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Attorneys for Jeffrey C. Shippy

RECEIVED

NOV 29 2016

DEPARTMENT OF
WATER RESOURCES

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

In Re CSRBA	)	SUBCASE NO. 91-7094
	)	
Case No. 49576	)	MOTION TO ALTER OR AMEND
	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION
	)	
	)	

I.

INTRODUCTION

The Department of Water Resources was unable to determine the owner of this water right based on the competing claims and objections filed by Douglas and Darcy McInturff ("McInturff") and Jeffrey Shippy ("Shippy"). The Director then recommended both claimants be recognized as owners of the right. Both parties objected to this joint ownership concept.

A trial on this water right was held in Coeur d'Alene on August 3, 2016. The Special Master's Report and Recommendation; Findings of Fact and Conclusion of Law (SMRR) was filed October 6, 2016. Mr. Shippy then consulted counsel and asked for MOTION TO ALTER OR AMEND SPECIAL MASTER'S REPORT AND RECOMMENDATION

¹
COPY

assistance. The Report and Recommendation appeared on the Docket Sheet on November 1, 2016. This firm has contemporaneously entered a Notice of Appearance in this subcase on his behalf and is filing this Motion to Alter or Amend. This Motion to Alter or Amend is timely filed.

The only issue at trial was ownership of water right 91-7094. The Special Master recommended that McInturff be recognized as the owner. However, the rightful owner of this right is Cedar Creek Ranch, LLC, for the reasons discussed in this Motion.

The basis of this Motion is that not all relevant material facts were properly addressed in the Report and Recommendation or given the correct weight by the Special Master. There is no dispute that the water right license was issued in the name of St. Maries Wild Rice Growers, for the right to use 1.40 cfs on 70 acres of land. Condition No. 2 of the license stated that the right was appurtenant to that 70 acres located in Township 46 North, Range 01 West, Section 7 and Section 18. At the time of licensing, the land was owned by Aaron and Jeanne Robinson, so the right was appurtenant to Robinson's land, not St. Marie's Wild Rice Growers' land. Indeed, it owned no land. Condition No. 6 of the license made it clear that the license granted no right-of-way or easement across the lands of another, and that the Department has no authority to grant such a right-of-way.

The Director concluded that he could not make a determination on which party claiming the right should be recognized as the owner of the right, so recommended it in the names of both McInturff and Shippy as co-owners. However, the Special Master recommended that the partial decree be issued, neither to St. Maries Wild Rice Growers and nor to the owner of the property. Instead, the Special Master recommended that the

right be decreed to McInturff. McInturff claims to have some interest in the license, but he has *no* right to use the water on the appurtenant property.

II.

STATEMENT OF FACTS

The material facts in this case do not appear to be in dispute. Based on the facts, the rights should be decreed in the name of Cedar Creek Ranch, LLC.

St. Maries Wild Rice Growers was an unincorporated association between Al Bruner and Jeffrey Baker. In 1983, this Association filed an Application for Permit No. 91-7094 to use water on property owned by Aaron and Jeanne Robinson to grow wild rice. As the Court recognized, the application asserted that there was a “long-term lease” with the landowner. No such lease was submitted with the application or produced at trial. That is because there was none. The Association had only a year-to-year agreement with the Robinsons. Testimony of Jeff Shippy and Jeff Baker. Mr. Baker testified that the Robinsons did not want their property tied up in a long term lease. Even though the Robinsons did not grant a long-term lease, the application signed by Al Bruner, asserted that such a lease existed even though he knew there was no long-term lease. Testimony of Jeff Baker¹.

When the application for the water right was filed and the license was granted, because the right was appurtenant to the Robinson’s land, both Robinsons and the Association believed the right belonged to the landowner who had control over the use of the property. Testimony of Jeff Baker. Mr. Baker made it clear to Mr. Bruner that he

¹ A water right clearly cannot be perfected in trespass. *Lemmon v. Hardy*, 95 Idaho 778 (1974). Similarly, a water right should not be perfected by way of a fraudulent misrepresentation.

believed the Association was acquiring a water right on behalf of the property owners, in part, because there was no long-term lease. *Id.*

St. Maries Wild Rice Growers, Inc. was incorporated in 1984. However, Permit No. 91-7094 was not assigned to St. Maries Wild Rice Growers, Inc. by the Association after the Company was incorporated. No change of ownership form was filed. The Company was administratively dissolved in 1988.

The Association did assign a different permit, No. 92-7090, to the Company but *did not* assign No. 91-7094. The Court concluded that the Department “understood” that the Association “could likely have intended” to make the same transfer. Report and Recommendation, p. 7. This assumption is not supported by the record or the law. There is no way the Department could have had such an understanding from a total lack of evidence. If the Association was diligent enough to transfer one permit, it is more logical that it did *not* intend to transfer the other without going through the same formalities. There is no evidence of a transfer to Mr. Bruner either. At the very least, McInturff has not carried his burden of proving that a transfer from the Association to the Company or from the Company to Mr. Bruner actually occurred. Speculation is insufficient to transfer a property right. Idaho Code § 55-601, requires a writing to transfer a property right. No such writing exists.

It was not until 2005, that a change of ownership was filed by McInturff seeking to change ownership to himself from the Association. No deed or other document of transfer from the Association to any entity was provided as required by Idaho Code § 42-207. No notice of the change of ownership was provided to the Association, the Company, or the owners of the appurtenant property. No public notice was given either.

The fact that there was no challenge in 2005 to that change of use by people who were not given notice of the change proves nothing.

There is no evidence that this water right ever passed to Mr. Bruner from the Company for him to convey anything to McInturff. The Special Master referred to the corporate dissolution statute, I.C. § 30-1-1405, for the proposition that a dissolved corporation may wind up its affairs. That is true, but there is no actual evidence that the corporation ever did so. Idaho Code § 30-1-1405(2)(a) specifically provides that dissolution alone does not transfer title of the corporation's property. Yet, the Court seemed to assume that Al Bruner had the authority to transfer the Corporation's property to McInturff. But, the water right was never transferred from the Company to Mr. Bruner. As a property right, it had to be transferred in writing. Idaho Code § 55-601; § 9-604. Never having title to the water right transferred to him, he had no authority to transfer title from himself to anyone else.

McInturff's speculative purchase of the water rights from someone who had no actual title to the water rights was not effective to transfer title to McInturff.

Jeff Shippy and Cedar Creek Ranch, LLC's ownership of the land to which the water right is appurtenant is undisputed. In 1983, the land belonged to Aaron and Jeanne Robinson, Mr. Shippy's parents. Shippy testified that the land had passed to him by deed from his parents. The deeds themselves were not introduced into evidence. However, they are public records recorded in the county and the Court can take judicial notice of these public records. I.R.E. 201; *see Gilbert v. Bank of America*, Case No. 1:11-CV-00272-BLW, Memorandum Decision and Order (Sept. 26, 2012) (granting motion to take judicial notice of deed as a public record.)

Through a series of gift deeds, title was passed to Mr. Shippy from his parents over time from 1993 to 1999. Copies of the deeds to Mr. Shippy are attached as Exhibits A, B, C and D. Notably, there is no exception in the deeds excluding transfer of the appurtenant water rights. As appurtenances to the land, the water rights passed to Mr. Shippy from the Robinsons, as a matter of law. There is no dispute that water right 91-7094 is appurtenant to Shippy's land. There is also no dispute that McInturff has no long-term lease, no easement, no right-of-way and no right to access the place of use for this water right.

McInturff cannot be awarded ownership of this water right. He has not carried his burden of proof that title was properly passed to him by virtue of a contract between Mr. Bruner, in his own name, and Mr. McInturff. His unilateral effort to change ownership to his name without the necessary written transfer documents is of no effect. He has no right to put the water to beneficial use. He has no right even to be on the place of use. He is merely trying to extract money from Mr. Shippy.

Mr. Shippy on the other hand, is the undisputed owner of the place of use to which the water right is appurtenant. His title was passed to him by recorded deeds. Title has since passed to Mr. Shippy's LLC, Cedar Creek Ranch, LLC. Exhibit E. The deeds did not sever the water rights. The only testimony about the intent of the Association in obtaining this water right in the first place was from Mr. Baker, a member of the Association, who was very clear that the Association's intent was to keep the water right as an appurtenance of the land.

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III.

SUMMARY OF THE ISSUE

The IDWR 706 Report (IDWR Exhibit 1 at trial), p. 1, states, “After investigation of the claim, IDWR was unable to make a determination which, or if any, of the claimants had exclusive ownership of the water right.” While a water right was perfected by putting water to use on the place of use, ownership stayed with the land. It has never been severed by deed.

There are a number of reasons that the right cannot be decreed in the name of McInturff. McInturff claims title through St. Maries Wild Rice Growers. Therefore, he has the burden of proving both St. Maries Wild Rice Growers’ ownership and that whatever interest the Association had was effectively passed to him. He has proved neither. Second, since the Director was unable determine which party was the owner, no presumption that the Director’s recommendation regarding ownership is correct applies. So the burden falls to the parties claiming ownership. Third, the evidence at trial supports the finding that the water right was intended to be appurtenant to the land, and as an appurtenance, it passed by operation of law, along with the deed to Jeffrey Shippy.

IV.

DISCUSSION

The 706 Report, p. 2, correctly states that application for Permit 91-9074 was made in the name of St. Maries Wild Rice Growers (“SMWR”) and that the company did not own the property on which the place of use is located. The property was owned by Aaron and Jeanne Robinson.

The seminal decision from the Idaho Supreme Court on appurtenance is the case of *Joyce Livestock Co. v. United States*, 144 Idaho 1 (2007). There, the Court held that stockwater rights on public lands were appurtenant to the rancher's home property and patented property, even though the beneficial use (cattle drinking the water) occurred on federal land. The Court went on to hold that the water right passes with the property to which it is appurtenant even though not mentioned in the deed. 144 Idaho at 13-14. "Unless they are expressly reserved in the deed or it is clearly shown that the grantor intended to reserve them, appurtenant water rights pass with the land even though they are not mentioned in the deed and the deed does not mention "appurtenances." *Id* at 14. So title to the water rights passed with the deeds to the home ranch property to subsequent buyers. See *Bagley v. Thomason*, 149 Idaho 799, 803 (2010). The water right is conveyed, even though the deed does not expressly mention the water right, via the same instrument that conveyed the land to which the water right is appurtenant. *Crow v. Carlson*, 107 Idaho 461, 690 P.2d 916 (1984), I.C. § 42-220. In *Mullinix v. Killgore's Salmon River Fruit Co.*, the Court reaffirmed that "a water right is appurtenant to the land and transfers with the conveyance of the land." 158 Idaho 269, 277 (2015).

Here, there is no question that water right 91-7094 is appurtenant to Shippy's property. The deeds to Mr. Shippy do not exclude appurtenant water rights. Therefore, under *Joyce Livestock*, the water rights were transferred to and belong to Shippy.

It is possible, in limited circumstances, for an owner of the water right to be someone other than the landowner of the place of use. *First Security Bank of Blackfoot v. State*, 49 Idaho 740 (1930). This is not such a case. The *First Security Bank* case involved a situation where a farmer acquired a water right on land he leased from the

State. The case came to the court on a proposed transfer of the place of use. The *First Security Bank* court noted that a water right “is not necessarily appurtenant to the land on which it was used.” *Id* at 746. Whatever the merits of that statement, it is demonstrably not true when applied to the facts of this case. The Association’s license makes it clear that the water right is appurtenant to the Robinson’s land. Mr. Baker’s testimony confirms that was the Association’s intent. Moreover, the statement in Al Bruner’s application is false. There was no long-term lease here, unlike in the *First Security Bank* case. Rather, this right was initiated with the understanding of the landowners and the Association that it was an appurtenance of the real property. A water right cannot be initiated by trespass on private land. *Lemmon v. Hardy*, 95 Idaho 778 (1974). Likewise, the Court should not countenance a water right holder obtaining a water right based on an understanding that the right is appurtenant to the land and then allow his (alleged) successor to disavow the basis for obtaining the right in the first place.

IDWR’s “Notice of Change in Water Right Ownership” form requires a copy of the most recent deed, title policy, contract of sale or other legal document indicating ownership of the water right. Idaho Code § 42-207. This requirement was not followed. A deed or writing separating the appurtenant water right from the place of use was not submitted in 1981 with the original application. The required deed or writing was not submitted in 2005 with the filing of the Bruner/McInturff change of ownership form. It was not submitted because such a deed does not exist.

The current landowner agrees that the water right was properly perfected but ownership remained with the landowners. Ownership was never separated from the land.

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V.

No Collateral Attack

Shippy's claim in this proceeding is not a collateral attack on a license. Here the license was issued to the Association. The application was made based on a claim of a long-term lease, which did not exist. The license makes it clear that the water right was to be appurtenant to the land and that the license granted the Association no right of access². The land was deeded to Mr. Shippy and the water rights passed along with the deed. The Association does not dispute his claim. Indeed, the only surviving member of the Association, Jeff Baker, supports Shippy's legal ownership. All of this is consistent with the express terms of the license to the Association.

VI.

Remedy

The Association, the Company, Mr. Bruner and each of them did not have a deed to the water right. McInturff, who claims to be the successor to the Association, does not have a deed or even a lease. To award him any part of ownership in the water right appurtenant to Shippy's land would reward speculation and be a miscarriage of justice and contrary to the intent of Idaho Code.

Specifically, Mr. Shippy requests the court award the Water Right No. 91-9074 to Shippy and/or Cedar Creek Ranch, LLC as sole owner.

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² If anything, McInturff's assertion that the right is not appurtenant to the land, as in the *First Security Bank* case, conflicts with the face of the license and would be a collateral attack.

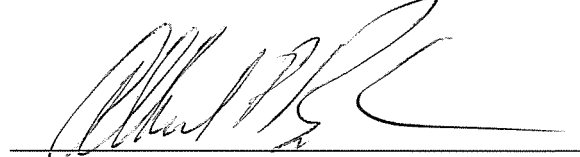
VII.

Conclusion

Condition No. 2 clearly places ownership of the water right with the owner of the place of use. Ownership passed to Shippy by operation of law. Condition No. 2 is consistent with well-established Idaho statutes, administrative procedures, and case law. McInturff cannot establish a written claim of title back to the Association, even if the right was perfected by the Association and was not intended to be appurtenant to the Robinson's land. After consideration of all the facts, the evidence will show that the right should be decreed in favor of Mr. Shippy.

DATED this 21 day of November, 2016.

BARKER ROSHOLT & SIMPSON LLP

A handwritten signature in black ink, appearing to read 'Albert P. Barker', is written over a horizontal line.

Albert P. Barker

Attorneys for Jeffrey C. Shippy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28 day of November, 2016, I served true and correct copies of the foregoing upon the following by the method indicated:

SRBA District Court
253 3rd Ave. North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

☐ U.S. Mail, Postage Prepaid
☒ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

Darcy and Douglas McInturff
17786 E. Canary Creek Rd.
Cataldo, ID 83810

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email



Albert P. Barker

EXHIBIT A

01-MAR-2000 16:09

SC

157
1/4
Present

GIFT QUITCLAIM DEED

For a valuable consideration, receipt of which is hereby acknowledged, AARON C. ROBINSON and JEANNE M. ROBINSON, husband and wife, as grantor, do hereby remise, release and forever quitclaim to JEFFERY SHIPPY, dealing in his sole and separate property, whose wife's name is Deanna Shippy, whose current address is 500 First Hilltown, St. Maries, Idaho 83861, as grantee, an undivided one-fourth (1/4) interest in the following described real property in the County of Benewah:

Part of Lots 3 and 4, part of Lot 5, E 1/2 SW 1/4, N 1/2 SE 1/4, SW 1/4, SE 1/4 less ROW & Tax 9358, Section 7, T46N, R14, EH, Lot 1, Lot 2, Lot 7, NW 1/4 NE 1/4, Section 18, T46N, R14, EH

SUBJECT TO AND TOGETHER WITH all current taxes, exceptions, easements, uses, rights of way, restrictions, covenants and reservations apparent or of record.

DATED this 13 day of December, 1993.

Aaron C. Robinson
AARON C. ROBINSON

Jeanne M. Robinson
JEANNE M. ROBINSON

STATE OF IDAHO }
County of Benewah } ss.

On this 23 day of December, 1993, before me, the undersigned, a notary public in and for Idaho, personally

QUITCLAIM DEED -1-

01-MAR-2000 16:09

SC

appeared AARON C. ROBINSON and JEANNE M. ROBINSON, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



Shirley L. White
Notary Public in and for Idaho
Residing at: St. Maries, Idaho
Commission expires: 4/4/94

RECEIVED

0195154

93 DEC 27 P 4: 34

BENJ. L. J. CLERK
KAY SATHER, CLERK
Benewah County
March 4 1994

QUITCLAIM DEED -2-

EXHIBIT B

2nd
RECENT 1/4

0196013

34 MAR 17 P 4: 50

Deanna Wilson, dep.

LE...
KAY E. THEN, CLERK to
MORTIS + WOLFF

GIFT QUITCLAIM DEED

For a valuable consideration, receipt of which is hereby acknowledged, AARON C. ROBINSON and JEANNE M. ROBINSON, husband and wife, as grantor, do hereby remise, release and forever quitclaim to JEFFERY SHIPPY, dealing in his sole and separate property, whose wife's name is Deanna Shippy, whose current address is 500 First Milltown, St. Maries, Idaho 83861, as grantee, an undivided one-fourth (1/4) interest in the following described real property in the County of Benewah:

Part of Lots 3 and 4, part of Lot 6, E 1/2 SW 1/4,
N 1/2 SE 1/4, SW 1/4 SE 1/4 less ROW & Tax #958,
Section 7, T46N, R1W, BM,
Lot 1, Lot 2, Lot 7, NW 1/4 NE 1/4, Section 18,
T46N, R1W, BM

SUBJECT TO AND TOGETHER WITH all current taxes,
exceptions, easements, uses, rights of way,
restrictions, covenants and reservations apparent
or of record.

DATED this 10th day of March, 1994.

Aaron C. Robinson
AARON C. ROBINSON

Jeanne M. Robinson
JEANNE M. ROBINSON

STATE OF IDAHO)
County of Benewah) ss.

On this 10 day of March, 1994, before me, the undersigned,
a notary public in and for Idaho, personally appeared AARON C.
ROBINSON and JEANNE M. ROBINSON, husband and wife, known or

QUITCLAIM DEED -1-

EXHIBIT C

214770

DEC 20 PM 12:47

GIFT QUITCLAIM DEED
AND CORRECTION OF PREVIOUS DEEDS

For a valuable consideration, receipt of which is hereby acknowledged, AARON C. ROBINSON and JEANNE M. ROBINSON, husband and wife, as Grantors, do hereby remise, release and forever quitclaim to JEFFREY C. SHIPPY, a married man dealing in his sole and separate property, whose wife's name is Deanna Shippy, whose current address is 500 First Milltown, St. Maries, Idaho, 83861, as Grantee, an undivided one-quarter (1/4) interest in the following described real property located in the County of Benewah, State of Idaho, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

SUBJECT TO AND TOGETHER WITH all current taxes, exceptions, easements, uses, rights of way, restrictions, covenants and reservations apparent or of record.

In addition to granting a one-quarter (1/4) interest as stated above, this Correction Deed is to replace and correct a vague legal description and incorrect spelling of the Grantee's name contained in a Gift Quitclaim Deed executed by the Grantors on December 23, 1993, and recorded in Benewah County on December 27, 1993, as Instrument No. 0195154 and contained in a Gift Quitclaim Deed executed by Grantors on March 10, 1994, and recorded in Benewah County on March 17, 1994, as Instrument No. 0196013.

By execution of this deed the Grantee now owns three-quarters (3/4) interest in said real property.

CORRECTION DEED -1-
Robinson, Cor. gkp

214770

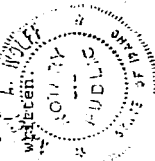
DATED this 29 day of December, 1998.

Aaron C. Robinson
AARON C. ROBINSON

STATE OF IDAHO)
County of Benewah) ss.

On this 29 day of December, 1998, before me, the undersigned, a notary public in and for Idaho, personally appeared AARON C. ROBINSON and JEANNE M. ROBINSON, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



Aaron C. Robinson
Notary Public in and for Idaho
Residing at: St. Maries, Idaho
Commission expires: 7/1/2000

CORRECTION DEED -2-
Robinson, Cor. gkp

EXHIBIT D

4th 1/4
Percent

215395

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FEB 03 3 PM 4 29

BENEFICIAL SOCIETY
HAYDEN, IDAHO

*Amalgamated
Dress & Laundry*

GIFT QUITCLAIM DEED

For a valuable consideration, receipt of which is hereby acknowledged, AARON C. ROBINSON and JEANNE M. ROBINSON, husband and wife, as Grantors, do hereby remise, release and forever quitclaim to JEFFREY C. SHIPPY, a married man dealing in his sole and separate property, whose wife's name is Deanna Shippy, whose current address is 500 First Milltown, St. Maries, Idaho, 83861, as Grantee, an undivided one-fourth (1/4) interest in real property located in the County of Benewah, State of Idaho, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

SUBJECT TO AND TOGETHER WITH all current taxes, exceptions, easements, uses, rights of way, restrictions, covenants and reservations apparent or of record.

By execution of this deed the Grantee now owns one-hundred percent (100%) interest in said real property.

DATED this 26th day of February, 1999.

Deanna M. Robinson
JEANNE M. ROBINSON

Aaron C. Robinson
AARON C. ROBINSON

STATE OF IDAHO)
County of Benewah) ss.

On this 26th day of February, 1999, before me, the undersigned, a notary public in and for Idaho, personally appeared AARON C. ROBINSON and JEANNE M. ROBINSON, husband and

QUITCLAIM DEED -1-
Robinson.Qd2.gkp
2/9/99

215395

wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

W. H. P. Adams
Notary Public in and for Idaho
Residing at: St. Maries, Idaho
Commission expires 11-15-2000

QUITCLAIM DEED -2-
Robinson.Qd2.gkp
2/9/99

EXHIBIT E

Recording requested by:
Andrew P. Doman
Christensen & Doman, P.C.
907 Main Avenue
St. Maries, ID 83861

When recorded return to:
Andrew P. Doman
Christensen & Doman, P.C.
907 Main Avenue
St. Maries, ID 83861

258617

RECEIVED

2010 NOV 3 PM 4 09

BENEFIT COUNTY
A. MICHELLE REYNOLDS, CLERK
to the County Clerk
907 Main Ave
St. Maries, ID 83861

**QUITCLAIM DEED
(WITH AFTER-ACQUIRED TITLE)**

QUITCLAIM DEED made this 28th day of October, 2010, between JEFFREY C. SHIPPY and DEANNA D. SHIPPY, husband and wife, of 95 Ferguson, St. Maries, Idaho 83861, as Grantors, and CEDAR CREEK RANCH, LLC, a limited liability company, of 95 Ferguson, St. Maries, Idaho 83861, as Grantee.

WITNESSETH:

For good and valuable consideration received Grantors quitclaim to Grantee, all their right, title and interest in the real property located in the County of Benewah, State of Idaho described as follows, to-wit:

The South Half of Section 7, Township 46 North, Range 1 West of the Boise Meridian, Benewah County, Idaho.

EXCEPTING THEREFROM the West Half of Government Lot 3, the West Three Fourths of Government Lot 4, all of Government Lot 5, and a parcel of land which lies in Government Lot 6, Section 7, Township 46 North, Range 1 West of the Boise Meridian, between the St. Joe Highway right-of-way and the St. Joe River, which east line is the common section line to Sections 7 and 8, deeded to M. J. Spiesman and Mary L. Spiesman, his wife, by Wade H. Onthank and Grace Onthank, his wife, by Warranty Deed dated November 1, 1965, recorded December 8, 1965, in Book C-2 of Deeds, page 574,

QUITCLAIM DEED

Page 1 of 3

Instrument No. 106393, records of Benewah County, Idaho.

ALSO EXCEPTING THEREFROM a parcel in the Southeast Quarter of the Southwest Quarter of Section 7, Township 46 North, Range 1 West of the Boise Meridian, Benewah County, Idaho, as disclosed by Warranty Deed, by and between, Aaron C. Robinson and Jeanne M. Robinson, Husband and Wife, and Grace Onthank, a widow, and Jimmy Joe Robinson and Karen Marie Robinson, Husband and Wife, recorded February 4, 1983 as Instrument No. 158168, records of Benewah County, Idaho.

and

The Northwest Quarter of the Northeast Quarter and Government Lots 1, 2, and 7, Section 18, Township 46 North, Range 1 West of the Boise Meridian, Benewah County, Idaho.

TOGETHER with all and singular the tenements, easements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, including any interest therein which Grantors may hereafter acquire.

TO HAVE AND TO HOLD all and singular the premises, together with the appurtenances, unto Grantees and to their heirs and assigns forever.

IN WITNESS WHEREOF, Grantors have hereunto set their hand the day and year first above written.


JEFFREY C. SHIPPY


DEANNA D. SHIPPY

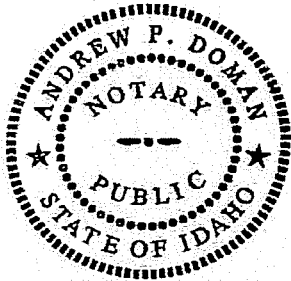
QUITCLAIM DEED

258617

STATE OF IDAHO)
 : ss
County of Benewah)

On this 28th day of October, in the year 2010, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared, JEFFREY C. SHIPPY and DEANNA D. SHIPPY, known to me to be the persons whose names are subscribed to the above and foregoing QUITCLAIM DEED, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date last above written.



A handwritten signature in black ink, appearing to read "A. P. Doman", written over a horizontal line.

Notary Public, State of Idaho

Residing at: St. Maries

Commission expires: 10/15-14

Cedarcreek ranch\establish\cged.wpd

QUITCLAIM DEED

Page 3 of 3