

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-13434

NAME AND ADDRESS: WELLS FARGO BANK NA
MAC C7300-079
1700 LINCOLN ST 7TH FLOOR
DENVER CO 80203

BC PROPERTIES LLC
PO BOX 28
BRIGGS ID 83422

ATK
BL

SOURCE: SOUTH LEIGH CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 0.780 CFS

PRIORITY DATE: 06/15/1897

POINT OF

DIVERSION: T06N R45E S33 NESESW Within TETON County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.780 CFS

PLACE OF USE: IRRIGATION in TETON County

T05N R45E S05

SENW 39.00

39 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 - Decreed

Water is delivered through Bell McCracken ditch.

This right is a split from former right 22-388.

CERTIFICATE OF MAILING

I certify that on _____, 2012, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P. O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

WELLS FARGO BANK, N.A.
Represented by:
C. TIMOTHY HOPKINS
428 PARK AVE.
P.O. BOX 51219
IDAHO FALLS, ID 83405-1219

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney

In Re SRBA	)	Subcase No. 22-13434
	)	
	)	
Case No. 39576	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

1

IDWR Concurrence:

Denise Kidman 4/9/12
Denise Kidman Date
Water Resource Agent

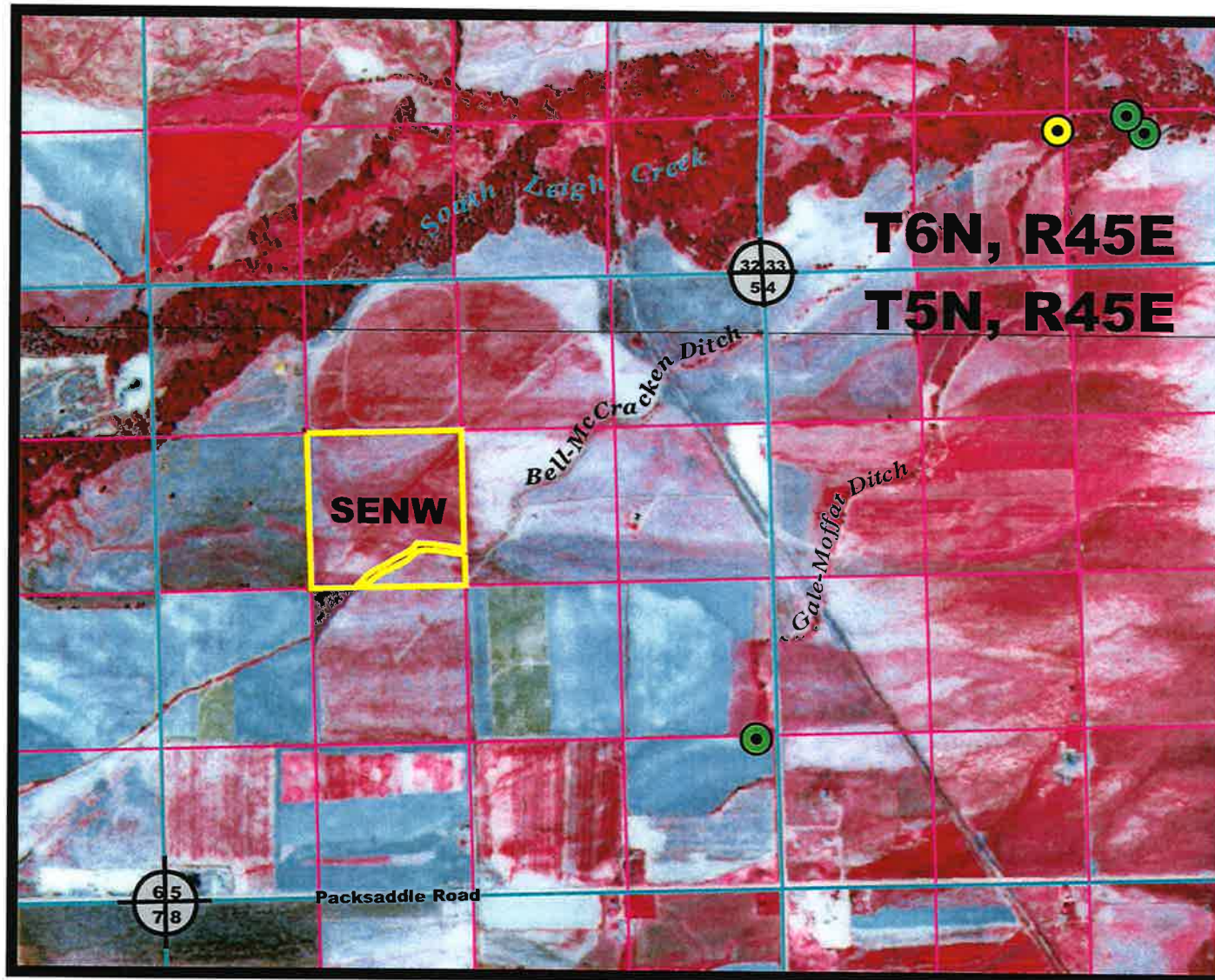
Andrea L. Courtney 4/15/12
Andrea L. Courtney Date
Deputy Attorney General
Attorney for IDWR



State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):
22-13434

Point(s) of Diversion:
T6N, R45E
Sec. 33 NESESW

Place of Use: (part of)
T5N, R45E
Sec. 5 SENW

LEGEND



Point of Diversion

SESE

Place of Use



Section



Quarter-Quarter



500 0 500 1000 1500 2000 2500 3000 3500 4000 4500 5000 5500 6000 6500 7000 7500 8000 Feet

GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: A. Ruberry
Date: January 2006



October 12, 2007

RMEA 07-0054

Mr. Ernie Carlsen
Idaho Department of Water Resources
900 N Skyline Dr.
Idaho Falls, ID 83402-1718

RECEIVED

OCT 15 2007

Department of Water Resources
Eastern Region

Re: Proposed Resolution for Objection for Water Right 22-13434

Dear Ernie,

This letter was prepared in behalf of BC Properties, now the owners of water right 22-13434. This right was listed in the Director's Report under Matthew F. & Sally B. Bitner but a change of ownership has since been filed with the Idaho Department of Water Resources (IDWR) in Idaho Falls.

On July 9, 2007, BC Properties filed an objection to this water right. The objection was stated as follows:

"This water right should not exist. This water right was forfeited and abandoned many years ago and was replaced with a ground water right which was eventually licensed as 22-13582."

BC Properties wishes to resolve this objection at the earliest convenience. The manner of which would be acceptable to BC Properties is the following:

1. Remove the following condition from right 22-13582, a ground water right on the same property:

The right holder shall use the full allotment of appurtenant surface water rights, to the extent they are available, in conjunction with groundwater diverted pursuant to 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 the approval of the Department. This right when combined with all other rights shall provide no more than .02 cfs per acre nor exceed a combined annual diversion volume of 122.5 af for the lands above.

SCANNED
MAR 15 2009

2. Add the following condition or one similar in substance to water right 22-13582:

This water right is primary in use.

3. Disallow right 22-13434 on the basis of forfeiture.

The previous owners "attempted" to irrigate the property with water from South Leigh Creek but was never successful since they were on the end of the ditch. In 1977 they drilled a well and it has been used ever since to irrigate the property and has been the sole supply of irrigation water ever since that time.

Please call if you have any questions.

Sincerely,



W. Roger Warner, Hydrologist
Vice-President

Enclosure: SF.1 Objection form filed for water right 22-13434,
Water right report for 22-13582.

SCANNED

MAR 16 2009

IDAHO DEPARTMENT OF WATER RESOURCES**Water Right Report****10/12/2007****WATER RIGHT NO. 22-13582**

Priority Date: 01/08/1991

Basis: License

Status: Active

Owner Type**Name and Address**

Current Owner MATTHEW F BITNER

Current Owner SALLY B BITNER

720 N 350 E

TREMONTON, UT 84337-1040

(435)257-9977

Source**Tributary**

GROUND WATER

Original Owner JAMES E HATCH

PO BOX 2

DRIGGS, ID 83422

(208)354-8248

Original Owner STANFORD HUFF

PO BOX 483

DRIGGS, ID 83422

(208)354-2333

Beneficial Use From To Diversion Rate Volume

IRRIGATION 04/15 10/15 0.67 CFS

Total Diversion 0.67 CFS

Location of Point(s) of Diversion:

GROUND WATER SWNE Sec. 05 Township 05N Range 45E TETON County

Licensed Diversion Capacity: 2.74

Place(s) of use:

Place of Use Legal Description: IRRIGATION TETON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
05N	45E	5		SE	35									

Total Acres: 35

SCANNED

MAR 06 2009

Conditions of Approval:

- The use of water under this right shall not give rise to any claim against the holder of a
1. 048 senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

- The right holder shall use the full allotment of appurtenant surface water rights, to the extent they are available, in conjunction with groundwater diverted pursuant to 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 the approval of the Department. This right when combined with all other rights shall provide no more than .02 cfs per acre nor exceed a combined annual diversion volume of 122.5 af for the lands above.
- 2.

- The Director retains jurisdiction of the right to incorporate the use into a water district,
3. 049 require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

Dates:

Licensed Date: 06/30/1995

SCANNED
MAR 6 2009

COPY

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 22-13434

Case No. 35976

STANDARD FORM 1
OBJECTION

RECEIVED

OCT 15 2007

Department of Water Resources
Eastern Region

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: BC Properties, LLC

Address: PO Box 28
Driggs, ID 83422

Daytime Phone: 208-351-2633

Name & Address of Attorney, if any:

Kent W. Foster; Holden, Kidwell, Hahn & Crapo, PLLC

PO Box 50130

Idaho Falls, ID 83405-0130

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

Name: Matthew F. & Sally B. Bitner

Address: 720 N. 350 E.
Tremonton, UT 84337-1040

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. ☐ **Points 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):** This water right was forfeited and abandoned many years ago and was replaced with a groundwater right which was eventually licensed as 22-13582.

VERIFICATION (Must be Completed)

State of Idaho)
)ss.
County of Bonneville)

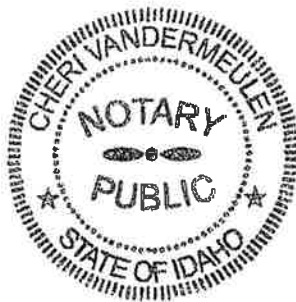
Kent W. Foster, duly sworn, upon oath, deposes and says:

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.



Kent W. Foster, Attorney

Subscribed and sworn to before me this 9th day of July, 2007.





Notary Public for Idaho
Residing at: Idaho Falls, ID
My Commission Expires: July 7, 2009

G.

CERTIFICATE OF MAILING

I hereby certify that on this 9th day of July, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

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

Name: Matthew F. & Sally B. Bitner

Address: 720 N. 350 E.
Tremonton, UT 84337-1040

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

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



Kent W. Foster, Attorney

G:\WPDATA\KWP\10627-005 Rocky Mtn. Environmental\Objection, 22-13434 wpd

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column.

Water Right/Claim No.	Split?	Water Right/Claim No.	Split?	Water Right/Claim No.	Split?
22-13723	Yes ☐		Yes ☐		Yes ☐
22-13434	Yes ☐		Yes ☐		Yes ☐
22-13721	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐

2. Previous Owner's Name: B.C. PROPERTIES
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Wells Fargo Bank, N.A.
Name of each new owner as listed on the conveyance document
- New owner continued Name connector ☐ and ☐ or ☐ and/or
MAC C7300-079, 1700 Lincoln St., 7th Fl.
- Mailing address
Denver CO 80203
City State ZIP
(303)863-5307 delores.1.pomerinke@wellsfargo.com
Telephone Email
4. If the water rights and/or adjudication claims were split, how did the division occur?
☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

5. Date you acquired the water rights and/or claims listed above: January 5, 2012
6. This form must be signed and submitted with the following **REQUIRED** items:
- A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
 - Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
 - Filing fee (see instructions for further explanation):
 - o \$25 per undivided water right.
 - o \$100 per split water right.
 - o No fee is required for pending adjudication claims.

7. Signature: Wells Fargo Bank N.A. Title, if applicable
Signature of new owner/claimant
Signature: Delores Pomerinke Title, if applicable
Signature of new owner/claimant
Date: 3/20/2012
Date

For IDWR Office Use Only:

Received by DL Date 3-20-12 Receipt No. 3-20-12 Receipt Amt. _____
Approved by DL Processed by DL Date 3-20-12

Form 42-248/42-3409(5) Rev. 07/10

RECEIVED

MAR 20 2012

Department of Water Resources
Eastern Region

Keen, Shelley

From: Keen, Shelley
Sent: Wednesday, September 30, 2009 12:40 PM
To: 'W. Roger Warner'
Subject: Water Right License 22-7690

Roger,

Your email accurately summarizes our discussion. The Department may be able to correct the conditions of approval on the license if there is substantial evidence showing that they do not accurately depict the water use established in connection with the permit before proof of beneficial use was submitted.

Shelley Keen
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
(208) 287-4947
shelley.keen@idwr.idaho.gov

From: W. Roger Warner [mailto:rwarn@rockymountainenvironmental.com]
Sent: Tuesday, September 29, 2009 4:30 PM
To: Williams, Ray; 'Rob Harris'
Cc: Keen, Shelley; Ken Chambers
Subject: RE: 22-13434 & 22-13582 (BC Properties)

Ray and Rob,

Shelley and I had an opportunity today (finally) to talk about these rights. After review, it was decided that the parent right 22-7690 and subsequent rights (including the subject right 22-13582) could be amended to show that the original surface water was no longer pertinent or was forfeited thereby giving the ground water right primary status thereby no longer referencing an associated surface water right upon the licenses, if evidence is provided that will demonstrate that the surface water right had been fully abandoned by June 14, 1993 (the date proof was submitted).

It is my understanding that a status conference is scheduled for February 13, 2010. It is our intent to research this matter for the purpose of obtaining evidence and to report on the progress on that date.

Regards,

W. Roger Warner *Hydrologist*
Vice-President
482 Constitution, Idaho Falls, ID 83402
E-Mail: rwarn@rockymountainenvironmental.com
VOICE: 208-524-2353 ||| FAX: 208-524-1795



9/30/2009

Kidman, Denise

From: Rob Harris [rharris@holdenlegal.com]
Sent: Wednesday, August 05, 2009 1:23 PM
To: Kidman, Denise
Cc: Williams, Ray
Subject: RE: 22-13434 & 22-13582 (BC Properties)

Denise:

[REDACTED] I am actually getting ready to file a notice of withdrawal of counsel on this BC Properties matter. We represented BC properties on this and another matter, and they decided to hire new counsel on the other matter. I've sent letters and left messages on the water rights matter and whether they want me to continue, and they haven't responded to tell me whether or not they want to help with the water rights matter, so I presume at this point they do not.

As far as any update, the civil matter regarding ownership dispute of the water rights is still moving forward at the district court level, and because the water rights objections are dependent on what happens there, I doubt there has been any progress.

Ray has sent emails on other matters, and I'll work to give him an update on them soon. I've been scrambling for the past few days because I was out of the office for most of last week with scouts. I apologize for not getting back to you or Ray sooner on those other matters.

Thanks,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405-0130
Phone: (208) 523-0620
Fax: (208) 523-9518
E-Mail: rharris@holdenlegal.com

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From: Kidman, Denise [mailto:Denise.Kidman@idwr.idaho.gov]
Sent: Wednesday, August 05, 2009 1:03 PM
To: Rob Harris
Subject: FW: 22-13434 & 22-13582 (BC Properties)

Rob,

Do you have anything to add to this? I will be out of the office for about 6 weeks due to back surgery. If you could please contact me by Friday with an update I would really appreciate it.

8/5/2009

If you have any updates on any other subcases, let me know.

Thanks,

Denise Kidman

From: Williams, Ray
Sent: Monday, July 27, 2009 2:54 PM
To: 'rharris@holdenlegal.com'; W. Roger Warner
Cc: Baxter, Garrick; Kidman, Denise
Subject: FW: 22-13434 & 22-13582 (BC Properties)

Rob & Roger,

Do you have an update of where we are on these water rights?

Thanks,

Ray

From: Williams, Ray
Sent: Tuesday, April 21, 2009 9:53 AM
To: 'rharris@holdenlegal.com'
Cc: Baxter, Garrick; Kidman, Denise
Subject: FW: 22-13434 & 22-13582 (BC Properties)

Rob,

Has Roger had a chance to contact Shelley to discuss amending the license on this water right?

Thanks,

Ray

From: Williams, Ray
Sent: Friday, March 20, 2009 1:52 PM
To: Baxter, Garrick; 'rharris@holdenlegal.com'
Subject: RE: 22-13434 & 22-13582 (BC Properties)

Rob,

8/5/2009

Do you have any updates on this?

Thanks,

Ray

From: Baxter, Garrick

Sent: Friday, January 09, 2009 9:33 AM

To: 'rharris@holdenlegal.com'

Cc: Williams, Ray

Subject: RE: 22-13434 & 22-13582 (BC Properties)

Rob,

Just checking back with you regarding BC Properties. Were you able to have Roger contact Shelley to discuss amending the license?

Thanks,
Garrick

From: Baxter, Garrick

Sent: Wednesday, September 24, 2008 8:27 AM

To: rharris@holdenlegal.com

Subject: FW: 22-13434 & 22-13582 (BC Properties)

Here is the email.

From: Baxter, Garrick

Sent: Monday, August 25, 2008 10:34 AM

To: rharris@holdenlegal.com

Subject: FW: 22-13434 & 22-13582 (BC Properties)

Rob,

Here is the email chain on BC properties...looks like we asked Kent to have Roger Werner contact IDWR to discuss amending the license.

Garrick

8/5/2009

From: Baxter, Garrick

Sent: Wednesday, December 12, 2007 8:20 AM

To: Peppersack, Jeff

Subject: RE: 22-13434 & 22-13582 (BC Properties)

Thanks, Jeff.

-Garrick

-----Original Message-----

From: Peppersack, Jeff

Sent: Tuesday, December 11, 2007 1:08 PM

To: 'Kent Foster (E-mail)'

Cc: Baxter, Garrick; Keen, Shelley

Subject: RE: 22-13434 & 22-13582 (BC Properties)

Kent,

Shelley Keen, Manager of the Water Right Permits Section, should be the contact to discuss this issue.

Jeff

Jeff Peppersack

Water Allocation Bureau Chief

208-287-4948

-----Original Message-----

From: Baxter, Garrick

Sent: Tuesday, December 11, 2007 12:13 PM

To: Kent Foster (E-mail)

Cc: Peppersack, Jeff

Subject: 22-13434 & 22-13582 (BC Properties)

Kent,

8/5/2009

Thank you for taking the time to talk with me today about the water rights for BC Properties. As I mentioned, I believe that it would be best if we examine the possibility of revisiting the license. I would recommend that you have Roger Werner contact IDWR to discuss. I have cc'd Jeff Peppersack to see who he would recommend that you have Roger contact. Jeff - can you please email Kent and I with a point of contact? I would appreciate it.

Hope this gets us going in the right direction. Let me know if you have any questions.

Garrick

Garrick L. Baxter

Deputy Attorney General

Idaho Department of Water Resources

322 East Front Street

P.O. Box 83720

Boise, Idaho 83720-0098

Phone: (208) 287-4811

Fax: (208) 287-6700

!DSPAM:1090,4a79d734222219460710447!

8/5/2009

Skaggs, Pam

From: Baxter, Garrick
Sent: Tuesday, August 26, 2008 1:25 PM
To: Skaggs, Pam
Cc: Carlsen, Ernie; Carlson, Dave
Subject: RE: Effect on supplemental ground water license when decreed surface water right is abandoned

Kent Foster has now retired and Rob Harris has taken over this case. We had a hearing on this water right last week. I reiterated again to Rob the same position we took with Kent: that they can try to claim that the primary water right has been forfeited, but that it would then be the Department's position that the supplemental license goes away. Rob was not aware of our previous conversations about having the water user petition to correct the license. Yesterday, I forwarded Rob my original email to Kent Foster suggesting that he have Roger Werner contact IDWR and try to correct the license if they believe the supplemental condition was in error. I would expect that Roger will be contacting IDWR soon to see able addressing the license. Or you guys could contact Roger and get the ball rolling.

From: Skaggs, Pam
Sent: Tuesday, August 26, 2008 12:45 PM
To: Baxter, Garrick
Cc: Carlsen, Ernie; Carlson, Dave
Subject: RE: Effect on supplemental ground water license when decreed surface water right is abandoned

Garrick,

We are revisiting this question because of pending transfer applications. We don't currently have anything here in the State Office (or Eastern as far as I know) from Kent Foster, Rocky Mtn Environmental (Roger Warner) or BC Properties, requesting a correction to the License. Did you have any further contact or discussion on this matter with Kent?

We now have 7 different owners & 12 splits of the original license. We would still like to address the issue once for all. I am just checking for any additional information, comment or correspondence you might have on the subject.

Thanks for you help.

Pam

From: Baxter, Garrick
Sent: Tuesday, December 11, 2007 11:46 AM
To: Peppersack, Jeff; Carlsen, Ernie; Carlson, Dave; Keen, Shelley; Skaggs, Pam
Subject: RE: Effect on supplemental ground water license when decreed surface water right is abandoned

I've been able to catch up with Kent Foster. I explained the Department's concern with Roger Werner's suggested approach in his letter dated October 12, 2007 to Ernie. I explained that the Department is willing to agree that 22-13434 is forfeited but that it would be the Department's position that ground water right 22-13582 could not then be used. Kent explained to me that it is his understanding that 22-13434 has not been used since even before the licensing of 22-13582. I suggested that the best approach would be for IDWR and BC Properties to work together to revisit the license. I explained that BC can petition to correct the license if they believe the condition was an error during licensing. He said that they would do whatever is necessary to make this right.

I'll send out an email shortly to Kent, cc to all of you, suggesting that Roger Werner and IDWR get together to discuss what the process should be moving forward.

Garrick L. Baxter
Deputy Attorney General
Idaho Department of Water Resources

ATTORNEY/CLIENT PRIVILEGED COMMUNICATION

-----Original Message-----

From: Peppersack, Jeff
Sent: Thursday, November 15, 2007 5:02 PM
To: Baxter, Garrick; Carlsen, Ernie; Carlson, Dave; Keen, Shelley; Skaggs, Pam
Subject: Effect on supplemental ground water license when decreed surface water right is abandoned

Folks,

Our meeting yesterday raised the issue of a surface water right abandonment and its affect on a supplemental ground water right. We have some documentation of the history of sw and gw use on the property covered by the gw license, but the documentation was submitted in relation to a transfer on a different portion of the ground water license. We were able to proceed with that transfer on the basis that the portion being transferred was above the canal and likely was not irrigated with sw - so the gw right was primary for that portion.

The subject of our meeting was a different QQ covered by the same gw license with different owners. Their objection to the sw recommendation indicates that the right was abandoned. I think they should be informed that our records indicate the gw right is a supplemental right and non-use of the sw right jeopardizes the validity of the gw use. They can petition to correct the license if they believe the supplemental condition was an error during licensing. They should be able to utilize some of the documentation already provided by Rocky Mountain Environmental and Skip Jones in relation to the transfer that was previously filed, but they should address the development of the gw use in relation to sw use for the subject property (or perhaps the entire place of use for the original license so we can deal with it all at once).

Garrick, you indicated that you would call Kent Foster to follow up - that's probably the next step.

Thanks,
Jeff

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 22-07690

Priority: January 8, 1991

Maximum Diversion Rate:

2.74 CFS

This is to certify, that CATHERINE CORREIA
14845 GROVE ST

HEALDSBURG CA 95448

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 8, 1991; and has submitted Proof of Beneficial Use on June 14, 1993. An examination indicates that the works have a diversion capacity of 2.740 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

ANNUAL VOLUME

IRRIGATION

04/15 to 10/15

2.74 CFS

LOCATION OF POINT(S) OF DIVERSION:

SWNE , Sec. 5, Township 05N, Range 45E
TETON County

PLACE OF USE: IRRIGATION

TWN RGE SEC

ACRES

ACRES

ACRES

TOTAL

05N 45E 5

Lot 2 (NWNE)

29

SWNE 9

Lot 3 (NENW) 33

SENE 35

NESW 37.5

143.5

Total number of acres irrigated:

143.5

CONDITIONS/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. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
5. The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
6. The right holder shall use the full allotment of appurtenant surface water rights, to the extent they are available, in conjunction with groundwater diverted pursuant to this right.
7. This right to divert groundwater shall not be used if the surface water right(s) appurtenant to the place of use is transferred, leased or used on any other place of use without the approval of the Department.
8. This right when combined with all other rights shall provide no more than .02 cfs per acre nor exceed a combined annual diversion volume of 502.2 af for the lands above.

JUL 19 1995

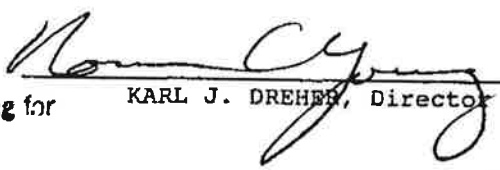
State of Idaho
Department of Water Resources

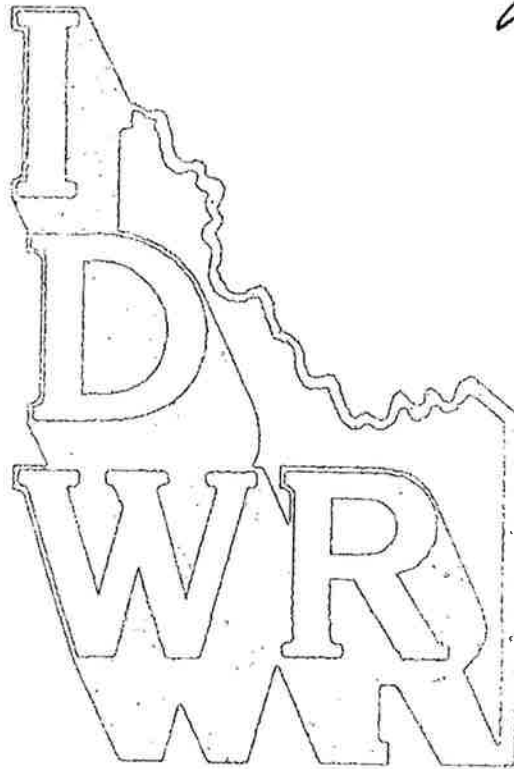
WATER RIGHT LICENSE

WATER RIGHT NO. 22-07690

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 30th day of JUNE, 1995.

Acting for


KARL J. DREHER, Director



RECORDED

JUL 19 1995

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

Water Rights: 22-13434

Case No. 39576

**NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING**

IDWR has completed the following Administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party BC PROPERTIES LLC-WELLS FARGO BANK
- ☐ I.C. § 42-222 transfer
 - ☐ point of diversion ☐ place of use
 - ☐ period of use ☐ nature of use
 - ☐ split of water right ☐ change in ownership

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 3/22/2012


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on March 23, 2012, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:
BC Properties LLC
PO Box 28
Driggs ID 83422

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:
Wells Fargo Bank NA
MAC C-7300-079
1700 Lincoln St 7th Fl
Denver CO 80203

4. One copy to:

Each party in the subcase, or attorney of record

BC Properties LLC

Represented by:

Jarin Hammer

2105 Coronado St

Idaho Falls ID 83404-7495

Wells Fargo Bank NA

Represented by:

C Timothy Hopkins

428 Park Ave

PO Box 51219

Idaho Falls ID 83405-1219

BC Properties LLC

Represented by:

Chad Marlow

PO Box 4842

Jackson WY 83001

5. One copy each to:

Chief Natural Resources Division

Office of the Attorney General

PO Box 44449

Boise ID 83711-4449

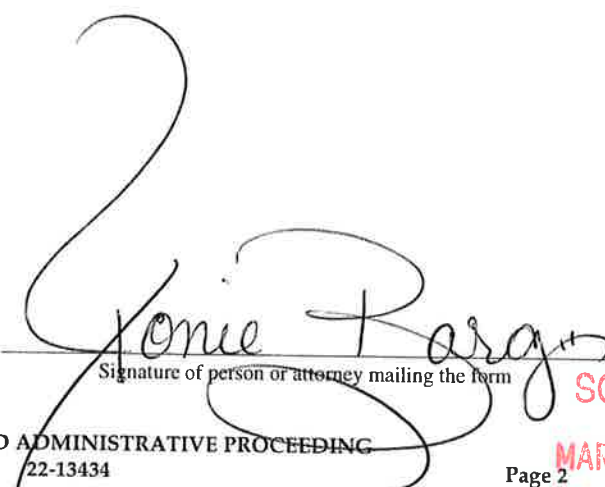
6. One Copy to:

United States Dept of Justice

Environment & Natural Resource Div

550 West Fort Street MSC 033

Boise ID 83724


Signature of person or attorney mailing the form

SCANNED

NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING
22-13434

3/20/2012

Page 2

MAR 23 2012

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-13434

NAME AND ADDRESS: WELLS FARGO NA
MAC C7300-079
1700 LINCOLN ST 7TH FLOOR
DENVER CO 80203

SOURCE: SOUTH LEIGH CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 0.780 CFS

PRIORITY DATE: 06/15/1897

POINT OF
DIVERSION:

T06N R45E S33 NESESW Within TETON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.780 CFS

PLACE OF USE:

IRRIGATION in TETON County

T05N R45E S05

SENW 39.00

39 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 - Decreed

This right is a split from former right 22-388.

Water is delivered through Bell McCracken ditch.

SCANNED
MAR 23 2012

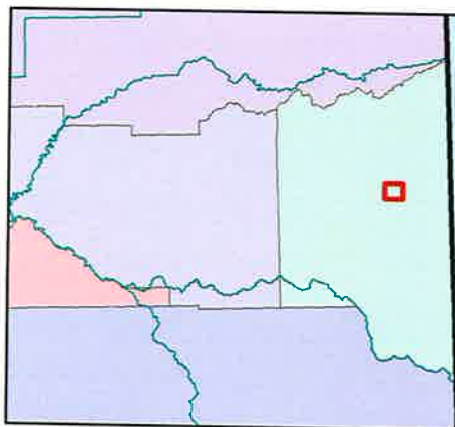


Idaho Department of Water Resources

SRBA Recommendation
22-13434
(IRRIGATION)

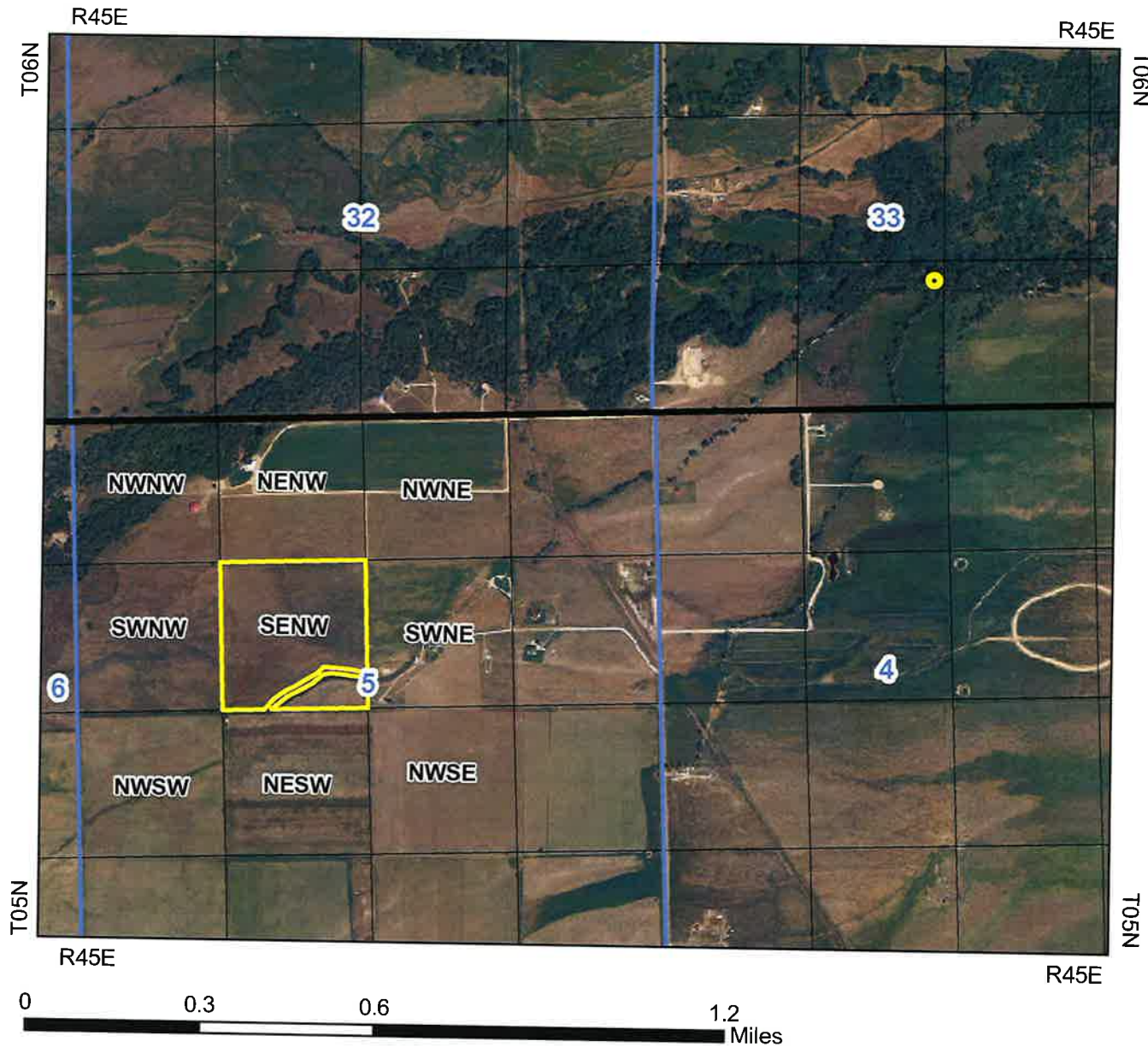
Legend

-  Point of Diversion
-  Place of Use
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters



Teton County
IDWR Basin 22

Prepared by Denise Kidman
On August 12, 2008
2004 Aerial Photography



COPY

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 22-13434

Case No. 35976

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: BC Properties, LLC

Address: PO Box 28

Driggs, ID 83422

Daytime Phone: 208-351-2633

Name & Address of Attorney, if any:

Kent W. Foster; Holden, Kidwell, Hahn & Crapo, PLLC

PO Box 50130

Idaho Falls, ID 83405-0130

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

Name: Matthew F. & Sally B. Bitner

Address: 720 N. 350 E.

Tremonton, UT 84337-1040

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. ☐ **Points 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):** This water right was forfeited and abandoned many years ago and was replaced with a groundwater right which was eventually licensed as 22-13582.

VERIFICATION (Must be Completed)

State of Idaho)
)ss.
County of Bonneville)

Kent W. Foster, duly sworn, upon oath, deposes and says:

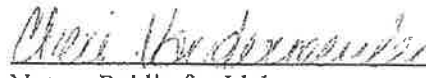
That I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



Kent W. Foster, Attorney

Subscribed and sworn to before me this 9th day of July, 2007.





Notary Public for Idaho
Residing at: Idaho Falls, ID
My Commission Expires: July 7, 2009

G.

CERTIFICATE OF MAILING

I hereby certify that on this 9th day of July, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

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

Name: Matthew F. & Sally B. Bitner

Address: 720 N. 350 E.
Tremonton, UT 84337-1040

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

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



Kent W. Foster, Attorney

G:\WPDATA\KWR\10627-005 Rocky Mtn. Environmental\Objection, 22-13434 wpd

It is a bad Idea to relinquish this right to ~~water~~ try to make the ground water right primary. Once its gone it cant be reclaimed. There is a chance that they will not be able to use ground water right if they do relinquish the claim. Borse is debating over a similar case. Borse doesn't want to let them use their well because it looks like surface water was once used on the land.

TB

10-11-07

Roger Warner is working with Kent Foster. He will get advise from him and let us know what he wants to do.

He has filed a change of ownership on this right.

TB

10-10-07



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

December 26, 2007

BC PROPERTIES LLC
PO BOX 28
DRIGGS ID 83422

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

RE: Notice of Change of Water Right Ownership (NCO) for 22-13434 and Notice of Completed Administrative Proceeding (NCAP)

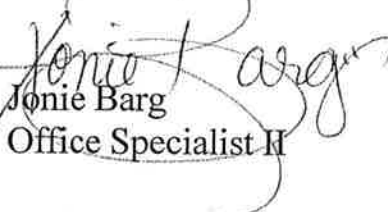
Dear Sir/Madam:

On August 23, 2007 the Idaho Department of Water Resources (IDWR) received an NCO changing the right holder for the above referenced water right(s). Based on this NCO, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,


Jonie Barg
Office Specialist II

Enclosure

CC: MATTHEW AND SALLY BITNER
KENT FOSTER

SCANNED
DEC 26 2007

In Re SRBA) **Water Rights: 22-13434**

Case No. 39576)

**NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING**

☐ Address change

☒ Substitution of Party BITNER-BC PROPERTIES LLC

☐ I.C. § 42-222 transfer

☐ point of diversion	☐ place of use
☐ period of use	☐ nature of use
☐ split of water right	☐ change in ownership

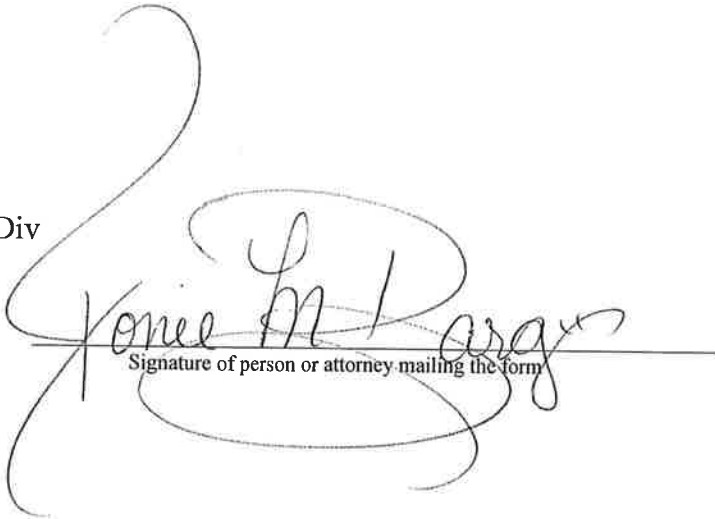
IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing. 

Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on December 27, 2007, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One copy to:
Claimant/Seller for Substitution of Party or attorney of record:
Matthew and Sally Bitner
720 N 350 E
Tremonton UT 84337
3. One copy to:
Claimant/Purchaser for Substitution of Party, or attorney of record:
BC Properties LLC
PO Box 28
Driggs ID 83422
4. One copy to:
Each party in the subcase, or attorney of record
Kent Foster
Holden Kidwell Hahn & Crapo
1000 Riverwalk Dr
Idaho Falls ID 83402
5. One copy each to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724


Signature of person or attorney mailing the form

12/26/2007

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-13434

NAME AND ADDRESS: BC PROPERTIES LLC
PO BOX 28
DRIGGS ID 83422

SOURCE: SOUTH LEIGH CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 0.780 CFS

PRIORITY DATE: 06/15/1897

POINT OF

DIVERSION: T06N R45E S33 NESESW Within TETON County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.780 CFS

PLACE OF USE: IRRIGATION in TETON County

T05N R45E S05

SENW 39.00

39 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 - Decreed

Water is delivered through Bell McCracken ditch.

This right is a split from former right 22-388.

SCANNED

DEC 26 2007

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

RECEIVED
 OCT 09 2007
 Department of Water Resources
 Eastern Region

DEV

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

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
Needs NCAP	Adj - 22-13434				
WR/License -	22-13582	Completed JB 12-26-2007			
	OK				

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).
- OR**
- D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)	Matthew F and Sally B Bitner 720 N 350 E, Tremonton, UT 84337
4. New Owner/Claimant(s)	BC Properties LLC
	Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
New Mailing Address	P.O. Box 28
City, State and ZIP Code	Driggs, ID 83422
New Telephone Number	(208) 705-0859

SCANNED
 DEC 26 2007

5. Date you acquired the property

August 1, 2007

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

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

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

7. Signature(s) of New Owner(s) or Claimant(s)

Jeffrey Brey
Henry Chow

Member
(title if applicable)
member
(title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by SCDate 10-9-07Receipt Amt. \$25 -Received by SCDate 10-9-07Receipt No. E033473Processed by AJ

Date _____

WR _____ Date _____

SCANNED

DEC 26 2007

RECORDING REQUESTED BY
First American Title Company

190435 AUG 8 '07 PM 4 23

AND WHEN RECORDED MAIL TO:
First American Title Company
81 North Main Street/P.O. Box 42
Driggs, ID 83422

Instrument # 190435

TETON COUNTY, IDAHO

2007-08-08 04:23:00 No. of Pages: 3

Recorded for : FIRST AMERICAN TITLE

MARY LOU HANSEN

Ex-Officio Recorder Deputy

Index to: DEED, WARRANTY

Fee: 8.00

Space Above This Line for Recorder's Use Only

WARRANTY DEED

File No.: 221010-T (tm)

Date: August 01, 2007

For Value Received, **TRACK 1:**

Matthew F. Bitner and Sally B. Bitner, husband and wife, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **BC Properties, LLC, an Idaho Limited Liability Company**, hereinafter called the Grantee, whose current address is **450 North 150 East, Teton, ID 83452**, the following described premises, situated in **Teton County, Idaho**, to-wit:

TRACK 1:

Parcel 8: A part of the N½ of Section 5, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, being further described as: From the C 1/4 corner of said Section 5, thence North 89°33'31" West 1323.96 feet along the South line of the SE1/4 NW1/4 to the SW corner of said SE1/4 NW1/4 and thence North 00°01'02" West 667.60 feet further along the West line of the SE1/4 NW1/4 to the true point of beginning; thence North 00°01'02" West 667.60 feet further along the West line of the SE1/4 NW1/4 to the NW corner of the SE1/4 NW1/4 of said Section 5; thence South 89°17'00" East 1331.19 feet to a point; thence South 00°09'41" West 662.55 feet to a point; thence North 89°30'00" West 1329.07 feet to the point of beginning.

Parcel 9: A part of the N1/2 of Section 5, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, being further described as: Commencing at the C 1/4 corner of said Section 5, the point of beginning, thence North 89°33'31" West 1323.96 feet along the South line of the SE1/4 NW1/4 to the SW corner of the SE1/4 NW1/4 of said Section 5; thence North 00°01'02" West 667.60 feet along the West line of the SE1/4 NW1/4 of said Section 5 to a point; thence South 89°30'00" East 1329.07 feet to a point; thence South 00°09'41" West 67.13 feet to an iron pin; thence South 00°27'01" West 599.09 feet to the point of beginning.

Together with and subject to an easement for ingress, egress and utilities across the following described easement, said easement being 60 feet wide and lying Westerly and Southerly of the following described line: Beginning at the Center 1/4 corner of Section 5, Township 5 North, Range 45 East, Boise meridian, Teton County, Idaho, the point of beginning; thence North 00°27'01" West 599.09 feet; thence North 00°09'41" West 729.68 feet; thence North 00°46'00" West 662.20 feet; thence North 01°01'26" West 861.16 feet; thence South 89°52'09" East 2644.94 feet more or less to the point of ending.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

SCANNED

DEC 26 2007

Date: 08/01/2007

Warranty Deed
- continued

File No.: 221010-T (tm)

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

Date: 08/01/2007

Warranty Deed
- continued

File No.: 221010-T (tm)


Matthew F. Bitner

Sally B. Bitner
Sally B. Bitner

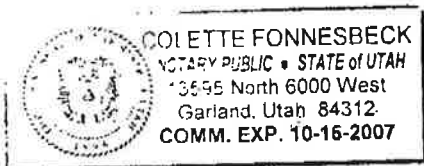
STATE OF

)
SS.

COUNTY OF

)

On this 6 day of August, 2007, before me, a Notary Public in and for said State, personally appeared **Matthew F. Bitner and Sally B. Bitner**, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.



Collette Fannesbeck
Notary Public for the State of

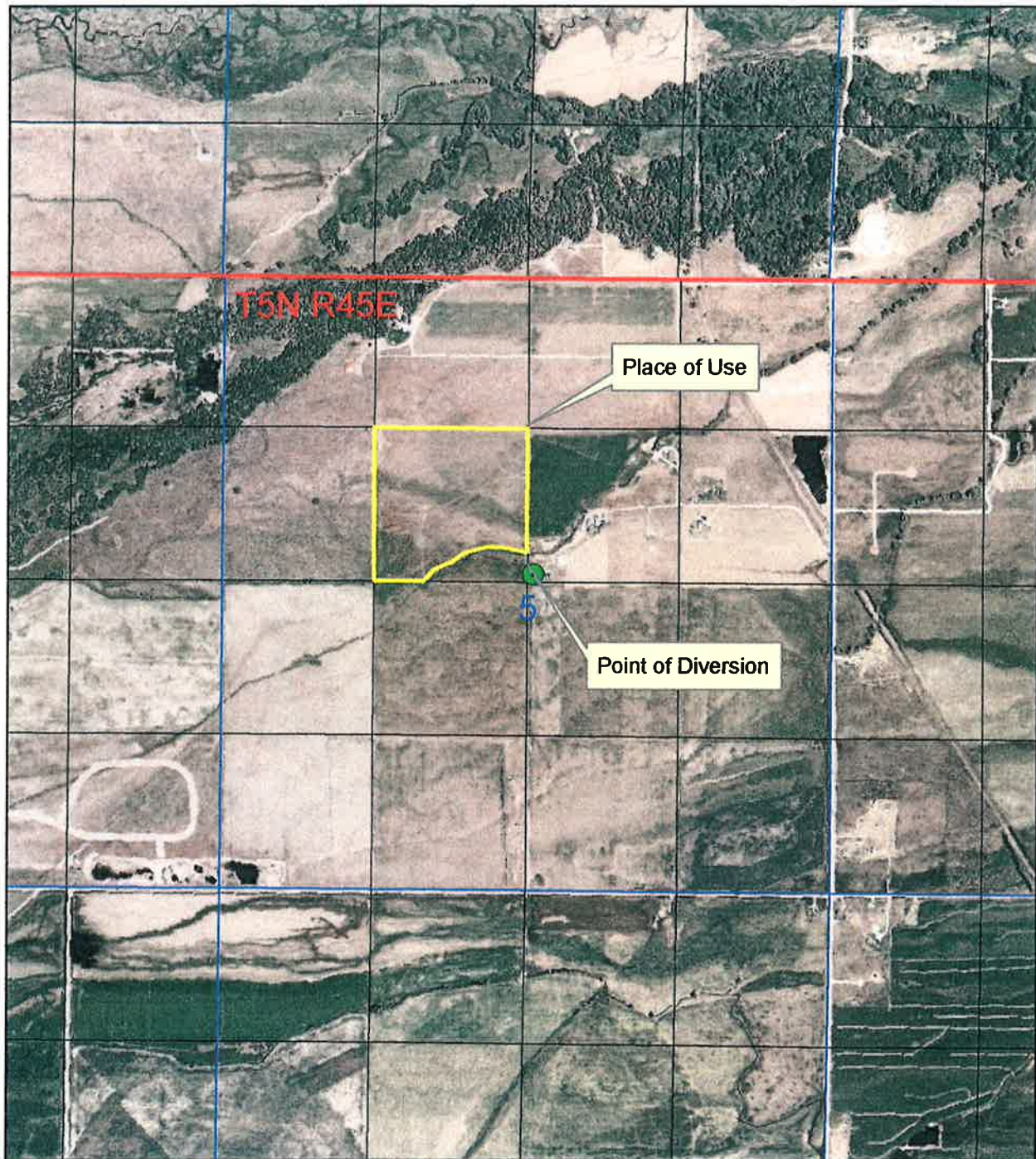
Notary Public for the State of

Residing at: 13595 N 6000 W Garland, UT. 84312
My Commission Expires: 10-16-2007

My Commission Expires: 10-16-2007

SCANNED
DEC 26 2007

Place of Use for Water Right 22-13582



2006 NAIP Photography

0 0.125 0.25 0.5 Miles



RECEIVED
JAN 29 2007

Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IDAHO DEPT OF WATER RESOURCES
EASTERN REGION
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402

CHANGE IN ADDRESS

This form can be used to notify the Department of a change in
address of the owners of record for the listed water rights.
(Please print or type)

[] Water Right Number(s): 22-13434

[] Name(s): Sally B Bitner
Matthew F. Bitner

[] Old Mailing Address: P.O. Box 238
Tetonia, ID 83452

[] New Mailing Address: 720 N. 350 E.
Tremonton, Ut 84337

Telephone Number: (435) 257 - 9977

[] Signature(s) of Owner(s) Sally B Bitner

(Include your title if on behalf of company or organization)

Date: Jan 24, 2007

SCANNED
JUL 19 2007

02/07/2006

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 22-13434

SALLY B BITNER

PO BOX 238

TETONIA ID 83452

Telephone Number: (208) 456-2600

MATTHEW F BITNER

PO BOX 238

TETONIA ID 83452

Telephone Number: (208) 456-2600

(new address:)

720 n. 350 E.

Tremonton, ut. 84337

(435) 230-3947

OK JC

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

X I AGREE with this proposed recommendation: no changes need to be made.

DATE: Dec 11, 2006

SIGNATURE:

Sally B Bitner

Please print your name:

Sally B. Bitner + Matthew F. Bitner

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

SCANNED

JUL 19 2007

JUL 19 2007



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

December 15, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

MATTHEW & SALLY BITNER
720 N 350 E
TREMONTON UT 84337-1040

RE: CHANGE OF ADDRESS FOR 22-13434

Dear Mr. & Mrs. Bitner:

Please fill out the enclosed change of address form and mail back to me. We need signed permission to update your address in our database.

Sincerely,

Jennifer Crabtree
Technical Records Specialist

Enclosure

SCANNED

JUL 19 2007

169299

RECEIVED

JUL 14 2005

TETON CO., ID
CLERK RECORDER

WARRANTY DEED

Order No.: 3050513551-G

FOR VALUE RECEIVED

Jared E. Nusbaum and Linda S. Nusbaum, Husband and Wife

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Matthew F. Bitner and Sally B. Bitner, Husband and Wife

whose current address is

P.O. Box 238 Teton, ID 83452

the grantee(s), the following described premises, in Teton County, Idaho, TO WIT:

Parcel 8: A part of the N ½ of Section 5, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, being further described as: From the C ¼ corner of said Section 5, thence North 89°33'31" West 1323.96 feet along the South line of the SE ¼ NW ¼ to the SW corner of said SE ¼ NW ¼ and thence North 00°01'02" West 667.60 feet along the West line of the SE ¼ NW ¼ to the true point of beginning; thence North 00°01'02" West 667.60 feet further along the West line of the SE ¼ NW ¼ to the NW corner of the SE ¼ NW ¼ of said Section 5; thence South 89°17'00" East 1331.19 feet to a point; thence South 00°09'41" West 662.55 feet to a point; thence North 89°30'00" West 1329.07 feet to the point of beginning.

Parcel 9: A part of the N ½ of Section 5, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, being further described as: Commencing at the C ¼ corner of said Section 5, the point of beginning, thence North 89°33'31" West 1323.96 feet along the South line of the SE ¼ NW ¼ to the SW corner of the SE ¼ NW ¼ of said Section 5; thence North 00°01'02" West 667.60 feet along the West line of the SE ¼ NW ¼ of said section 5 to a point; thence South 89°30'00" East 1329.07 feet to a point; thence South 00°09'41" West 67.13 feet to an iron pin; thence South 00°27'01" West 599.09 feet to the point of beginning.

Together with and subject to an easement for ingress, egress and utilities across the following described easement, said easement being 60 feet wide and lying Westerly and Southerly of the following described line: Beginning at the Center ¼ corner of Section 5, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, the point of beginning; thence North 00°27'01" West 599.09 feet; thence North 00°09'41" West 729.68 feet; thence North 00°46'00" West 662.20 feet; thence North 01°01'26" West 861.16 feet; thence South 89°52'09" East 2644.94 feet more or less to the point of ending.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: July 6, 2005

Jared E. Nusbaum

Linda S. Nusbaum

Instrument # 169399

ORIGGS, TETON, IDAHO

2005-07-14

09:35:52 No. of Pages: 2

Recorded for: ALLIANCE TITLE & ESCROW

NOLAN G. BOYLE

Fee: 6.00

Ex-Officio Recorder Deputy

Index to: DEED, WARRANTY

State of IdahoCounty of Teton

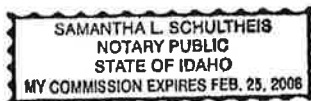
On this 6 day of July, in the year 2005 before me, a Notary Public in and for said state, personally appeared Linda S. Nusbaum known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

169299

SCANNED

JUL 19 2007

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



Samantha L. Schulteis
Notary Public for the State of
Residing at: Victor Idaho
Commission Expires: 2/25/08

State of NEW MEXICO }
County of BERNALILLO } ss.

On this 7th day of July, in the year 2005 before me, a Notary Public in and for said state, personally appeared JARED NUSBAUM known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that HE executed the same.

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



Lisa R. Bogachowski
Notary Public for the State of NEW MEXICO
Residing at: 6604 Winton Dr NE APO
Commission Expires: 2/27/09

SCANNED

JUL 19 2007

169290

19 December 2005

**Matthew F Bitner
PO Box 238
Tetonia ID 83452**

Re: EVIDENCE OF WATER RIGHT OWNERSHIP 22-13434 and 22-13435

Dear Mr. Bitner:

The Idaho Department of Water Resources is now reviewing water right claims filed in the Snake River Basin Adjudication (SRBA) in the Teton River drainage of Basin 22. You have filed on the above referenced water rights with a 06/15/1897 priority date from South Leigh Creek, delivered through the Bell-McCracken Ditch.

Only one of these water rights was decreed under Rexburg vs Teton, 1910 to the lands you claim and there is no recorded water right transfer filed with the department. **Please provide some evidence that you own the claimed portions of these historic decreed water rights.** Often a deed or property conveyance instrument will discuss water right conveyances with the property transaction. Your response to this request is required by January 9, 2006.

Thank you for your timely attention and consideration in this matter. If you have questions please feel free to contact this office.

Respectfully submitted,

Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

Cc; file
Enclosure: Claim Copy

*ORIGINAL claim ALSO REFERENCES 22-7690 -
22-7690 is NOT AN SRBA claim - Priority
date is 01/08/1991.*

SCANNED

JUL 19 2007

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 22-388

WATER RIGHT NUMBER: 22-388

Owner Type Name and Address
 Current Owner JAMES MC CRACKEN

, ZZ

Priority Date: 06/15/1897

Basis: Decreed

Status: Active

Source Tributary
 SOUTH LEIGH CREEK TETON RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /	3.120 CFS	
	<u>Total Diversion:</u>	3.120 CFS	

$$\frac{3.12}{160 \text{ ac}} = 0.0195 \text{ cfs/ac}$$

Location of Point(s) of Diversion

SOUTH LEIGH CREEK

SW1/4SE1/4

Sec. 33, Twp 06N, Rge 45E, B.M.

TETON County

Place of UseIRRIGATION Within TETON County

T05N R45E S05

SWNW

T05N R45E S05

SENW

T05N R45E S06

SWNE

T05N R45E S06

SENE

GOMMIS
 13435
 39 ac x 0.0195 = 0.76

22-13434?

$$39 \text{ ac} \times 0.0195 = 0.76$$

Conditions of Approval:

1. AC. IRR. = 160. P/D BELL-MC CRACKEN CANAL - W.D. 01 RECORDS.

Remarks:Comments:

No SALBA Claim(s) FOUND

01/09/06

Mrs. Butner called to discuss the 190005 Letter requesting evidence of ownership. Only one of 22-13434 or 13435 can be recognized in relation to (a portion of) 22-388, not both. Advised she send warranty deed and letter with claim 13435. She will do so today.

11/19/06

Butners withdrew their claim to 22-13435 and request it be changed to MaryAnn Gommis.

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JUL 19 2007

T6N, R45E

T5N, R45E

MD Gomme

M&S Bitner

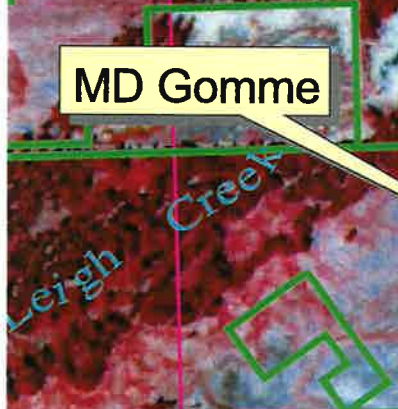
M&S Bitner

Bell-McCracken

Old railroad right-of-way
Teton County

Gale-Moffat Ditch

Packsaddle Road



SCANNED
JUL 19 2007

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 22-13434
Date Received: 9/30/2005
Receipt No: E031294
Received By: RM

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

SALLY B BITNER Phone: (208)456-2600
PO BOX 238
TETONIA ID USA 83452

MATTHEW F BITNER Phone: (208)456-2600
PO BOX 238
TETONIA ID USA 83452

2. Date of Priority: 06/15/1897

3. Source: SOUTH LEIGH CREEK Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06N	45E	33	SW SE	TETON	

5. Description of diverting works:

HEADGATES AT LEIGH CREEK, DITCH ALL THE WAY THROUGH AND PAST THE PROPERTY

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	0.78	

7. Total Quantity Appropriated is:

8. Total consumptive use:

SCANNED

JUL 19 2007

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	45E	5	SE	NW	IRRIGATION	40
					Section Acres	40
					Total Acres	40

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Decreed

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JUL 19 2007

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 22-13434Date Received 9/30/05Receipt Number E031294 km

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Matthew F. and/or Sally B. Bitner Phone (208) 456-2600Mailing Address P.O. Box 238 Teton, ID Zip 834522. Date of Priority (Only one (1) per claim) 06/15/18973. Source of water supply (a) South Leigh Creek
which is tributary to (b) Teton River4. a. Location of existing point of diversion is: Township 06 N Range 45 E Section 33,
SW SE SE 1/4 of SW 1/4 of — 1/4, Govt. Lot, 45 E B.M., County of Teton

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.headgates at Leigh Creek, ditch all the way through
and past the property

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JUL 19 2007

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation/crop purposes from 4/15 to 10/15 amount 78 or ~~0.145 cfs/ac~~

For / purposes from to amount or

For / purposes from to amount or

For / purposes from to amount or

7. Total quantity claimed (a) 78 (cfs) and/or (b) (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	
05	45E	5								40									40

Total number of acres irrigated 40

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

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.
Well rights for irrigation - 22-7690 or None ()

14. Remarks:

Last Name Bitner Ident No.

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JUL 19 2007

Copies: White -State, Yellow-Claimant

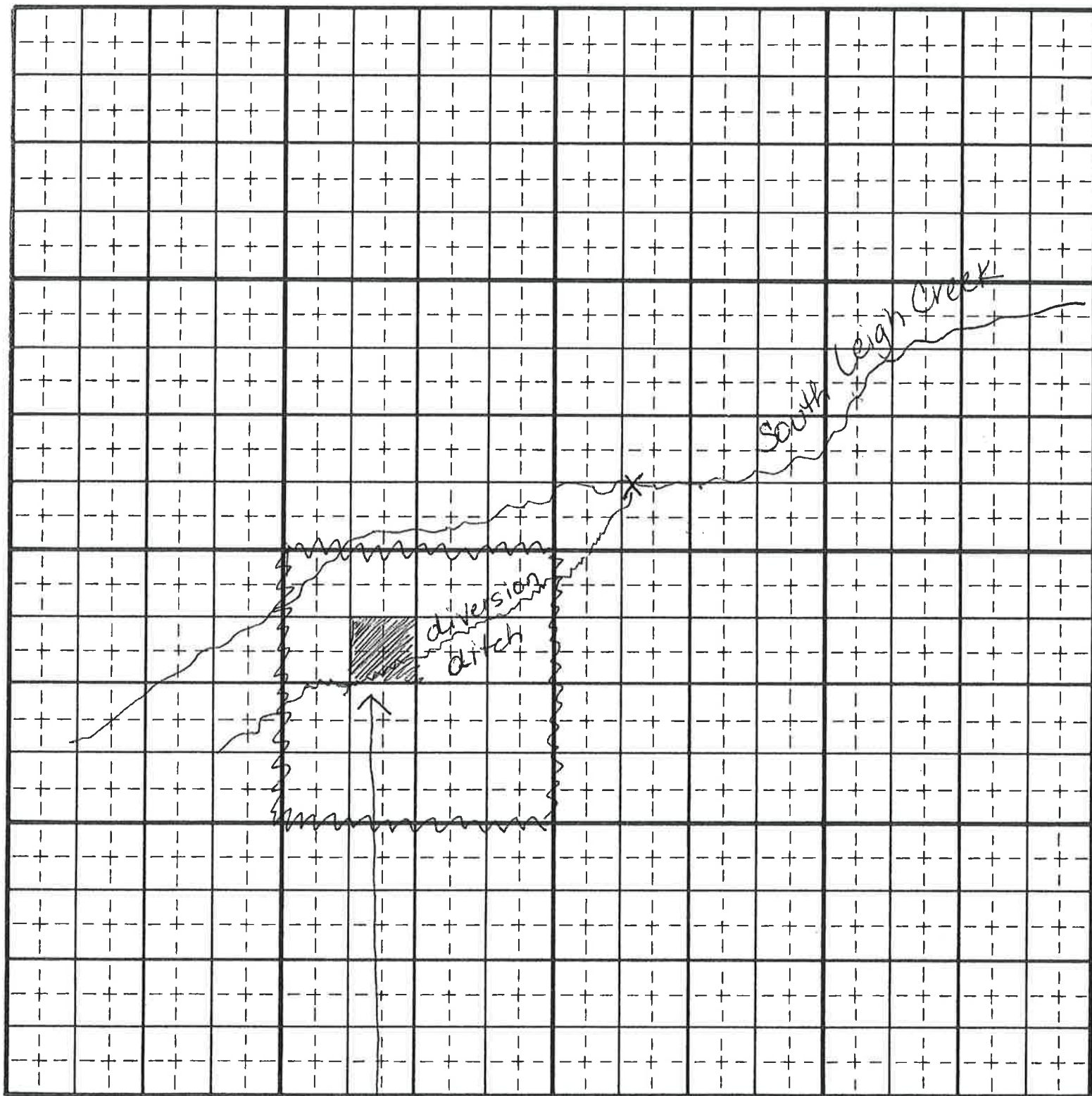
Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

X



05 , 05N , 45E.



Point of usage
SE NW, sec. 5, township 05N, Range 45E.
of

Last Name

Bitner

Ident No.

JUL 19 2007

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree ☒
If applicable provide IDWR Water Right Number 22-388
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 ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

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

Signature of Claimant (s) [Signature]

Date 29 Sept 05

Sam B Bitner

Date Sept 29, 2005

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____

Title

of _____

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or)
County of TETON) SS.

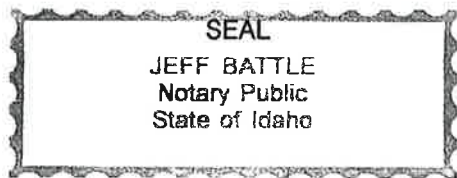
Subscribed and sworn (or affirmed) before me this

29th

day of

SEPTEMBER

19 05



Notary Public [Signature]

Residing at DRIGGS, ID

My Commission Expires

15 Nov 2007

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ 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 _____

Address _____

Date _____

Last Name Bitner Ident. Number _____

SCANNED

JUL 19 2007

Copies White-State, Yellow-Claimant