy

Gordon S. Thatcher
Rigby, Thatcher, Andrus, Rigby, Kam & Moeller
P.O. Box 250
25 North Second East
Rexburg, Idaho 83440

SPECIAL WARRANTY DEED

THIS INDENTURE made this 23 day of January, 2002, by and between **KEYBANK NATIONAL ASSOCIATION**, a national banking association, as successor-in-interest to Valley Bank (the "Grantor") and **THE NEW SPORTS & FITNESS CLUB, LTD.**, an Idaho corporation, of 51 South 100 East, Rexburg, Idaho 83440 (the "Grantee").

Background

Grantor's predecessor-in-interest, Valley Bank, and Grantee's predecessor-in-interest, Evan L. Meyers and Nancy H. Meyers, husband and wife (5/12 interest); Valley Bank, as Trustee of the Rigby, Thatcher, Andrus, Barton & Walters, Chartered, Pension & Profit Sharing Plan (5/12 interest); and Golden C. Linford (2/12 interest), entered into a Contract of Exchange (the "Contract of Exchange"), with Notice of Contract dated July 18, 1984, recorded on August 14, 1984, as Instrument No. 205287, records of Madison County, Idaho. Under the Contract of Exchange, Grantor was responsible for conveying the Property (as hereinafter defined) after Grantee met certain conditions. Grantee has met such conditions and, therefore, Grantor is now prepared to convey the Property to Grantee.

Terms

For valuable consideration, the Grantor does hereby grant, bargain, sell and convey unto the Grantee the real property described on Exhibit A attached hereto and made a part hereof (the "Property"), subject to the permitted exceptions described on Exhibit B attached hereto and made a part hereof (the "Permitted Exceptions");

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Except for the Permitted Exceptions, the Grantor warrants that it has not caused to created any liens, encumbrances, encroachments, reservations, or other exceptions to title against the Property during the period of time that the Grantor was the deeded owner of record of the Property, and the Grantor does hereby covenant to the Grantee to forever warrant and defend the Property against all persons whomsoever claiming or to claim by, through, or under Grantor and not otherwise.

TO HAVE AND TO HOLD the said Property, together with all appurtenances, including all appurtenant water rights, unto the Grantee, and its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has duly executed this instrument as of the day and year first above written.

KEYBANK NATIONAL ASSOCIATION

By: Denise Oblacki
Print Name: DENISE OBLOCKI
Its: ASSISTANT VICE PRESIDENT

STATE OF Ohio)
COUNTY OF Cuyahoga) ss.

On this 24th day of January, 2002, before me, the undersigned, a Notary Public in and for the County and State, personally appeared Denise Oblacki, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the Asst. Vice Pres. of KEYBANK NATIONAL ASSOCIATION, the national banking association that executed the within instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Linda Rozzo Foutz
Print Name: _____
Notary Public in and for the State of _____, residing at _____
My commission expires: _____

LINDA ROZZO FOUTZ
Notary Public - State of Ohio
My Commission Expires Dec. 15, 2004

EXHIBIT A

COMMENCING AT A POINT 165 FEET SOUTH OF THE NORTHWEST CORNER OF LOT 3, BLOCK 37 OF THE ORIGINAL REXBURG TOWNSITE, MADISON COUNTY, IDAHO, AS PER THE RECORDED PLAT THEREOF AND RUNNING THENCE EAST 165 FEET; THENCE SOUTH 82.5 FEET, THENCE WEST 165 FEET; THENCE NORTH 82.5 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

1. Existing restrictions of record.
2. Easements for public utilities and driveways.
3. Zoning, land use, and other governmental laws, rules and regulations.
4. Real estate taxes and assessments, both general and special, which are a lien but not yet due and payable.
5. Matters created, suffered or permitted by or through Grantee.
6. Right, title and interest of The New Sports & Fitness Club, Ltd., an Idaho Corporation, as created in Grant Deed recorded October 15, 1991, as Instrument No. 239634
7. Rights or claims of parties in possession not shown by the public records.
8. Any matters that would be revealed by an accurate survey of the Property.
9. Easements, or claims of easements, not shown by the public records.
10. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

239634

GRANT DEED

FOR VALUE RECEIVED, RAY W. RIGBY and LOLA C. RIGBY, husband and wife, of 2131 North 3000 West, Rexburg, Idaho 83440; GORDON S. THATCHER and BETH P. THATCHER, husband and wife, of 239 Mohawk Avenue, Rexburg, Idaho 83440; CARL J THURGOOD and SUZANNE R. THURGOOD, husband and wife, of 165 East 100 South, Rexburg, Idaho, 83340; EVAN L. MEYERS and NANCY H. MEYERS, husband and wife, of 22 West 1st North, Sugar City, Idaho 83448; JERRY R. RIGBY, a married man dealing with his sole and separate property, of P.O. Box 250, Rexburg, Idaho 83440; and GOLDEN C. LINFORD, a married man dealing with his sole and separate property, of 2120 West 4200 South, Rexburg, Idaho 83440, ("Grantors") do hereby grant, bargain, sell, and convey unto The New SPORTS & FITNESS CLUB, Ltd., an Idaho Corporation, of 51 South 100 East, Rexburg, Idaho 83440, "Grantee") the following described real property in Madison County, State of Idaho, to-wit:

Tract 1: Commencing at a point 82.5 feet South of the NW corner of Lot 3, Block 37 of the original Rexburg Townsite, as per the recorded plat thereof, and running thence East 191.5 feet; thence North 82.5 feet; thence East 138.5 feet; thence South 165 feet; thence West 330 feet; and thence North 82.5 feet to the point of beginning.

Together with a right-of-way for ingress and egress across the following described property in Rexburg, Madison County, Idaho:

Commencing at the NW corner of Lot 3, Block 37 of the original Rexburg Townsite, as per the recorded plat thereof, and running thence East 191.5 feet; thence South 82.5 feet; thence West 191.5 feet; thence North 82.5 feet to the point of beginning.

EXHIBIT

H

Tract 2: Commencing at a point 165 feet South of the NW corner of Lot 3, Block 37 of the original Rexburg Townsite as per the recorded plat thereof and running thence East 165 feet; thence South 82.5 feet; thence West 165 feet; thence North 82.5 feet to the point of beginning.

TOGETHER With any and all improvements and appurtenances thereto; rents, issues and profits thereof; and reversions and remainders.

ALSO together with all personal property, tangible and intangible of Sports & Fitness Club operated on the premises as of the close of business on September 30, 1991.

SUBJECT TO The following liens or encumbrances against the real property and personal property:

(a) Deed of Trust dated December 4, 1987, with Evan L. Meyers, et al. as Grantor and Valley Bank, as Beneficiary, recorded on January 4, 1988, as Instrument No. 223742, records of Madison County, Idaho, with the note secured in the original principal amount of \$421,709.54, payable in installments of \$3,700.00 each, with the final installment (a BALLOON PAYMENT) due November 27, 1992. Note: The note is also secured by a security agreement on personal property.

(b) Deed of Trust with Evan L. Meyers, et al. as Grantor and Mary Verla Parkinson as Beneficiary, dated May 4, 1984, and recorded on May 9, 1984, records of Madison County, Idaho, with the note secured originally securing \$40,000.00, payable in installments of \$528.60 each, and with the final installment due May 4, 1994.

ALSO: It is understood that Valley Bank retains title to Tract 2 under a Contract of Exchange, with Notice of Contract dated July 18, 1984, recorded on August 14, 1984, as Instrument No. 205287, records of Madison County, Idaho, until the Deed of Trust owing to Mary Verla Parkinson, subclause (b) supra, previously described, is fully paid; at which time Valley Bank is obligated to convey Tract 2 subject to the debt described herein.

(c) Accruing 1991 property taxes and assessments and all prior unpaid property taxes and assessments.

(d) Local Improvement District assessments owing to the City of Rensburg on the property, including any unpaid installments.

GRANTORS Have or shall on delivery hereof pay in full any balance owing on the Deed of Trust held by Valley Bank described in subclause (a) supra, so that the property included therein shall be reconveyed to Grantee herein.

THE PROPERTY Is transferred to Grantee solely in exchange for the issuance of 600 shares of the capital stock of Grantee to each of Grantors (a husband and wife constitute one Grantor) with the six Grantors then owning all of the 3600 shares issued and outstanding in the corporation. Each of the six Grantors shall pay, or cause to be paid, a one-sixth share of the aggregate amount required to settle in full the Valley Bank Deed of Trust.

DATED This 15th day of October, 1991.

Ray W. Rigby
Ray W. Rigby

Lola C. Rigby
Lola C. Rigby

Gordon S. Thatcher
Gordon S. Thatcher

Beth P. Thatcher
Beth P. Thatcher

Carl J. Thurgood
Carl J. Thurgood

Suzanne R. Thurgood
Suzanne R. Thurgood

MICROFILMED

Recorded into
County of Madison } SS **239634**
I hereby certify that the within instrument was
Sd. **OCT. 15 1991**
At 2:42 PM, and
239635
Fee 12.00
by CHURCH Recorder
Deputy
Attest: Regina Chalaka

Evan L. Meyers
Evan L. Meyers

Nancy H. Meyers
Nancy H. Meyers

Jerry R. Rigby
Jerry R. Rigby

Golden C. Linford
Golden C. Linford

STATE OF IDAHO,)
 ss.
County of Madison.)

On this 15th day of October, 1991, before me, the undersigned, a Notary Public in and for said State, personally appeared RAY W. RIGBY and LOLA C. RIGBY, husband and wife; GORDON S. THATCHER and BETH P. THATCHER, husband and wife; CARL J THURGOOD and SUZANNE R. THURGOOD, husband and wife; EVAN L. MEYERS and NANCY H. MEYERS, husband and wife; JERRY R. RIGBY, a married man dealing with his sole and separate property; and GOLDEN LINFORD, a married man dealing with his sole and separate property, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Marsha L. Matamorf
Notary Public for Idaho
Residing at: Rexburg, Idaho
My Commission Expires: 4-10-94

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 22-7293 V1

WATER RIGHT NUMBER: 22-7293 V1

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	GORDON S THATCHER RIGBY THATCHER ANDRUS RIGBY & KAM CHARTERED 25 N 2ND E PO BOX 250 REXBURG, ID 83440 (208)356-3653
Original Owner	EVAN L MEYERS PO BOX 250 REXBURG, ID 83440
Original Owner	NANCY H MEYERS PO BOX 250 REXBURG, ID 83440 (208)356-3633
Original Owner	VALLEY BANK TRUSTEE RIGBY THATCHER ANDRUS RIGBY & KAM CHARTERED PENSION & PROFIT SHARING PLANS PO BOX 250 REXBURG, ID 83440
Original Owner	RACQUETBALL CO OWNERS PO BOX 250 REXBURG, ID 83440 (208)356-3633
Original Owner	GOLDEN C LINFORD PO BOX 250 REXBURG, ID 83440 (208)356-3633
Current Owner	THE NEW SPORTS & FITNESS CLUB LTD 51 S 100 E REXBURG, ID 83440 (208)356-7008

Priority Date: 05/24/1979

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
COOLING	01/01 to 12/31	0.150 CFS	
HEATING	01/01 to 12/31	0.150 CFS	
	<u>Total Diversion:</u>	0.150 CFS	

Location of Point(s) of Diversion

GROUND WATER	SE1/4NE1/4NE1/4	Sec. 30, Twp 06N, Rge 40E, B.M.
MADISON County		

Place of UseCOOLING Within MADISON County

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 22-7293 V1

COOLING Within MADISON County

T06N R40E S30 NENE

HEATING Within MADISON County

T06N R40E S30 NENE

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. RACQUETBALL COOWNERS CONSIST OF EVAN L. MEYERS AND NANCY H. MEYERS , HUSBAND AND WIFE -- 5/12THS INTEREST; GOLDEN C. LINFORD --2/12T INTEREST; AND VALLEY BANK, AS TRUSTEE OF THE RIGBY, THATCHER, ANDRUS, RIGBY & KAM, CHARTERED PENSION & PROFIT SHARING PLANS -- 5/12THS INTEREST. THE UNDERSIGNED HAS BEEN AUTHORIZED BY ALL OWNERS TO SUBMIT THIS CLAIM.
VALLEY BANK AS TRUSTEE

Remarks:

Comments:

Water Supply Bank: