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**Also Licensed in Missouri & Kansas

February 24, 2004

Harold W. Jones
PO Box 50723
Idaho Falls, ID 83405

Dear Skip:

With respect to water rights numbers 27-16 and 27-29E, we have been able to obtain an Affidavit from Harrison Cox. He also brought us a copy of the water deed which was recorded in 1989 and which contains some confirming language in the first paragraph on page 2, saying that Coxes had used the water for many years prior to recording of the deed.

I am still working on trying to get some kind of information including an affidavit on the small water right for the spring near the house.

Yours very truly,



Kent W. Foster

Enclosure

G:\WPDATA\KWF\11692 Natural Guardian Ltd. Part\Harold Jones ltr 022404.wpd:cdv

RECEIVED
APR 29 2004 CB
Department of Water Resources
Eastern Region

**AFFIDAVIT OF
W. HARRISON COX**

STATE OF IDAHO)
)ss.
County of Bonneville)

W. Harrison Cox, of 670 Holley, Shelley, Idaho 83274, being first duly sworn, on his oath deposes and says:

1. Affiant is a resident of Bingham County, Idaho, and has personal knowledge of the facts set forth herein.

2. Affiant and members of affiant's family, doing business as Cox Enterprises, owned and operated farm land on and near Wolverine Creek in Sections 9 and 17 of Township 2 South, Range 38 E.B.M. for many years prior to 1993 when such lands were sold to Natural Guardian Limited Partnership.

3. From the time affiant and his family began operating such land, it was short of adequate water supplies in most years. In discussions with the then watermaster for the Blackfoot River and tributaries, Mr. Ed Hall, Mr. Hall became aware of the Cox's need and desire for additional water for such lands. Approximately 1980 or before, Mr. Hall advised the Coxes that one Vern Taylor had some good water rights that he was willing to sell and that could be used on the Cox lands. Affiant contacted Mr. Taylor and worked out an arrangement for a lease/purchase of water rights numbers 27-16 and 27-29E, and, with the knowledge and assistance of said watermaster, Ed Hall, began using the water on the lands near Wolverine Creek in said Sections 9 and 17 about 1980 or before.

4. Affiant and his family members, doing business as Cox Enterprises, paid lease payments to the Taylors for the referenced water rights, which were credited to the purchase price, for several years while using the water. In late 1988 or early 1989, the Coxes finished paying the balance and a Deed to such rights was delivered to them and recorded January 2, 1989. A copy of said Deed is attached hereto and by this reference made a part hereof.

5. From the time of the making of the lease/purchase agreement with Taylors in 1980 or before, the entire amount authorized for use under both water rights was used for irrigation of the farm lands in Sections 9 and 17 each year until the farm land was sold to Natural Guardian Limited Partnership in 1993.

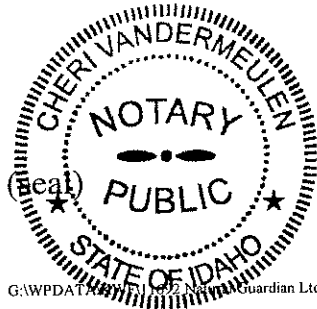
W. Harrison Cox

W. Harrison Cox

STATE OF IDAHO)
)ss.
County of Bonneville)

On this 19th day of February, 2004, before me a notary public in and for said State, personally appeared W. Harrison Cox known or identified to me (or proved to me on the oath of W. Harrison Cox) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he 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.



Cheri Vandermeulen
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires: July 7, 2009

WARRANTY DEED

420649

Value Received COX ENTERPRISES, INC., an Idaho Corporation

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
HEARTHSTONE, an Idaho Limited Partnership
whose address is: PO BOX 50305 Idaho Falls ID 83405

BINGHAM COUNTY RECORDER
BLACKFOOT, IDAHO

Hereinafter called the Grantee, the following described premises situated in Bingham County, Idaho, to-wit:

FEE 6.00 DEP KB

93 NOV 19 PM 2:02

SEE ATTACHED EXHIBIT A

RECORDED AT THE REQUEST OF

FIRST AMERICAN TITLE COMPANY

SUBJECT TO all existing easements, claims of easements, rights of-way, patent reservations, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes, restrictive covenants of Wolverine Canyon Estates filed in Bingham County Idaho, and other matters pertaining thereto.

TOGETHER with all water rights appurtenant thereto listed and described as follows, and all irrigation equipment located thereon.

WATER RIGHTS

CERT. NO.	INCHES	NAMES	PRIORITY DATE
27-0050	60	PETER MORRIS	3/1/1882
27-0051	60	PETER MORRIS	4/1/1887
27-0053	10	DANIEL TAYLOR	4/1/1888
27-0004	28.5	FOX & WHITTIER	6/1/1885
27-0022 & 0035	46	EASTERN IDAHO	6/1/1887
27-0016	100	LEON MISSLEN	4/1/1873
27-0000	100	LEON MISSLEN	5/1/1885

COPY

And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: NOVEMBER 10, 1993

COX ENTERPRISES, INC., an Idaho Corporation

BY: W. Harrison Cox
W. HARRISON COX, PRESIDENT

Roger Cox
ROGER COX, SECRETARY

STATE OF IDAHO)
COUNTY OF Benewah ss.

On this 17 day of NOVEMBER, 1993, before me a Notary Public in and for said State, personally appeared W. HARRISON and ROGER COX, known or identified to me to be the PRESIDENT AND SECRETARY, respectively of COX ENTERPRISES, INC. the corporation who executed the instrument on behalf of said corporation, and acknowledged to me that said corporation executed the

Notary Public for Idaho
Residing at: Idaho Falls
Commission expires: 9-18-97

EXHIBIT A

TRACT A:

Township 2 South, Range 38 E.B.M., Bingham County, Idaho

Section 9: ~~S/4SW/4~~

Section 16: ~~N/4N/4, SW/4NW/4~~

Section 17: Lots 1, 2, 3, 4, 5, ~~E/4NE/4, SW/4NE/4, NW/4SE/4~~

EXCEPTING AND RESERVING to the United States all the coal and other minerals in said Lot 1;

Township 2 South, Range 39 E.B.M., Bingham County, Idaho

Section 6: Lots 3 and 4, EXCEPTING AND RESERVING to the United States all phosphate in said lot 4; AND

EXCEPTING AND RESERVING to the United States all the coal and other minerals in said Lot 3;

ALSO EXCEPTING THEREFROM any portion lying within the boundaries of Wolverine Canyon Estates Subdivision

Township 1 South, Range 39 E.B.M., Bingham County, Idaho

Section 31: ~~E/4W/4, NE/4, NW/4SE/4~~, Lots 1, 2, 3 and 4,

EXCEPTING AND RESERVING to the United States all phosphate in said Lots 2, 3, 4, ~~SE/4SW/4~~, and EXCEPTING AND RESERVING to the United States all the coal and other minerals in ~~NE/4SW/4, NW/4SE/4, NE/4, E/4NW/4, NE/4SE/4~~ and Lot 1: EXCEPTING THEREFROM any portion lying within the boundaries of Wolverine Canyon Estates Subdivision

ALSO EXCEPTING THEREFROM Beginning at the NW corner of Lot 5 Block 3 of Wolverine Canyon Estates as recorded in Bingham County, Idaho, that is S. 348.86 feet along the section line and E. 1114.34 feet from the W/4 corner of said Section 31 and running thence N. 68°20'00" E. 450.00 feet along the N. line of said Lot 5 to the NE corner of said Lot 5; thence N. 68°20'00" E. 420.00 feet; thence N. 16°17'15" W. 450.00 feet; thence S. 68°20'00" W. 1087.71 feet to the E. line of West Taylor Mountain Road as platted; thence S. 43°55'45" E. 411.81 feet along said E. line to the P.C. of a curve; thence to the right along said curve 69.82 feet (Curve Data: Delta=12°00'47", Radius=333.00 feet) Chord bears S. 37°55'22" E. 69.69 feet along said E. line to the point of beginning.

ALSO EXCEPTING THEREFROM: Part of the SW/4SW/4 of Section 31, Township 1 South, Range 39 E.B.M., Bingham County, Idaho, described as:

Beginning at the SW corner of said Section 31 and running thence N. 0°00'00" W. 744.19 feet along the section line; thence N. 89°47'09" E. 783.85 feet to the SW corner of Lot 14 Block 1 of Wolverine Canyon Estates as recorded in Bingham County, Idaho; thence S. 26°00'00" W. 830.00 feet along the west line of said Block 1 to the SW corner of Lot 17 of said Block 1; thence S. 89°50'47" W. 420.00 feet along the N. line of Lot 18 to the point of beginning.

Subject to a 25 foot easement more particularly described as: Beginning at the SW corner of Lot 17 Block 1 of Wolverine Canyon Estates and running thence N. 26°00'00" E. 830.00 feet along the W. line of said Block 1; thence S. 89°47'09" W. 27.87 feet; thence S. 26°00'00" W. 829.97 feet; thence N. 89°50'47" E. 27.85 feet along the N. line of Lot 18 to the point of beginning.

420649

TRACT B:

Township 2 South, Range 38 E.B.M., Bingham County, Idaho

Section 16: ~~S/4SW/4; NW/4SW/4; SW/4NE/4; and SE/4NW/4~~

TRACT C:

All of Blocks 1, 2, 3 and 4 in Wolverine Canyon Estates, Bingham County, Idaho, according to the recorded Plat thereof, recorded as Instrument No. 336817, and re-recorded as Instrument No. 338195, EXCEPT Lots 13, 14 & 16 in Block 1 and Lot 9 in Block 2 of said Subdivision,

EXCEPTING AND RESERVING to the United States all phosphate as to that portion lying within Lot 4 of Section 6, Township 2 South, Range 39 E.B.M.; ALSO EXCEPTING AND RESERVING to the United States all the coal and other minerals lying within lot 3 of Section 6, Township 2 South, Range 39 E.B.M., and within W/4NE/4 and NW/4SE/4 of Section 31, Township 1 South, Range 39 E.B.M.

57512
WATER DEED

1-2-1989

THIS INDENTURE, made this 20th day of January, 1989, between OWEN VERN TAYLOR and VERA TAYLOR, husband and wife, of 16 North 800 West, City of Blackfoot, Bingham County, State of Idaho, and GAIL R. TAYLOR and LADEAN TAYLOR, husband and wife, of 781 West 100 North, City of Blackfoot, Bingham County, State of Idaho, the parties of the First Part, and COX ENTERPRISES, INC., an Idaho corporation of 1404 East Wolverine Road, City of Firth, Bingham County, State of Idaho, the party of the Second Part, WITNESSETH:

That the said parties of the First Part, for and in consideration of the sum of TEN AND NO/100 (\$10.00) and other good and valuable consideration, lawful money of the United States of America, to the said parties of the First Part in hand paid by the party of the Second Part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presence does grant, bargain, sell and convey and confirm unto the said party of the Second Part, and to the party of the Second Parts heirs and assigns, forever, the following described water rights in and to the Blackfoot River and its tributaries as appropriated in Bingham County, State of Idaho, and more particularly described as follows, to-wit:

128 inches of Leon Misslen Water with priority
date of April 1, 1973.

27-0016

100 inches of Leon Misslen Water with priority
date of May 1, 1985.

27-0029 1885

TOGETHER with all and singular the tenements, hereditaments

12.30

and appurtenances thereunto belonging or in anywise appertaining including all rights of appropriation and use of said water with said dates of priority at such block on said Blackfoot River or its tributaries as Second Party may determine including, but not limited to, Wolverine Creek located in Bingham County, State of Idaho, it being acknowledged that Second Party has been using said water for many years last past pursuant to contract between the parties.

TO HAVE AND TO HOLD, all and singular the above mentioned and described water, water rights and appurtenances unto the said party of the Second Party, and to party of Second Parts heirs and assigns forever. The said parties of the First Part, and the said parties of the First Parts heirs shall and will warrant and by these presence forever defend the said water rights, rights of appropriation with the priority date in quiet and peaceable possession of the said party of the Second Part, and the party of the Second Parts heirs and assigns, against the said party of the First Part, and the party of the First Parts heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same.

In construing this Water Deed and where the contents so requires, the singular includes the plural.

IN WITNESS WHEREOF the said parties of the First Part have hereunto set their hands and seals the day and year first herein above written.

Owen Vern Taylor
OWEN VERN TAYLOR

Vera Taylor
VERA TAYLOR

Gail R Taylor
GAIL R. TAYLOR

Ladean Taylor
LADEAN TAYLOR

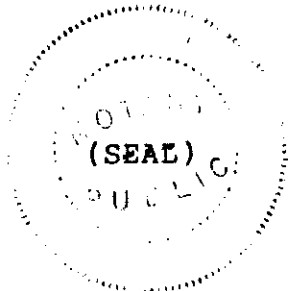
STATE OF IDAHO)

County of Bingham)

On this 9th day of January, in the year Nineteen Eighty-Nine, before me, a Notary Public in and for the State of Idaho, personally appeared OWEN VERN TAYLOR and VERA TAYLOR, husband and wife, known to me or proved 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.

Sharon R Buddles
NOTARY PUBLIC FOR IDAHO
Residing at: Blackfoot, ID
My Commission Expires: 8-12-94



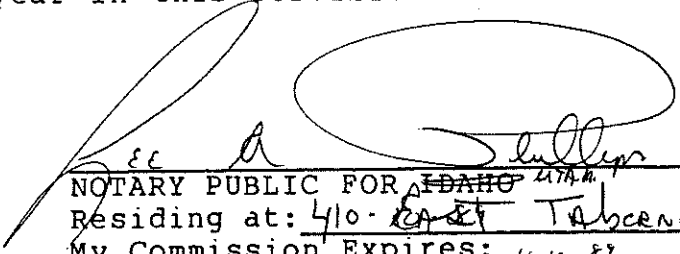
STATE OF UTAH

County of Washington

)
) ss.
)

On this 12 day of January, in the year Nineteen Eighty-Nine, before me, a Notary Public in and for the State of Utah, personally appeared GAIL R. TAYLOR and LADEAN TAYLOR, husband and wife, known to me or proved 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.


NOTARY PUBLIC FOR IDAHO
Residing at: 410 - East Tabernacle
My Commission Expires: 10-10-89

(SEAL)

377512

12th 85

1989 JAN 18 AM 9:56
Cox & Ohman
AT THE REQUEST OF
PO BOX 51600 I.F. 83403