

Best
Map

LAND - EAGLE RD. & OVERLAND RD.

ALSO
AVAILABLE

SITE

250 South 5th
Second Floor
CW Moore Plaza
Boise, Id 83702

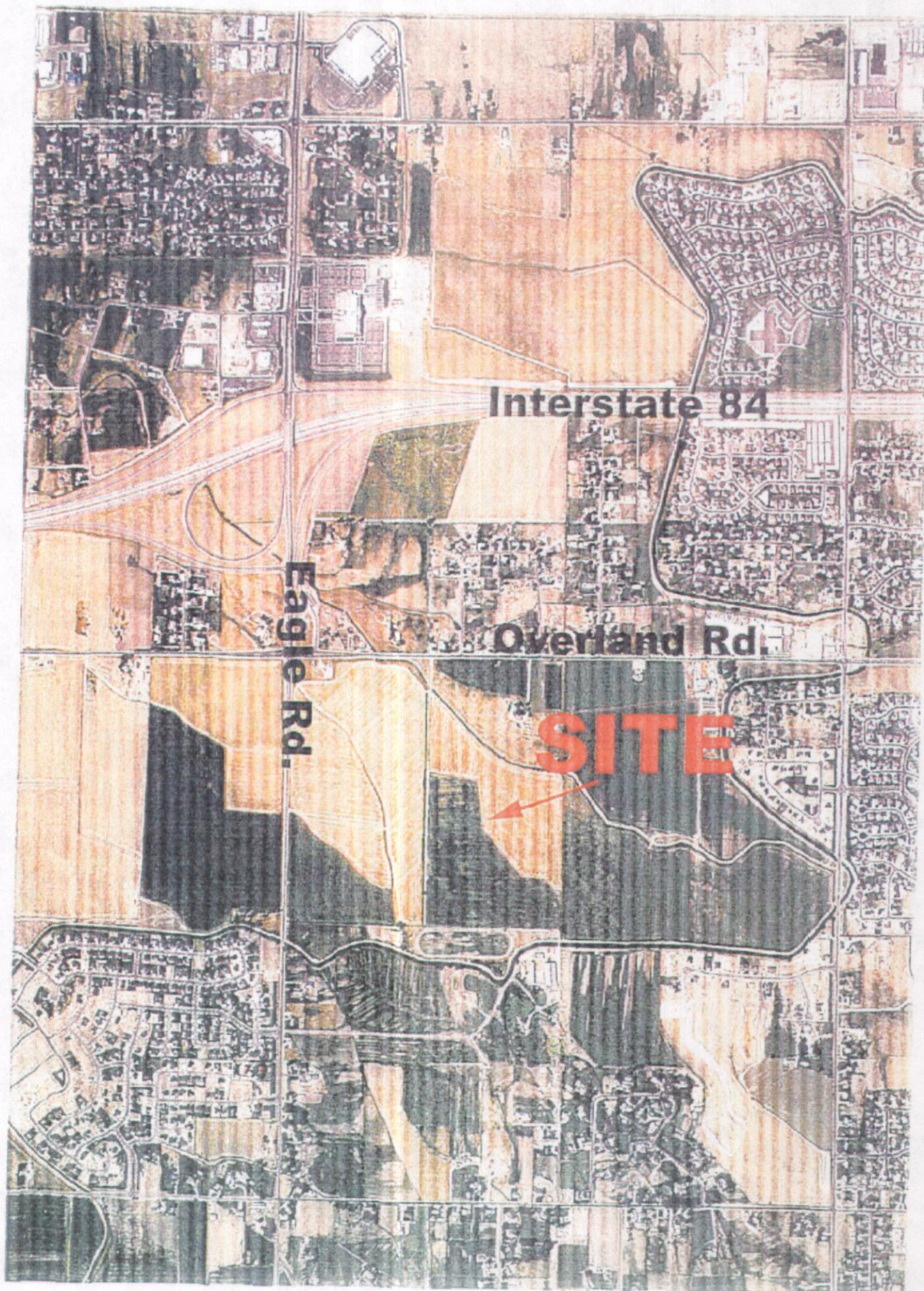
208.378.4600
FAX 208.947.0869

The information above has been obtained from sources believed reliable. While we do not doubt its accuracy, we have not verified it and make no guarantee, warranty, or representation about it. It is your responsibility to confirm its accuracy and completeness. Any projections, opinions, assumptions or estimates used are for example only and do not represent the current or future performance of the property. The value of this transaction to you depends on other factors which should be evaluated after careful investigation by your advisors.

EAGLE & OVERLAND

THORNTON OLIVER KELLER
COMMERCIAL REAL ESTATE

www.tokre.com



SITE MAP:

Franklin Rd.

Interstate 84

Overland

Eagle Rd.

Cloverdale

Locust Grove

MSIT



AVAILABLE

VACANT LAND

SEC Eagle & Overland

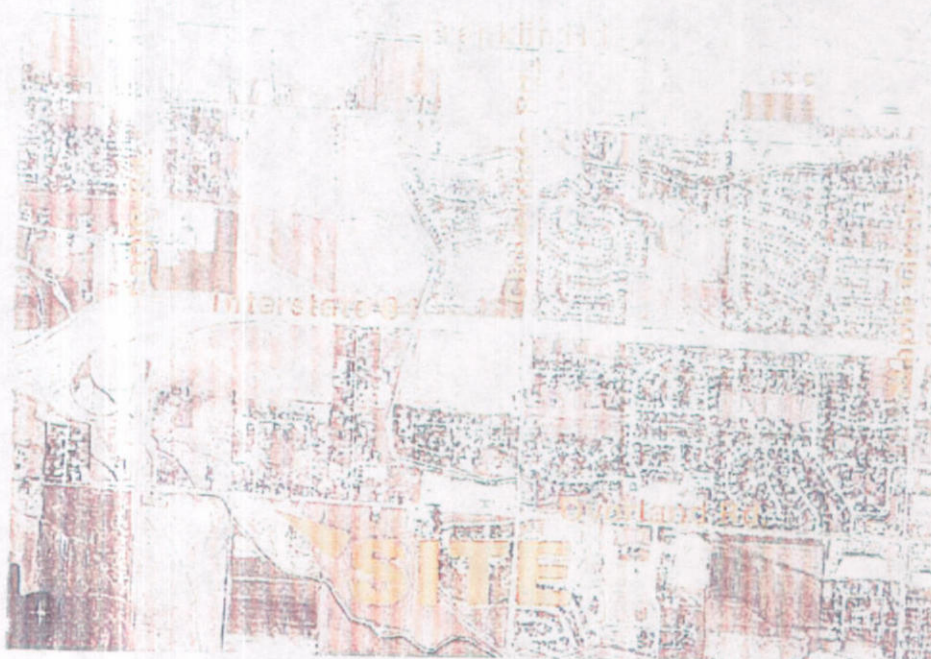
DISTRICT: West Boise
CONTACT: Mike Bellantyne
CCIM
PHONE: (208) 378-4600
FAX: (208) 947-0869
EMAIL: mjb@tokre.com

GENERAL INFORMATION

Date Available: Immediately
Offered For: Sale
Appx. Size: +/- 76.24 Acres
Sub-District: Meridian
Zoning: RT - Rural Transitional
Utilities: At or near site
Sale Price: \$

AVAILABLE LAND

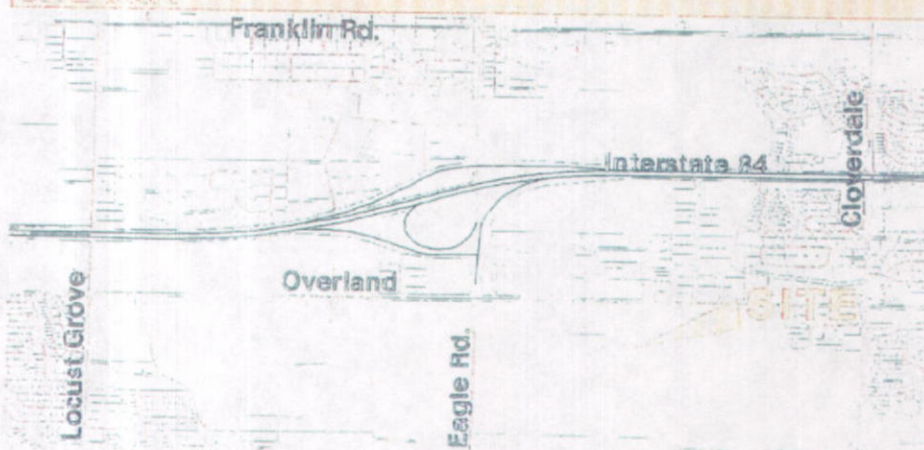
ACRES:	PRICE/SF
76.24	



LISTING COMMENTS

- Over 1300 feet of frontage on Overland Road
- Central valley location with excellent freeway access
- 500 gal/minute well on site.
- Adjacent 80 acres also available

SITE MAP



THORNTON OLIVER KELLER

COMMERCIAL REAL ESTATE

250 South 5th Second Floor CW Moore Plaza
Boise, Idaho 83702

Phone (208) 378-4600 Fax (208) 947-0869

www.tokre.com

Water Right(s) 63-31194A IDAHO DEPT OF WATER RESOURCES

1987 Photography
Date: December, 2006

● Pt of Diversion

Place of Use
1/4 1/4 Lines
Section Lines



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-31194B
Date Received: 3/29/2006
Receipt No: W033995
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

SUNDANCE INVESTMENTS LTD PARTNERSHIP Phone: (208)322-7300
9100 W BLACKEAGLE DR
BOISE ID USA 83709

2. Date of Priority: 07/22/1988

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
03N	01E	21	NE	NW		ADA	

5. Description of diverting works:

200 ft. well.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.62	218.2

7. Total Quantity Appropriated is:
0.62 C.F.S. and/or 218.2 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
03N	01E	21	NE	NW		IRRIGATION	20.5
			SE	NW		IRRIGATION	28
						Section Acres	48.5
						Total Acres	48.5

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: License

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number

63-31194B

Date Received

3-29-06

Receipt Number

WD 33995

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
MAR 29 2006
WATER RESOURCES
WESTERN REGION

Please type or print clearly

1. Name of Claimant (s) Sundance Investments, LTD Partnership Phone (208) 322-7300

Mailing Address 9100 West Blackeagle Drive, Boise, Idaho Zip 83709

2. Date of Priority (Only one (1) per claim) July 22, 1988

3. Source of water supply (a) ground water
which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 3N Range 1E Section 21,
_____ 1/4 of NE 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of Ada

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc).
Including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Well is approximately 200 feet deep.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 3/15 to 11/15 amount 0.62 or 218.2

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.62 (cfs) and/or (b) 218.2 (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
3N	1E	21					20.5			28									

Total number of acres irrigated 48.5

11. In which county (ies) are lands listed above as place of use located? Ada

12. Do you own the property listed above as place of use? Yes X No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

NMID holds a water right or None ()

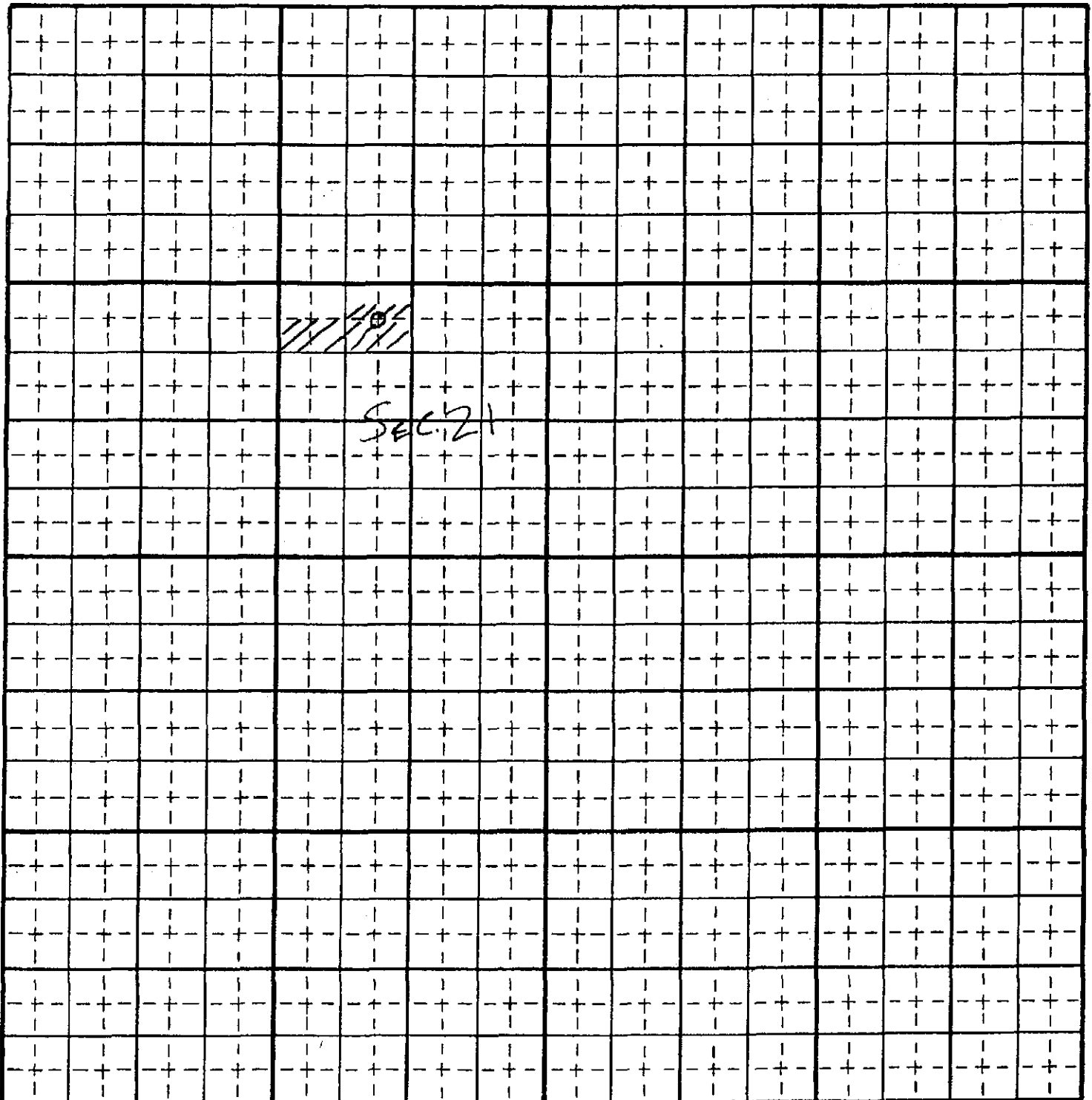
14. Remarks:

Last Name Sundance Investments Ident No. 63-31194

LTD Partnership

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name Sundance Investments Ident No. 63-31194
LTD Partnership

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____
Decree _____
If applicable provide IDWR Water Right Number 63-31194
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments 0

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

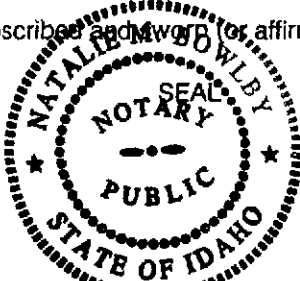
Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am Authorized Agent
Title _____
of Sundance Investments LTD Partnership, that I have signed the foregoing
Organization _____
document in the space below as Authorized Agent of Sundance Investments LTD
Title _____ Organization Partnership
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature]
Title and Organization ATTORNEY, EBELLS BOLLIN ET AL Date 3/28/06

State of Idaho/or _____)
County of Ada) SS.

Subscribed and sworn to (or affirmed) before me this 28th day of March 18 2006



Notary Public Natalie D. Boulden
Residing at Boise
My Commission Expires 2-19-08

Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, RICHARD W. STOVEN will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature [Signature]
Address P.O. Box 1368 Boise, ID 83701
Date 3/28/06

Last Name Sundance Investments Ident. Number 63-31194
LTD Partnership

RECEIVED

MAR 30 2007

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

A. Subcase 63-31194B

(Insert water right no.)

Case No. 39576

Amended
STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: L. DARWIN MCKAY

Address: 6100 S. Eagle Road
Meridian, Idaho 83642

Daytime Phone: 208 342-4591

Name & Address of Attorney, if any:

Jon C. Gould
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTORS'S REPORT

Name: SUNDANCE INVESTMENTS LTD PARTN

Address: 9100 W BLACKEAGLE DR
Boise, ID 83709

D. I object to the following elements as recommended in the Director's Report (Please check the Appropriate box(es)).

1. X **Name and Address**
 Should be:
2. X **Source**
 Should be:
3. X **Quantity**
 Should be:
4. X **Priority Date**
 Should be:
5. X **Point(s) of Diversion**
 Should be:
6. ☐ **Instream Flow Description**
 Should be:
7. X **Purpose(s) of Use**
 Should be:
8. X **Period of Year**
 Should be:
9. X **Place of Use**
 Should be:
10. X **I object because:**

~~X~~ This water right should not exist.

- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION (S):** A dispute over a land transfer exists. During the pendency of the dispute the Department should maintain the status quo regarding ownership of the water right. In approving this water right and disapproving water right no. 63-31194A, the Department is making a legal conclusion on whether the land transfer included the water right.

F.

VERIFICATION (must be completed)

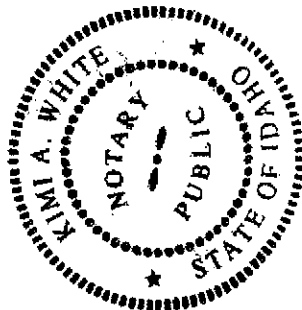
State of Idaho)
) ss.
County of Ada)

Jon C. Gould, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I. C. §§ 42-1401A (1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

J. C. Gould
Jon C. Gould

Subscribed and sworn to before me on: March 29, 2007



Kim A. White
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 04/01/10

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on March 29, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Richard W. Stover
Eberle, Berlin, Kading Turnbos, McKlveen & Jones, Chtd.
Address: PO Box 1368
Boise, ID 83701-1368

Name: SUNDANCE INVESTMENTS LTD PARTN
Address: 9100 W BLACKEAGLE DR
Boise, ID 83709

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

RECORDED
MAR 28 2007
DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
)
)
)
)
)
)

A. Subcase 63-31194B
(Insert water right no.)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: SUNDANCE INVESTMENTS LTD PARTN

Address: 9100 W BLACKEAGLE DR
Boise, ID 83709

Daytime Phone: 208 322-7300

Name & Address of Attorney, if any:
Jon C Gould
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTORS'S REPORT

Name: SUNDANCE INVESTMENTS LTD PARTN

Address: 9100 W. BLACKEAGLE DR
Boise, ID 83709

D. I object to the following elements as recommended in the Director's Report. (Please check the Appropriate box(es))

1. ☒ **Name and Address**
Should be:

2. ☒ **Source**
Should be:

3. ☒ **Quantity**
Should be:

4. ☒ **Priority Date**
Should be:

5. ☒ **Point(s) of Diversion**
Should be:

6. ☐ **Instream Flow Description**
Should be:

7. ☒ **Purpose(s) of Use**
Should be:

8. ☒ **Period of Year**
Should be:

9. ☒ **Place of Use**
Should be:

10. ☒ **I object because:**

☒ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION (S): A dispute over a land transfer exists. During the pendency of the dispute the Department should maintain the status quo regarding ownership of the water right. In approving this water right and disapproving water right no 63-31194A, the Department is making a legal conclusion on whether the land transfer included the water right.

F.

VERIFICATION (must be completed)

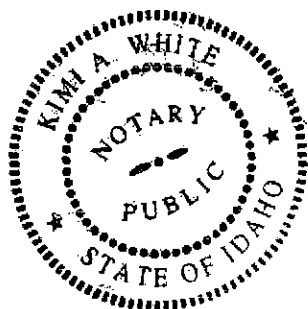
State of Idaho)
) ss.
County of Ada)

Jon C. Gould, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I. C. §§ 42-1401A (1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Jon C. Gould
Jon C Gould

Subscribed and sworn to before me on: March 27, 2007



Kim A. White
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 01/01/10

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on March 27, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1 Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2 One copy to the claimant of the water right at the following address:

Name: Richard W. Stover
Eberle, Berlin, Kading Turnbos, McKlveen & Jones, Chtd
Address: PO Box 1368
Boise, ID 83701-1368

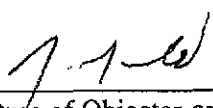
Name: SUNDANCE INVESTMENTS LTD PARTN
Address: 9100 W BLACKEAGLE DR
Boise, ID 83709

3 Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449



Signature of Objector or attorney
mailing on Objector's behalf

COPY

RECEIVED

AUG 14 2007

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

A. Subcase 63-31194B

(Insert water right number
From the Objection Form)

STANDARD FORM 2
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Sundance Investments Ltd. Partnership

Address: 9100 W. Blackeagle Drive

Boise, ID 83709

Daytime Phone: _____

Name & Address of Attorney, if any:

Richard W. Stover

Eberle, Berlin, Kading, Turnbow & McKlveen,
Chartered

P.O. Box 1368

Boise, ID 83701-1368

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING

Name: L. Darwin McKay

Address: 6100 S. Eagle Road

Meridian, ID 83642

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

1. ☒ Name and Address
2. ☒ Source
3. ☒ Quantity
4. ☒ Priority Date
5. ☒ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☒ Purpose(s) of Use
8. ☒ Period of Year
9. ☒ Place of Use
11. Recommendation

☒ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

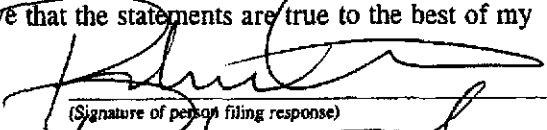
*Please see attached explanation and documentation in support of response, incorporated herein by reference.

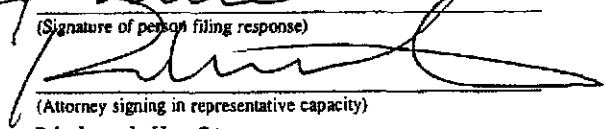
E. **VERIFICATION** (Must be Completed)

State of Idaho)
)ss.
County of Ada)

Richard W. Stover, duly sworn, upon oath, deposes and says:
(Name of person filing response)

That I am the party/claimant filing this response as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.


(Signature of person filing response)


(Attorney signing in representative capacity)

Richard W. Stover

Subscribed and sworn to before me on: _____

Notary Public for _____
Residing at: _____
My Commission Expires: _____

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on August 13, ²⁰⁰⁷~~199~~, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Sundance Investments Ltd. Partnership
Address: 9100 W. Blackeage Drive, Boise, Idaho 83709

3. One copy to the party who filed the objection at the following address:

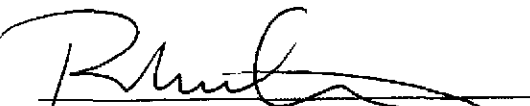
Name: L. Darwin McKay
Address: 6100 S. Eagle Road, Meridian, Idaho 83642

4. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Your signature or signature of attorney
mailing on your behalf

EXPLANATION AND DOCUMENTATION IN SUPPORT OF RESPONSE
Subcase # 63-31194B

Enclosed for consideration are the following Exhibits:

1. Exhibit "A" – Marketing information from Thornton Oliver Keller, dated September 18, 2000, with respect to the subject property;
2. Exhibit "B" – Purchase and Sale Agreement, dated January 9, 2003, with respect to the subject property, which includes as an exhibit thereto a fully executed copy of the Co-Tenancy Agreement. Please note L. Darwin McKay's signature;
3. Exhibit "C" – Action by Cotenants, executed by each co-tenant, approving the Purchase and Sale Agreement. Please note L. Darwin McKay's signature;
4. Exhibit "D" – Quitclaim Deeds (4), dated February 25, 2003, conveying the subject property from L. Darwin McKay to The Turf Corporation, together with their appurtenances;
5. Exhibit "E" – Warranty Deeds (2), dated February 25, 2003, conveying the subject property from The Turf Corporation to Sundance Investments Limited Partnership, together with their appurtenances;
6. Exhibit "F" – Quitclaim Deeds (2), dated February 25, 2003, conveying the subject property from The Turf Corporation to Sundance Investments Limited Partnership, together with their appurtenances; and
7. Exhibit "G" – Quitclaim Deeds (2), dated February 24, 2003, conveying the subject property from L. Darwin McKay and Patricia E. McKay to Sundance Investments Limited Partnership, together with their appurtenances.

A review of these exhibits establishes that as early as September 2000, the real property to which water right no. 63-31194B is appurtenant was marketed for sale. Water right no. 63-31194B is specifically referenced on two occasions in that marketing material as being included with the sale of the real property. Thereafter, on January 9, 2003, Sundance Investments Limited Partnership ("Sundance") entered into a Purchase and Sale Agreement ("Agreement"), which provided as follows:

1. PROPERTY TO BE PURCHASED. Buyer agrees to purchase, and Seller agrees to sell, the Property, together with all easement rights, mineral rights, other appurtenances, water and water rights appurtenant to or used on the Property and all shares, certificates, and other documents evidencing such water rights.

(See, Exhibit "B" at p. 1) (emphasis added).

Each and every co-tenant holding an interest in the subject real property, including L. Darwin McKay, approved the Agreement to sell the subject property with all water rights appurtenant to or used on the property. Specifically, the Agreement was executed by Sundance and "Jack Miller, on behalf of the Co-Tenants and in accordance with the Co-Tenancy Agreement ..." (See, Exhibit "B" at p. 5). The Co-Tenancy Agreement, which is attached as an exhibit to Exhibit "B," was executed by every person holding an interest in the subject property, including L. Darwin McKay. The Co-Tenancy Agreement, provides: "Only with the prior written consent of a Super Majority of the Cotenants, shall Jack E. Miller have authority to take any actions with respect to the sale of the Property ..." (See, Exhibit "B" of Exhibit "B" at p. 3). Exhibit "C" is proof that a super majority approved the Agreement; in fact, the Exhibit "C" establishes unanimous approval by the co-tenants, including L. Darwin McKay.

Exhibits "D" through "G" are all of the deeds conveying the subject property, together with appurtenances, from L. Darwin McKay to Sundance. It should be noted that Mr. McKay executed ten (10) deeds to accomplish the conveyance of the subject property to Sundance. Each and every one of the deeds specifically states that appurtenances are included with the conveyance, and none of the deeds specifically excludes water right no. 63-31194B from the conveyance.

Throughout the course of the above-described transaction, exclusion of water right no. 63-31194B from the sale was never discussed and there is absolutely no writing memorializing the exclusion of that water right from the sale. Sundance first learned that Mr. McKay wants to retain the water right on September 2, 2004, when Mr. McKay's attorneys wrote IDWR in response to the Notice of Change in Water Right Ownership filed by Sundance. Moreover, Mr. McKay signed all the documents related to the transfer of the subject property and the water right – the Co-Tenancy Agreement, the Action by Cotenants, and ten (10) deeds – and he never mentioned that he wanted to exclude the water right. Simply stated, Mr. McKay had ten (10) opportunities to exclude the water right by changing the terms of the deeds, but he did not. It is only now, after the fact, that Mr. McKay asserts his claim of ownership.

In light of the foregoing, it is clear that pursuant to Idaho law, water right no. 63-31194B should be decreed in the name of Sundance. Specifically, Idaho law clearly provides that a deed to real property that includes the provision “together with appurtenances” operates to convey the real property AND the water rights appurtenant to the property at the time of the conveyance, unless the water right is “specifically reserved in the deed or it could be clearly shown that it was known to BOTH parties that the water right was not intended to be conveyed,” *Russell v. Irish*, 20 Idaho 194, 118 P. 501 (1911) (emphasis added); see also *Koon v. Empey*, 40 Idaho 6, 231 P. 1097 (1924).

In fact, the Idaho Supreme Court very recently stated the rule in Idaho, to wit: “Unless they are expressly reserved in the deed or it is clearly shown that the parties intended that the grantor would reserve them, appurtenant water rights pass with the land even though they are not mentioned in the deed ...” *Joyce Livestock Co. v. United States*,

144 Idaho 1, 156 P.3d 502, 515 (2007). Thus, there are only two relevant inquiries necessary to decide this matter: 1) was water right no. 63-31194B “expressly reserved in the deed”; or 2) is it “clearly shown” that both parties intended water right no. 63-31194B to be excluded from the sale. The answer to both inquiries is “NO.” Obviously, the water right is not expressly reserved in any of the ten (10) deeds conveying the property, and there is absolutely no evidence, let alone clear evidence, that any of the parties involved in the sale intended to excluded the water right. It is only now, years after the fact, that Mr. McKay unilaterally is attempting to create a cloud on Sundance’s title to the land and the water right.

In light of the foregoing water right no. 63-31194B should be decreed in the name of Sundance. Finally, because this dispute originates from a commercial transaction, Sundance hereby requests an award of attorneys fees pursuant to Idaho Code § 12-120. An award of attorneys fees is likewise requested pursuant to Idaho Code §§ 12-121 and 12-123.

Memorandum:

To: Roger Anderson, Sundance Company
From: Mike Ballantyne, Thornton Oliver Keller
Re: Overland Road Property
Date: September 18, 2000

*Make File
82AC
Ballantyne
"overland road"*

For your reference I have outlined the pertinent information on the property below.
Please let me know what additional information may be necessary.

OWNER: Fee simple title rests with James H. and Mary Ballantyne and Bruce & Marjorie A. Pickett. In 11/17/78, the property was sold under a contract of sale to the TCM Joint Venture. Under a contract of sale the deed transferring ownership is not recorded until the note is paid. The buyer recently made the final payment to pay off the entire note. I am unsure if the escrow has been completely closed out.

LOCATION/SIZE: The property sits on the south side of Overland Road, approximately 1300 feet east of the intersection of Eagle Road (Idaho Hwy. 55) and Overland Road. The property was a total of 80 acres to the centerline of Overland Road. There is a 25 foot right-of-way along Overland Road. The property has 1320 of frontage on Overland and is 2640 deep (including right-of-way). The net acreage lost to the right-of-way is .76 (33,000 SF). In addition, the owner has sold approximately 3 acres to the Ada County Highway District for use as a water retention area. This area will be developed when Overland Road is improved. The net developable site is 76.24 acres. The site is level and is dissected by the Eight Mile Drain.

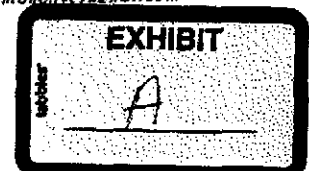
PRICE: The total price is [REDACTED] SF. Assuming 76.24 acres the price would be approximately \$ [REDACTED]

ZONING: The site is currently zoned RT (Rural Transitional) in Ada County. The site falls within the City of Meridian Impact Area. The City's old comprehensive plan calls for the parcel to have mixed residential and commercial uses. However, City staff has indicated that the comp. plan does not take into account the current development trends along Eagle Road. The City Planning Director has indicated that the entire site should be developed as a more intensive use. She has no opposition to commercial development. Accordingly, the city has designated the entire site to be commercial on the new draft comprehensive plan.

TRANSPORTATION: The site lies approximately 1/2 mile to the south of the Eagle Road U.S. Interstate 84 Interchange. Eagle Road is designated as Idaho State Hwy 55.

Brokerage - Management

250 South Fifth Street, Second Floor Boise, Idaho 83702 Phone 208-378-4600 Fax 208-947-0869 www.thorntonoliverkeller.com



*JH Ballantyne Jr.
10250 Whispering Cuts Dr
Boise ID
375-1966*

Overland Road is currently a two lane rural street section from Five Mile Road to the west. East of Five Mile Road, Overland is a five lane arterial. Overland Road, from Eagle Road east is designated under the ACHD plan as an Arterial. The road will be widened from 2 lanes to 5 lanes under ACHD's plan. There is no specific timetable for this widening. When the road is widened the Highway District will take an additional 23 feet from the subject property for a total of a 98 foot street section. ACHD will compensate the landowner for that taking. The owner would be required to install a sidewalk at the edge of the proposed right-of-way, at the time of development of the site. Overland Road from Eagle Road west is designated to be a three lane road with two bicycle lanes. This is a funded project currently scheduled for FY 2004.

ELECTRICITY: The site is served by a rural residential power grid provided by Idaho Power. The substation for this site is located less than 1.5 miles to the northeast at the intersection of Cloverdale and Franklin Roads. Depending on the power requirement, Idaho Power can provide power in two ways; 1.) Extend upgraded lines from the substation south along Cloverdale Road and west along Overland. 2.) Extend the major transmission lines from the substation to the site and install a dedicated substation on the site for the exclusive use of Micron.

NATURAL GAS: The site is serviced by two nearby gas mains operated by Intermountain Gas. There is a gas main in Overland Road and a second gas main running south on Eagle Road to a point approximately 200 feet south of Victory Road.

SEWER: The City of Meridian recently extended an 18" sewer main line under Interstate 84. The main line was extended to Overland Road approximately ¼ mile west of the intersection of Overland and Eagle Roads. The line will need to be extended to the east approximately ½ mile to the subject property. The property owner is working with a civil engineer to extend the line. The cost will be approximately \$500,000 to extend this line. There is a latecomer's agreement in place for the extension under the freeway. The cost of this agreement to the property owner is approximately \$50,000.

WATER: A water main line was extended with the above-mentioned sewer extension. It will loop with an existing mainline on Overland Road. Water service must be extended with the sewer extension to the site.

IRRIGATION: The site lies within the Nampa Meridian Irrigation District and holds water rights under the district. In addition, there is a beneficial use water right in the name of Darwin McKay, part of the TCM Joint Venture. This water right allows the owner to draw water from the underground aquifer for agricultural purposes. The site has a 500 gpm well to do this. The well has a 10" casing and goes to an aquifer 160' below the surface.

ENVIRONMENTAL: The site has never been the subject of an Environmental Site Assessment. It is not listed as a Superfund site nor has there been a documented release

on the site. The site has been used only for agricultural purposes and the Owner knows of no environmental issues related to the site.

SURVEY: The owner has ordered a topographic and boundary survey of the property which we should have in a few weeks.

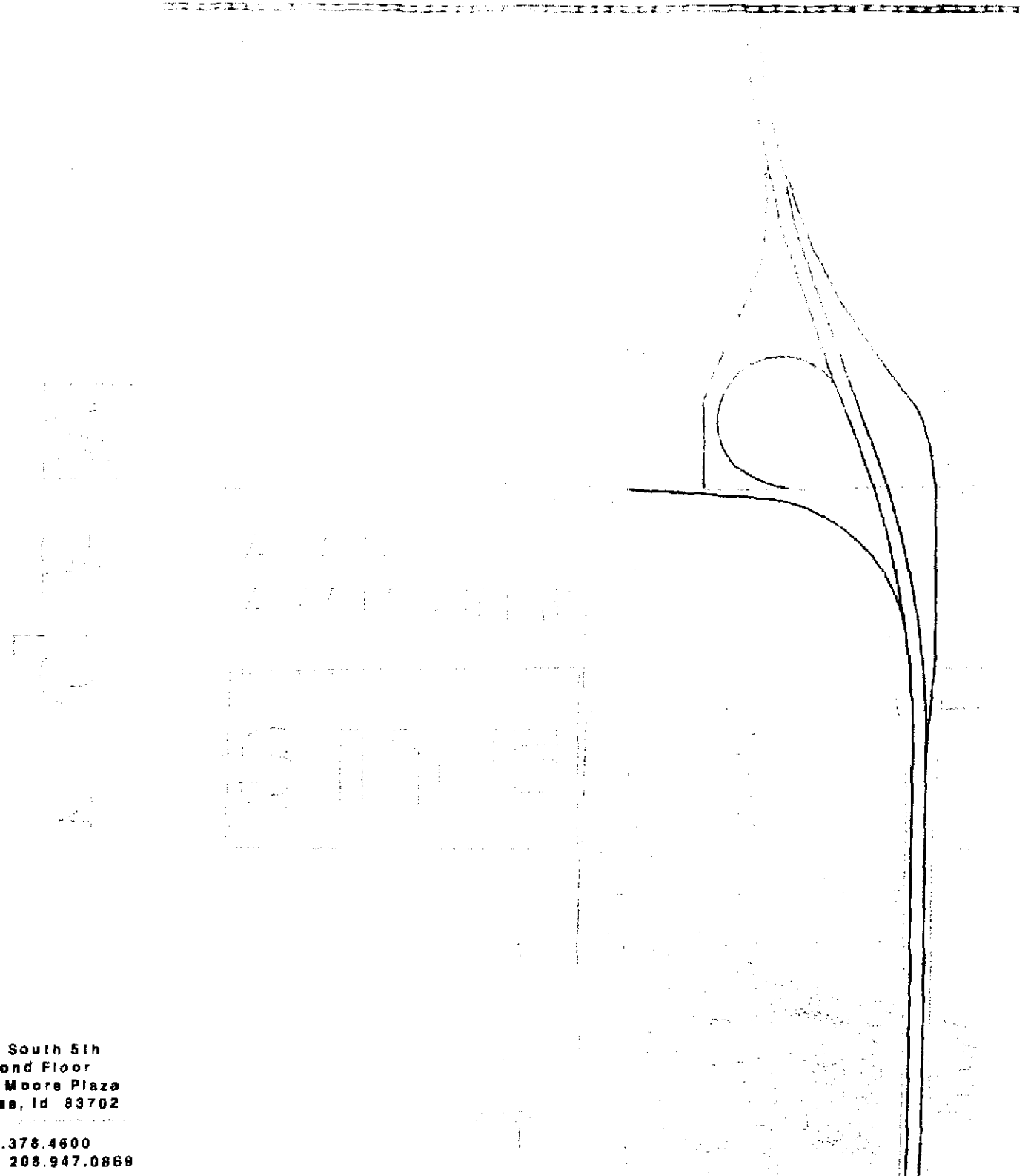
FLOOD PLAIN: The site does not lie within a flood plain or floodway as defined by the U.S. Army Corps of Engineers.

I have attached a copy of the ACHD Five Year Work Program for the Overland Road area as well as a copy of a Commitment to Insure from Pioneer Title which addresses title issues for the property.

Please give me a call if I can answer any further questions. I can be reached directly at 947-0831.

Thanks

LAND: EAGLE RD & OVERLAND RD



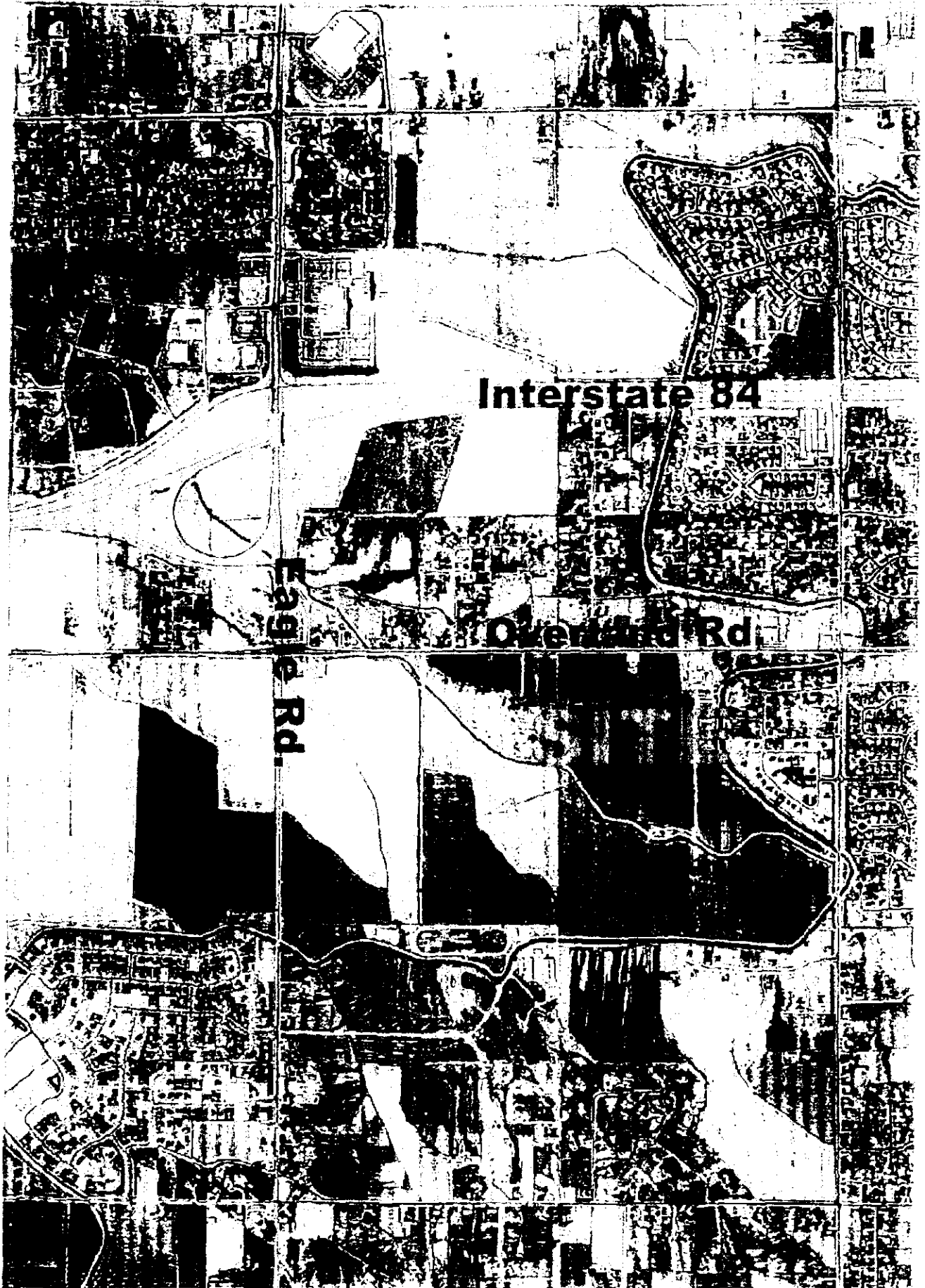
250 South 5th
Second Floor
CW Moore Plaza
Boise, Id 83702

208.378.4600
FAX 208.947.0869

The information above has been obtained from sources believed reliable. While we do not doubt its accuracy, we have not verified it and make no guarantee, warranty, or representation about it. It is your responsibility to confirm its accuracy and completeness. Any projections, opinions, assumptions or estimates used are for example only and do not represent the current or future performance of the property. The value of the transaction to you depends on other factors which should be evaluated after careful investigation by your advisors.

EAGLE & OVERLAND

THORNTON OLIVER KILLER
COMMERCIAL REAL ESTATE
www.tokre.com



AVAILABLE

Overland Road, 1300' frontage, 76.24 acres, 500 gal/min well, 80 acres adjacent

7/1/01 - 1/1/02

76.24 acres - 76.24 acres

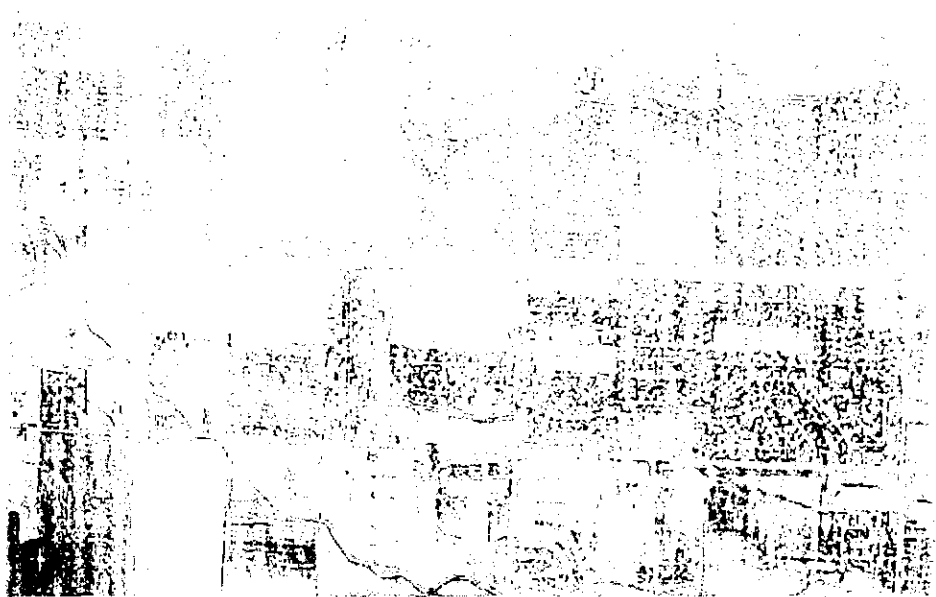
1.7000 acre - 1.7000 acre

500 gal/min well - 500 gal/min well

7/1/01 - 7/1/02

76.24 - 76.24

76.24 - 76.24



GENERAL INFORMATION

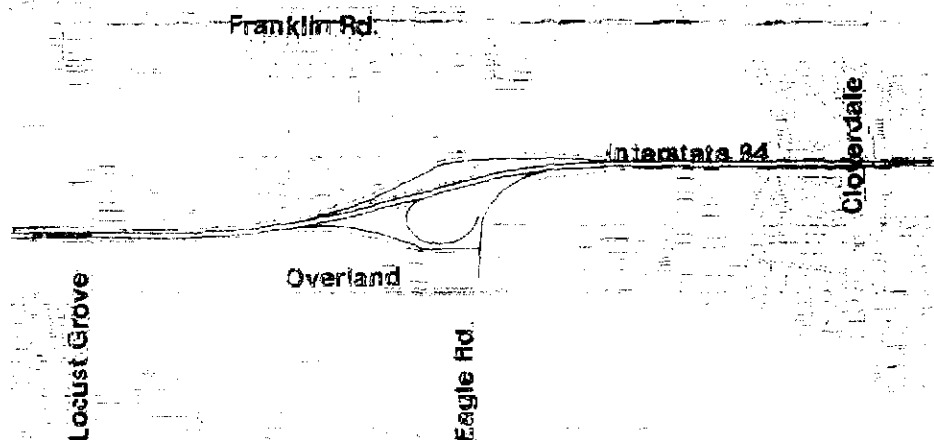
Date Available: Immediately
Offered For: Sale
Approx. Size: 76.24 Acres
Sub-District: Meridian
Zoning: RT - Rural Transitional
Utilities: At or near site
Sale Price: \$

LISTING COMMENTS

- Over 1300 feet of frontage on Overland Road
- Central valley location with excellent freeway access
- 500 gal/minute well on site
- Adjacent 80 acres also available

AVAILABLE LAND

ACRES:	PRICE/SF
76.24	



THORNTON OLIVER KELLER

COMMERCIAL REAL ESTATE
250 South 5th, Second Floor, CW Moore Plaza
Boise, Idaho 83702
Phone (208) 378-1600 Fax (208) 947-0869
www.tokre.com

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this "Agreement") is made and entered into effective as of the 9th day of January, 2003, by and between Sundance Investments Limited Partnership, an Idaho limited partnership, or its assigns ("Buyer"), and Miller Family Trust as to a 10% undivided interest, Christopher J. Kepus as to a 10% undivided interest, Alfred W. Sturr as to a 10% undivided interest, Richard Lavender as to a 10% undivided interest, Loyal A. and Irene Mehrhoff Trust as to a 10% undivided interest, Fred Nakaji as to a 10% undivided interest, Mary Ballantyne and Estate of James H. Ballantyne as to a 10% undivided interest, Bruce R. Pickett as to a 10% undivided interest, L. Darwin McKay as to a 2.5% undivided interest, Donna McKay as to a 2.5% undivided interest, Fred Delgadillo, Sr. as to a 5% undivided interest, Bob Delgadillo as to a 5% undivided interest, and Fred Delgadillo, Jr. as to a 5% undivided interest (collectively, "Seller").

Recitals

A. Seller owns as tenants-in-common that certain property depicted on Exhibit A, attached hereto and made a part hereof, (the "Property"), consisting of approximately 78.39 acres.

B. Buyer desires to purchase, and Seller desires to sell, the Property according to the terms and conditions set forth below.

Agreement

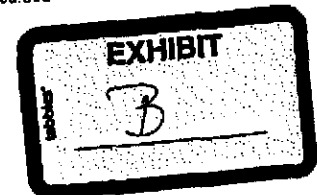
NOW, THEREFORE, in consideration of the recitals, the mutual covenants hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, it is agreed by and between the parties as follows:

1. **PROPERTY TO BE PURCHASED.** Buyer agrees to purchase, and Seller agrees to sell, the Property, together with all easement rights, mineral rights, other appurtenances, water and water rights appurtenant to or used on the Property and all shares, certificates, and other documents evidencing such water rights.

2. **PRICE; EARNEST MONEY NOTE.** The purchase price for the Property is ~~_____~~ (the "Purchase Price"). The Purchase Price shall be payable through escrow as follows:

a. **Deposit.** By no later than January 13, 2003, Buyer shall deposit Fifty Thousand Dollars (\$50,000) (Earnest Money), to be held for the benefit of Seller. If Buyer elects to not purchase the Property in accordance with the terms and conditions of this Agreement, the Earnest Money shall be released to Buyer.

b. **Cash at Closing.** At Closing, the Earnest Money shall be released to Buyer, and Buyer shall pay the Purchase Price, as adjusted pursuant to this Agreement, to Seller in cash.



3. **TITLE COMPANY/CLOSING AGENCY AND CLOSING FEES.** The parties agree that Pioneer Title Company of Ada County (the "Title Company") shall provide any required title policy and preliminary report or commitment. Each party agrees to pay one-half of the Closing Agency's fee and any recording costs.

4. **TITLE INSURANCE.** Seller shall provide and pay for an ALTA Owner's Standard Coverage Title Policy insuring the Buyer for the amount of the Purchase Price. Buyer shall obtain from the Title Company a preliminary title report or commitment together with copies of all underlying documents giving rise to any exceptions listed therein. Buyer shall have ten (10) days from the date this Agreement is executed by Buyer and Seller to object, by written notice to Seller, to the condition of title as set forth in the report. In the event Buyer makes written objection to any exception to title, Seller shall have a reasonable time, not to exceed five (5) days, to remove any such objected to exception or provide affirmative title insurance coverage. If Seller cannot remove, or is unwilling to remove, such objected to exceptions or provide affirmative title insurance coverage for the same, Buyer may elect to either terminate this Agreement or proceed to closing, taking title subject to such exceptions. If Buyer does not object prior to the conclusion of the ten (10) day period, Buyer shall be deemed to have accepted the condition of the title. In the event Buyer elects to terminate this Agreement as provided herein, the Earnest Money shall be released to Buyer and Buyer shall pay the costs for the Title Company's preparation of the preliminary title report.

5. **ACCESS TO PROPERTY.** Upon the execution of this Agreement by Buyer and Seller, Buyer and its agents shall be entitled to access to the Property for purposes of inspecting and surveying the Property. Buyer shall indemnify, hold harmless, protect and defend Seller (and its officers, directors, shareholders, employees, agents, successors and assigns) from and against any and all liabilities, liens, claims, damages, costs, expenses, suits or judgments (including reasonable attorney's fees and court costs) for labor or services performed or materials furnished to or for Buyer, or for personal injury or death or property damage arising out of entry upon the Property by Buyer or its employees, agents or independent contractors.

6. **AS-IS PURCHASE.** Buyer acknowledges and agrees that, prior to Closing, Buyer shall have made its independent investigation and examination of the Property. Except as expressly set forth in this Agreement, it is understood and agreed that Seller is not making and has not at any time made any warranties or representations of any kind or character, expressed or implied, with respect to the Property other than those contained in the warranty deed. Purchaser expressly acknowledges and agrees that, upon Closing, Seller shall sell and convey to Purchaser and Purchaser shall accept the Property in an "AS IS" condition.

7. **TITLE CONVEYANCE.** Title to the Property is to be conveyed by warranty deed and is to be marketable and insurable except for those liens, encumbrances or defects approved by Buyer pursuant to Section 4 of this Agreement.

8. **CLOSING DATE.** For purposes of this Agreement, "Closing" shall be deemed to be the date on which the deed is recorded and the sales proceeds are available for disbursement to Seller. On or before Closing, Buyer and Seller shall deposit with the Closing Agency all funds and instruments necessary to complete the sale. Closing shall be February 28, 2003, or such other date as agreed by Buyer and Seller in writing.

9. **PRORATIONS; COMMISSIONS.** Taxes and water assessments shall be prorated as of Closing, using the last available assessment as a basis for such prorations. Seller shall be entitled to all rents from the Property through and including the Closing Date. Seller shall pay any brokerage commissions due to Thornton Oliver Keller Commercial Real Estate (with The Igo Company participating pursuant to a separate agreement between it and TOK) for the transaction contemplated in this Agreement.

10. **DEFAULT; ATTORNEY FEES.** If either party default under this Agreement, the non-defaulting party shall be entitled to all such rights as are available at law or in equity, all of which shall be cumulative. In the event of any controversy, claim or action being filed or instituted between the parties to this Agreement to enforce the terms and conditions of this Agreement, or arising from the breach of any provision thereof, the prevailing party will be entitled to receive from the other party all costs, damages, and expenses, including reasonable attorneys fees, incurred by the prevailing party, whether or not such controversy or claim is litigated or prosecuted to judgment. The prevailing party will be that party who is awarded judgment as a result of trial or arbitration, or who receives a payment of money or other concession or agreements from the other party in settlement of claims asserted by that party.

11. **CONDEMNATION.** If, at any time before the Closing Date, the Property or any part thereof is threatened with condemnation, or legal proceedings are commenced under the power of eminent domain, Buyer shall have the option to terminate the Agreement by giving Seller written notice, in which event neither Seller nor Buyer shall have any further right or obligation hereunder. If Buyer does not exercise its option to terminate this Agreement, the Agreement shall remain in full force and effect and shall not terminate, and all damages shall belong to and be the property of Buyer. Seller shall execute any assignments or other documents reasonably required by Buyer to confirm Buyer's rights as provided hereunder, and Buyer shall accept the Property without any reduction of the Purchase Price by reason of such threatened or actual condemnation.

12. **MISCELLANEOUS.** This Agreement may be executed in any number of identical counterparts, any or all of which may contain the signatures of less than all of the parties, and all of which shall be construed together as but a single instrument. This written Agreement, including all exhibits attached hereto and documents to be delivered pursuant hereto, shall constitute the entire agreement and understanding of the parties, and there are no other prior or contemporaneous written or oral agreements not contained herein. This Agreement may be amended only by a written memorandum subsequently executed by all of the parties hereto. No waiver of any provision or condition of this Agreement by any party shall be valid unless in writing signed by such party. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default. In the event that any provision of this Agreement shall be unenforceable in whole or in part, such provision shall be limited to the extent necessary to render the same valid, or shall be excised from this Agreement, as circumstances require, and this Agreement shall be construed as if said provision had been incorporated herein as so limited, or as if said provision has not been included herein, as the case may be. Headings of Paragraphs are for convenience of reference only, and shall not be construed as a part of this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized

that both Seller and Buyer have contributed substantially and materially to the preparation of this Agreement.

13. 1031 EXCHANGE. Each party shall cooperate with the other party in connection with a tax-deferred exchange involving the Property under Section 1031 of the Internal Revenue Code, provided that any such tax-deferred exchange shall not delay or be a condition to Closing and shall not result in any additional cost or liability to the non-exchanging party.

14. ASSIGNMENT. Buyer may assign all or a portion of its interests under this Agreement upon prior written notice to Seller.

15. TWO PARCELS: It is understood that the Property is comprised of two parcels and that the Seller shall convey the property by two warranty deeds.

16. SELLER AUTHORITY. The undersigned jointly and severally represent and warrant to Buyer that they are the owners of 100% of the fee title to the Property, with the full right, power and authority to execute and deliver this Agreement and sell the Property to Buyer. The undersigned shall jointly and severally indemnify, hold harmless, protect and defend Buyer (and its officers, directors, shareholders, employees, agents, successors and assigns) from and against any and all liabilities, liens, claims, damages, costs, expenses, suits or judgments (including reasonable attorney's fees and court costs) arising from or related to any breach of the foregoing representation.

17. NOTICES TO SELLER. For purposes of this Agreement, notices to Seller shall be sent to: 940 Ash Street, Kuna, Idaho 83634, Attn: Jack Miller, with copy to: Thornton Oliver Keller Commercial Real Estate, 250 S. Fifth St., Second Floor, Boise, ID 83702.

18. DISCLOSURE. Seller discloses and Buyer acknowledges the listing broker for the transaction contemplated in this Agreement is related to a principal of the Seller.

19. AGENCY DISCLOSURE: In the transaction contemplated by this Agreement, the brokerages involved had the following relationships with the Buyer and Seller: Listing Broker acted as Non-agent for the Buyer and Agent for the Seller. Selling Broker acted as Agent for the Buyer and Non-agent for the Seller.

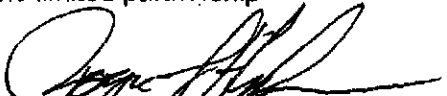
[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first above written.

BUYER:

SUNDANCE INVESTMENTS LIMITED PARTNERSHIP,
an Idaho limited partnership

By:


Roger L. Anderson, General Partner

1/13/03

SELLER:

MILLER FAMILY TRUST
CHRISTOPHER J. KEPUS
ALFRED W. STURR
RICHARD LAVENDER
LOYAL A. AND IRENE MEHRHOFF TRUST
FRED NAKAJI
MARY BALLANTYNE
ESTATE OF JAMES H. BALLANTYNE
BRUCE R. PICKETT
L. DARWIN MCKAY
DONNA MCKAY
FRED DELGADILLO, SR.
BOB DELGADILLO
FRED DELGADILLO, JR.

By:

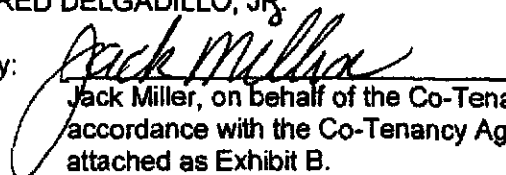

Jack Miller, on behalf of the Co-Tenants and in
accordance with the Co-Tenancy Agreement
attached as Exhibit B.

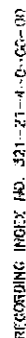
EXHIBIT A
DEPICTION OF PROPERTY

Purchase And Sale Agreement - 6

Rev. 1/06/03

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APR 25 1971

ENGINEERING SURVEYING

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Tulsa, Oklahoma 74104-3850

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EXHIBIT B
CO-TENANCY AGREEMENT

Purchase And Sale Agreement - 7

Rev. 1/06/03

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**AGREEMENT
OF
CO-TENANCY**

Agreement executed on December ____, 2002 among the Miller Family Trust, Christopher J. Kepus, Alfred W. Sturr, Richard Lavender, Loyal A. and Irene Mehrhoff Trust, Fred Nakaji, Mary Ballantye and the Estate of James H. Ballantyne, Bruce R. Pickett, L. Darwin McKay, Donna McKay, Fred Delgadillo, Sr., Bob Delgadillo, and Fred Delgadillo, Jr. (collectively referred to as "Cotenants").

1. BACKGROUND.

1.1 Original Joint Venture and Distribution of Property. The Cotenants originally executed and participated in the TCM Joint Venture Agreement, effective July 1, 1978 ("TCM Agreement"). In accordance with the TCM Agreement, the TCM Joint Venture acquired that certain piece of real property in Ada County ("Property") and legally described on Exhibit A attached. The TCM Joint Venture will terminate and distribute to each Cotenant an interest in the Property in accordance with the terms of the TCM Agreement.

1.2 Ownership of Property. Following distribution by TCM Joint Venture to the Cotenants of their respective interests in the Property, each of the Cotenants will own an undivided interest as tenants in common in the Property. The percentage ownership in the Property will be as follows:

COTENANT NAME	UNDIVIDED INTEREST IN PROPERTY
Miller Family Trust	10%
Christopher J. Kepus	10%
Alfred W. Sturr	10%
Richard Lavender	10%

Loyal A. and Irene Mehrhoff Trust	10%
Fred Nakaji	10%
Mary Ballantyne and Estate of James H. Ballantyne	10%
Bruce R. Pickett	10%
L. Darwin McKay	2½%
Donna McKay	2½%
Fred Delgadillo, Sr.	5%
Bob Delgadillo	5%
Fred Delgadillo, Jr.	5%

1.3 Purpose of Agreement. For their mutual convenience and protection, the Cotenants have deemed it desirable to enter into an agreement setting forth the terms and conditions upon which they will hold, manage, and dispose of their undivided interests in the Property.

1.4 Term. This Agreement shall continue until December 31, 2010, unless the term shall be extended by Cotenants, or unless the Cotenants terminate this Agreement in a writing signed by all Cotenants.

1.5 No Partnership. The Cotenants do not intend by this Agreement to create a partnership or a joint venture, but merely to set forth the terms upon which each Cotenant shall hold, manage, and dispose of its undivided interest in the Property. No Cotenant is authorized to act as agent for any other Cotenant, to act on behalf of any other Cotenant, to do any act which will be binding on any other Cotenant, or to incur any expenditures with respect to the Property, except as specifically set forth in this Agreement.

2. MANAGEMENT OF THE PROPERTY.

2.1 Conduct of General Business. The ordinary and usual decisions concerning the Property shall be made by Jack E. Miller. The Cotenants agree that only Jack E. Miller and authorized agents of Jack E. Miller shall have the authority to bind the Cotenants with respect to the Property. No Cotenant other than Jack E. Miller shall take any action to bind the Property, and each Cotenant shall indemnify the other Cotenants for any costs or damages incurred by the other Cotenants as a result of the unauthorized action of such Cotenant.

2.2 Decisions Requiring Cotenant Approval.

2.2.1 Decisions Requiring Majority. Only with the prior written consent of a Majority of the Cotenants, shall Jack E. Miller have authority to take the following actions with respect to the Property:

- a. Formal proposals or bids to any individual, corporation, business, federal, state or local governmental or quasi-governmental bodies or agencies;
- b. The undertaking to obtain loan commitments for any purpose;
- c. The creation of any mortgage of realty or of any lien or other encumbrance on material personalty;
- d. The undertaking of guarantee, endorsements or other contingent obligations;
- e. The undertaking of any indebtedness, whether for debt incurred, monies borrowed or otherwise, regardless of the purpose, in any amount;
- f. The commitment, contract, lease or other obligation involving the expenditure of funds;
- g. The compromise or release of any debt due a Cotenant except upon full payment thereof;
- h. Grant a security interest in or sell a Cotenant's interest in the Property, or any part thereof, or in its capital, assets or property or any part thereof, or enter into any agreement as a result of which any person shall become interested with it in the Property; and
- i. Do any act detrimental to the best interests of the Cotenants, or which would impair the conduct of the ordinary business with respect to the Cotenant's interest in the Property.

2.2.2 Decision For Sale Requiring Super Majority. Only with the prior written consent of a Super Majority of the Cotenants, shall Jack E. Miller have authority to take any actions with respect to the sale of the Property or other disposition of the Property or its material personalty.

3. FINANCES AND RECORDS.

3.1 Books. Full and accurate books of account shall be kept by Jack E. Miller at Jack E. Miller's offices with respect to the Property. Each Cotenant shall have access to such books of account and shall be entitled to examine them at any time during ordinary business hours. Such books shall be maintained on the basis used for federal income tax purposes, which is a comprehensive basis of accounting other than generally accepted accounting principles.

3.2 Bank Accounts. Jack E. Miller shall deposit all rentals and income from the Property in a checking account established for the Property. All rentals and income from the Property shall be received, held, and disbursed by Jack E. Miller only for the purposes specified in this Agreement.

3.3 Allocation of Income, Gains, Losses, Deduction, and Credits. The income, gains, losses, deductions, and credits (or items thereof) arising from the ownership, leasing, and sale of, and other activities relating to, the Property shall belong to each Cotenant for tax and accounting purposes during each calendar year in proportion to the Cotenant's ownership interest in the Property as follows:

COTENANT NAME	PERCENTAGE
Miller Family Trust	10%
Christopher J. Kepus	10%
Alfred W. Sturr	10%
Richard Lavender	10%
Loyal A. and Irene Mehrhoff Trust	10%
Fred Nakaji	10%

Mary Ballantyne and the Estate of James H. Ballantyne	10%
Bruce R. Pickett	10%
L. Darwin McKay	2½%
Donna McKay	2½%
Fred Delgadillo, Sr.	5%
Bob Delgadillo	5%
Fred Delgadillo, Jr.	5%

3.4 Cash Distributions. All Available Cash, as determined by Jack E. Miller, shall be distributed to the Cotenants in an amount equal to the available cash multiplied by the Cotenant's percentage set forth in Section 3.3. "Available Cash" is defined as all cash available for distribution to the Cotenants from cash receipts (excluding Sale or Refinancing Proceeds) after payment of all normal and current expenses and after the funding of any reserves deemed reasonable by Jack E. Miller.

3.5 Distribution of Proceeds of Sale or Refinance. Sale or Refinancing Proceeds shall be distributed to the Cotenants in the following order of priority:

- a. To the payment of the liabilities relating to the Property then due and owing to persons other than the Cotenants;
- b. To establish such reserves for the Property as Jack E. Miller, in his sole discretion, determines to be reasonably necessary for any contingent or foreseeable liability or obligation relating to the Property; provided, however, that the balance of any such reserves remaining after such time as the Cotenants shall have reasonably determined need not be retained and may be distributed as indicated in the following provisions of this Section;
- c. To the Cotenants in an amount equal to the remaining amount of the Sale or Refinancing Proceeds multiplied by the Cotenant's

percentage ownership interest in the Property.

3.6 Cotenants' Cash Contributions. In the event the bank account does not contain sufficient funds to make any required or authorized payments, the Cotenants shall, within thirty (30) days after written notice given by Jack E. Miller, deposit with Jack E. Miller in proportion to their respective interest in the Property, the funds required to make the payments. If any Cotenant should fail to so deposit Cotenant's share of such funds with Jack E. Miller within the time required, then the other Cotenants may advance such funds, and the amounts so advanced shall be a loan from the Cotenants advancing such funds to the defaulting Cotenant. Such loan shall be due on demand and shall bear interest at the rate of twelve percent (12%) per annum from the day so advanced until paid.

4. RESTRICTIONS ON SALE.

4.1 Sale of Interest in Property. No Cotenant shall have the right to assign, transfer, sell, or in any way dispose of any part of the Cotenant's interest in the Property except as provided in this Agreement.

4.2 Right of First Refusal.

- a. Any Cotenant desiring to sell all of his interest in the Cotenancy hereafter in this Section 4.2 shall, after obtaining written consent of all Cotenants, first by means of an offer in writing offer the interest to the other Cotenants hereafter in this Section 4.2 at a price equal to the amount of capital invested by the Cotenant into the Cotenancy less any loss, if any.
- b. The other Cotenants shall have, initially, thirty (30) days after receipt of such written offer within which to elect to purchase the offered interest, in the same ratio as their then ownership bears to the total ownership excluding the offered interest, such election to be evidenced and exercised by written notices, effective when mailed.
- c. Should a Cotenant to whom a written offer was made by the withdrawing Cotenant elect not to purchase his proportionate share of such offered interest then the other non-withdrawing Cotenants may, at their option, purchase such proportionate interest in addition to their aforementioned ratio of such withdrawing Cotenant's interest.
- d. If the right of first refusal as hereinabove stated is thus exercised by the other Cotenants, they shall purchase the offered interest from the selling Cotenant on the following terms and conditions: The total purchase price shall be payable to the selling Cotenant in cash within ninety (90) days of the exercise of the written notice of acceptance.
- e. If the non-selling Cotenants fail to exercise the right of first refusal as hereinabove stated, the selling Cotenant may transfer his interest in the aforementioned Cotenancy to any prospective purchaser.

4.3 No Partition. The Cotenants agree that no Cotenant, or any successor in interest to a Cotenant, shall have the right while this Agreement remains in effect to have the Property partitioned, or to file a complaint or institute any procedure in law or in equity to have the Property partitioned, and each Cotenant, on behalf of the Cotenant and the Cotenant's successors, representatives, heirs, and assigns hereby waives any such right.

4.4 1031 Exchanges. Each Cotenant reserves the right to execute an IRC 1031 tax-deferred exchange on any or all of the respective Cotenant's interest in the Property in the event of a sale of the Property. The Cotenants agree to cooperate in said exchange at no cost or liability to any Cotenant other than the Cotenant(s) who is executing such IRC 1031 tax-deferred exchange.

5. ARBITRATION.

5.1 Binding Arbitration. The submission to arbitration in accordance with the terms of this Section shall be the sole and exclusive method, means, and procedure to resolve any and all disputes, claims, or controversies of any kind, whether in contract or in tort, statutory or common law, legal or equitable, or otherwise ("Dispute"), now existing or subsequently arising between the parties in any way arising out of, pertaining to, or in connection with (a) this Agreement of Cotenancy, or any related agreement, document, or instrument (collectively, the "Documents"); (b) any incidents, omissions, acts, practices, or occurrences causing injury to either party whereby the other party or its agents, employees, or representatives may be liable, in whole or in part, and which relate in any manner to the Documents or the transactions contemplated by the Documents; or (c) any aspect of the past or present relationships of the parties with respect to the Documents or the transactions contemplated by the Documents. Any party to a Dispute may, by summary proceedings, bring an action in court to compel arbitration of any Dispute.

5.2 Governing Rules. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules ("AAA Rules") of the American Arbitration Association ("AAA"), except to the extent modified in this Section.

5.3 Scope of Award; Modification or Vacation of Award. The arbitrators may grant any remedy or relief that the arbitrators deem just and equitable. The arbitrators may also grant such ancillary relief as is necessary to make effective the award; provided, however, in no event may the arbitrators award punitive damages. To the extent permitted by applicable law, the arbitrators shall have the power to award recovery of all legal expenses (including, but not limited to, attorneys' fees, administrative fees, arbitrators' fees, and other professional fees and expenses) to the prevailing party. However, the award or potential award of legal expenses shall not be considered in determining the amount in controversy for purposes of determining the appropriate number of arbitrators for the Dispute. The arbitrators shall resolve all aspects of any Dispute in accordance with the applicable substantive law. The arbitrator shall make specific, written findings of fact and conclusions of law. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction subject to (i) the parties' statutory right to seek vacation or modification of an award pursuant to applicable law, and (ii) the parties' right to seek vacation or modification of any award that is based in whole, or in part, on an incorrect or erroneous ruling of law by appeal to an appropriate court having jurisdiction; however, any such application for vacation or modification of an award based on an incorrect

ruling of law must be filed in a court otherwise having jurisdiction over the Dispute within sixty (60) days after the date the award is rendered. The findings of fact by the arbitrators shall be binding upon all parties and shall not be subject to further review, except as otherwise allowed by applicable law.

6. DEFINITIONS.

For purposes of this Agreement, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

6.1 Majority. In the case of Cotenants, Cotenants holding more than one-half (½) of the percentage ownership in the Property.

6.2 Majority Vote. The affirmative vote or consent of a Majority.

6.3 Person. Any individual or entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such "person" where the context so permits, and unless the context expressly indicates to the contrary, includes Cotenants.

6.4 Sale or Refinance. Any transaction regarding the Property not in the ordinary course of business, including, without limitation, sales, exchanges or other dispositions of the Property, condemnations, recoveries of damage awards and insurance proceeds other than business or rental interruption insurance proceeds, or any borrowing or refinancing.

6.5 Sale or Refinance Proceeds. All cash receipts arising from a Sale or Refinancing less the following:

- a. the amount of cash paid or to be paid in connection with or as an expense of such Sale or Refinancing, and, with regard to damage recoveries or insurance or condemnation proceeds, cash paid or to be paid for repairs, replacements or renewals resulting from damage to or partial condemnation of the affected property;
- b. the amount necessary for the payment of all debts and obligations arising from or otherwise related to the particular Sale or Refinancing; and,
- c. any amount set aside by Jack E. Miller for reserves.

6.6 Sharing Ratio. With respect to any Cotenant, the percentage of ownership in the Property.

6.7 Super Majority. The vote, approval, consent or other action of Cotenants holding at least seventy (70%) of the ownership interest in the Property.

6.8 Super Majority Vote. The affirmative vote or consent of a Super Majority.

6.9 Transfer. Any voluntary or involuntary transfer, sale, assignment, exchange, mortgage, pledge, hypothecation, agent, or other disposition, absolute or as security or encumbrance (including dispositions by operation of law).

7. GENERAL PROVISIONS.

7.1 Notices. All notices, claims, requests and other communications ("Notices") under this Agreement (i) shall be in writing, and (ii) shall be addressed or delivered to the relevant address indicated at the end of this Agreement or at such other address as shall be given in writing by a party to the other. Notices complying with the provisions of this Section shall be deemed to have been delivered (i) upon the date of delivery if delivered in person, or (ii) ten (10) calendar days after the date of the postmark on the return receipt if deposited in the United States Mail, with postage prepaid for certified or registered mail, return receipt requested, unless an earlier date is indicated by the return receipt.

7.2 Governing Law, Jurisdiction, and Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction and agree that Ada County is the proper venue.

7.3 Time of the Essence. Time is of the essence with respect to the obligations to be performed under this Agreement.

7.4 Rights Cumulative. Except as expressly provided in this Agreement, and to the extent permitted by law, any remedies described in this Agreement are cumulative and not alternative to any other remedies available at law or in equity.

7.5 Nonwaiver of Remedies. The failure or neglect of a party to enforce any remedy available by reason of the failure of the other party to observe or perform a term or condition set forth in this Agreement shall not constitute a waiver of such term or condition. A waiver by a party (i) shall not affect any term or condition other than the one specified in such waiver, and (ii) shall waive a specified term or condition only for the time and in a manner specifically stated in the waiver.

7.6 Successors and Assigns. Subject to any express provisions in this Agreement regarding restrictions on transfers or assignments, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns, heirs, and personal representatives.

7.7 Entire Agreement. All Schedules and Exhibits to this Agreement constitute a part of this Agreement. This Agreement, together with the accompanying Schedules and Exhibits, constitutes the entire agreement among the parties and supersedes all prior memoranda, correspondence, conversations and negotiations.

7.8 Severability. The invalidity of any portion of this Agreement, as determined by a court of competent jurisdiction, shall not affect the validity of any other portion of this Agreement.

7.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

7.10 Advice. Each Cotenant has, to the extent such Cotenant deems necessary, sought legal, accounting, investment, and other advice from its advisers, and no Cotenant has relied on the advice of any other Cotenant (or owners of a Cotenant) regarding these matters. Bosch, Daw, and Ballard, Chartered has acted as legal counsel only to TCM Joint Venture and no other party.

8. COTENANT SIGNATURES.

Dated: _____, 2002

Jack E. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Carol A.K. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

Dated: _____, 2002

Fred Delgadillo, Sr.

Dated: _____, 2002

Bob Delgadillo

Dated: _____, 2002

Fred Delgadillo, Jr.

9. SPOUSAL CONSENT.

The undersigned represent and agree that (i) each of the undersigned is a spouse of one of the Cotenants, (ii) the spouse is bound by the terms and provisions of this Agreement, (iii) the spouse's community or other interest in the Property is bound by this Agreement, (iv) the spouse shall execute any and all documents necessary or desirable to permit the Cotenant to transfer the interest of the spouse and the respective Cotenant in the Property in accordance with this Agreement, (v) this Agreement shall not be affected by the subsequent divorce of a spouse and a Cotenant or any property settlement or decree affecting the spouse, the Cotenant, or an interest in the Property, and (v) **UNLESS THE SPOUSE IS EXPRESSLY NAMED AS A COTENANT IN THIS AGREEMENT, THE SPOUSE IS NOT A COTENANT AND DOES NOT HAVE ANY OF THE RIGHTS OF A COTENANT BY REASON OF THE SPOUSE'S COMMUNITY OR OTHER INTEREST.**

Dated: _____

Kathleen M. Kepus

Dated: _____

Patricia A. Sturr

Dated: _____

Barbara Lavender

Dated: _____

Molly Nakaji

Dated: _____

Marjorie Pickett

Dated: _____

Patricia R. McKay

Dated: _____

Diane Delgadillo

Exhibit A

Real Property located in Ada County, Idaho, more particularly described as follows:

East half of the Northwest Quarter of Section 21, Township 3
North, Range 1 East, Boise Meridian, Ada County, Idaho, as set
forth in the official records of Ada County, Idaho.

STATE OF IDAHO)
) ss
County of Ada)

On this _____ day of _____, 2002, before me a notary public in and for the State of Idaho, personally appeared Jack E. Miller, known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of the Miller Family Trust, and acknowledged to me that he executed the same as such Trustee of the Miller Family Trust.

Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires _____

STATE OF IDAHO)
) ss
County of Ada)

On this _____ day of _____, 2002, before me a notary public in and for the State of Idaho, personally appeared Carol A.K. Miller, known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of the Miller Family Trust, and acknowledged to me that she executed the same as such Trustee of the Miller Family Trust.

Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Christopher J. Kepus, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Barbara Lavender, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
County of _____) ss

On this _____ day of _____, 2002, before me a notary public in and for the State of Idaho, personally appeared Loyal A. Mehrhoff, Jr., known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of the Loyal A. and Irene Mehrhoff Trust, and acknowledged to me that he executed the same as such Trustee of the Loyal A. and Irene Mehrhoff Trust.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Fred Nakaji, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____

Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Molly Nakaji, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Mary Ballantyne, individually and on behalf of the Estate of James H. Ballantyne, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Bruce R. Pickett, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Marjorie Pickett, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

STATE OF _____)
) ss
County of _____)

STATE OF _____)
) ss
County of _____)

STATE OF _____)
) ss
County of _____)

CO-TENANCY AGREEMENT - 18

person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Fred Delgadillo, Sr., known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Diane Delgadillo, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
County of _____) ss

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Bob Delgadillo, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Fred Delgadillo, Jr., known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

7.10. Advice. Each Cotenant has, to the extent such Cotenant deems necessary, sought legal, accounting, investment, and other advice from its advisers, and no Cotenant has relied on the advice of any other Cotenant (or owners of a Cotenant) regarding these matters. Bosch, Daw, and Ballard, Chartered has acted as legal counsel only to TCM Joint Venture and no other party.

8. COTENANT SIGNATURES.

Dated: 12-31-02, 2002

Jack E. Miller
Jack E. Miller, Trustee of the Miller Family Trust

Dated: 12-31-02, 2002

Carol A.K. Miller
Carol A.K. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturt

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

7.10. Advice. Each Cotenant has, to the extent such Cotenant deems necessary, sought legal, accounting, investment, and other advice from its advisers, and no Cotenant has relied on the advice of any other Cotenant (or owners of a Cotenant) regarding these matters. Bosch, Daw, and Ballard, Chartered has acted as legal counsel only to TCM Joint Venture and no other party.

8. COTENANT SIGNATURES.

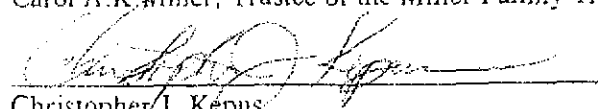
Dated: _____, 2002

Jack E. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Carol A.K. Miller, Trustee of the Miller Family Trust

Dated: 1-02, 2002 2003



Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

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8. COTENANT SIGNATURES.

Dated: _____, 2002

Jack E. Miller, Trustee of the Miller Family Trust

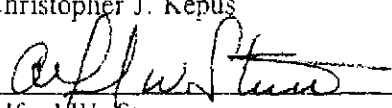
Dated: _____, 2002

Carol A.K. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: 12/30, 2002



Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

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8. COTENANT SIGNATURES.

Dated: _____, 2002

Jack E. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Carol A.K. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: 12-27-02, 2002

Richard Lavender
Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickert

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

7.10. Advice. Each Cotenant has, to the extent such Cotenant deems necessary, sought legal, accounting, investment, and other advice from its advisers, and no Cotenant has relied on the advice of any other Cotenant (or owners of a Cotenant) regarding these matters. Bosch, Daw, and Ballard, Chartered has acted as legal counsel only to TCM Joint Venture and no other party.

8. COTENANT SIGNATURES.

Dated: _____, 2002

Jack E. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Carol A.K. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: 12/17, 2002

Loyal A. Mehrhoff, Jr.
Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

7.10. Advice. Each Cotenant has, to the extent such Cotenant deems necessary, sought legal, accounting, investment, and other advice from its advisers, and no Cotenant has relied on the advice of any other Cotenant (or owners of a Cotenant) regarding these matters. Bosch, Daw, and Ballard, Chartered has acted as legal counsel only to TCM Joint Venture and no other party.

8. COTENANT SIGNATURES.

Dated: _____, 2002

Jack E. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Carol A.K. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: 10/1/02, 2002

Fred Nakaji
Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

7.10. Advice Each Cotenant has, to the extent such Cotenant deems necessary, sought legal, accounting, investment, and other advice from its advisers, and no Cotenant has relied on the advice of any other Cotenant (or owners of a Cotenant) regarding these matters. Bosch, Day and Ballard, Chartered has acted as legal counsel only to TCM Joint Venture and no other party.

8. COTENANT SIGNATURES.

Dated: _____, 2002

Jack E. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Carol A. K. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: 12-27, 2002

Mary Ballantyne
Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

7.10. Advice. Each Cotenant has, to the extent such Cotenant deems necessary, sought legal, accounting, investment, and other advice from its advisers, and no Cotenant has relied on the advice of any other Cotenant (or owners of a Cotenant) regarding these matters. Bosch, Daw, and Ballard, Chartered has acted as legal counsel only to TCM Joint Venture and no other party.

8. COTENANT SIGNATURES.

Dated: _____, 2002

Jack E. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Carol A.K. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

Dated: Dec 30, 2002

Bruce R. Pickett

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

7.10. Advice. Each Cotenant has, to the extent such Cotenant deems necessary, sought legal, accounting, investment, and other advice from its advisers, and no Cotenant has relied on the advice of any other Cotenant (or owners of a Cotenant) regarding these matters. Bosch, Daw, and Ballard, Chartered has acted as legal counsel only to TCM Joint Venture and no other party.

8. COTENANT SIGNATURES.

Dated: _____, 2002

Jack E. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Carol A.K. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturt

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: 12/12/02, 2002

L. Darwin McKay
L. Darwin McKay

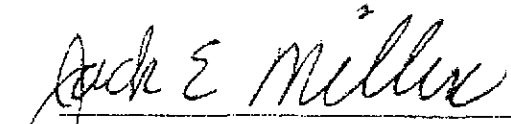
Dated: _____, 2002

Donna McKay

7.10. Advice. Each Cotenant has, to the extent such Cotenant deems necessary, sought legal, accounting, investment, and other advice from its advisers, and no Cotenant has relied on the advice of any other Cotenant (or owners of a Cotenant) regarding these matters. Bosch, Daw, and Ballard, Chartered has acted as legal counsel only to TCM Joint Venture and no other party.

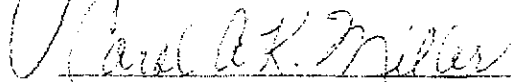
8. COTENANT SIGNATURES.

Dated: 12-31-02, 2002



Jack E. Miller, Trustee of the Miller Family Trust

Dated: 12-31-02, 2002



Carol A.K. Miller, Trustee of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturt

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of
the Estate of James H. Ballantyne

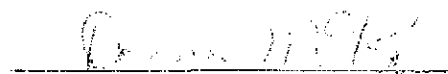
Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

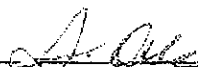
L. Darwin McKay

Dated: 12-31-02, 2002



Donna McKay

Dated: 1 2, 2002



Fred Delgadillo, Sr.

Dated: _____, 2002

Bob Delgadillo

Dated: _____, 2002

Fred Delgadillo, Jr

Dated: _____, 2002

Fred Del Gadillo, Sr.

Dated: 12-2-02, 2002

[Signature]
• Bob Del Gadillo

Dated: _____, 2002

Fred Del Gadillo, Jr.

FROM : Medicine Star Vinyl

FAX NO. : 2089225149

Jan. 06 2003 05:39PM F1

Dated: _____, 2002

Fred Del Gadillo, Sr

Dated: _____, 2002

Bob Del Gadillo

Dated: 01-06, 2003

Fred Del Gadillo Jr.
Fred Del Gadillo, Jr.

9. SPOUSAL CONSENT.

The undersigned represent and agree that (i) each of the undersigned is a spouse of one of the Cotenants, (ii) the spouse is bound by the terms and provisions of this Agreement, (iii) the spouse's community or other interest in the Property is bound by this Agreement, (iv) the spouse shall execute any and all documents necessary or desirable to permit the Cotenant to transfer the interest of the spouse and the respective Cotenant in the Property in accordance with this Agreement, (v) this Agreement shall not be affected by the subsequent divorce of a spouse and a Cotenant or any property settlement or decree affecting the spouse, the Cotenant, or an interest in the Property, and (v) **UNLESS THE SPOUSE IS EXPRESSLY NAMED AS A COTENANT IN THIS AGREEMENT, THE SPOUSE IS NOT A COTENANT AND DOES NOT HAVE ANY OF THE RIGHTS OF A COTENANT BY REASON OF THE SPOUSE'S COMMUNITY OR OTHER INTEREST.**

Dated: 1-2-03

Kathleen M. Kepus
Kathleen M. Kepus

Dated: _____

Patricia A. Sturr

Dated: _____

Barbara Lavender

Dated: _____

Molly Nakaji

Dated: _____

Marjorie Pickett

Dated: _____

Patricia R. McKay

Dated: _____

Diane Del Cadillo

9. SPOUSAL CONSENT.

The undersigned represent and agree that (i) each of the undersigned is a spouse of one of the Cotenants, (ii) the spouse is bound by the terms and provisions of this Agreement, (iii) the spouse's community or other interest in the Property is bound by this Agreement, (iv) the spouse shall execute any and all documents necessary or desirable to permit the Cotenant to transfer the interest of the spouse and the respective Cotenant in the Property in accordance with this Agreement, (v) this Agreement shall not be affected by the subsequent divorce of a spouse and a Cotenant or any property settlement or decree affecting the spouse, the Cotenant, or an interest in the Property, and (v) **UNLESS THE SPOUSE IS EXPRESSLY NAMED AS A COTENANT IN THIS AGREEMENT, THE SPOUSE IS NOT A COTENANT AND DOES NOT HAVE ANY OF THE RIGHTS OF A COTENANT BY REASON OF THE SPOUSE'S COMMUNITY OR OTHER INTEREST.**

Dated: _____

Kathleen M. Kepus

Dated: 30 _____

Patricia A. Sturr

Dated: _____

Barbara Lavender

Dated: _____

Molly Nakaji

Dated: _____

Marjorie Pickett

Dated: _____

Patricia R. McKay

Dated: _____

Diane Del Gadillo

9. SPOUSAL CONSENT.

The undersigned represent and agree that (i) each of the undersigned is a spouse of one of the Cotenants, (ii) the spouse is bound by the terms and provisions of this Agreement, (iii) the spouse's community or other interest in the Property is bound by this Agreement, (iv) the spouse shall execute any and all documents necessary or desirable to permit the Cotenant to transfer the interest of the spouse and the respective Cotenant in the Property in accordance with this Agreement, (v) this Agreement shall not be affected by the subsequent divorce of a spouse and a Cotenant or any property settlement or decree affecting the spouse, the Cotenant, or an interest in the Property, and (v) **UNLESS THE SPOUSE IS EXPRESSLY NAMED AS A COTENANT IN THIS AGREEMENT, THE SPOUSE IS NOT A COTENANT AND DOES NOT HAVE ANY OF THE RIGHTS OF A COTENANT BY REASON OF THE SPOUSE'S COMMUNITY OR OTHER INTEREST.**

Dated: _____

Kathleen M. Kepus

Dated: _____

Patricia A. Sturr

Dated: _____

Barbara Lavender

Dated: _____

Molly Nakaji

Dated: _____

Marjorie Pickett

Dated: _____

Patricia R. McKay

Dated: _____

Diane Del Gadillo

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Dated: _____

Kathleen M. Kepus

Dated: _____

Patricia A. Sturr

Dated: _____

Barbara Lavender

Dated: _____

Molly Nakaji

Dated: _____

Marjorie Pickett

Dated: _____

Patricia R. McKay

Dated: _____

Diane Del Cadillo

9. SPOUSAL CONSENT.

The undersigned represent and agree that (i) each of the undersigned is a spouse of one of the Cotenants, (ii) the spouse is bound by the terms and provisions of this Agreement, (iii) the spouse's community or other interest in the Property is bound by this Agreement, (iv) the spouse shall execute any and all documents necessary or desirable to permit the Cotenant to transfer the interest of the spouse and the respective Cotenant in the Property in accordance with this Agreement, (v) this Agreement shall not be affected by the subsequent divorce of a spouse and a Cotenant or any property settlement or decree affecting the spouse, the Cotenant, or an interest in the Property, and (v) **UNLESS THE SPOUSE IS EXPRESSLY NAMED AS A COTENANT IN THIS AGREEMENT, THE SPOUSE IS NOT A COTENANT AND DOES NOT HAVE ANY OF THE RIGHTS OF A COTENANT BY REASON OF THE SPOUSE'S COMMUNITY OR OTHER INTEREST.**

Dated: _____

Kathleen M. Kepus

Dated: _____

Patricia A. Sturr

Dated: _____

Barbara Lavender

Dated: _____

Molly Nakaji

Dated: _____

Marjorie Pickett

Dated: _____

Patricia R. McKay

Dated: _____

Diane Del Gadillo

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The undersigned represent and agree that (i) each of the undersigned is a spouse of one of the Cotenants, (ii) the spouse is bound by the terms and provisions of this Agreement, (iii) the spouse's community or other interest in the Property is bound by this Agreement, (iv) the spouse shall execute any and all documents necessary or desirable to permit the Cotenant to transfer the interest of the spouse and the respective Cotenant in the Property in accordance with this Agreement, (v) this Agreement shall not be affected by the subsequent divorce of a spouse and a Cotenant or any property settlement or decree affecting the spouse, the Cotenant, or an interest in the Property, and (vi) **UNLESS THE SPOUSE IS EXPRESSLY NAMED AS A COTENANT IN THIS AGREEMENT, THE SPOUSE IS NOT A COTENANT AND DOES NOT HAVE ANY OF THE RIGHTS OF A COTENANT BY REASON OF THE SPOUSE'S COMMUNITY OR OTHER INTEREST.**

Dated: _____

Kathleen M. Kepus

Dated: _____

Patricia A. Sturr

Dated: _____

Barbara Lavender

Dated: _____

Molly Nakaji

Dated: _____

Marjorie Pickett

Dated: _____

Patricia E. McKay
Patricia E McKay

Dated: _____

Diane Del Gadillo

Fax to 208 922 3149

9. SPOUSAL CONSENT

The undersigned represent and agree that (i) each of the undersigned is a spouse of one of the Cotenants, (ii) the spouse is bound by the terms and provisions of this Agreement, (iii) the spouse's community or other interest in the Property is bound by this Agreement, (iv) the spouse shall execute any and all documents necessary or desirable to permit the Cotenant to transfer the interest of the spouse and the respective Cotenant in the Property in accordance with this Agreement, (v) this Agreement shall not be affected by the subsequent divorce of a spouse and a Cotenant or any property settlement or decree affecting the spouse, the Cotenant, or an interest in the Property, and (v) **UNLESS THE SPOUSE IS EXPRESSLY NAMED AS A COTENANT IN THIS AGREEMENT, THE SPOUSE IS NOT A COTENANT AND DOES NOT HAVE ANY OF THE RIGHTS OF A COTENANT BY REASON OF THE SPOUSE'S COMMUNITY OR OTHER INTEREST.**

Dated: _____

Kathleen M. Kepus

Dated: _____

Patricia A. Sturr

Dated: _____

Barbara Lavender

Dated: _____

Molly Nakaji

Dated: _____

Marjorie Pickett

Dated: _____

Patricia R. McKay

Dated: 1/2/02

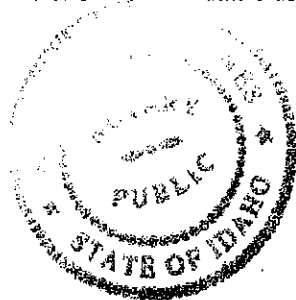
Diane Delgadillo

STATE OF IDAHO)

) ss

County of Ada)

On this _____ day of _____, 2002, before me a notary public in and for the State of Idaho, personally appeared Jack E. Miller, known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of the Miller Family Trust, and acknowledged to me that he executed the same as such Trustee of the Miller Family Trust.



Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires 01/01/04

STATE OF IDAHO)

) ss

County of Ada)

On this _____ day of _____, 2002, before me a notary public in and for the State of Idaho, personally appeared Carol A.K. Miller, known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of the Miller Family Trust, and acknowledged to me that she executed the same as such Trustee of the Miller Family Trust.



Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires 01/01/04

STATE OF _____)

) ss

County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Christopher J. Kepus, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

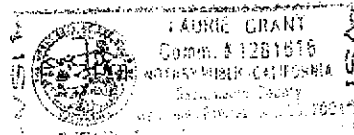
Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF California)
) ss
County of San Diego)

On this 2nd day of February, 2013, before me, a notary public in and for the State of Idaho, personally appeared Kathleen M. Kepus, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

[Signature]
Notary Public for State of California
Residing at Cameron Park, Ca
Commission Expires 2014

STATE OF _____)
) ss
County of _____)



On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Alfred W. Sturr, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Patricia A. Sturr, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

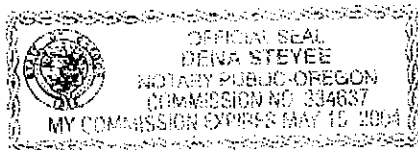
STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Kathleen M. Kepus, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF Idaho)
) ss
County of Mullanbach)

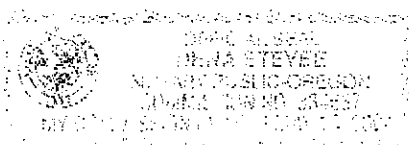
On this 28th day of December, 2008, before me, a notary public in and for the State of Idaho, personally appeared Alfred W. Sturr, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.



[Signature]
Notary Public for _____
Residing at 10000 N. 100th St.
Commission Expires May 15, 2014

STATE OF Idaho)
) ss
County of Mullanbach)

On this 28th day of December, 2008, before me, a notary public in and for the State of Idaho, personally appeared Patricia A. Sturr, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.



[Signature]
Notary Public for _____
Residing at 10000 N. 100th St.
Commission Expires May 15, 2014

STATE OF _____)
) ss
County of _____)

On this 11/11 day of November, 2001, before me, a notary public in and for the State of Idaho, personally appeared Richard Lavender, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.



NOTARY PUBLIC-MONTANA
Residing in Hamilton, Montana
My Comm. Expires Nov. 1, 2002

Richard Lavender
Notary Public for _____
Residing at 1005 1st St
Commission Expires 11/01/02

STATE OF _____)
) ss
County of _____)

On this 11/11 day of November, 2001, before me, a notary public in and for the State of Idaho, personally appeared Barbara Lavender, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.



NOTARY PUBLIC-MONTANA
Residing in Hamilton, Montana
My Comm. Expires Nov. 1, 2002

Barbara Lavender
Notary Public for _____
Residing at 1005 1st St
Commission Expires 11/01/02

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 2002, before me a notary public in and for the State of Idaho, personally appeared Loyal A. Mehrhoff, Jr., known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of the Loyal A. and Irene Mehrhoff Trust, and acknowledged to me that he executed the same as such Trustee of the Loyal A. and Irene Mehrhoff Trust.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Richard Lavender, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Barbara Lavender, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF Idaho)
) ss
County of Ada)

On this 21st day of October, 2002, before me a notary public in and for the State of Idaho, personally appeared Loyal A. Mehrhoff, Jr., known or identified to me to be the person whose name is subscribed to the within instrument as Trustee of the Loyal A. and Irene Mehrhoff Trust, and acknowledged to me that he executed the same as such Trustee of the Loyal A. and Irene Mehrhoff Trust.



Karen Woodhead
Notary Public for State of Idaho
Residing at Boise, Idaho
Commission Expires 2005

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Fred Nakaji, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

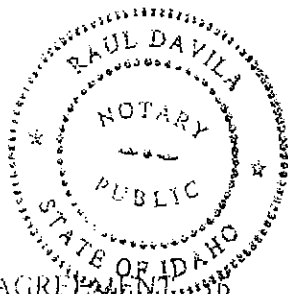
STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Molly Nakaji, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF IDAHO)
) ss
County of ADA)

On this 27th day of December, 2002 before me, a notary public in and for the State of Idaho, personally appeared Mary Ballantyne, individually and on behalf of the Estate of James H. Ballantyne, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.



Raul Davila
Notary Public for BOISE ID
Residing at BOISE ID
Commission Expires 07-27-2008

STATE OF California)
) ss
County of Sacramento)

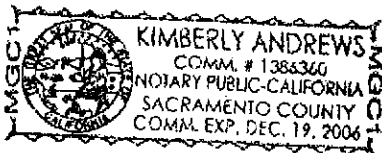
On this 30 day of December, 2007, before me, a notary public in and for the State of ~~Idaho~~ California, personally appeared Fred Nakaji, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.



Kimberly Andrews
Notary Public for _____
Residing at Elk Grove
Commission Expires _____

STATE OF California)
) ss
County of Sacramento)

On this 30 day of December, 2007, before me, a notary public in and for the State of ~~Idaho~~ California, personally appeared Molly Nakaji, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.



Kimberly Andrews
Notary Public for _____
Residing at Elk Grove
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Mary Ballantyne, individually and on behalf of the Estate of James H. Ballantyne, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

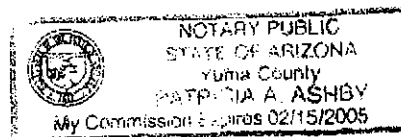
Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF Idaho)
) ss
County of Blaine)

On this 1st day of January, 2007, before me, a notary public in and for the State of Idaho, personally appeared Bruce R. Pickett, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Bruce R. Pickett
Notary Public for Idaho
Residing at 1000 S. 1st St. Blaine, ID 83410
Commission Expires 2/15/2005

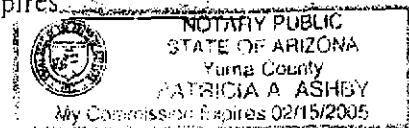
STATE OF Idaho)
) ss
County of Blaine)



On this 1st day of January, 2007, before me, a notary public in and for the State of Idaho, personally appeared Marjorie Pickett, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Marjorie Pickett
Notary Public for Idaho
Residing at 1000 S. 1st St. Blaine, ID 83410
Commission Expires 2/15/2005

STATE OF _____)
) ss
County of _____)



On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared L. Darwin McKay, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Bruce R. Pickett, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Marjorie Pickett, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF Idaho)
) ss
County of Ada)

On this 7th day of December, 2009, before me, a notary public in and for the State of Idaho, personally appeared L. Darwin McKay, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

CRYSTAL WHIPPLE
NOTARY PUBLIC
STATE OF IDAHO

Crystal Whipple
Notary Public for _____
Residing at _____
Commission Expires 11/29/12

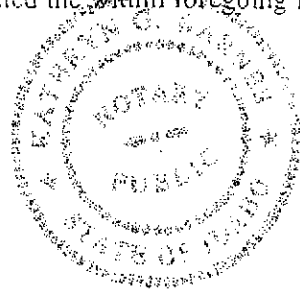
STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Patricia R. McKay, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Donna McKay, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.



Kathleen G. Warner
Notary Public for State of ID
Residing at Boise, ID
Commission Expires 3/14/15

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Fred Del Gadillo, Sr., known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
 County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Patricia R. McKay, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
 Residing at _____
 Commission Expires _____

STATE OF _____)
) ss
 County of _____)

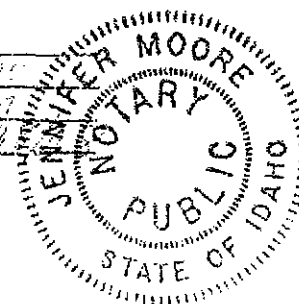
On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Donna McKay, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
 Residing at _____
 Commission Expires _____

STATE OF Idaho)
) ss
 County of Ada)

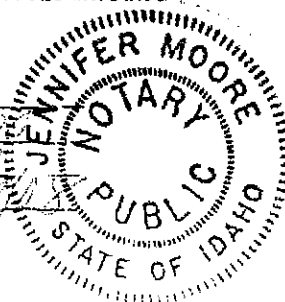
On this 2 day of January, 2005, before me, a notary public in and for the State of Idaho, personally appeared Fred Delgadillo, Sr., known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for Idaho
 Residing at Meridian
 Commission Expires 10/31/05



STATE OF Idaho)County of Ada) ss

On this 2 day of January, 2002, before me, a notary public in and for the State of Idaho, personally appeared Diane Delgadillo, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for IdahoResiding at MeridianCommission Expires 6/30/03

STATE OF _____)

County of _____) ss

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Bob Delgadillo, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____

Residing at _____

Commission Expires _____

STATE OF _____)

County of _____) ss

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Fred Delgadillo, Jr., known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____

Residing at _____

Commission Expires _____

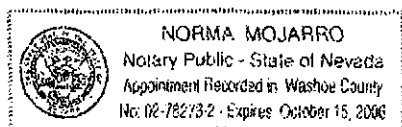
STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Diane Del Gadillo, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF NV)
) ss
County of Washoe)

On this 30 day of December, 2006, before me, a notary public in and for the State of Idaho, personally appeared Bob Del Gadillo, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.



Norma Mojarro
Notary Public for _____
Residing at 1300 West
Commission Expires 10-15-06

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20____, before me, a notary public in and for the State of Idaho, personally appeared Fred Del Gadillo, Jr., known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Diane Del Gadillo, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

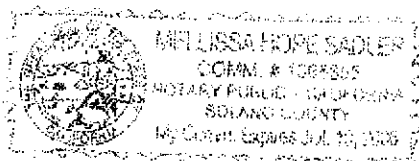
STATE OF _____)
) ss
County of _____)

On this _____ day of _____, 20__, before me, a notary public in and for the State of Idaho, personally appeared Bob Del Gadillo, known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.

Notary Public for _____
Residing at _____
Commission Expires _____

STATE OF California)
) ss
County of Solano)

On this 30th day of December, 2002 before me, a notary public in and for the State of Idaho, personally appeared Fred Del Gadillo, Jr., known or identified to me to be the person who executed the within foregoing instrument and acknowledged to me that he executed the same.



Melissa Hope Sadler
Notary Public for California
Residing at 3505 Sonoma Blvd #20
Commission Expires July 19, 2006

ACTION BY COTENANTS

The undersigned, constituting more than seventy percent (70%) of the Cotenants who are parties to the Co-Tenancy Agreement, dated December ____, 2002 ("Co-Tenancy"), take the following action:

I. APPROVAL OF SALE.

The Cotenants approve the Agreement for Purchase and Sale of Assets effective December ____, 2002 ("Sale Agreement") for the sale of the Co-Tenancy real and personal property.

RESOLVED, that the execution and delivery of the Sale Agreement of behalf of the Co-Tenancy is hereby ratified and approved;

RESOLVED, that the individual identified below is hereby authorized and empowered in the name and on behalf of the Cotenants to execute and deliver to the Buyer (and any closing or escrow agent involved in the closing of the Sale Agreement) any instruments or agreements of this Co-Tenancy which may be required for the closing of the sale in accordance with the Sale Agreement;

FURTHER RESOLVED, that the individual referred to in the preceding resolutions is as follows:

PRINTED NAME	SIGNATURE
Jack E. Miller	<i>Jack E. Miller</i>

II. EFFECTIVE DATE OF ACTION

The effective date of this action is December ____, 2002.

COTENANTS

Dated: 12-24, 2002

Jack E. Miller & Carol A. K. Miller
Jack E. Miller and Carol A. K. Miller, Trustees
of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

EXHIBIT

C

ACTION BY COTENANTS

The undersigned, constituting more than seventy percent (70%) of the Cotenants who are parties to the Co-Tenancy Agreement, dated December ____, 2002 ("Co-Tenancy"), take the following action:

I. APPROVAL OF SALE.

The Cotenants approve the Agreement for Purchase and Sale of Assets effective December __, 2002 ("Sale Agreement") for the sale of the Co-Tenancy real and personal property.

RESOLVED, that the execution and delivery of the Sale Agreement of behalf of the Co-Tenancy is hereby ratified and approved;

RESOLVED, that the individual identified below is hereby authorized and empowered in the name and on behalf of the Cotenants to execute and deliver to the Buyer (and any closing or escrow agent involved in the closing of the Sale Agreement) any instruments or agreements of this Co-Tenancy which may be required for the closing of the sale in accordance with the Sale Agreement;

FURTHER RESOLVED, that the individual referred to in the preceding resolutions is as follows:

PRINTED NAME	SIGNATURE
Jack E. Miller	

II. EFFECTIVE DATE OF ACTION

The effective date of this action is December __, 2002.

Dated: 12-24, 2002

Dated: 1-02, 2003

Dated: _____, 2002

Dated: _____, 2002

Dated: _____, 2002

COTENANTS

Jack E. Miller & Carol A.K. Miller
Jack E. Miller and Carol A.K. Miller, Trustees
of the Miller Family Trust

Christopher J. Kepus

Alfred W. Sturr

Richard Lavender

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of El Dorado

on January 2, 2003, before me, Karen Dighton Notary Public (name, title of officer),
personally appeared Christopher S. Kepus

☐ personally known to me -- OR -- ☒ proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that he/~~she/it~~ executed the same in his/
~~her/its~~ authorized capacity(ies), and that by his/~~her/its~~ signature(s) on the instrument the person(s), or the entity upon
behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Karen Dighton
Signature



ACTION BY COTENANTS

The undersigned, constituting more than seventy percent (70%) of the Cotenants who are parties to the Co-Tenancy Agreement, dated December ____, 2002 ("Co-Tenancy"), take the following action:

I. APPROVAL OF SALE.

The Cotenants approve the Agreement for Purchase and Sale of Assets effective December ____, 2002 ("Sale Agreement") for the sale of the Co-Tenancy real and personal property.

RESOLVED, that the execution and delivery of the Sale Agreement of behalf of the Co-Tenancy is hereby ratified and approved;

RESOLVED, that the individual identified below is hereby authorized and empowered in the name and on behalf of the Cotenants to execute and deliver to the Buyer (and any closing or escrow agent involved in the closing of the Sale Agreement) any instruments or agreements of this Co-Tenancy which may be required for the closing of the sale in accordance with the Sale Agreement;

FURTHER RESOLVED, that the individual referred to in the preceding resolutions is as follows:

PRINTED NAME	SIGNATURE
Jack E. Miller	

II. EFFECTIVE DATE OF ACTION

The effective date of this action is December ____, 2002.

COTENANTS

Dated: 12-24, 2002

Jack E. Miller & Carol A.K. Miller
Jack E. Miller and Carol A.K. Miller, Trustees
of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: 12/30, 2002

Alfred W. Sturr
Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

ACTION BY COTENANTS

The undersigned, constituting more than seventy percent (70%) of the Cotenants who are parties to the Co-Tenancy Agreement, dated December ____, 2002 ("Co-Tenancy"), take the following action:

I. APPROVAL OF SALE.

The Cotenants approve the Agreement for Purchase and Sale of Assets effective December ____, 2002 ("Sale Agreement") for the sale of the Co-Tenancy real and personal property.

RESOLVED, that the execution and delivery of the Sale Agreement of behalf of the Co-Tenancy is hereby ratified and approved;

RESOLVED, that the individual identified below is hereby authorized and empowered in the name and on behalf of the Cotenants to execute and deliver to the Buyer (and any closing or escrow agent involved in the closing of the Sale Agreement) any instruments or agreements of this Co-Tenancy which may be required for the closing of the sale in accordance with the Sale Agreement;

FURTHER RESOLVED, that the individual referred to in the preceding resolutions is as follows:

PRINTED NAME	SIGNATURE
Jack E. Miller	

II. EFFECTIVE DATE OF ACTION

The effective date of this action is December ____, 2002.

COTENANTS

Dated: 12-24, 2002

Jack E. Miller & Carol A.K. Miller
Jack E. Miller and Carol A.K. Miller, Trustees
of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Starr

Dated: 12-24, 2002

Richard Lavender
Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

ACTION BY COTENANTS

The undersigned, constituting more than seventy percent (70%) of the Cotenants who are parties to the Co-Tenancy Agreement, dated December __, 2002 ("Co-Tenancy"), take the following action:

I. APPROVAL OF SALE.

The Cotenants approve the Agreement for Purchase and Sale of Assets effective December __, 2002 ("Sale Agreement") for the sale of the Co-Tenancy real and personal property.

RESOLVED, that the execution and delivery of the Sale Agreement of behalf of the Co-Tenancy is hereby ratified and approved;

RESOLVED, that the individual identified below is hereby authorized and empowered in the name and on behalf of the Cotenants to execute and deliver to the Buyer (and any closing or escrow agent involved in the closing of the Sale Agreement) any instruments or agreements of this Co-Tenancy which may be required for the closing of the sale in accordance with the Sale Agreement;

FURTHER RESOLVED, that the individual referred to in the preceding resolutions is as follows:

PRINTED NAME	SIGNATURE
Jack E. Miller	

II. EFFECTIVE DATE OF ACTION

The effective date of this action is December __, 2002.

COTENANTS

Dated: 12-24, 2002

Jack E. Miller & Carol A.K. Miller
Jack E. Miller and Carol A.K. Miller, Trustees
of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: 12-24, 2002

Loyal A. Mehrhoff, Jr.
Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

ACTION BY COTENANTS

The undersigned, constituting more than seventy percent (70%) of the Cotenants who are parties to the Co-Tenancy Agreement, dated December ____, 2002 ("Co-Tenancy"), take the following action:

I. APPROVAL OF SALE.

The Cotenants approve the Agreement for Purchase and Sale of Assets effective December __, 2002 ("Sale Agreement") for the sale of the Co-Tenancy real and personal property.

RESOLVED, that the execution and delivery of the Sale Agreement of behalf of the Co-Tenancy is hereby ratified and approved;

RESOLVED, that the individual identified below is hereby authorized and empowered in the name and on behalf of the Cotenants to execute and deliver to the Buyer (and any closing or escrow agent involved in the closing of the Sale Agreement) any instruments or agreements of this Co-Tenancy which may be required for the closing of the sale in accordance with the Sale Agreement;

FURTHER RESOLVED, that the individual referred to in the preceding resolutions is as follows:

PRINTED NAME	SIGNATURE
Jack E. Miller	

II. EFFECTIVE DATE OF ACTION

The effective date of this action is December __, 2002.

COTENANTS

Dated: 12-24, 2002

Jack E. Miller & Carol A.K. Miller

Jack E. Miller and Carol A.K. Miller, Trustees
of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: 12/20, 2002

Fred McKay
Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of the
Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

Dated: _____, 2002

Fred Del Gadillo, Sr.

Dated: _____, 2002

Bob Del Gadillo

Dated: _____, 2002

Fred Del Gadillo, Jr.

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary H. Bailantyne
Mary Bailantyne, individually and on behalf of the
Estate of James H. Bailantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

Dated: _____, 2002

Fred Del Gadillo, Sr.

Dated: _____, 2002

Bob Del Gadillo

Dated: _____, 2002

Fred Del Gadillo, Jr.

ACTION BY COTENANTS

The undersigned, constituting more than seventy percent (70%) of the Cotenants who are parties to the Co-Tenancy Agreement, dated December ____, 2002 ("Co-Tenancy"), take the following action:

I. APPROVAL OF SALE.

The Cotenants approve the Agreement for Purchase and Sale of Assets effective December ____, 2002 ("Sale Agreement") for the sale of the Co-Tenancy real and personal property.

RESOLVED, that the execution and delivery of the Sale Agreement of behalf of the Co-Tenancy is hereby ratified and approved;

RESOLVED, that the individual identified below is hereby authorized and empowered in the name and on behalf of the Cotenants to execute and deliver to the Buyer (and any closing or escrow agent involved in the closing of the Sale Agreement) any instruments or agreements of this Co-Tenancy which may be required for the closing of the sale in accordance with the Sale Agreement;

FURTHER RESOLVED, that the individual referred to in the preceding resolutions is as follows:

PRINTED NAME	SIGNATURE
Jack E. Miller	

II. EFFECTIVE DATE OF ACTION

The effective date of this action is December ____, 2002.

Dated: 12-24, 2002

COTENANTS
Jack E. Miller & Carol A.K. Miller
Jack E. Miller and Carol A.K. Miller, Trustees
of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of the
Estate of James H. Ballantyne

Dated: 12-31, 2002

Bruce R. Pickett
Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

Dated: _____, 2002

Fred Del Gadillo, Sr.

Dated: _____, 2002

Bob Del Gadillo

Dated: _____, 2002

Fred Del Gadillo, Jr.

ACTION BY COTENANTS

The undersigned, constituting more than seventy percent (70%) of the Cotenants who are parties to the Co-Tenancy Agreement, dated December 27, 2002 ("Co-Tenancy"), take the following action:

I. APPROVAL OF SALE.

The Cotenants approve the Agreement for Purchase and Sale of Assets effective December __, 2002 ("Sale Agreement") for the sale of the Co-Tenancy real and personal property.

RESOLVED, that the execution and delivery of the Sale Agreement of behalf of the Co-Tenancy is hereby ratified and approved;

RESOLVED, that the individual identified below is hereby authorized and empowered in the name and on behalf of the Cotenants to execute and deliver to the Buyer (and any closing or escrow agent involved in the closing of the Sale Agreement) any instruments or agreements of this Co-Tenancy which may be required for the closing of the sale in accordance with the Sale Agreement;

FURTHER RESOLVED, that the individual referred to in the preceding resolutions is as follows:

PRINTED NAME	SIGNATURE
Jack E. Miller	

II. EFFECTIVE DATE OF ACTION

The effective date of this action is December __, 2002.

COTENANTS

Dated: 12-24, 2002

Jack E. Miller & Carol A.K. Miller

Jack E. Miller and Carol A.K. Miller, Trustees
of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of the
Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

Dated: _____, 2002

Fred Del Gadillo, Sr.

Dated: _____, 2002

Bob Del Gadillo

Dated: _____, 2002

Fred Del Gadillo, Jr.

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of the
Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: 1/2/03, 2002

Donna McKay
Donna McKay

Dated: _____, 2002

Fred Del Gadillo, Sr.

Dated: _____, 2002

Bob Del Gadillo

Dated: _____, 2002

Fred Del Gadillo, Jr.

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of the
Estate of James H. Ballantyne

Dated: _____, 2002

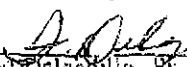
Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

Dated: 1 2, 2002 ~~2003~~
Fred Delgadillo, Sr.

Dated: _____, 2002

Bob Delgadillo

Dated: _____, 2002

Fred Delgadillo, Jr.

ACTION BY COTENANTS

The undersigned, constituting more than seventy percent (70%) of the Cotenants who are parties to the Co-Tenancy Agreement, dated December 12, 2002 ("Co-Tenancy"), take the following action:

I. APPROVAL OF SALE.

The Cotenants approve the Agreement for Purchase and Sale of Assets effective December __, 2002 ("Sale Agreement") for the sale of the Co-Tenancy real and personal property.

RESOLVED, that the execution and delivery of the Sale Agreement of behalf of the Co-Tenancy is hereby ratified and approved;

RESOLVED, that the individual identified below is hereby authorized and empowered in the name and on behalf of the Cotenants to execute and deliver to the Buyer (and any closing or escrow agent involved in the closing of the Sale Agreement) any instruments or agreements of this Co-Tenancy which may be required for the closing of the sale in accordance with the Sale Agreement;

FURTHER RESOLVED, that the individual referred to in the preceding resolutions is as follows:

PRINTED NAME	SIGNATURE
Jack E. Miller	

II. EFFECTIVE DATE OF ACTION

The effective date of this action is December __, 2002.

COTENANTS

Dated: 12-24, 2002

Jack E. Miller & Carol A.K. Miller
Jack E. Miller and Carol A.K. Miller, Trustees
of the Miller Family Trust

Dated: _____, 2002

Christopher J. Kepus

Dated: _____, 2002

Alfred W. Sturr

Dated: _____, 2002

Richard Lavender

Dated: _____, 2002

Loyal A. Mehrhoff, Jr., Trustee of
Loyal A. and Irene Mehrhoff Trust

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of the
Estate of James H. Ballantyne

Dated: _____, 2002

Bruce R. Pickett

Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

Dated: _____, 2002

Fred Del Gadillo, Sr.

Dated: 12/31, 2002

Bob Del Gadillo

Dated: _____, 2002

Fred Del Gadillo, Jr.

Dated: _____, 2002

Fred Nakaji

Dated: _____, 2002

Mary Ballantyne, individually and on behalf of the
Estate of James H. Ballantyne

Dated: _____, 2002

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Dated: _____, 2002

L. Darwin McKay

Dated: _____, 2002

Donna McKay

Dated: _____, 2002

Fred Del Gadillo, Sr.

Dated: _____, 2002

Bob Del Gadillo

Dated: Dec, 2002

Fred Del Gadillo, Jr.

25371 JB/HEH



A Pioneer Company
PIONEER TITLE COMPANY
OF ADA COUNTY
821 W. State St. / Boise, Idaho 83702
(208) 373-3744

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 03/04/03 02:56 PM
DEPUTY Michelle Turner
RECORDED - REQUEST OF
Pioneer
AMOUNT 6.00

2



QUITCLAIM DEED

For Value Received

L. Darwin McKay, a married man as his separate estate
do hereby convey, release, remise and forever quit claim unto

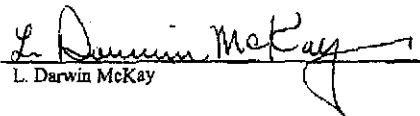
The Turf Corporation, an Idaho corporation
whose address is 6100 S. Eagle Road, Meridian, ID 83642,

the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

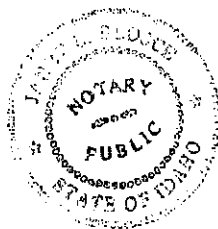
together with their appurtenances.

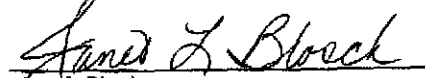
Dated: February 25, 2003

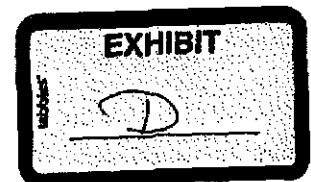

L. Darwin McKay

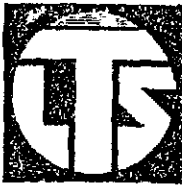
STATE OF IDAHO County of Ada, ss.

On this 25th day of February, in the year of 2003, before me Janet L. Bloesch, notary public personally appeared L. Darwin McKay known or identified to me to be the person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.




Janet L. Bloesch
Notary Public of Idaho
Residing at Ada
Commission expires: March 17, 2005





**TEALEY'S LAND
SURVEYING**

2501 Bogus Basin Rd. • Boise, Idaho 83702
(208) 385-0636
Fax (208) 385-0696

Project No.: 2541
Date: February 24, 2003

Exhibit A

DESCRIPTION
OF
PARCEL 1
IN PROPOSED
SILVERSTONE EAST SUBDIVISION
FOR THE
SUNDANCE COMPANY

A parcel of land being a portion of the East 1/2 of the NW 1/4 of Section 21, T.3N., R.1E., B.M. as shown on Record of Survey No. 5136 on file in the Office of the Ada County Recorder, Idaho and more particularly described as follows:

BEGINNING at a brass cap marking the North 1/4 corner of said Section 21; thence along the North-South centerline of said Section 21

South 00°11'43" West 809.05 feet to an iron pin marking the Northeast corner of the parcel of land described in Instrument No. 100029927 in said Office of the Ada County Recorder; thence along the boundary of said parcel of land

North 71°05'47" West 316.75 feet to an iron pin; thence continuing

South 56°21'27" West 104.33 feet to an iron pin; thence continuing

South 00°01'30" West 281.98 feet to an iron pin; thence continuing

South 80°31'23" East 390.95 feet to an iron pin on said North-South centerline of Section 21; thence leaving said boundary along said North-South centerline of Section 21

South 00°11'43" West 1546.61 feet to an iron pin marking the Center 1/4 corner of said Section 21; thence along the East-West centerline of said Section 21

North 89°07'33" West 1333.76 feet to an iron pin marking the Southwest corner of said East 1/2 of the NW 1/4 of Section 21; thence along the West line of said East 1/2 of the NW 1/4 of Section 21

North 00°13'16" East 1990.91 feet to the Southwest corner of the NW 1/4 of the NE 1/4 of the NW 1/4 of said Section 21; thence along the South line of said NW 1/4 of the NE 1/4 of the NW 1/4

South 89°12'38" East 666.42 feet to the Southeast corner of said NW 1/4 of the NE 1/4 of the NW 1/4; thence along the East line of said NW 1/4 of the NE 1/4 of the NW 1/4

North 00°12'29" East 663.97 feet to the Northeast corner of said NW 1/4 of the NE 1/4 of the NW 1/4; thence along the North line of said Section 21

South 89°14'20" East 666.27 feet to the **POINT OF BEGINNING**;

Said Parcel Contains 68.24 Acres, more or less.

Tax Parcel 51121212485



225371 JB/HEH

2



PIONEER TITLE COMPANY
OF ADA COUNTY
821 W. State St. / Boise, Idaho 83702
(208) 373-3744

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 03/04/03 02:55 PM
DEPUTY Michelle Turner
RECORDED - REQUEST OF
Pioneer
AMOUNT 6.00



QUITCLAIM DEED

For Value Received

L. Darwin McKay, a married man as his separate estate
do hereby convey, release, remise and forever quit claim unto

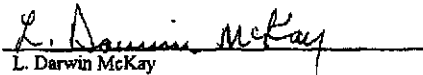
The Turf Corporation, an Idaho corporation
whose address is 6100 S. Eagle Road, Meridian, ID 83642,

the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

together with their appurtenances.

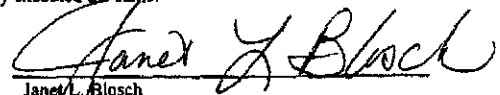
Dated: February 25, 2003


L. Darwin McKay

STATE OF IDAHO County of Ada, ss.

On this 25th day of February, in the year of 2003, before me Janet L. Bloch, notary public personally appeared L. Darwin McKay known or identified to me to be the person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.




Janet L. Bloch
Notary Public of Idaho
Residing at Ada
Commission expires: March 17, 2005



**TEALEY'S LAND
SURVEYING**

2501 Bogus Basin Rd. • Boise, Idaho 83702
(208) 385-0636
Fax (208) 385-0696

Project No.: 2541
Date: February 24, 2003

Exhibit A

**DESCRIPTION
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PARCEL 1
IN PROPOSED
SILVERSTONE EAST SUBDIVISION
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South 00°01'30" West 281.98 feet to an iron pin; thence continuing

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South 89°14'20" East 666.27 feet to the **POINT OF BEGINNING**;

Said Parcel Contains 68.24 Acres, more or less.

EXCEPT that portion lying within Overland Road right-of-way.



225371 JB/HEH

2



A Pioneer Company
PIONEER TITLE COMPANY
OF ADA COUNTY
821 W. State St. / Boise, Idaho 83702
(208) 373-3744

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 03/04/03 02:55 PM
DEPUTY Michelle Turner
RECORDED - REQUEST OF
Pioneer
AMOUNT 6.00



QUITCLAIM DEED

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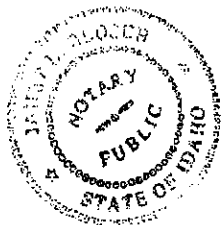
together with their appurtenances.

Dated: February 25, 2003

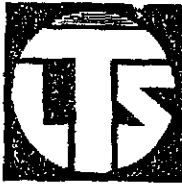
L. Darwin McKay
L. Darwin McKay

STATE OF IDAHO County of Ada, ss.

On this 25th day of February, in the year of 2003, before me Janet L. Bloesch, notary public personally appeared L. Darwin McKay known or identified to me to be the person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.



Janet L. Bloesch
Janet L. Bloesch
Notary Public of Idaho
Residing at Ada
Commission expires: March 17, 2005



**TEALEY'S LAND
SURVEYING**

2501 Bogus Basin Rd. • Boise, Idaho 83702
(208) 385-0636
Fax (208) 385-0696

Project No.: 2541
Date: February 24, 2003

Exhibit A

DESCRIPTION
OF
PARCEL 2
IN PROPOSED
SILVERSTONE EAST SUBDIVISION
FOR THE
SUNDANCE COMPANY

A parcel of land being the NW 1/4 of the NE 1/4 of the NW 1/4 of Section 21, T.3N., R.1E., B.M. as shown on Record of Survey No. 5136 on file in the Office of the Ada County Recorder, Idaho and more particularly described as follows:

COMMENCING at a brass cap marking the North 1/4 corner of said Section 21; thence along the North line of said Section 21

North 89°14'20" West 666.27 feet to the Northeast corner of said NW 1/4 of the NE 1/4 of the NW 1/4 which point is the POINT OF BEGINNING; thence along the East line of said NW 1/4 of the NE 1/4 of the NW 1/4

South 00°12'29" West 663.97 feet to the Southeast corner of said NW 1/4 of the NE 1/4 of the NW 1/4; thence along the South line of said NW 1/4 of the NE 1/4 of the NW 1/4

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South 89°14'20" East 666.26 feet to the POINT OF BEGINNING;

Said Parcel Contains 10.15 Acres, more or less.

Tax Parcel S1121212550



25371 JB/HEH



A Pioneer Company
PIONEER TITLE COMPANY
OF ADA COUNTY
821 W. State St. / Boise, Idaho 83702
(208) 373-3744

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 03/04/03 02:55 PM
DEPUTY Michele Turner
RECORDED--REQUEST OF
Pioneer
AMOUNT 6.00



2

QUITCLAIM DEED

For Value Received

L. Darwin McKay, a married man as his separate estate
do hereby convey, release, remise and forever quit claim unto

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Dated: February 25, 2003

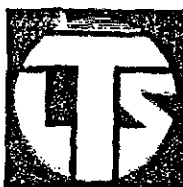
L. Darwin McKay
L. Darwin McKay

STATE OF IDAHO County of Ada, ss.

On this 25th day of February, in the year of 2003, before me Janet L. Bloesch, notary public personally appeared L. Darwin McKay known or identified to me to be the person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.



Janet L. Bloesch
Janet L. Bloesch
Notary Public of Idaho
Residing at Ada
Commission expires: March 17, 2005



**TEALEY'S LAND
SURVEYING**

2501 Bogus Basin Rd. • Boise, Idaho 83702
(208) 385-0636
Fax (208) 385-0686

Project No.: 2541
Date: February 24, 2003

Exhibit A

DESCRIPTION
OF
PARCEL 2
IN PROPOSED
SILVERSTONE EAST SUBDIVISION
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Said Parcel Contains 10.15 Acres, more or less.

EXCEPT that portion lying within Overland Road right-of-way.



25371 JB/HEH

2



A Pioneer Company
PIONEER TITLE COMPANY
OF ADA COUNTY
821 W. State St. / Boise, Idaho 83702
(208) 373-3744

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 03/04/03 02:55 PM
DEPUTY Michelle Turner
RECORDED - REQUEST OF
Pioneer
AMOUNT 6.00



WARRANTY DEED

For Value Received **The Turf Corporation**, an Idaho corporation.

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Sundance Investments Limited Partnership, an Idaho limited partnership

hereinafter referred to as Grantee, whose current address is 9100 W. Blackeagle Drive, Boise, ID 83709

the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that 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: February 25, 2003

The Turf Corporation

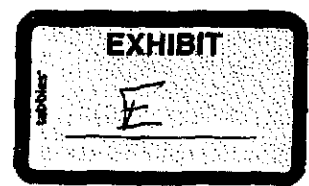
By: L. Darwin McKay
L. Darwin McKay, President

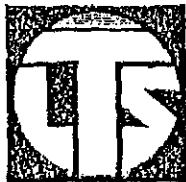
STATE OF IDAHO, County of Ada _____, ss.

On this 25 day of February, in the year of 2003, before me Janet L. Bloesch, notary public personally appeared L. Darwin McKay, known or identified to me to be the President of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



Janet L. Bloesch
Janet L. Bloesch
Notary Public of Idaho
Residing at Ada
Commission expires: March 17, 2005





**TEALEY'S LAND
SURVEYING**

2501 Bogus Basin Rd. • Boise, Idaho 83702
(208) 385-0636
Fax (208) 385-0696

Exhibit A

Project No.: 2541

Date: February 24, 2003

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PARCEL 1
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South 00°01'30" West 281.98 feet to an iron pin; thence continuing

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EXCEPT that portion lying within Overland Road right-of-way.



25371 JB/HCH

2



PIONEER TITLE COMPANY
OF ADA COUNTY
821 W. State St. / Boise, Idaho 83702
(208) 373-3744

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 03/04/03 02:56 PM
DEPUTY Michelle Turner
RECORDED - REQUEST OF
Pioneer
AMOUNT 6.00



WARRANTY DEED

For Value Received

The Turf Corporation, an Idaho corporation.

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

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hereinafter referred to as Grantee, whose current address is 9100 W. Blackeagle Drive, Boise, ID 83709
the following described premises, to-wit:

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Dated: February 25, 2003

The Turf Corporation

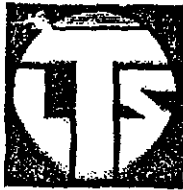
By: L. Darwin McKay
L. Darwin McKay, President

STATE OF IDAHO, County of Ada, ss.

On this 25th day of February, in the year of 2003, before me Janet L. Blossch, notary public personally appeared L. Darwin McKay, known or identified to me to be the President of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



Janet L. Blossch
Janet L. Blossch
Notary Public of Idaho
Residing at Ada
Commission expires: March 17, 2005



**TEALEY'S LAND
SURVEYING**

2501 Bogus Basin Rd. • Boise, Idaho 83702
(208) 385-0636
Fax (208) 385-0636

Exhibit A

Project No.: 2541
Date: February 24, 2003

DESCRIPTION
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PARCEL 2
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2 .5371 JB/HEH

2



A Pioneer Company

PIONEER TITLE COMPANY

OF ADA COUNTY

821 W. State St. / Boise, Idaho 83702
(208) 373-3744

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 03/04/03 02:55 PM
DEPUTY Michelle Turner
RECORDED - REQUEST OF
Pioneer
AMOUNT 6.00



103035221

QUITCLAIM DEED

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do hereby convey, release, remise and forever quit claim unto

Sundance Investments Limited Partnership, an Idaho limited partnership
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the following described premises, to-wit:

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together with their appurtenances.

Dated: February 25, 2003

The Turf Corporation

By: L. Darwin McKay
L. Darwin McKay, President

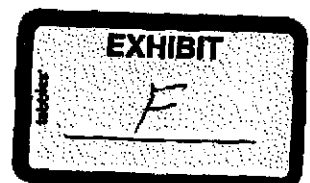
STATE OF IDAHO County of Ada, ss.

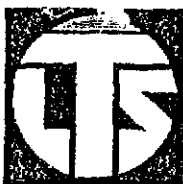
On this 25th day of February, in the year of 2003, before me Janet L. Bloesch, notary public personally appeared L. Darwin McKay known or identified to me to be the President of the corporation that executed the instrument or the person who executed the instrument of behalf of said corporation, and acknowledged to me that such corporation executed the same.



Janet L. Bloesch

Janet L. Bloesch
Notary Public of Idaho
Residing at Ada
Commission expires: March 17, 2005





**TEALEY'S LAND
SURVEYING**

2501 Bogus Basin Rd. • Boise, Idaho 83702
(208) 385-0636
Fax (208) 385-0696

Project No.: 2541
Date: February 24, 2003

Exhibit A

DESCRIPTION
OF
PARCEL 1
IN PROPOSED
SILVERSTONE EAST SUBDIVISION
FOR THE
SUNDANCE COMPANY

A parcel of land being a portion of the East 1/2 of the NW 1/4 of Section 21, T.3N., R.1E., B.M. as shown on Record of Survey No. 5136 on file in the Office of the Ada County Recorder, Idaho and more particularly described as follows:

BEGINNING at a brass cap marking the North 1/4 corner of said Section 21; thence along the North-South centerline of said Section 21

South 00°11'43" West 809.05 feet to an iron pin marking the Northeast corner of the parcel of land described in Instrument No. 100029927 in said Office of the Ada County Recorder; thence along the boundary of said parcel of land

North 71°05'47" West 316.75 feet to an iron pin; thence continuing

South 56°21'27" West 104.33 feet to an iron pin; thence continuing

South 00°01'30" West 281.98 feet to an iron pin; thence continuing

South 80°31'23" East 390.95 feet to an iron pin on said North-South centerline of Section 21; thence leaving said boundary along said North-South centerline of Section 21

South 00°11'43" West 1546.61 feet to an iron pin marking the Center 1/4 corner of said Section 21; thence along the East-West centerline of said Section 21

North 89°07'33" West 1333.76 feet to an iron pin marking the Southwest corner of said East 1/2 of the NW 1/4 of Section 21; thence along the West line of said East 1/2 of the NW 1/4 of Section 21

North 00°13'16" East 1990.91 feet to the Southwest corner of the NW 1/4 of the NE 1/4 of the NW 1/4 of said Section 21; thence along the South line of said NW 1/4 of the NE 1/4 of the NW 1/4

South 89°12'38" East 666.42 feet to the Southeast corner of said NW 1/4 of the NE 1/4 of the NW 1/4; thence along the East line of said NW 1/4 of the NE 1/4 of the NW 1/4

North 00°12'29" East 663.97 feet to the Northeast corner of said NW 1/4 of the NE 1/4 of the NW 1/4; thence along the North line of said Section 21

South 89°14'20" East 666.27 feet to the **POINT OF BEGINNING**;

Said Parcel Contains 68.24 Acres, more or less.

Tax Parcel S1121212485



2/24/03

25371 JB/HEH



A Pioneer Company
PIONEER TITLE COMPANY
OF ADA COUNTY
821 W. State St. / Boise, Idaho 83702
(208) 373-3744

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 03/04/03 02:55 PM
DEPUTY Michelle Turner
RECORDED - REQUEST OF
Pioneer
AMOUNT 6.00



2

QUITCLAIM DEED

For Value Received

The Turf Corporation, an Idaho corporation
do hereby convey, release, remise and forever quit claim unto
Sundance Investments Limited Partnership, an Idaho limited partnership
whose address is 9100 W. Blackeagle Drive, Boise, ID 83709 ,

the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

together with their appurtenances.

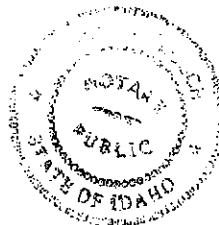
Dated: February 25, 2003

The Turf Corporation

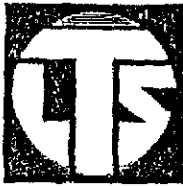
By: L. Darwin McKay
L. Darwin McKay, President

STATE OF IDAHO County of Ada, ss.

On this 25th day of February, in the year of 2003, before me Janet L. Blossch, notary public personally appeared L. Darwin McKay known or identified to me to be the President of the corporation that executed the instrument or the person who executed the instrument of behalf of said corporation, and acknowledged to me that such corporation executed the same.



Janet L. Blossch
Janet L. Blossch
Notary Public of Idaho
Residing at Ada
Commission expires: March 17, 2005



**TEALEY'S LAND
SURVEYING**

2501 Bogus Basin Rd. • Boise, Idaho 83702
(208) 385-0636
Fax (208) 385-0698

Exhibit A

Project No.: 2541
Date: February 24, 2003

**DESCRIPTION
OF
PARCEL 2
IN PROPOSED
SILVERSTONE EAST SUBDIVISION
FOR THE
SUNDANCE COMPANY**

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South 89°14'20" East 666.26 feet to the POINT OF BEGINNING;

Said Parcel Contains 10.15 Acres, more or less.

Tax Parcel S1121212550



225371 JB/HEH



A Pioneer Company

PIONEER TITLE COMPANY

OF ADA COUNTY

821 W. State St. / Boise, Idaho 83702
(208) 373-3744

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 83704/03 02:55 PM
DEPUTY Michelle Turner
RECORDED - REQUEST OF
Pioneer
AMOUNT \$ 00



2

QUITCLAIM DEED

For Value Received

L. Darwin McKay and Patricia E. McKay, husband and wife

do hereby convey, release, remise and forever quit claim unto

Sundance Investments Limited Partnership, an Idaho limited partnership

whose address is 9100 W. Blackeagle Drive, Boise, ID 83709

the following described premises, to-wit:

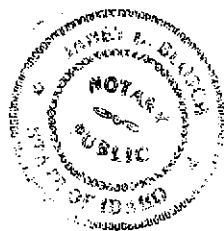
SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

together with their appurtenances.

Dated: February 24, 2003

L. Darwin McKay
L. Darwin McKay
Patricia E. McKay
Patricia E. McKay

On this 26th day of February, in the year of 2003, before me Janet L. Blossch, ss.
notary public personally appeared L. Darwin McKay and Patricia E. McKay, known or identified to me to be the
person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they
executed the same.



Janet L. Blossch
Notary Public of Idaho
Residing at Boise, Idaho
Commission expires: 3-17-2005





**TEALEY'S LAND
SURVEYING**

2501 Bogus Basin Rd. • Boise, Idaho 83702
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Project No.: 2541
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Tax Parcel 51121212485



2/24/03

225371 JB/HEH



PIONEER TITLE COMPANY
OF ADA COUNTY
821 W. State St. / Boise, Idaho 83702
(208) 373-3744

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 03/04/03 02:55 PM
DEPUTY Michelle Turner
RECORDED - REQUEST OF
Pioneer
AMOUNT 6.00



2

QUITCLAIM DEED

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L. Darwin McKay and Patricia E. McKay, husband and wife
do hereby convey, release, remise and forever quit claim unto
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whose address is 9100 W. Blackeagle Drive, Boise, ID 83709

the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

together with their appurtenances.

Dated: February 24, 2003

L. Darwin McKay
L. Darwin McKay
Patricia E. McKay
Patricia E. McKay

STATE OF Idaho County of Ada, ss.

On this 26th day of February, in the year of 2003, before me Janet L. Bloesch notary
public personally appeared L. Darwin McKay and Patricia E. McKay, known or identified to me to be the
person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they
executed the same.



Janet L. Bloesch
Notary Public of Idaho
Residing at Boise, Idaho
Commission expires: 3-17-2005



**TEALEY'S LAND
SURVEYING**

2501 Bogus Basin Rd. • Boise, Idaho 83702

(208) 385-0636

Fax (208) 385-0696

Project No.: 2541

Date: February 24, 2003

Exhibit A

**DESCRIPTION
OF
PARCEL 2
IN PROPOSED
SILVERSTONE EAST SUBDIVISION
FOR THE
SUNDANCE COMPANY**

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Said Parcel Contains 10.15 Acres, more or less.

Tax Parcel S1121212550



Information Search (WR/AJ)

Basin	Seq...	Suffix	Version	Source Table	Basis	Status	RightID	Priority Date	DI...	Source List	Water Use List	Owner List
63	31482		1	waAdjudication...	License	Closed	553567	1954-04-22	1.36	GROUND WA...	IRRIGATION	DETWEILER...
63	31482			waAdjudication...	License	Closed	553565	1954-04-22	1.36	GROUND WA...	IRRIGATION	DETWEILER...
63	31482			waWaterRight	Decreed	PARENT	553565	1954-04-22	1.36	GROUND WA...	IRRIGATION	DETWEILER...
63	31482			xlFromWaterRi...		Active	553565	1954-04-22	1.36	GROUND WA...	IRRIGATION	

The number of records is 4

View Documents | Print Proof Report | Print Transfer Part 2 | Update Arcview

Parameters Results

Information Search (WR/AJ)

Basin	Seque...	Suffix	Versto...	Source Table	Basin	Status	RightID	Priority Date	Di...	Source List	Water Use List	Owner List
63	32825			wwwWaterRight	Decreed	DRAFT A...	613511	1954-04-22	1.36	GROUND WA...	IRRIGATION	DETWEILER...
63	32826			wwwWaterRight	Decreed	DRAFT A...	613512	1954-04-22	1.36	GROUND WA...	IRRIGATION	DETWEILER...

The number of records is 2

View Documents

Print Proof Report

Print Transfer Part 2

Update Arcview

Parameters

Results

12/09/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31194B

NAME AND ADDRESS: SUNDANCE INVESTMENTS LTD PARTNERSHIP
9100 W BLACKEAGLE DR
BOISE ID 83709

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.620 CFS
218.200 AFY

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 07/22/1988

POINT OF DIVERSION:

T03N R01E S21 NENW Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.620 CFS 218.20 AFY

The use of water for irrigation under this right may begin as early as April 1, provided other elements of the right are not exceeded. The use of water before April 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in ADA County

T03N R01E S21	NENW	20.50	T03N R01E S21	SENW	28.00
---------------	------	-------	---------------	------	-------

48.5 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This water right is appuretenant to the described place of use.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-31194B V1

WATER RIGHT NUMBER: 63-31194B V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SUNDANCE INVESTMENTS LTD PARTNERSHIP 9100 W BLACKEAGLE DR BOISE, ID 83709 (208)322-7300

Priority Date: 07/22/1988

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>
IRRIGATION	03/15 to 11/15	0.620 CFS	218.20 AF
	<u>Total Diversion:</u>	0.620 CFS	218.20 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4NW1/4	Sec. 21, Twp 03N, Rge 01E, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	01E	21					20.5				28.0								48.5

Total Acres: 48.5

Conditions of Approval:

1. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
2. 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.
3. This water right is appurtenant to the described place of use.
4. S38 The use of water for irrigation under this right may begin as early as April 1 , provided other elements of the right are not exceeded. The use of water before April 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-31194B V1

Comments:

1. jshurte 12/9/2006 Ownership issue

Comment: See comments in 63-31194A concerning the recommendation of this claim and the disallowal of 63-31194A.
See file for documentation.

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	9/3/2006 1:33:04 PM	jshurte			Active
Priority Date	9/3/2006 1:34:51 PM	jshurte			Active
POD	9/3/2006 1:35:56 PM	jshurte			Active
Contacts	12/9/2006 2:51:58 PM	jshurte			Active
Priority Date	12/9/2006 2:52:31 PM	jshurte			Active
POD	12/9/2006 2:53:31 PM	jshurte			Active
Source	12/9/2006 2:53:54 PM	jshurte			Active
POU	12/9/2006 2:54:14 PM	jshurte			Active
Use	12/9/2006 2:55:36 PM	jshurte			Active
Season	12/9/2006 2:56:14 PM	jshurte			Active
Quantity	12/9/2006 2:56:51 PM	jshurte			Active
Summary			12/09/2006	jshurte	Active

Water Supply Bank:

Water Right(s)

63-31194A

IDAHO DEPT OF WATER RESOURCES

1987 Photography
Date: December, 2006

● **Pt of Diversion**

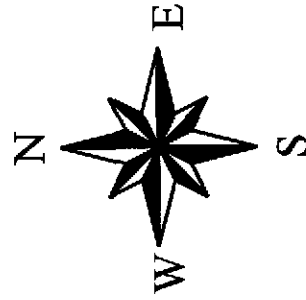


Place of Use

1/4 1/4 Lines



Section Lines



IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-31194

WATER RIGHT NUMBER: 63-31194

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	L DARWIN MC KAY 6100 S EAGLE RD MERIDIAN, ID 83642 (208)888-3760
Present Owner	SUNDANCE INVESTMENT LTD PARTNERSHIP C/O RYAN ANDERSON 9100 W BLACKEAGLE DR BOISE, ID 83709 (208)322-7300

Priority Date: 07/22/1988

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>
IRRIGATION	03/15 to 11/15	0.620 CFS	218.20 AF
	<u>Total Diversion:</u>	0.620 CFS	218.20 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4NW1/4	Sec. 21, Twp 03N, Rge 01E, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	01E	21					20.5			28.0									48.5

Total Acres: 48.5

Conditions of Approval:Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-31194

Comments:

1. PSKAGGS 3/30/2001 Ownership Splits

Comment: Right 63-31194 is the balance of Right 63-10666C following two ownership splits resulting in subsequent Rights 63-31195 & 63-31196.

2. jpeppers 11/1/2004 owner change

Comment: The owner change processed in September 2003 to Sundance Investment has been changed back to the previous owner pending additional documentation of the change. There is a dispute between the new landowner and the previous recorded owner, Darwin McKay, who maintains that the water right was developed and is owned independent of the land. This issue may need a court resolution. Any transfers involving this right will need to be held pending resolution of the ownership issue.

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-10666C

WATER RIGHT NUMBER: 63-10666C

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	L DARWIN MC KAY 6100 S EAGLE RD MERIDIAN, ID 83642 (208)888-3760

Priority Date: 07/22/1988

Basis: License

Status: Parent

<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>
IRRIGATION	03/15 to 11/15	0.690 CFS	245.20 AF
	<u>Total Diversion:</u>	0.690 CFS	245.20 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4NW1/4	Sec. 21, Twp 03N, Rge 01E, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	01E	21					26.5				28.0								54.5

Total Acres: 64.5

Conditions of Approval:

1. This water right is appurtenant to the described place of use.
This right is subject to all prior water rights and may be forfeited by five years of non-use.
Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
2. R65 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-10666C

Comments:

1. VAULT 11/15/1991 Proof of Beneficial Use Rcvd

Comment: Proof of Beneficial Use Rcvd

2. PSKAGGS 7/17/2000 TRANSFER 5739

Comment: Transfer 5739 changes the point of diversion & place of use under a portion of Right 63-10666, splitting the right into Parts A & B.

3. PSKAGGS 3/28/2001 8:00:54 AM Transferred Right

Comment: This is now an approved transfer, transfer number = 68530

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-31195

WATER RIGHT NUMBER: 63-31195

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	L DARWIN MC KAY 6100 S EAGLE RD MERIDIAN, ID 83642 (208)888-3760
Current Owner	DEVELOPERS DIVERSIFIED REALTY 455 E 500 S STE 400 SALT LAKE CITY, UT 84111 (801)363-5555

Priority Date: 07/22/1988

Basis: License

Status: Abandoned

<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>
IRRIGATION	03/15 to 11/15	0.060 CFS	22.50 AF
	<u>Total Diversion:</u>	0.060 CFS	22.50 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4NW1/4	Sec. 21, Twp 03N, Rge 01E, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	01E	21					5.0												5.0

Total Acres: 5

Conditions of Approval:Remarks:Comments:

1. PSKAGGS 3/30/2001 Ownership Split
 Comment: Right 63-31195 is an ownership split of Right 63-10666C abandoned as mitigation for Permit 63-12513.

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 63-31195

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-31196

WATER RIGHT NUMBER: 63-31196

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	L DARWIN MC KAY 6100 S EAGLE RD MERIDIAN, ID 83642 (208)888-3760
Current Owner	CORP OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF THE LATTER DAY SAINTS A UTAH CORP SOLE 2710 W SUNRISE RIM RD STE 200 BOISE, ID 83705 (208)342-2735

Priority Date: 07/22/1988

Basis: License

Status: Abandoned

<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>
IRRIGATION	03/15 to 11/15	0.010 CFS	4.50 AF
	<u>Total Diversion:</u>	0.010 CFS	4.50 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4NW1/4	Sec. 21, Twp 03N, Rge 01E, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	01E	21					1.0												1.0

Total Acres: 1

Conditions of Approval:Remarks:Comments:

- PSKAGGS 3/30/2001 Ownership Split
Comment: Right 63-31196 is an ownership split of Right 63-10666C abandoned as mitigation for Permit 63-12604.

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 63-31196

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-10666A

WATER RIGHT NUMBER: 63-10666A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	L DARWIN MC KAY 3220 E LAKE HAZEL RD MERIDIAN, ID 83642 (208)888-3760

Priority Date: 07/22/1988

Basis: License

Status: Parent

<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>
IRRIGATION	3/15 to 11/15	0.820 CFS	290.20 AF
	<u>Total Diversion:</u>	0.820 CFS	290.20 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4NW1/4	Sec. 21, Twp 03N, Rge 01E, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	01E	21					26.5				38.0								64.5

Total Acres: 64.5

Conditions of Approval:

1. R65 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
2. This water right is appurtenant to the described place of use.
This right is subject to all prior water rights and may be forfeited by five years of non-use.
Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-10666A

Comments:

1. VAULT 11/15/1991 Proof of Beneficial Use Rcvd

Comment: Proof of Beneficial Use Rcvd

2. PSKAGGS 7/17/2000 TRANSFER 5739

Comment: Transfer 5739 changes the point of diversion & place of use under a portion of Right 63-10666, splitting the right into Parts A & B.

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-10666B

WATER RIGHT NUMBER: 63-10666B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CORP OF THE PRESIDING BISHOP CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS 50 E NORTH TEMPLE ST SALT LAKE CITY, UT 84150 (801) 240-4074
Original Owner	L DARWIN MC KAY 3220 E LAKE HAZEL RD MERIDIAN, ID 83642 (208)888-3760

Priority Date: 07/22/1988

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>
IRRIGATION	3/15 to 11/15	0.020 CFS	6.80 AF
	<u>Total Diversion:</u>	0.020 CFS	6.80 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4SE1/4SE1/4	Sec. 4,	Twp 03N,	Rge 01W, B.M.
ADA County				

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
03N	01W	4																	1.5	1.5

Total Acres: 1.5

Conditions of Approval:

1. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
2. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date of this approval.
3. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-10666B

5. R69 This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

Remarks:

Comments:

1. VAULT 11/15/1991 Proof of Beneficial Use Rcvd

Comment: Proof of Beneficial Use Rcvd

2. PSKAGGS 7/17/2000 TRANSFER 5739

Comment: Transfer 5739 changes the point of diversion & place of use under a portion of Right 63-10666, splitting the right into Parts A & B.

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-10666D

WATER RIGHT NUMBER: 63-10666D

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	TURF CO INC 6100 S EAGLE RD MERIDIAN, ID 83642
Current Owner	L DARWIN MC KAY 6100 S EAGLE RD MERIDIAN, ID 83642 (208)888-3760

Priority Date: 07/22/1988

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>
IRRIGATION	03/15 to 11/15	0.130 CFS	45.00 AF
	<u>Total Diversion:</u>	0.130 CFS	45.00 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4NW1/4SW1/4	Sec. 4, Twp 02N, Rge 01E, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	01E	4									15.0	40.0							55.0

Total Acres: 55

Conditions of Approval:

1. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
2. 104 If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
3. 01Q After specific notification by the department, the right holder shall measure the diversion or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the Department.
4. R65 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-10666D

5. R19 The right holder shall maintain a totalizing measuring device of a type approved by the Department as a part of the diverting works.
6. 065 The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
7. X61 The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
8. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Remarks:

Comments:

1. VAULT 11/15/1991 Proof of Beneficial Use Rcvd

Comment: Proof of Beneficial Use Rcvd

2. PSKAGGS 7/17/2000 TRANSFER 5739

Comment: Transfer 5739 changes the point of diversion & place of use under a portion of Right 63-10666, splitting the right into Parts A & B.

3. PSKAGGS 3/28/2001 8:00:55 AM Transferred Right

Comment: This is now an approved transfer, transfer number = 68530

Water Supply Bank:

BEFORE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PETITION TO
CORRECT WATER RIGHT LICENSE
SUBMITTED BY DARWIN MC KAY

**PRELIMINARY ORDER
CORRECTING LICENSE**

This matter having come before the Department of Water Resources (Department) as a result of the filing of a petition to correct a water right license, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On January 5, 2000, Darwin Mc Kay (petitioner) filed a petition to correct Water Right License 63-10666 (license) by removing certain approval conditions.
2. On August 23, 1995, the Department issued Water Right License 63-10666 to the petitioner with Approval Conditions 4 and 5 as follows:

The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right.

This right to divert groundwater shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use without approval of the Department.

3. When issued on October 6, 1988, Permit 63-10666 did not have approval conditions requiring the use of surface water in conjunction with the groundwater use developed under the permit.
4. When amended on November 22, 1989, Permit 63-10666 did not have approval conditions requiring the use of surface water in conjunction with the groundwater use developed under the permit.
5. The Department field examiner who verified the water use developed under Permit 63-10666 in 1995 reported, "Other water source is Nampa-Meridian Irrigation District."
6. On January 31, 2000, Nampa & Meridian Irrigation District reported to the Department that it has not delivered water to the place of use for the license since 1989, the first irrigation season after Permit 63-10666 was issued.
7. Water Right 63-10666 was not developed for use in conjunction with surface water.

CONCLUSIONS OF LAW

1. The Department incorrectly applied the information reported by the field examiner about the use of surface water in conjunction with the ground water use developed under Permit 63-10666.
2. The license does not accurately portray the water use developed by the petitioner in accordance with Permit 63-10666.
3. The Department should rescind Approval Conditions 4 and 5 on the license.
4. To make the license consistent with other ground water irrigation rights not supplemental to surface water, the Department should also revise Approval Condition 6 and report a maximum diversion volume for the water right.

ORDER

IT IS HEREBY ORDERED that Water Right License 63-10666 issued by the Department on August 23, 1995, is **CORRECTED** by:

RESCINDING Approval Conditions 4 and 5;

REVISING Approval Condition 6 (Now Approval Condition 4); and

REPORTING a maximum diversion volume of 297.0 acre-feet of water.

An Amended Water Right License shall be prepared to incorporate the corrections hereby ordered.

Dated this 1st day of February, 2000.


NORMAN C. YOUNG
Administrator, Water Management Division

State of Idaho
Department of Water Resources

Water Right License

AMENDED

AMENDED

WATER RIGHT NO. 63-10666

Priority: July 22, 1988

Maximum Diversion Rate:

0.84 CFS

Maximum Diversion Volume:

297.0 AF

This is to certify, that L DARWIN MC KAY
3220 E LAKE HAZEL RD
MERIDIAN ID 83642

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 22, 1988; and has submitted Proof of Beneficial Use on August 21, 1991. An examination indicates that the works have a diversion capacity of 0.840 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	0.84 CFS	297.0 AF

LOCATION OF POINT(S) OF DIVERSION:

NENW , Sec. 21, Township 03N, Range 01E
ADA County

PLACE OF USE: IRRIGATION

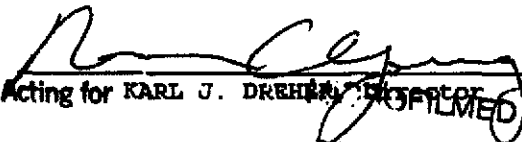
<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N	01E	21	NENW 28	SENW 38		66

Total number of acres irrigated: 66

CONDITIONS OF APPROVAL AND REMARKS

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 15th day of FEBRUARY, 2000.


Acting for KARL J. DREHER, DIRECTOR
FEB 03 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

February 15, 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

JON GOULD
RINGERT CLARK CHARTERED LAWYERS
PO BOX 2773
BOISE ID 83701

RECEIVED

FEB 17 2006

WATER RESOURCES
WESTERN REGION

RE: Change of Ownership for Water Right 63-31194

Dear Mr. Gould:

I have received your letter of February 10, 2006, regarding the change of ownership for the water right referenced above. This letter is a response to the questions that you submitted on behalf of your client, Darwin McKay.

My letter of November 5, 2004, addressed to Richard Jankowski, stated that "... if the deed does not specify the conveyance of any particular water rights, the ownership of water right 63-31194 would not be clarified by submittal of the deed in this case." At the time, I anticipated that Darwin McKay (McKay) and Sundance Investments Limited Partnership (Sundance) would attempt to resolve the dispute and submit documentation to IDWR clarifying the ownership of the water right. Clearly, the issue has not been resolved between Sundance and McKay. However, IDWR must update the water right record if the evidence of ownership appears to be sufficient.

The deeds submitted with the Sundance transfer application convey the land with appurtenances from McKay to Sundance. The conveyance does not exclude water rights and is not ambiguous. It is IDWR's understanding that water right permits developed on a specific place of use become appurtenant to the place of use upon completion of beneficial use of the water as verified by IDWR through the licensing process. There may be exceptions, such as development of the water right by a canal company or other delivery entity, or through an agreement between a lessor and a lessee to clarify ownership of a water right developed by the lessee. McKay has not submitted any documentation that would support ownership of the water right separate from the land.

My reference to the license issued on February 1, 2000 is correct. The license issued in 2000 superseded the license issued on August 23, 1995. Both versions included the condition noted in my letter of November 5. I have included a copy of the 2000 license for your future reference.

For the reasons stated above, the deeds submitted by Sundance are considered sufficient evidence of ownership to update the water right record and proceed with processing the transfer application in the name of Sundance. McKay has not provided any evidence that would contradict the evidence submitted by Sundance. Further delay in processing the transfer is not justified simply based on a claim of ownership by McKay without sufficient evidence of ownership. As stated in my earlier letter, the Department does not adjudicate or quiet title to establish ownership of water rights. Although McKay may have a legal claim to ownership of the water right, resolution of the issue must be through the court process.

Please feel free to contact me at 208-287-4948 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Peppersack', written over the printed name.

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

c: William J. McKlveen
✓ Dan Nelson – IDWR Western

Enclosure – 2000 license for 63-10666

State of Idaho
Department of Water Resources

Water Right License

AMENDED

AMENDED

WATER RIGHT NO. 63-10666

Priority: July 22, 1988

Maximum Diversion Rate:

0.84 CFS

Maximum Diversion Volume:

297.0 AF

This is to certify, that L DARWIN MC KAY

3220 E LAKE HAZEL RD

MERIDIAN ID 83642

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 22, 1988; and has submitted Proof of Beneficial Use on August 21, 1991. An examination indicates that the works have a diversion capacity of 0.840 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	0.84 CFS	297.0 AF

LOCATION OF POINT(S) OF DIVERSION:

NENW , Sec. 21, Township 03N, Range 01E
ADA County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N	01E	21	NENW 28	SENW 38		66

Total number of acres irrigated: 66

CONDITIONS OF APPROVAL AND REMARKS

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 15 day of FEBRUARY, 2000.

Acting for KARL J. DREHER, DIRECTOR

FILED
FEB 03 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

February 9, 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director
RECEIVED

FEB 09 2006

WATER RESOURCES
WESTERN REGION

WILLIAM J MC KLVEEN
EBERLE BERLIN KADING TURNBOW MC KLVEEN & JONES CHARTERED
PO BOX 1368
BOISE ID 83701

RE: Application for Transfer of Water Right 63-31194 in the Name of Sundance Investments Limited Partnership

Dear Mr. McKlveen:

I was recently forwarded your letter of January 11, 2006, addressed to Dan Nelson of this Department, regarding the application referenced above. The purpose of this letter is to inform you of the Department's intentions regarding the application and the Notice of Change in Water Right Ownership filed for water right 63-31194 by Sundance in 2003.

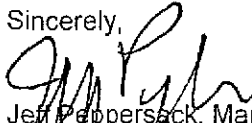
As you know, the ownership change for water right 63-31194 is disputed by Darwin McKay. Mr. McKay disputes the change on the basis that he developed the water right separate from the land as a lessee of the land. The Department did not change the water right record to show Sundance as the owner because the Purchase and Sale Agreement submitted with the ownership change notice was not conclusive regarding the final disposition of the water right (i.e. conveyance deeds were not included in the documentation).

Upon licensing of the original water right to Mr. McKay (license 63-10666) the water right was considered appurtenant to the land. The license issued on Feb. 1, 2000 included a condition stating that, "This water right is appurtenant to the described place of use." Sundance's application for transfer included quitclaim and warranty deeds from Darwin McKay and The Turf Corp. for the land and appurtenances to Sundance. Given that all appurtenances were conveyed, and Mr. McKay has not submitted any prior lease agreement indicating that any water right developed during the lease term would not be appurtenant to the land, the Department now intends to change the record for water right 63-31194 to show Sundance as the current owner.

Please note that the Department does not adjudicate or quiet title to establish ownership of water rights. That is the role of the courts. The Department's decision to process the ownership change in its records does not determine or extinguish any existing ownership claims. Mr. McKay may still seek relief from court. In addition, Mr. McKay may protest Sundance's pending transfer application for the water right.

Please feel free to contact me at 208-287-4948 if you have any questions.

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:klf

cc: Jon Gould – Ringert Clark, attorney for Darwin McKay
Dan Nelson – IDWR Western

EBERLE, BERLIN, KADING, TURNBOW, McKLVEEN & JONES,

CHARTERED

ATTORNEYS AND COUNSELORS AT LAW
CAPITOL PARK PLAZA
300 NORTH SIXTH STREET
POST OFFICE BOX 1368
BOISE, IDAHO 83701

TELEPHONE
(208) 344-8535

FACSIMILE
(208) 344-8542

WILLIAM J. McKLVEEN
E-MAIL: wmcklveen@eberle.com

RECEIVED

JAN 12 2006

WATER RESOURCES
WESTERN REGION

January 11, 2006

Daniel A. Nelson
Sr. Water Right Agent
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

Re: *Application for Transfer Water Right 63-31194*
Sundance Company
EBKTM&J File No. 79010-1

Dear Mr. Nelson:

This firm represents the interests of Sundance Investment LTD Partnership with respect to the above-referenced matter. I am writing in response to your letter, dated December 30, 2005, to my client (a copy of which is enclosed for your reference). In your letter you state that the "review of the transfer revealed some issues with the ownership of the water right being transferred" and as a result the transfer has been put on an indefinite hold. Finally, you asked my client provide to you with an update on the efforts to clarify the ownership issue.

I wish to make it clear that my client fully intends on securing the transfer of ownership of water right 63-31194 (hereinafter the "Water Right"). In fact, in June 2003, my client filed the Notice of Change in Water Right Ownership with IDWR. Along with that Notice, my client provided IDWR signed copies of the Purchase and Sale Agreement with respect to the property upon which the Water Right is appurtenant. Thereafter, my client provided IDWR copies of warranty deeds and quitclaim deeds executed by L. Darwin McKay, the former owner of the Water Right, in favor of my client. Those deeds specifically quitclaim whatever interest Mr. McKay had in the property, including appurtenances. In short, my client has done everything required by Idaho Code and the relevant IDWR rules and regulations to accomplish this transfer.

In light of the above, IDWR has a ministerial duty to name my client as the owner of the Water Right. By refusing this ministerial act, you are quasi-judicially stripping my client of its interest in the Water Right without notice or an opportunity to be heard in the matter. If IDWR has statutory or regulatory authority for refusing to honor my client's Notice of Change in Water Right Ownership, I ask that you inform me in writing as to what that authority is.

To resolve any doubt, I am enclosing the following documents for your consideration:

- A copy of the Purchase and Sale Agreement with respect to the real property upon which the Water Right is appurtenant. Please note that the agreement specifically includes "water and water rights appurtenant to or used on the Property and all shares, certificates, and other documents evidencing such water rights."
- A copy of the Action by Co-Tenants, whereby all co-tenants of the property which is the subject of the Purchase and Sale Agreement consented to the sale of the co-tenants' interests in real and personal property pursuant to the terms of the Purchase and Sale Agreement. Please note L. Darwin McKay's signature on the Action by Co-Tenants.
- A copy of the Warranty Deeds executed by L. Darwin McKay in favor of The Turf Company with respect to the property.
- A copy of the Quitclaim Deeds executed by L. Darwin McKay in favor of The Turf Company with respect to the property.
- A copy of the Warranty Deeds executed by The Turf Company in favor of my client with respect to the property.
- A copy of the Quitclaim Deeds executed by The Turf Company in favor of my client with respect to the property.
- A copy of the Quitclaim Deeds executed by L. Darwin McKay and Patricia E. McKay in favor of my client with respect to the property.

Idaho law is clear and specifically provides that a deed to real property that includes the provision "together with appurtenances" operates to convey the real property AND the water rights appurtenant to the property at the time of the conveyance, unless the water right is "specifically reserved in the deed or it could be clearly shown that it was known to BOTH parties that the water right was not intended to be conveyed," *Russell v. Irish*, 20 Idaho 194, 118 P. 501 (1911) (emphasis added); see also *Koon v. Empey*, 40 Idaho 6, 231 P. 1097 (1924). Additionally,

Daniel A. Nelson
Sr. Water Right Agent
Idaho Department of Water Resources
January 11, 2006
Page 3

in *Paddock v. Clark*, 22 Idaho 498, 126 P. 1053 (1912), the Idaho Supreme Court held that a deed which specifically mentions certain water rights conveys the land and those mentioned water rights, to the exclusion of any other water rights, regardless of whether there is the usual appurtenances clause in the deed.

With respect to the above-referenced deeds, please note that each and every one of the deeds contain the provision "together with their appurtenances." None of the deeds specifically describe any water right to the exclusion of any other water right, and none of the deeds specifically exclude any water right whatsoever. Moreover, there is nothing in the Purchase and Sale Agreement or the Action by Co-Tenants which indicates any intention on Mr. McKay's part to exclude the Water Right from the sale.

I trust that this information will serve to resolve any of IDWR's perceived disputes regarding proper ownership of the Water Right and that you will forthwith cause any documentation of Mr. McKay's claim to the Water Right to be purged from the record.

Very Truly Yours



William J. McKlveen

WJM/nb

Enclosure

cc (w/encl.): Roger L. Anderson
00126832.000.DOC



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

December 30, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

SUNDANCE INVESTMENT LTD PARTNERSHIP
9100 W BLACKEAGLE DR
BOISE ID 83709

COPY

RE: APPLICATION FOR TRANSFER WATER RIGHT 63-31194

Ladies and Gentlemen:

In May of 2004, your organization filed a transfer on water right 63-31194. The review of the transfer revealed some issues with the ownership of the water right being transferred. It is our understanding that those issues have yet to be resolved at this time. Processing of this transfer has been delayed and the transfer has been put on an indefinite hold until the ownership issues could be resolved.

The purpose of this letter is to determine if you are still interested in pursuing this transfer. If you are no longer interested in the transfer, then I would like to ask if you could send us a request to withdraw the transfer. If you are still interested in the transfer, we would appreciate a brief update on your efforts to clarify the ownership issues?

If you have any questions or concerns please contact me at the above address.

Respectfully,

Daniel A. Nelson
Sr. Water Right Agent