

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

2/25/2011

RIGHT NUMBER: 22-13586

NAME AND ADDRESS: RICHARDSON FAMILY PROPERTIES LLC  
PO BOX 469  
VICTOR ID 83455

SOURCE: PARADISE SPRINGS

TRIBUTARY: TETON RIVER

QUANTITY: 0.470 CFS

The 2 ponds established by the storage of water under this right shall not exceed a total capacity of 11.5 acre-feet or a total surface area of 1.7 acres.

Right 22-13586 authorizes the diversion of an annual total of 15.3 acre-feet to be used for the initial filling of the pond(s) and for the replacement of losses caused by evaporation.

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 06/01/1904

POINT OF  
DIVERSION:

T04N R45E S30 NENW Within TETON County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u>   | <u>PERIOD OF USE</u> | <u>QUANTITY</u>        |
|-------------------------|----------------------|------------------------|
| IRRIGATION              | 04/15 10/31          | 0.330 CFS              |
| DIVERSION TO STORAGE    | 04/15 10/31          | 0.140 CFS<br>15.30 AFY |
| FIRE PROTECTION STORAGE | 01/01 12/31          | 11.50 AFY              |
| RECREATION STORAGE      | 01/01 12/31          | 11.50 AFY              |

PLACE OF USE: IRRIGATION in TETON County

T04N R45E S19 SESW 25.00

RECREATION STORAGE in TETON County

T04N R45E S19 SESW

FIRE PROTECTION STORAGE in TETON County

T04N R45E S19 SESW

25 ACRES TOTAL

This right is limited to the irrigation of 16.5 acres within the place of use described above in a single irrigation season.

Right Nos. 22-13586 and 22-13997 are limited to the irrigation of a combined total of 25 acres in a single irrigation season.

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

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

Diversion of water under transfer 74679 is subject to the terms stated in the Settlement Agreement for Application for Transfer No 74679, recorded in Teton County on May 13, 2010 as instrument # 211182.

This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny.

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 shall not be diverted from fire protection storage except to fight or repel an existing fire.

The right holder shall accomplish the change authorized by Transfer 74679 within one year of the date of the approval.

The right holder shall install and maintain an impermeable liner in the ponds to eliminate seepage losses.

Place of use is located within Paradise Springs Subdivision.

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.

This right does not grant any right-of-way or easement across the land of another.

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

The following rights are diverted through point of diversion described above: 22-12714B, 22-13509, 22-13586, 22-13853, 22-13854, 22-13997, 22-13998, and 22-13999.

Failure of the right holder to comply with the conditions of transfer 74679 is cause for the Director to rescind approval of the transfer.

This right is a split from former right 22-12714A, parent right 22-405.



Holden Kidwell  
Hahn & Crapo P.L.L.C.  
LAW OFFICES

RECEIVED

FEB 14 2011

Department of Water Resources  
Eastern Region

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PO Box 50130  
Idaho Falls, Idaho 83405

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Email: [rharris@holdenlegal.com](mailto:rharris@holdenlegal.com)

February 11, 2011

Michael Holliday  
Idaho Department of Water Resources  
900 North Skyline Drive, Suite A  
Idaho Falls, ID 83402-1718

RE: Amended Notice of Claim for Water Right No. 22-13586.

Dear Michael:

Enclosed for processing, please find an Amended Notice of Claim for Water Right No. 22-13586 filed on behalf of Richardson Family Properties, LLC. We discussed this amended claim a week ago. Notice of the filing of this claim is also being provided to the SRBA court, and as we understand from the hearing, you should have an Amended Director's Report issued by the end of this month.

If you have any questions or concerns, please let me know. As always, I appreciate your assistance in this matter.

Best Regards,

Robert L. Harris  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosure

G:\WPDATA\RLH\13869 Richardson, Andy\ltr.Michael.Holliday.2011.02.11.docx



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718  
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

January 24, 2011

Dear Claimant:

As you may recall a settlement conference was recently held in Idaho Falls in hopes that the disputes regarding the water right claims from Paradise Springs could be resolved. At the settlement conference the parties in attendance and the Idaho Department of Water Resources reached a tentative agreement. However, final settlement is contingent upon additional action by the parties. The purpose of this letter is to let you know what further action needs to be taken in order to bring closure to the Paradise Springs subcases in the Snake River Basin Adjudication ("SRBA").

The table below lists the amounts agreed upon during the settlement conference followed by the tasks that need to be completed before the settlement can be finalized. Please find your subcase(s) below and take the appropriate action. IDWR would be happy to help you through the process if you need assistance, as appropriate. Because of the global nature of the settlement of Paradise Springs, SF5 settlement documents will be prepared once the late claims and amended claims are ready for resolution. In other words, all the subcases are tied together and are anticipated to progress through the SRBA resolution process as a group.

| <u>Claim number</u> |       |   | <u>Owner</u>                        | <u>Decreed</u> | <u>Beneficial</u> | <u>Decreed</u>  | <u>Beneficial</u>   |
|---------------------|-------|---|-------------------------------------|----------------|-------------------|-----------------|---------------------|
| - - -               |       |   | -                                   | <u>Acres</u>   | <u>Use Acres</u>  | <u>Quantity</u> | <u>Use Quantity</u> |
| 22                  | 587   | A | KUNZ, LARELL A                      | 25             |                   | 0.35            |                     |
| 22                  | 12714 | B | SUSAN C ALDEEN TRUST                | 7.8            |                   | 0.11            |                     |
| 22                  | 13211 |   | MILLER, DON LE ROY                  | 8.5            | 3.3               | 0.17            | 0.07                |
| 22                  | 13212 |   | REID, MICHAEL L                     | 26             | 9.6               | 0.52            | 0.19                |
| 22                  | 13511 |   | TETON RAINBOW RANCHES               | 72             |                   | 1               |                     |
| 22                  | 13586 |   | RICHARDSON, ANDREW J                | 23.5           | 8.5               | 0.47            | 0.17                |
| 22                  | 13853 |   | MILLER, CHESTER H;<br>MILLER, REX H | 16.5           | 6.5               | 0.33            | 0.13                |
| 22                  | 13854 |   | RICHARDSON FAMILY PROPERTIES LLC    | 17             | 14                | 0.24            | 0.38                |
| 22                  | 13509 |   | FRED MILLER TRUST                   | 25.5           | 9.5               | 0.51            | 0.19                |

22-587A. No need to amend the claim. Only needs to sign SF5.

22-12714B. Needs to amend claimed flow rate to 0.11 cfs.

SCANNED

JAN 24 2011

22-13211. No need to amend claim. Only needs to sign SF5. It is my understanding that the objectors to this subcase seek a subordination remark limiting a delivery call on this right to 7.6 acres and .17 cfs. Additionally, needs to set aside 22-11537, the 1969 beneficial use right, and sign an SF5 for .07 cfs and 3.3 acres.

22-13212. Needs to move to set aside and amend claim for 0.52 cfs. Eventual recommendation for -13212 will contain a subordination remark limiting a delivery call on this right to 4.5 acres and 0.16 cfs. Will receive SF5 on 22-11639 for 9.6 acres and 0.19 cfs as the beneficial use claim.

22-13511. No need to amend claim. Only needs to sign SF5.

22-13586. Needs to amend claimed flow rate to 0.47 cfs. This right is governed, in part, by the stipulation filed December 2009. Consistent with that stipulation, the eventual recommendation for -13586 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 8.5 acres and 0.17 cfs.

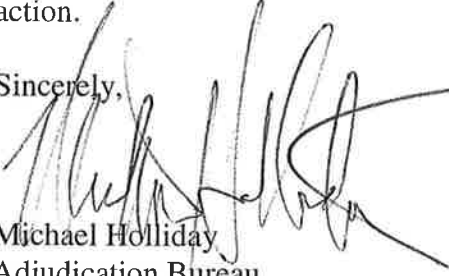
22-13853. Needs to amend claimed flow rate to 0.33 cfs and file a new beneficial use claim for 6.5 acres and 0.13 cfs.

22-13854. This right is governed, in part, by the stipulation filed December 2009. Needs to file a new beneficial use claim for 14 acres and 0.38 cfs.

22-13509. Consistent with the Amended Director's Report filed in July 2010, the eventual recommendation for -13509 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 9.5 acres and 0.19 cfs.

The next status conference on these subcases is set for February 2, 2011, at 9:30 a.m., during which Special Master Bilyeu agreed to hear motions to amend claims. Motions for late claims need to be heard by Judge Wildman. If you have questions about any of this, please contact your attorney, if applicable, or feel free to give me a call. Thanks in advance for your prompt action.

Sincerely,

  
Michael Holliday  
Adjudication Bureau  
Senior Water Right Agent

SCANNED

JAN 24 2011

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**AMENDED****TRANSFER OF WATER RIGHT****AMENDED****TRANSFER NO. 74679**

This is to certify that: RICHARDSON FAMILY PROPERTIES LLC  
PO BOX 469  
VICTOR ID 83455  
(208)354-8570

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

**Summary of Water Rights Before the Proposed Change**

| <u>Right</u> | <u>Origin/Basis</u> | <u>Priority</u> | <u>Rate</u> | <u>Volume</u> | <u>Acre Limit</u> | <u>Total Acres</u> | <u>Source</u>    |
|--------------|---------------------|-----------------|-------------|---------------|-------------------|--------------------|------------------|
| 22-13586     | AJC/Decreed         | 06/01/1904      | 0.34 cfs    | N/A           | N/A               | 31.0               | PARADISE SPRINGS |

0.47

32

**Purpose of Transfer (Changes Proposed)**

| <u>Current Number</u> | <u>Split</u> | <u>POD</u> | <u>POU</u> | <u>Add POD</u> | <u>Period of Use</u> | <u>Nature of Use</u> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 22-13586              | NO           | NO         | NO         | NO             | YES                  | YES                  |

**Summary of Water Rights After the Approved Change**

| <u>Existing Right</u>  | <u>New No. (changed portion)</u> | <u>Transfer Rate</u> | <u>Transfer Volume</u> | <u>Acre Limit</u> | <u>Total Acres</u> | <u>New No. (remaining portion)</u> | <u>Remaining Rate</u> | <u>Remaining Volume</u> | <u>Remaining Acre Limit</u> | <u>Remaining Total Acres</u> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 22-13586               | <b>22-13586</b>                  | 0.34 cfs             | N/A                    | N/A               | 24.0               |                                    | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED TOTALS</b> |                                  | <b>0.34 cfs</b>      | <b>N/A</b>             | <b>N/A</b>        | <b>24.0</b>        |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

Detailed Water Right Description(s) attached

Dated this 29<sup>th</sup> day of June, 2010

  
Water Resources Program Manager

SUPPORT DATA

IN FILE # 22-13586

**WATER RIGHT NO. 22-13586**  
**As Modified by Transfer No. 74679**

In accordance with the approval of Transfer No. 74679, Water Right No. 22-13586 is now described as follows.

**Right Holder:** RICHARDSON FAMILY PROPERTIES LLC  
 PO BOX 469  
 VICTOR ID 83455

**Priority Date:** June 01, 1904 ✓

**Source:** PARADISE SPRINGS ✓

**Tributary:** TETON RIVER ✓

| <u>BENEFICIAL USE</u>   | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-------------------------|-------------|-----------|-----------------------|---------------|
| DIVERSION TO STORAGE    | 04/15       | to 10/31  | 0.08 CFS              | 15.3 AF       |
| FIRE PROTECTION STORAGE | 01/01       | to 12/31  | 0.14                  | 11.5 AF       |
| RECREATION STORAGE      | 01/01       | to 12/31  |                       | 11.5 AF       |
| STOCKWATER              | 04/15       | to 10/31  | 0.02 CFS              |               |
| IRRIGATION              | 04/15       | to 10/31  | 0.26 CFS              |               |
|                         |             |           | 0.33                  |               |

**LOCATION OF POINT(S) OF DIVERSION:**

PARADISE SPRINGS NENENW Sec. 30 Twp 04N Rge 45E TETON County

**PLACE OF USE:** FIRE PROTECTION STORAGE, RECREATION STORAGE, STOCKWATER

| Twp | Rge | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
| 04N | 45E | 19  |    |    |    |    |    |    |    |    |    |    |    |    |        |

**PLACE OF USE:** IRRIGATION

| Twp | Rge | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
| 04N | 45E | 19  |    |    |    |    |    |    |    |    |    |    |    |    | 24.0   |

Total Acres: 24.25

**CONDITIONS OF APPROVAL**

1. ✓ Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
2. ✓ The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
3. ✓ The 2 ponds established by the storage of water under this right shall not exceed a total capacity of 11.5 acre-feet or a total surface area of 1.7 acre(s).
4. ✓ Right 22-13586 authorizes the diversion of an annual total of 15.3 acre-feet to be used for the initial filling of the pond(s) and for the replacement of losses caused by evaporation.

**WATER RIGHT NO. 22-13586**  
**As Modified by Transfer No. 74679**

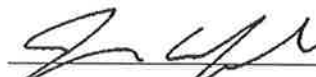
**CONDITIONS OF APPROVAL**

- EXP 5. ✓ Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
- ~~8. ✓~~ The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
- EXP 7. ✓ The right holder shall install and maintain an impermeable liner in the ponds to eliminate seepage losses.
- Q 8. ✓ This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
- EXP 9. ✓ This right does not grant any right-of-way or easement across the land of another.
- EXP 10. ✓ Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer. <sup>74679</sup>  
Λ
- EXP 11. ✓ The right holder shall accomplish the change authorized by this transfer <sup>74679</sup> within one year(s) of the date of this approval.
- EXP 12. ✓ Place of use is located within Paradise Springs Subdivision.
- ~~13. ✓~~ The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
- GEN 14. ✓ Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
- ~~15. ✓~~ The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
- GEN EXP 16. ✓ Diversion of water under transfer 74679 is subject to the terms stated in the Settlement Agreement for Application for Transfer No 74679, recorded in Teton County on May 13, 2010 as instrument # 211182. <sup>FMID</sup> <sup>GEN</sup> <sup>→ 22-13509 remain</sup>
7. ✓ At the time of this approval, water right 22-13586 is a pending claim before the Snake River Basin Adjudication court. Any partial decree issued by the court should account for the fact that, as part of this transfer approval, the water right holder has decreased the acres irrigated under this right by 7 acres to provide water for the storage components of the right.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

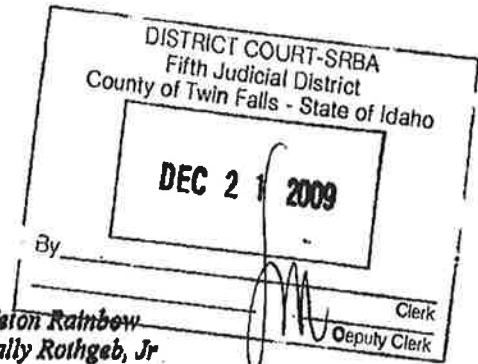
Dated this 29<sup>th</sup> day of June, 20 10

+ E55 ✓  
+ K06 23.5-7 ✓  
F06 ✓  
P21 ✓

  
Water Resources Program Manager

Randall C. Budge, ISB No. 1949  
 Thomas J. Budge, ISB No. 7465  
 Racine Olson Nye Budge & Bailey, Chtd  
 P.O. Box 1391; 201 E. Center Street  
 Pocatello, Idaho 83204-1391  
 208-232-6101 - Telephone  
 208-232-6109 - Facsimile

*Attorneys for Cedron Irrigation, LLC, Cedron Cemetery District, Teton Rainbow  
 Ranches, Inc., Mahogany Ranch Holdings, Inc., Trees, Inc., and Wally Rothgeb, Jr.*



**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

Subcase Nos. 22-13586, 22-13854

Case 39576

**STIPULATION**

Andrew J. Richardson, Diane Richardson, and Richardson Family Properties, LLC (collectively, the "Claimants"), by and through their attorney, Robert L. Harris of the firm HOLDEN KIDWELL HAHN & CRAPO, PLLC, and Cedron Irrigation, LLC, Cedron Cemetery District, Teton Rainbow Ranches, Inc., Trees, Inc., Mahogany Ranch Holdings, Inc., and Wally Rothgeb, Jr. (collectively, the "Participants"), by and through their attorney, Thomas J. Budge of the firm RACINE OLSON NYE BUDGE & BAILEY, CHARTERED, jointly present this stipulation to resolve any and all objections the Participants may have against SRBA claim numbers 22-13586 and 22-13854 and to provide for the entry of partial decrees for water right numbers 22-13586 and 22-13854.

1. The Claimants are the claimants of SRBA claim numbers 22-13586 and 22-13854, which have as their source Paradise Springs.

2. The Participants own ground water rights<sup>1</sup> that divert from an aquifer that is alleged to be hydraulically connected to Paradise Springs.

<sup>1</sup> Water Right Nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D and 22-13681.

3. The Directors Reports for SRBA claim numbers 22-13586 and 22-13854 recommend that both claims be partially decreed as recommended.

4. Michael J. Reid filed a "friendly" late objection to SRBA claim number 22-13586 and 22-13854, which the court granted by order dated June 26, 2009.

5. The Claimants filed an amended notice of claim to water right 22-13854 on September 3, 2009.

6. The late objection filed by Mr. Reid, and the amended notice of claim filed by the Claimants, shed new light on SRBA claim numbers 22-13586 and 22-13854, giving rise to the Participants' interest in the outcome of these subcases.

7. The Participants filed a Motion to Participate in these subcases on July 6, 2009, which is set for hearing on December 23, 2009.

8. The Claimants and Participants have recently discussed the Participants' interest in these subcases, and hereby stipulate and agree that the Participants have an interest in these subcases that warrants their participation pursuant to SRBA Administrative Order 1 § 10.k and Rule 24(a) of the Idaho Rules of Civil Procedure.

9. The Claimants and the Participants hereby stipulate and agree that the Participants have grounds to object to water rights 22-13586 and 22-13854. The Claimants and the Participants further agree that legal and factual issues exist which, if not resolved cooperatively, will necessitate a trial at substantial expense to all involved.

10. The Claimants and Participants have engaged in settlement negotiations, and have reached a settlement that will enable water rights 22-13586 and 22-13854 to be partial decreed without resort to litigation.

11. The Claimants and the Participants hereby stipulate and agree that water right 22-13586 be partially decreed according to the elements defined in the Directors Reports attached hereto as Exhibit A, and that water right 22-13854 be partially decreed according to the elements defined in the Claimants' amended notice of claim filed September 3, 2009, with the exception that the following condition be added to both partial decrees:

This water right shall not be permitted to make a delivery call against Water Right Nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681.

11. In consideration of the conditions and terms set out in this Stipulation, the

Participants agree to refrain from filing any objections against water rights 22-13586 and 22-13854.

12. To the extent any amendments must be made to the current recommendations for water rights 22-13586 and 22-13854 for elements of the water rights that are not the subject of this agreement (i.e., point of diversion or place of use), the Participants agree to refrain from filing any objections against water rights 22-13586 and 22-13854.

DATED this 18<sup>th</sup> day of December, 2009.

**RACINE, OLSON, NYE, BUDGE &  
BAILEY, CHARTERED**

  
Thomas J. Budge  
Attorneys for the Participants

**HOLDEN KIDWELL HAHN &  
CRAPO, PLLC**

  
Robert Harris  
Attorneys for the Claimants

## **Paradise Springs Water Rights, Basin 22, Teton County Idaho**

Paradise Springs, located near Driggs Idaho in Basin 22 is the subject of much contention. The recommendations have been reported to the court for all Basin 22 claims as well as these Paradise Springs and those water rights related to Paradise Springs. Objections are now being filed with the court regarding these rights. This report is to document the reasoning behind the recommendations made on the water rights for Paradise Springs and those water rights relating.

### **Water Right Referenced in This Report**

22-180A, 22-180B, 22-180D, 22-575A, 22-11537, 22-11639, 22-12714B, 22-13134, 22-13135, 22-13211, 22-13212, 22-13503, 22-13509, 22-13511, 22-13585, 22-13586.

### **Water Right 22-405**

Water right 22-405 was decreed to J. J. Miller in "Rexburg Irrigation Company et al. vs. Teton Irrigation Canal Company et al.", commonly known as the Rexburg Decree. Water right 22-405 was decreed to lands located on SWSE and S½ SW Section 30, and NENW of Section 21, Township 4 North, Range 45 East, for a total of 160 acres. The decree entitled Mr. Miller to a total of 2.0 cfs from Paradise Springs. The decree stated a priority date of 6-1-1904.

Mike Reid, Don Leroy Miller and Rex Miller are the original claimants for 22-405. Rex Miller has since sold a portion of his land to John Collins, Andrew Richardson and some of his land if not all is now being subdivided. All of the original claimants claim the water had never been used on the decreed place of use. Don is J.J. Miller's son. He states along with the rest of the original claimants that J. J. Miller never owned any of the land described in the Rexburg decree, and that the land that the water was intended to be used on is located in the SESW and NESW Section 19 as well as NENW and SENW Section 30, Township 4 North, Range 45 East. After looking at the USGS topographic map, it was found that Paradise Springs' water could never have been used on the land described in the Rexburg Decree because it is up hill.

Don Miller brought in J. J. Millers Homestead description as well as a Notice Of Water Right submitted by J. J. Miller. The Homestead Entry for J. J. Miller and the land listed on his Notice of Water right are described as follows: E½ NW Section 30 and E½ SW Section 19, Township 4 North, Range 45 East.

Given this information it is believed that water right 22-405 had always been used on the land described by the claimants. It is also believed that the Rexburg Decree was in error.

Because of this error and the fact that the Rexburg Decree is an indeterminate decree in regard to exact acreage, Idaho Department of Water Resources' "Adjudication Memo #57" was used as a guide for these recommendations. "Adjudication Memo #57" states

that if the water right was part of an indeterminate decree, then the acres irrigated in 1987 will be used as the decreed place of use. In 1987 all of the E½ NW Section 30 and E½ SW Section 19, Township 4 North, Range 45 East was irrigated. This information was found through statements from the original claimants including signed statements from Rex Miller and Craig Kunz and by reviewing the aerial photos taken in 1987/1988 by the National Agriculture Imagery Program (NAIP). Though this is true, the claimants state that the NESW of Section 19 Township 4 North, 45 East was not irrigated until later (Affidavit supplied).

Rex Miller and Don Miller are brothers and each of them owned part of the land that was homesteaded by J. J. Miller. Even though the land was not split half and half between Don and Rex, the water right was. This information was obtained by a conversation with Don and a signed statement from Rex. Rex Miller and Don Miller each received 1.0 cfs of water right 22-405.

Mike Reid bought a portion of land from Don Miller therefore a portion of Don's 1.0 cfs was portrayed to him. Because of a claim that ground water users in the area were drying up Paradise Springs, Mike Reid filed a transfer to officially move the water from the decreed place of use to the land that it has always been used on. This transfer was lost in the system and when it was found it was decided that the Adjudication recommendations would accomplish the change the transfer was trying to accomplish, and the transfer was withdrawn. Rex's 1.0 cfs was also split. The recommendations for 22-405 have been created based on the above information.

**Recommendations for 21-405:**

- Mike Reid owns 35.6 acres of the Homesteaded land and receives 0.7 cfs and is reflected in the following claim files: 22-13212 (0.5 cfs), 22-13503 (0.2 cfs).
- Don Miller owns 9.6 acres and receives 0.3 cfs reflected in claim number 22-13211
- Rex Miller at one time irrigated 93.8 acres using water right 22-405 and water right 22-587. He owns 1.0 cfs of 22-405 and did not claim any additional water from 22-587 although he owned land covered by that right. He sold 7.2 acres and 0.08 cfs to Russel Bourne who then sold it to John Collins. John Collins' land was decreed as 22-587 and was therefore was recommended as such. Rex then sold another piece of his land to Andrew Richardson who received 0.34 cfs for 31 acres on land decreed as 22-405. Rex was left with 55.6 acres and 0.61 cfs on land covered by both 22-405 and 22-587.
- Rex Miller 55.6 acres and 0.61 cfs. Combination of 22-405 and 22-587 reflected in claim number 22-13585.
- Andrew Richardson 31 acres and 0.34 cfs. Portion of 22-405 reflected in claim number 22-13586.

- John Collins 7.2 acres and 0.08 cfs. Portion of 22-587 reflected in claim number 22-12714B.

### **Water Right 22-13509**

Later in time the NESW of Section 19, Township 4 North, Range 45 East started being irrigated by water that came from a ditch along the Western hillside. There was an affidavit submitted by Chester Miller, one of J. J. Miller's sons. This affidavit went through some history about the water from Paradise springs but the only concrete date that can be taken from that affidavit was 1960. Because of this information the priority date that was given to water right 22-13509 for the irrigation of the NESW of Section 19, Township 4 North, Range 45 East.

### **Water Right 22-4104**

According to the claimants in 1969 a pump went in on the East side of the spring and pumped water through a pipe for sprinkler irrigation. This pump not only irrigated all of the homesteaded land, but also began irrigating a small piece of land owned by Don Miller in the NWNW of Section 30 Township 4 North, Range 45 East. The affidavit provided by Chester Miller supports this beneficial use water right 22-4104. This right was split between Don Miller and Mike Reid.

### **Recommendations for 22-4104:**

- Mike Reid receives 0.59 cfs reflected in claim number 22-11639.
- Don Miller receives 0.14 cfs reflected in claim number 22-11537.

### **Water Right 22-587**

This water right was decreed in the Rexburg Decree to Caroline Withrick for an "undivided  $\frac{1}{4}$  of Paradise Springs" with a priority of 6-1-1904. The land in the decree is stated as follows:

"NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 30, T. 4 N., R., 45 E., B. M. also, Homestead not described in pleadings."

The Homestead for Caroline Withrick was found on the BLM website ([www.glorerecords.blm.gov](http://www.glorerecords.blm.gov)) but her name was spelled slightly different. The homestead was issued to Carolina Wuthrick dated May 20<sup>th</sup> 1862. The land was listed as follows:

"S $\frac{1}{2}$ SE Section 19 and NWNE Section 30 of T 4N R 45E"

The land listed on the decree and on the Homestead Entry total 200 acres.

7.2 acres of SWSE Section 19, Township 4 North, Range 45 East has been recommended to John Collins as 22-12714B. The remainder of that quarter-quarter has been recommended to Rex Miller as 22-13585. Duane Kunz claims 1.6 cfs of 22-587 reflected in water right claim number 22-13511. He claims the water has been used on NESW and NWSW Section 30, Township 4 North, Range 45 East, which is not the decreed place of use and no evidence has been submitted suggesting an error in the decree. As a result that claim has been disallowed.

### **Water Right 22-575**

Water right 22-575 was decreed in the Rexburg Decree to George Walton for 100 inches (2 cfs) from Paradise Springs with a priority of 6-1-1892. The land it was decreed to is described as follows:

“NW1/4 of SW1/4 and W1/2 of NW1/4 of Section. 29, and NE1/4 of NE1/4 of Section 30, T. 4 N. R., 45 E., B. M., Containing 160 Acres.”

In water right transfer number 3555 Gary Zohner transferred 1 cfs of water right 22-575 from NWNW Section 29 and NENE Section 30, Township 4 North, Range 45 East to the NWSE and SESE Section 19, Township 4 North, Range 45 East. Also in the same transfer he moved 0.7 cfs of water right 22-180 from the NENE Section 30, Township 4 North, Range 45 East to the same place of use in Section 19.

After transfer # 3555, the land pertinent to 22-575 is as follows:

NWSW and SESE Section 19, SWNW and NWSW Section 29 all in Township 4 North, Range 45 East.

Teton Rainbow Ranch at one time prior to 1987 owned land located in the SWNW and NWSW Section 29, Township 4 North, Range 45 East. They sold that land to Peter Shields and reserved the water as stated in the warrantee deed located in the claim file for water right 22-13134. Teton Rainbow Ranch then moved the water to SENE and NESE Section 30, Township 4 North, Range 45 East. Based on this information the recommendations follow.

### **Recommendations for 22-575:**

- Gary Zohner receives 1.0 cfs reflected in claim number 22-575A limited to 80 acres.
- Wally Rothgeb receives, as an accomplished change in place of use, 0.13 cfs for 8.9 acres reflected in claim number 22-13135.
- Teton Rainbow Ranch receives, as an accomplished change in place of use, 0.86 cfs for 54 acres reflected in claim number 22-13134.

### **Water Right 22-180**

Water right 22-180 was decreed in the Rexburg Decree to H. C. Bowles for 140 inches (2.8 cfs) from Spring Creek, with a priority of 6-1-1889. The land describe in the decree is as follows:

“SW1/4 of SW1/4 and SW1/4 of SE1/4 of Section. 29, N1/2 of NE1/4 of Section. 30, T. 4 N., R. 45 E., B. M., containing 160 acres”.

After transfer # 3555 mentioned above the lands to which water right 22-180 was pertinent is as follows.

NWSE and SESE Section 19, SWSW and SWSE Section 29, and NWNW Section 30, Township 4 North, Range 45 East.

Though 22-180 was decreed the source of “Spring Creek”, no one knows exactly where Spring Creek is. Some of the local names for Paradise Springs are Sulfur Creek and Spring Creek. In my analysis Paradise Springs, springs up into a pond and when water is high it will flow down and add to the water down stream in what is locally known as Miller Slough or Paradise Creek. Paradise Creek is a gaining reach and water can be found in it even after water is too low for Paradise Springs to feed it. It is possible that at the time of the Rexburg decree, Paradise Springs and Paradise Creek were referred to as separate sources. It is my opinion that the Rexburg Decree decreed rights to Paradise Springs and also Paradise Creek but named it Spring Creek because it was connected to Paradise Springs at times. For lack of other evidence and the fact that for years, it has been accepted that 22-180 is part of Paradise Springs my recommendation is that 22-180 be decreed, at least in part, to Paradise Creek. A transfer was even approved by the Department for this right and no protests were received to my knowledge. The Rexburg Decree did however decree 40 acres of land to this water right on the East side of the River. This is the portion of the right that Duane Kunz is claiming. That is why I recommended Unnamed Stream to this right. Why that land was decreed is unknown to me. It may be an error, or the land on the West side of the river may be in error. It could also be that H. C. Bowles allowed the water to flow into the Teton River and then he took it out upstream in an exchange fashion, otherwise I don’t understand why 80 acres would be decreed right on Paradise Creek and 80 acres decreed ½ mile upstream and 40 acres of it on the East side of the river. It may be that we want to recommend 22-180A and 22-180D as Paradise Creek to differentiate between Paradise Springs and Paradise Creek, and then have a point of injection and a point of re-diversion.

Based on that information the recommendations for 22-180 are as follows.

#### **Recommendations for 22-180:**

- Gary Zohner receives 0.7 cfs for 80 acres reflected in claim number 22-180A (Paradise Springs)

- Duane Kunz receives 0.7 for 40 acres reflected in claim number 22-180B (Unnamed Stream)
- Larell Kunz receives 0.44 cfs for 25 acres reflected in claim number 22-180D (Paradise Springs)

**Report by Trent Galbraith 12-15-06: Revised 10-1-2007**



# Idaho Department of Water Resources

SRBA Recommendation:

**22-13586**

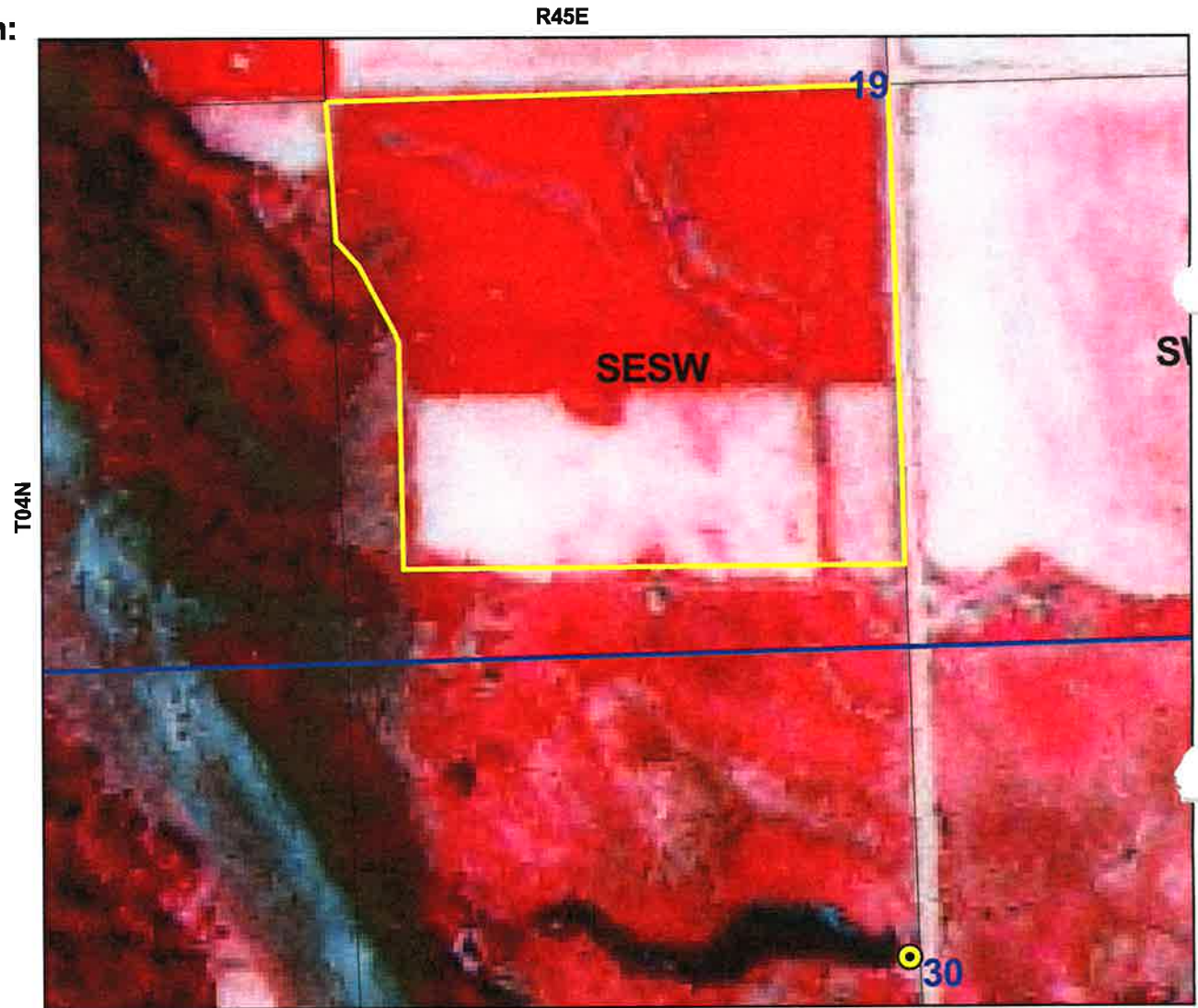
(Irrigation)

## Legend

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



Teton County  
IDWR Basin 22



0

0.2

0.4 Miles

Prepared by T. Galbraith  
On Friday, December 15, 2006  
1987/88 Aerial Photography



# Idaho Department of Water Resources

SRBA Recommendation:

**22-13586**

(Irrigation)

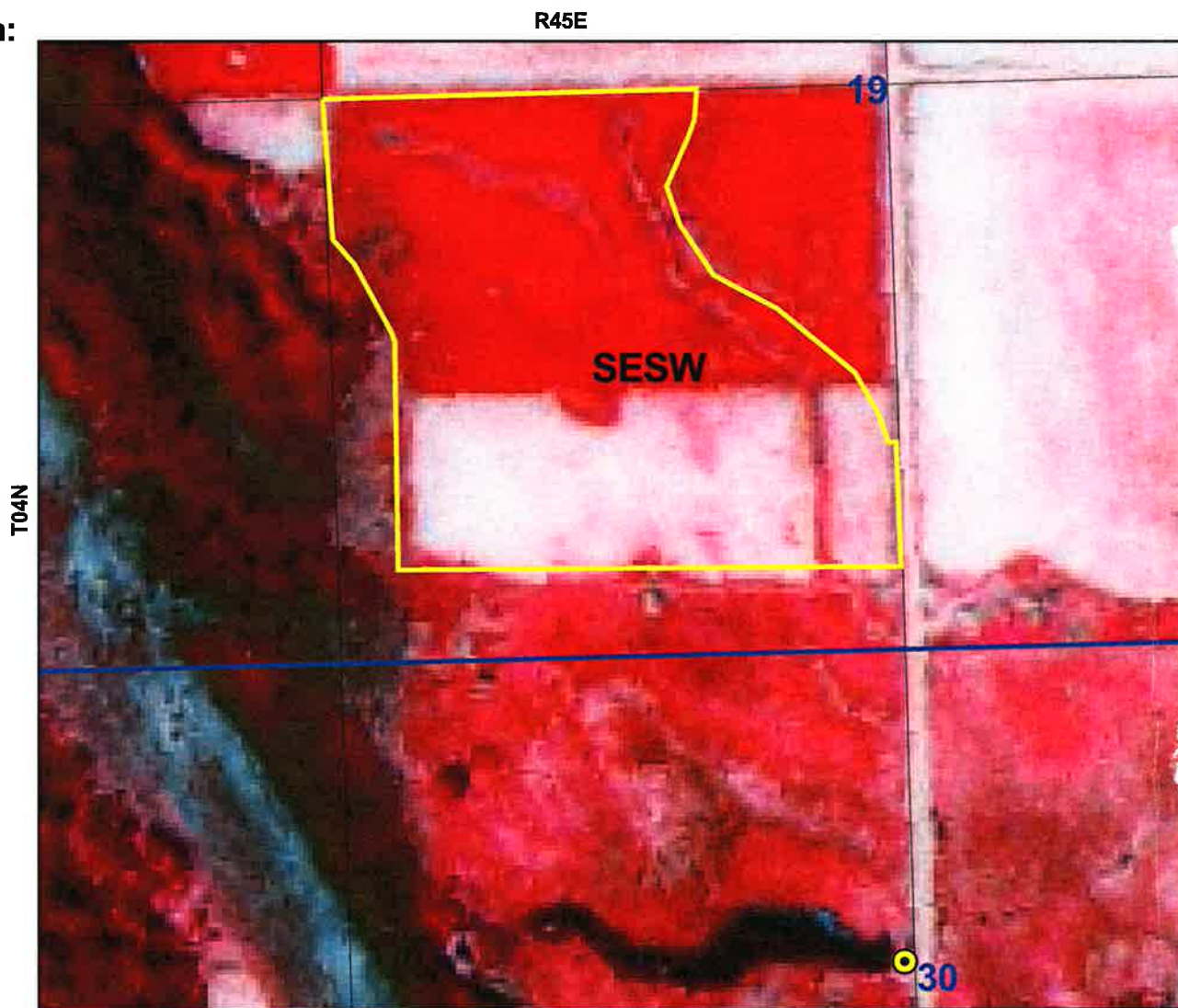
## Legend

JUN 05 2006  
SCANNED

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



Teton County  
IDWR Basin 22



0 0.2 0.4 Miles

Prepared by J. Crabtree  
On Friday, September 15, 2006  
1987/88 Aerial Photography



## TETON COUNTY, IDAHO

### DEPARTMENT OF PLANNING AND BUILDING

June 20, 2006

Dear Reviewing Agency:

Enclosed please find the plat for Paradise Springs Planned Unit Development, located within Teton County, Idaho. We are requesting that you review the plat in accordance with your agencies rules and regulations. Please submit your remarks to the Planning and Zoning Office 20 days from receipt of this notification. It will be assumed that your agency foresees no problems with this project if we do not receive comments from you by July 10, 2006.

If you have any questions, please do not hesitate to contact my assistant, Rachel Burnside, at 208-354-2593. She can be reached 9:00 a.m. – 3:00 p.m., Monday through Friday.

Sincerely,

*L. Larry Boothe*  
(DT for)

L. Larry Boothe  
Planning Administrator

RECEIVED

JUN 21 2006

Department of Water Resources  
Eastern Region

SCANNED

JUN 05 2007

## Paradise Springs

### 22-405

22-405 was decreed to J. J. Miller in the Rexburg Decree to lands located on SWSE and S1/2SW Sec 30, and NENW of Sec 21 T 4 N 45 E for a total of 160 acres. The source of the decree is 2 CFS from Paradise Springs. The decree stated a priority date of 6/1/1904.

Mike Reid, Don Leroy Miller and Rex Miller are the original claimants for 22-405. Rex Miller has since sold a portion of his land to John Collins, Andrew Richardson and some of his land if not all is now being subdivided. All of the original claimants claim the water has never been used on the decreed POU. Don is J.J. Miller's son. He states as well as the rest of the claimants that J. J. Miller never owned any of the land described in the Rexburg decree, and that the land that the water was intended to be used on is SESW and NESW Sec 19 as well as NENW and SENW Sec 30 in T 4 N 45 E. Paradise Springs' water could never have been used on the land described in the Rexburg Decree because it is up hill and too far away.

Don Miller brought in J. J. Millers Homestead description as well as a Notice Of Water Right. The Homestead Entry for J. J. Miller and the land listed on his Notice of Water right are described as follows: E1/2NW Sec 30 and E1/2SW Sec 19 T 4 N 45 E.

Given this information it is believed that water right 22-405 had always been used on the land described by the claimants. It is also believed that the Rexburg Decree was in error.

Because of this error and the fact that the Rexburg Decree is and indeterminate decree when it comes to exact acreage, memo #57 was used as a guide for these recommendation. Memo #57 states that if the water right was part of an indeterminate decree, then we use the acres irrigated in 1987 as the decreed POU. In 1987 all of the E1/2NW Sec 30 and E1/2SW Sec 19 was irrigated. This information was found by looking at aerial photos of 1987 or by statements from the original claimants including signed statements from Rex Miller and Craig Kunz. Though this is true the claimants state that the NESW of Sec 19 was not irrigated until later (Affidavit supplied).

Rex Miller and Don Miller are brothers and each of them owned part of the land that was homesteaded. Even though the land was not split half and half between Don and Rex, the water right was. This information was obtained by a conversation with Don and a signed statement from Rex. Rex Miller initially had 1 CFS of 22-405 and Don had the same.

Mike Reid bought some land from Don Miller so a portion of Don's 1 CFS goes to him. Because of some issues with well users drying up Paradise Springs, Mike Reid filed a transfer to officially move the water from the decreed POU to the land that it has always been used on. This transfer was lost in the system and by the time it was found it was decided that because the Adjudication recommendations would accomplish the same thing the transfer was trying to accomplish, the transfer would be withdrawn. Rex's 1

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JUN 05 2007

CFS was also split. The recommendations for 22-405 have been created based on the above information.

#### Recommendations

Mike Reid owns 35.6 acres of the Homesteaded land and receives 0.7 CFS and is reflected in the following claim files: 22-13212 (0.5 CFS), 22-13503 (0.2 CFS).

Don Miller owns 9.6 acres and receives 0.3 CFS reflected in claim number 22-13211

Rex Miller at one time irrigated 93.8 acres using water right 22-405 and 22-587. He owns 1.0 CFS of 22-405 and did not claim any additional water from 22-587 although he owned land covered by that right. He sold 7.2 acres and 0.08 CFS to Russel Bourne who then sold it to John Collins. That land was decreed as 22-587 so that is how it was recommended. Rex Then split off another piece of his land to Andrew Richardson who then got a right for 0.34 CFS for 31 acres on land decreed to 22-405. Rex was left with 55.6 acres and 0.61 CFS on land covered by both 22-405 and 22-587.

Rex Miller 55.6 acres 0.61 CFS combination of 22-405 and 22-587 reflected in claim number 22-13585.

Andrew Richardson 31 acres 0.34 CFS portion of 22-405 reflected in claim number 22-13586.

John Collins 7.2 acrs .08 CFS portion of 22-587 reflected in claim number 22-12714B.

#### **22-13509**

Later in time the NESW of Sec 19 started being irrigated by water that came from a ditch along the Western Hillside. There was an affidavit submitted by Chester Miller, one of J. J. Miller's sons. This affidavit went through a lot of history about the water from Paradise springs but the only date that can be pulled from that affidavit was 1960. This is the priority date I gave 22-13509 for the irrigation of the NESW of Sec 19.

#### **22-4104**

According to the claimants in 1969 a pump went in on the east side of the spring and pumped water through a pipe for sprinkler irrigation. This pump besides irrigating all of the Homesteaded land also began irrigating a small piece of land owned by Don Miller in the NWNW of Sec 30. The affidavit provided by Chester Miller supports this beneficial use water right 22-4104. This right was split between Don Miller and Mike Reid.

#### Recommendations

Mike Reid receives 0.59 CFS reflected in 22-11639.

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JUN 05 2007

Don Miller receives 0.14 CFS reflected in 22-11537.

**22-587**

This water right was decreed in the Rexburg Decree to Caroline Withrick for an "undivided  $\frac{1}{4}$  of Paradise Springs" with a priority of 6/1/1904. The land stated in the decree is stated as follows:

"NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Sec 30, T. 4 N., R., 45 E., B. M. also, Homestead not described in pleadings."

The Homestead for Caroline Withrick was found on the BLM website ([www.glorerecords.blm.gov](http://www.glorerecords.blm.gov)) but her name was spelled a little different. The homestead was made by Carolina Wuthrick dated May 20<sup>th</sup> 1862. The land was listed as follows:

S1/2SE Sec 19 and NWNE Sec 30 of T 4N R 45E

The land listed on the decree and on the Homestead Entry totals 200 acres.

7.2 acres of SWSE Sec 19 T 4N R 45E has been recommended to John Collins. The remainder of SWSE has been recommended to Rex Miller. Duane Kunz claims 1.6 CFS of 22-587. He claims the water has been used on NESW and NWSW Sec 30 T 4N R 45E which is not the decreed POU so it has been disallowed.

**22-575**

22-575 was decreed in the Rexburg Decree to George Walton for 100 inches (2 CFS) from Paradise Springs with a priority of 6/1/1892. The land it was decreed to is described as follows:

"NW $\frac{1}{4}$  of SW $\frac{1}{4}$  and W $\frac{1}{2}$  of NW $\frac{1}{4}$  of Sec. 29, and NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Sec. 30, T. 4 N. R., 45 E., B. M., Containing 160 Acres."

In transfer number 3555 Gary Zohner Transferred 1 CFS of 22-575 from NWNW Sec 29 and NENE Sec 30 4N 45E to NWSE and SESE Sec 19 4N 45E. Also in the same transfer he moved .7 CFS of 22-180 from NENE Sec 30 4N 45E to the same POU in Sec 19.

After the transfer, the land pertinent to 22-575 is as follows:

NWSW and SESE Sec 19, SWNW and NWSW Sec 29 all in 4N 45E.

Teton Rainbow Ranch at one time prior to 1987 owned SWNW and NWSW Sec 29. They sold that land to Peter Shields and reserved the water as stated in a warrantee deed in 22-13134. Teton Rainbow Ranch then moved the water to SENE and NESE Sec 30. Based on this information the recommendations follow.

SCANNED

JUN 05 2007

## Recommendations

Gary Zohner receives 1.0 CFS reflected in claim number 22-575A limited to 80 acres.

Wally Rothgeb receives, as an accomplished change in POU, 0.13 CFS for 8.9 acres reflected in claim number 22-13135.

Teton Rainbow Ranch receives, as an accomplished change in POU, 0.86 CFS for 54 acres reflected in claim number 22-13134.

### **22-180**

22-180 was decreed in the Rexburg Decree to H. C. Bowles for 140 inches (2.8 CFS) from Spring Creek, with a priority of 6-1-1889. The land describe in the decree is as follows:

“SW1/4 of SW1/4 and SW1/4 of SE1/4 of Sec. 29, N1/2 of NE1/4 of Sec. 30, T. 4 N., R. 45 E., B. M., containing 160 acres”.

After transfer 3555 mentioned above the lands to which this water water was pertinent is as follows.

NWSE and SESE Sec 19, SWSW and SWSE Sec 29, and NWNE Sec 30.

Based on that information the recommendations for 22-180 are as follows.

## Recommendations

Gary Zohner receives 0.7 CFS for 80 acres reflected in claim number 22-180A

Duane Kunz receives 0.7 for 40 acres reflected in claim number 22-180B

Larell Kunz receives .44 CFS for 25 acres reflected in claim number 22-180D

Report by Trent Galbraith 12-15-06

SCANNED

JUN 05 2007

Kent Foster / 4 not Ray

# NOTICE OF WATER RIGHT.

STATE OF IDAHO, }  
COUNTY OF FREMONT, } ss.

To All Concerned Notice is Hereby Given:

1st. That

*John J. Miller*  
watering trough of *Batis Fremont Co. Idaho*  
hereby giving the use of the waters of *Sunderland Springs or*  
*Paradise Springs*  
to the extent of *2* cubic feet per second.

2d. It is intended to divert said water at or near the point where a copy of this notice is posted, and more definitely as follows:

*Commencing as a spring on the*  
*N 61° 24' E. Lot 30. Twp 4 S. R 45 E.*  
*thence east about one half mile, and*  
*thence into the Latah River.*

(In above description give legal subdivision of land or describe the place with reference to some prominent landmarks.)

3d. The purpose for which said water is to be used is

*Irrigation and*  
*Culinary purposes*

The place of intended use is

*Batis Fremont Co. Idaho*

4th. It is intended to divert said water by means of

*Dam and Headgate*

The general course of the proposed canal is

*about north*

The length of the proposed canal is

It is intended to use said water for irrigating the following described land:

*E 1/4 Sec 4 = 30 = E 2 S 27 1/2, Lot 19 Twp 4 S*  
*R 45 E.*

5th. It is intended to have the works for diversion and use of said water as aforesaid completed with-

in *5* years. (This must in no case exceed five years.)

WITNESS

*my hand at St. Anthony*

this *23* day of *May* 1907

*John J. Miller*

Claimants.

SCANNED  
JUN 05 2007

June 12, 1902

4-007.

Application No. 8850

# HOMESTEAD.

Land Office at

I, John J. Miller, of Bates  
Idaho, do hereby apply to enter, under Section 2289,

Revised Statutes of the United States, the 62874 = 30 = 65874  
of Section 19, in Township 4 N of  
Range 43 E, containing 160 acres.

John J. Miller

Land Office at BLACKFOOT, IDAHO

JUL 19 1902

I, LORENZO A. THOMAS, REGISTER OF THE LAND OFFICE,

do hereby certify that the above application is for Surveyed Lands of the class  
which the applicant is legally entitled to enter under Section 2289, Revised  
Statutes of the United States, and that there is no prior valid adverse right to  
the same.

Lorenzo A. Thomas  
Register.

SCANNED  
JUN 05 2007

OK  
JC  
9/1/06

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

Please print or type. Attach pages with additional information. Instructions are on the back of this page.  
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 division of the existing water right or adjudication claim record will be required.

| Water<br>Right<br>No(s). | Adjudication<br>Claim No(s).           | Split | Water<br>Right No(s). | Adjudication<br>Claim No(s). | Split |
|--------------------------|----------------------------------------|-------|-----------------------|------------------------------|-------|
|                          | <sup>22</sup><br><del>21</del> -12714A | ✓     |                       |                              |       |
|                          |                                        |       |                       |                              |       |
|                          |                                        |       |                       |                              |       |
|                          |                                        |       |                       |                              |       |
|                          |                                        |       |                       |                              |       |

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

3. Name and Address of Former Owner/Claimant Rex & Ra Nae Miller  
PO Box 55, Filer, ID 83328
4. New Owner/Claimant(s) Andrew J. & Nancy Diane Richardson  
Name connector (check one): [ ] and [ ] or, [ ] and/or  
New Mailing Address PO Box 469  
City, State and ZIP Code Victor, ID 83455  
New Telephone Number 208-354-8370
5. Date you acquired the property January 31, 2006

**SCANNED**  
**JUN 05 2007**

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

| DESCRIPTION OF YOUR PORTION OF WATER RIGHT<br>(If the right(s) will not be split, skip this area and proceed to item 7) |                                                                            |                                                               |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|---------------------------------------------------------------|
| Water Right and/or Adjudication Claim Number                                                                            | 22-12714A                                                                  |                                                               |
| Water Use                                                                                                               | Diversion Rate or Volume<br>(cubic feet per second or acre-feet per annum) | Description<br>(acres, number and type of stock, homes, etc.) |
| Irrigation                                                                                                              | 0.43 cfs                                                                   | 31 acres                                                      |
| Stock                                                                                                                   |                                                                            |                                                               |
| Domestic                                                                                                                |                                                                            |                                                               |
| Other                                                                                                                   |                                                                            |                                                               |
| <b>TOTAL</b>                                                                                                            | 0.43 cfs                                                                   |                                                               |

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

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

*Chris Richardson*  
president

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

**For Office Use Only**

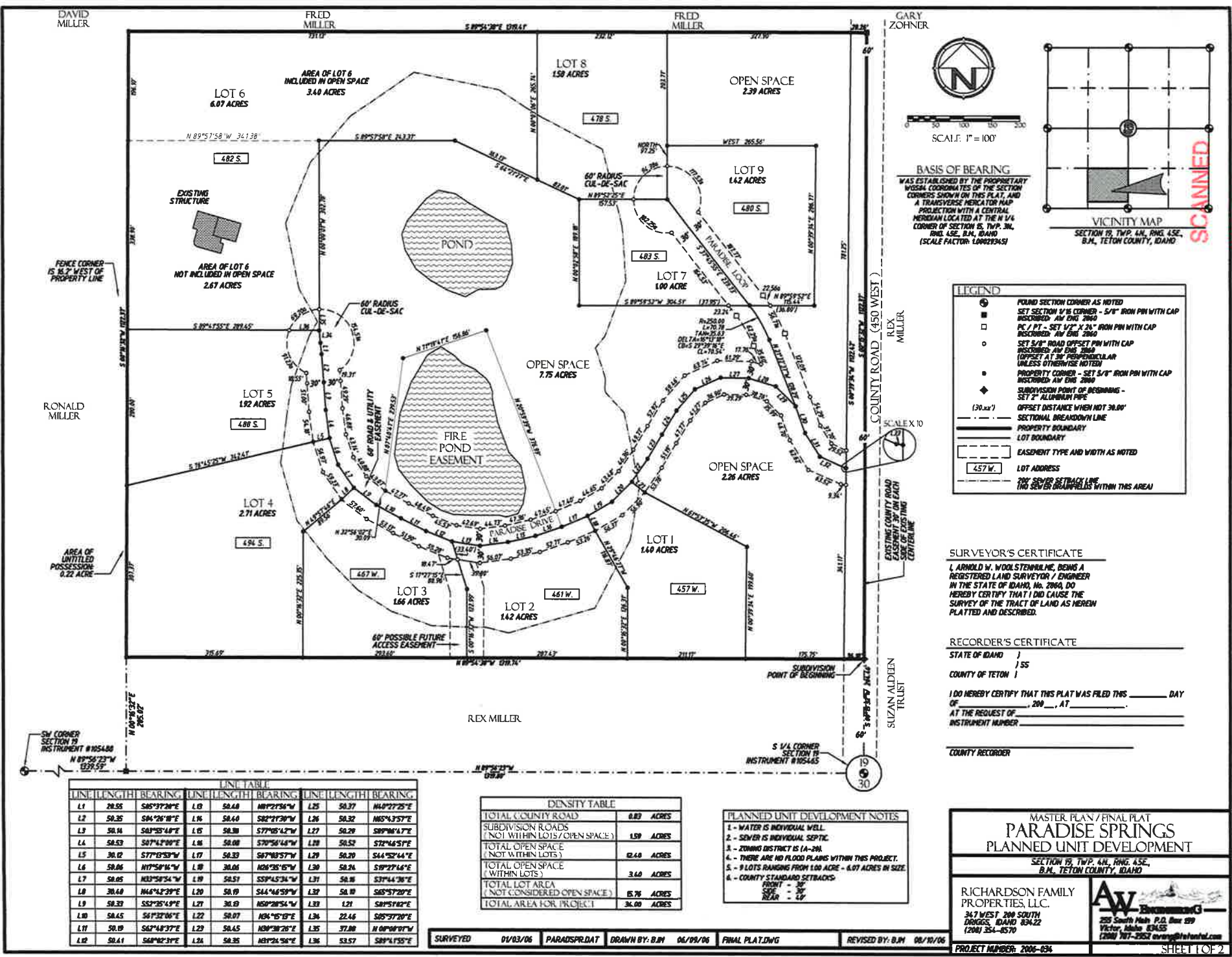
Received by \_\_\_\_\_ Date \_\_\_\_\_ Fee \_\_\_\_\_  
 Receipted by \_\_\_\_\_ Date \_\_\_\_\_ Receipt No. \_\_\_\_\_  
 Processed by \_\_\_\_\_ Date \_\_\_\_\_ WR \_\_\_\_\_ Date \_\_\_\_\_

SCANNED

JUN 05 2007

JUN 05 2007

SCANNED



174591

RECEIVED

FEB 03 2006

TETON CO., ID  
CLERK RECORDERRECORDING REQUESTED BY  
First American Title CompanyAND WHEN RECORDED MAIL TO:  
First American Title Company  
81 North Main Street/P.O. Box 42  
Driggs, ID 83422

Instrument # 174591

DRIGGS, TETON, IDAHO

2006-02-03

02:05:23 No. of Pages: 3

Recorded for : FIRST AMERICAN TITLE CO

NOLAN G. BOYLE

Fee: 8.00

Ex-Officio Recorder Deputy

Index to: DEED, WARRANTY

Space Above This Line for Recorder's Use Only

## WARRANTY DEED

File No.: 143826-T (km)

Date: January 05, 2006

For Value Received, **Rex Miller and Ra Nae Miller, husband and wife**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **Andrew J. Richardson and Nancy Diane Richardson, husband and wife**, hereinafter called the Grantee, whose current address is **P.O. Box 469, Victor, ID 83455**, the following described premises, situated in **Teton County, Idaho**, to-wit:

**Legal Description attached hereto as Exhibit A, and by this referenced incorporated herein.**

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.

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.

174591

SCANNED

JUN 05 2007

Date: 01/05/2006

Warranty Deed  
- continued

File No.: 143826-T (km)

Rex Miller  
Rex Miller

Ranae Miller  
Ra Nae Miller

STATE OF Idaho )  
SS.

COUNTY OF Teton (Twin Falls)

On this 31st day of January, 2006, before me, a Notary Public in and for said State, personally appeared **Rex Miller and Ra Nae Miller**, 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.

Rex address

PO BOX 55

Filer ID  
'83328

Layne W. Price  
Notary Public for the State of Idaho  
Residing at: TWIN FALLS, ID  
My Commission Expires: 12-01-06

LAYNE W. PRICE  
NOTARY PUBLIC  
STATE OF IDAHO

174591

SCANNED

JUN 05 2007

Date: 01/05/2006

Warranty Deed  
- continued

File No.: 143826-T (km)

### EXHIBIT A

**A Part of the SE 1/4 SW1/4 Section 19, TWP, 4N., RNG 45E., B.M., Teton County, Idaho, being further described as:**

**From the S1/4 corner of said section 19, Thence N 00°15'33"E, 204.35 feet along the East line of the SE1/4SW1/4 of said Section 19, to the point of beginning;**

**Thence N 89°54'38"W, 1319.73 feet to a point on the West line of the SE1/4SW1/4; Thence N 00°16'32"E, 1122.37 feet along the West line of the SE1/4SW1/4 to the NW corner of the SE1/4SW1/4; Thence S 89°54'38"E, 1319.41 feet along the North line of the SE1/4SW1/4 to the NE corner of the SE1/4SW1/4; Thence S 00°15'33"W, 1122.37 feet along the East line of the SE1/4SW1/4 to the point of beginning.**

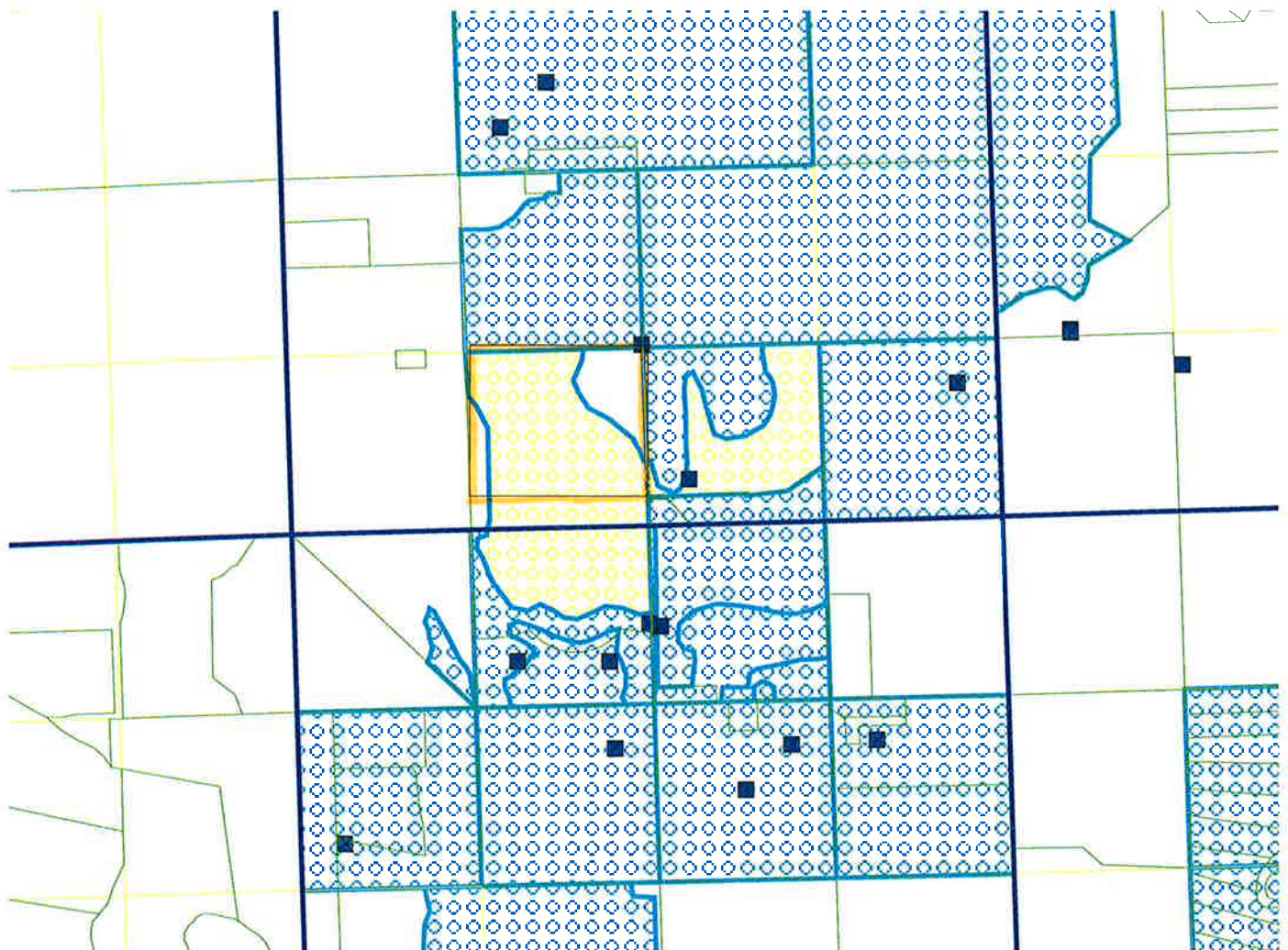
**LESS AND EXCEPTING THEREFROM the existing county road right-of-way along the East boundary of the above described property.**

174591

SCANNED

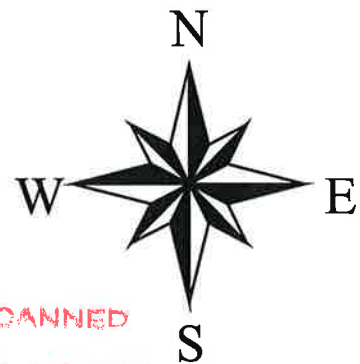
JUN 05 2007

# 22-12714a split to Richardson



0.3 0 0.3 0.6 Miles

-  Sections
-  Teton taxlots
-  QQ
-  GCDB04N45E GCDB
-  Recommendation POD
-  Recommendation POU
-  Administrative BasinsAdminbas.shp



SCANNED  
JUN 05 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 22-13586

Date Received \_\_\_\_\_

Receipt Number

**AMENDED NOTICE OF CLAIM  
TO A  
WATER RIGHT  
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s) Richardson Family Properties, LLC Phone (208)354-8570

Mailing Address PO Box 469, Victor, ID Zip 83455

2. Date of Priority (Only (1) per claim) May 23, 1901

3. Source of water supply (a) Paradise Springs

which is tributary to (b) Teton River

4.a. Location of existing point of diversion is:  
Township 4N Range 45E. Section 30, NE 1/4 of NE 1/4 of NW 1/4, Govt. Lot     ,  
County of       
Parcel (PIN) No.                     

Additional points of diversion if any: \_\_\_\_\_

If Available, GPS Coordinates: \_\_\_\_\_

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. \_\_\_\_\_

6. Water is claimed for the following purposes: (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/15 to 10/31 amount .47 cfs or

7. Total quantity claimed (a) .47 (cfs) and/or (b)      (acre feet)

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

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
  - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

| TWP | RNG | SEC | NE 1/4 |    |    |    | NW 1/4 |    |    |    | SW 1/4 |    |    |    | SE 1/4 |    |    |    | TLS |
|-----|-----|-----|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|----|----|-----|
|     |     |     | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE |     |
| 4N  | 45E | 19  |        |    |    |    |        |    |    |    |        |    |    | 32 |        |    |    |    | 32  |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |     |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |     |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |     |

Parcel (PIN) No(s). \_\_\_\_\_

Total number of acres irrigated 32

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

11. 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.

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

22-13854 or None ( )

13. Remarks:

We anticipate that this claim will be recommended in accordance with approved Transfer No. 74679 that allowed for construction of a recreational pond.

14. Basis of Claim (Check one) Beneficial Use      Posted Notice      Permit      Decree X License     

If applicable provide IDWR Water Right Number 22-405

Court                      Case Number              Decree Date                     

Plaintiff vs Defendant Rexburg Decree

15. 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 Organizations: I do solemnly swear or affirm under penalty of perjury that I am attorney of Richardson Family Properties, LLC, that I have signed the foregoing document in the space below as attorney of Richardson Family Properties, LLC, and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Robert L. Lamm

Title and Organization Attorney, Richardson Family Properties, LLC Date FEB. 11, 2011

Last Name Richardson Family Properties, LLC Ident. Number 22-13586

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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

Robert L. Harris

Address PO Box 50130, Idaho Falls, ID 83405-0130

Date

FEB. 11, 2011

G:\WPDATA\RLH\13869 Richardson, Andy\Amended Claim, 22-13856.wpd:cdv

2014  
Robert L. Harris, Esq. (ISB # 7018)

rharris@holdenlegal.com

**HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.**

P.O. Box 50130

1000 Riverwalk Dr., Ste. 200

Idaho Falls, Idaho 83405

Telephone: (208) 523-0620

Facsimile: (208) 523-9518

RECEIVED

FEB 14 2011

DEPARTMENT OF  
WATER RESOURCES

RECEIVED

FEB 27 2011

Department of Water Resources  
Eastern Region

**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

Subcase: 22-13586

Case No. 35976

**NOTICE OF FILING OF AMENDED  
NOTICE OF CLAIM**

Richardson Family Properties, LLC, by and through its counsel of record, Robert L. Harris of Holden, Kidwell, Hahn & Crapo, PLLC hereby provides notice that on February 11, 2011 the attached Amended Notice of Claim for Water Right No. 22-13586 was submitted to Michael Holliday of the Eastern Region Office of the Idaho Department of Water Resources.

Dated this 11<sup>th</sup> day of February, 2011.

  
Robert L. Harris  
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

SCANNED

FEB 16 2011

## CERTIFICATE OF MAILING

I certify that on this 11<sup>th</sup> day of February, 2011, 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, ID 83303-2707

2. Copies to:

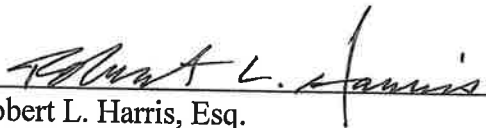
Thomas J. Budge  
201 E Center St.  
P.O. Box 1391  
Pocatello, ID 83204-1391

Director of IDWR  
P.O. Box 83720  
Boise, ID 83720-0098  
Don Le Roy Miller  
1835 Teton View Dr.  
Rexburg, ID 83440

Larell A Kunz  
4346 W 5250 S  
Victor, ID 83455

Chester H Miller  
Rex H Miller  
P.O. Box 532  
Driggs, ID 83422

Michael Reid  
P.O. Box 801  
Victor, ID 83455

  
Robert L. Harris, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

SCANNED

FEB 16 2011

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

RECEIVED

FEB 14 2011

DEPARTMENT OF  
WATER RESOURCES

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
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CIVIL CASE NUMBER: 39576

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County of \_\_\_\_\_

Parcel (PIN) No. \_\_\_\_\_

Additional points of diversion if any: \_\_\_\_\_

If Available, GPS Coordinates: \_\_\_\_\_

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. \_\_\_\_\_

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FEB 16 2011

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|-----|-----|-----|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|----|----|-----|
|     |     |     | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE |     |
| 4N  | 45E | 19  |        |    |    |    |        |    |    |    |        |    |    | 32 |        |    |    |    | 32  |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |     |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |     |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |     |

Parcel (PIN) No(s). \_\_\_\_\_

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Court     Case Number     Decree Date    

Plaintiff vs Defendant Rexburg Decree

15. 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 Organizations: I do solemnly swear or affirm under penalty of perjury that I am attorney of Richardson Family Properties, LLC, that I have signed the foregoing document in the space below as attorney of Richardson Family Properties, LLC, and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent 

Title and Organization Attorney, Richardson Family Properties, LLC Date FEB. 11, 2011

SCANNED

FEB 16 2011

Last Name Richardson Family Properties, LLC Ident. Number 22-13586

\* 17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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

Robert L. Harris

Address PO Box 50130, Idaho Falls, ID 83405-0130

Date

FEB. 11, 2011

G:\WPDATA\RLH\13869 Richardson, Andy\Amended Claim, 22-13856.wpd:cdv

Last Name Richardson Family Properties, LLC Ident. Number 22-13586

SCANNED

FEB 16 2011