

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

RIGHT NUMBER: 22-13723
NAME AND ADDRESS: WELLS FARGO BANK NA
MAC C7300-079
1700 LINCOLN ST 7TH FLOOR
DENVER CO 80203

~~BC PROPERTIES LLC~~
~~PO BOX 28~~
~~DRIGGS ID 83422~~

SOURCE: Source:
GROUND WATER

Tributary:

QUANTITY: 0.480 CFS 0.660 CFS
158.000 AFY 218.000 AFY

PRIORITY DATE: 10/10/1974

POINT OF DIVERSION: T05N R45E S5 NESESE Within TETON County

PURPOSE AND PERIOD OF USE:	Purpose of use	Period of use:	Quantity:
	IRRIGATION	04/15 10/15	0.480 CFS 158.00 AFY
			~~0.660 CFS 218.00 AFY~~

PLACE OF USE: IRRIGATION within TETON County
T05N R45E S05 NWSW 39.0 T05N R45E S05 SWSW 35.0
74 ACRES TOTAL

This right is limited to the irrigation of 52.5 acres within the place of use described above in a single irrigation season.

~~This right is limited to the irrigation of 72.5 acres within the place of use described above in a single irrigation season.~~

~~The rights listed below are limited to the irrigation of a combined total of 74 acres in a single irrigation season. Combined Right Nos. 22-13721 & 22-13723.~~

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.

This water right is subject to a private agreement entered into between Kerry Gee & Kathleen Gee and Wells Fargo Bank, NA dated March 30, 2012 and recorded as Instrument No. 221561 in Teton County.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right is a split from former right 22-7105.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

~~Use of water under this right is combined with water from Leigh Creek Canal.~~

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:

KERRY GEE
Represented by:
HYRUM D. ERICKSON
25 N. 2ND E.
P.O. BOX 250
REXBURG, ID 83440-0250

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 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 No. 22-13723

Case No. 39576

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described as per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT(s):
Wells Fargo Bank, N.A.

OBJECTOR(s):
Kerry Gee

C. Timothy Hopkins Date
Attorney for Claimant

Hyrum D. Erickson 4/6/2012
Attorney for Objector Date

IDWR Concurrence:

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

Andrea L. Courtney 4/5/12
Andrea L. Courtney Date
Deputy Attorney General
Attorney for IDWR



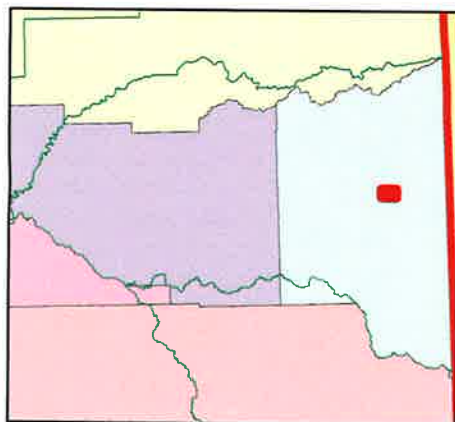
Idaho Department of Water Resources

Adjudication Recommendation

22-13723

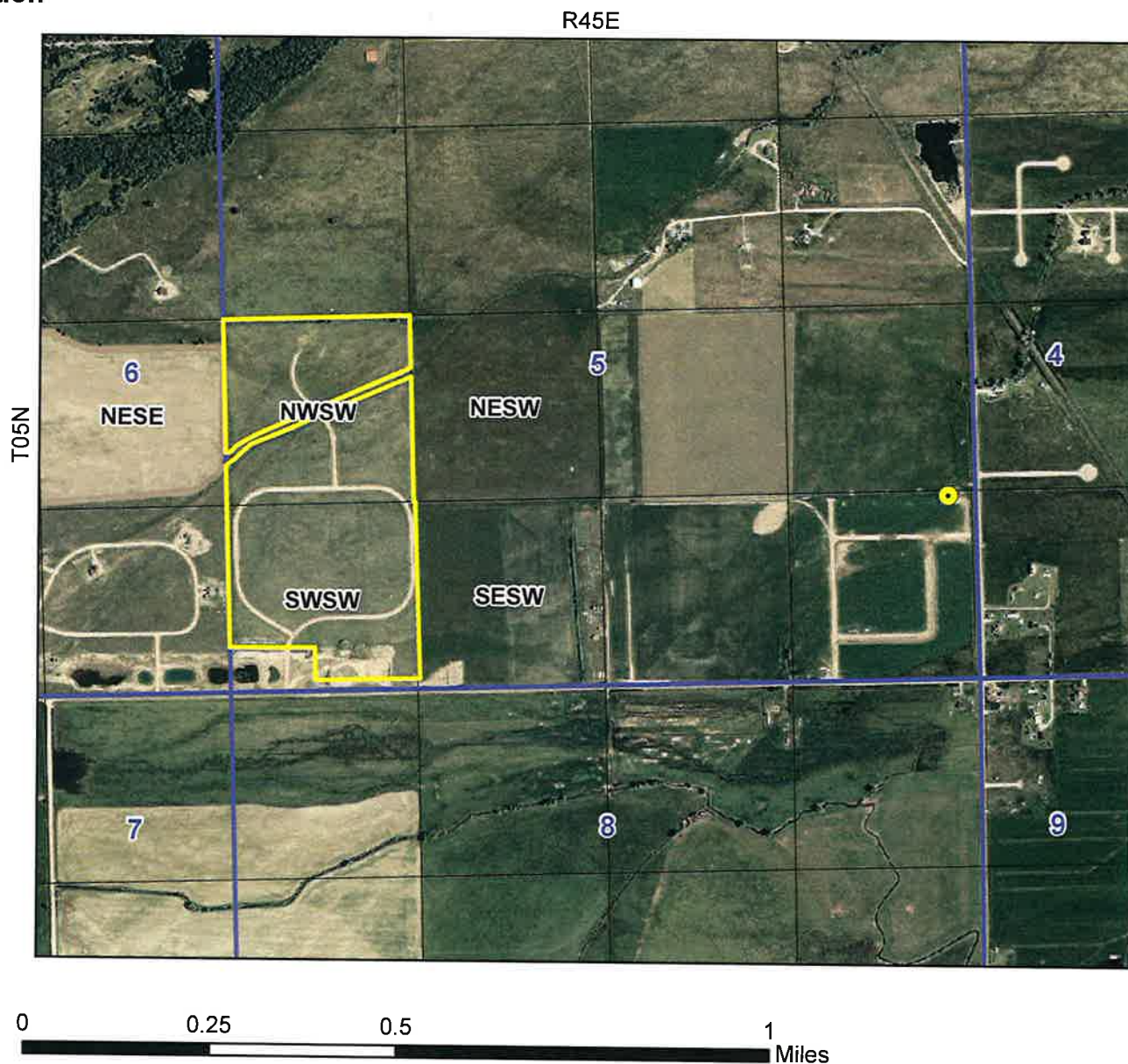
(IRRIGATION)

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



Teton County
IDWR Basin 22

Prepared by Kidman, Denise
On May 01, 2012
2009 Aerial Photography





Idaho Department of Water Resources

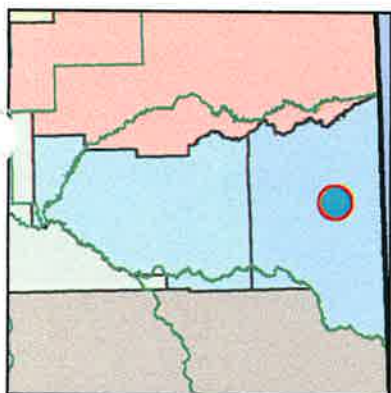
SRBA Recommendation:

22-13723

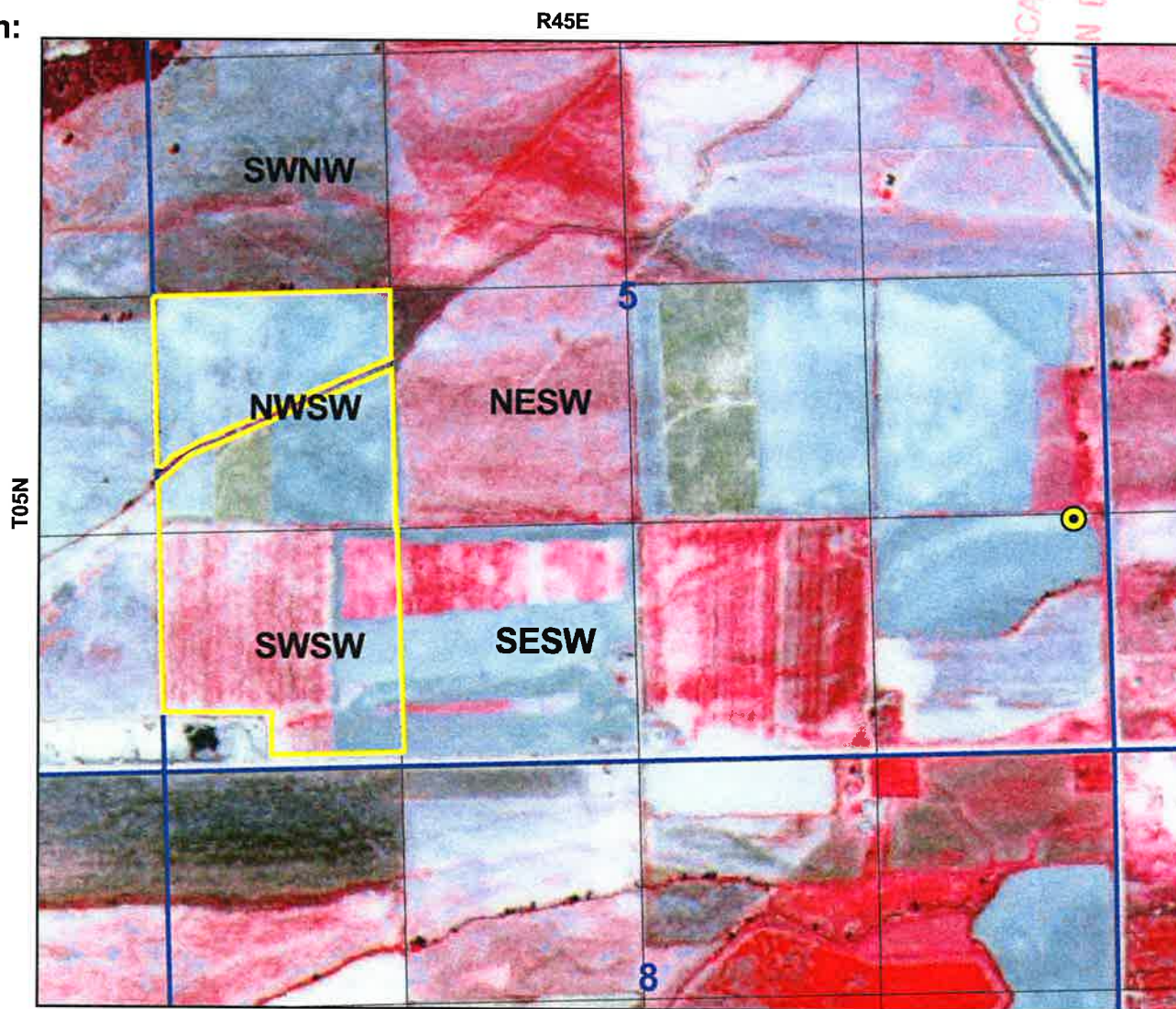
(Irrigation)

Legend

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



Teton County
IDWR Basin 22



0 0.4 0.8 Miles

Prepared by J. Crabtre
On Wednesday, May 30, 2007
1987/88 Aerial Photography

Instrument # 221561

TETON COUNTY, IDAHO
04-02-2012 16:26:56 No. of Pages: 9
Recorded for: ALLIANCE TITLE - REXBURG OFFICE
MARY LOU HANSEN Fee: \$34.00
Ex-Officio Recorder Deputy, Mary Lou Hansen
Index to: AGREEMENT

WATER RIGHT SETTLEMENT AGREEMENT

Come now, KERRY GEE and KATHLEEN GEE, husband and wife, of 2364 E. Highway 33, Sugar City, Idaho, 83448, hereinafter "Gee", and WELLS FARGO BANK, N.A., a national banking association, with a mailing address of MAC C7300-079, 1700 Lincoln Street, 7th Floor, Denver, CO 80203,

WHEREAS,

- A. On or about March 8, 2007, Gee sold a parcel of property in Teton County, Idaho, to BC Properties;
 - B. The deed to that property was recorded in Teton County as instrument number 185905;
 - C. Gee retained ownership of a parcel adjacent to the parcel sold to BC Properties;
 - D. Prior to the sale, both parcels had been serviced by water rights identified as water right numbers 22-568B and 22-7105;
 - E. The parties dispute whether the water rights appurtenant to the parcel purchased by BC Properties were included in the sale or were retained by Gee;
 - F. Gee filed a lawsuit in the Seventh Judicial District of the State of Idaho, County of Teton, numbered CV-2007-311, to determine the ownership of the water rights, which lawsuit was dismissed on the stipulation of the parties with the option of re-filing;
 - G. Gee objected to BC Properties claim of water rights in the Snake River Basin Adjudication (SRBA). That matter is ongoing in the following SRBA subcases:
 - H. 22-568B split to 22-13720 and 22-13721 (surface water)
 - I. 22-7105 split to 22-13722 and 22-13723 (ground water);
 - J. Gee has received permission to subdivide the Southeast quarter of the Southeast quarter of Section 5, Township 5 North, Range 45 East, Boise Meridian. Some roads have been put in place and lots are currently for sale in the quarter/quarter Section;
 - K. Wells Fargo Bank, N.A., judicially foreclosed on the property owned by BC Properties in Teton County Case No. CV-11-41 and now holds title to the BC Properties property.
 - L. The parties now desire to resolve their dispute;
- NOW THEREFORE, it is hereby stipulated and agreed by and among the parties as follows:**

This instrument filed
as an accommodation only.
It has not been examined
as to it's execution, insurability
or effect on title.

FILED**SCANNED****MAY 02 2012**

WATER RIGHT SETTLEMENT AGREEMENT

Come now, KERRY GEB and KATHLEEN GEB, husband and wife, of 2364 E. Highway 33, Sugar City, Idaho, 83448, hereinafter "Geb", and WELLS-FARGO BANK, N.A., a national banking association, with a mailing address of MAC C7300-079, 1700 Lincoln Street, 7th Floor, Denver, CO 80203,

WHEREAS,

- A. On or about March 8, 2007, Geb sold a parcel of property in Teton County, Idaho, to BC Properties;
- B. The deed to that property was recorded in Teton County as instrument number 185905;
- C. Geb retained ownership of a parcel adjacent to the parcel sold to BC Properties;
- D. Prior to the sale, both parcels had been serviced by water rights identified as water right numbers 22-568B and 22-7105;
- E. The parties dispute whether the water rights appurtenant to the parcel purchased by BC Properties were included in the sale or were retained by Geb;
- F. Geb filed a lawsuit in the Seventh Judicial District of the State of Idaho, County of Teton, numbered CV-2007-311, to determine the ownership of the water rights, which lawsuit was dismissed on the stipulation of the parties with the option of re-filing;
- G. Geb objected to BC Properties claim of water rights in the Snake River Basin Adjudication (SRBA). That matter is ongoing in the following SRBA subcases:
- H. 22-568B split to 22-13720 and 22-13721 (surface water)
- I. 22-7105 split to 22-13722 and 22-13723 (ground water);
- J. Geb has received permission to subdivide the Southeast quarter of the Southeast quarter of Section 5, Township 5 North, Range 45 East, Boise Meridian. Some roads have been put in place and lots are currently for sale in the quarter/quarter Section;
- K. Wells Fargo Bank, N.A., judicially foreclosed on the property owned by BC Properties in Teton County Case No. CV-11-41 and now holds title to the BC Properties property.
- L. The parties now desire to resolve their dispute;

follows:

NOW THEREFORE, it is hereby stipulated and agreed by and among the parties as

This instrument filed
as an accommodation only.
It has not been examined
as to its execution, insurability
or effect on title.

Recorded Electronically
ID 221561
County Teton
Date 4/2/2013
Time 3:26pm
Simplifile.com 800.460.5657

- Regarding the ground water rights, the parties agree that there will be three distinct ground water rights:
- Water right number 22-13722 will be owned by Gee and will have the following description:

Groundwater

- | I. | Quantity - 3.2 CFS |
|------|--|
| II. | Priority date - 5/25/1898 |
| III. | Source - South Leigh Creek, tributary to Teton River |
| IV. | Point of Diversion - SWSE/Sec. 33/Township 06N/Range 45E/TRION County, delivered by the Gale-McFarlane Ditch |
| V. | Purpose of Use - Irrigation |
| VI. | Period of Use - 4/15 to 10/15 |
| VII. | Place of Use |
| | Sec. 05/Township 05N/Range 45E/TRION County |
| | NWSB - 40 acres |
| | SRSR - 34 acres |
| | NBSB - 32 acres |
| | SWSB - 36 acres |
| | SRSW - 37 acres |
| | Total acres 179 |
- Regarding the ground water rights, the parties agree that there will be three distinct ground water rights:

spill the water right in May 2007, which are as follows:

The parties agree that Geo will receive the entire surface water right formerly identified as 22-568B, which includes the rights now identified as 22-13720 and 22-13721, and that the elements will be as they existed prior to the Administrative Proceeding purporting to split the water right in May 2007.

vi. Place of Use

Sec. 05/Township 05N/Range 45E/TETON County

SESW - 37 acres

NWSE - 40 acres

SESE - 34 acres

NESE - 32 acres

SWSE - 36 acres

Total of 179 acres

vii. Acreage Limit

This right will be limited to the irrigation of 175.5 acres within the place of use described above in a single irrigation season.

b.

Water right number 22-13723 will be owned by Wells Fargo Bank, N.A. and will have the following elements:

i. Quantity - .48 CFS/158 APY

ii. Priority date - 10/10/1974

iii. Point of Diversion - NESESE/Sec. 05/Township 05N/Range 45E/TETON County

iv. Purpose of Use - Irrigation

v. Period of Use - 4/15 to 10/15

vi. Place of Use

Sec. 05/Township 05N/Range 45E/TETON County

NWSW - 39 acres

SWSW - 35 acres

Total of 74 acres

vii. Acreage Limit

This right will be limited to the irrigation of 52.5 acres within the place of use described above in a single irrigation season.

c.

Water right number 22-13723A will be owned by Geo. Geo will own and have sole use of this water right until seven lots have been purchased in

the subdivision of the Southeast quarter of the Southeast quarter of Section 5, Township 5 North, Range 45 East, Boise Meridian. When the seventh lot is purchased in that subdivision, Gee will provide to Wells Fargo Bank, N.A., or its successor in interest, a deed substantially similar to the draft deed attached hereto as Exhibit A. Gee will have no further interest in the water right and Wells Fargo Bank, N.A., or its successor in interest, will be solely responsible for transferring the place of use or point of diversion of the water right. When Gee sells the lot, or any other portion of the Southeast quarter of the Southeast quarter, Gee will reserve ownership of water right 22-13723A to himself. Water right 22-13723A will have the following elements:

- i. Quantity - .18 CFS/60 AFY
- ii. Priority date - 10/10/1974
- iii. Point of Diversion - NESESE/Sec. 05/Township 05N/Range 45E/TETON County
- iv. Purpose of Use - Irrigation
- v. Period of Use - 4/15 to 10/15
- vi. Place of Use
Sec. 05/Township 05N/Range 45E/TETON County
SESE - 34 acres
Total of 34 acres
- vii. Acreage Limit

This right will be limited to the irrigation of 20 acres within the place of use described above in a single irrigation season.

3. The parties agree that neither Wells Fargo Bank, N.A., nor its successor(s) in interest, will have the right to use the well located on Gee's property currently listed as the point of diversion for the ground water rights. The parties anticipate that in order to use its ground water right, Wells Fargo Bank, N.A., or its successor(s) in interest, will be required to install a well on its property. Wells Fargo Bank, N.A., or its successor(s) in interest, will

- be solely responsible for obtaining any necessary permits, transfers, or other changes in its water rights to change the point of diversion.
4. In consideration of the terms and conditions of this Settlement Agreement, and other valuable consideration, the parties mutually release, acquit, and forever discharge each other, each other's agents and representatives, from any and all claims, demand, actions, obligations, and any rights pursuant to and alleged in Teton County Case no. CV-2007-311.
 5. Each party shall and does hereby agree to pay their own attorneys fees and costs incurred in this matter.
 6. The parties agree that they and their representatives will work together to effectuate this agreement.
 7. The parties agree that the above settlement is contingent on its approval by the Idaho Department of Water Resources. If the Department determines that the described water rights cannot be recommended as described above, in particular if the separation of the rights will result in an "unstacking" that reduces the number of irrigable acres, this Settlement Agreement will be voidable upon reasonable notice by either party that they do not intend to be bound by the Settlement Agreement.
 8. This Settlement Agreement contains the entire agreement between the parties with regard to the matters set forth in it and shall be binding upon and enure to the benefit of the executors, administrators, heirs, successors and assigns of each.

DATED This 31st day of March, 2012.

Kerry Gee
Kerry Gee

Kathleen Gee
Kathleen Gee

Harrison Erickson for
Jerry R. Rigby
Counsel for Kerry & Kathleen Gee

C. Timothy Hopkins
Wells Fargo Bank, N.A.
By: Kris L. Hansen
Title: officer

217 m/lr
C. Timothy Hopkins
Counsel for Wells Fargo Bank N.A.

Exhibit A

DEED TO A WATER RIGHT

THIS INDENTURE, Made this ____ day of _____, 20____, between Kerry Gee and Kathleen Gee, husband and wife, whose address is 2364 E. Highway 33, Sugar City, in Madison County, Idaho 83448, the parties of the first part, and Wells Fargo Bank, N.A., a national banking association, with a mailing address of MAC C7300-079, 1700 Lincoln Street, 7th Floor, Denver, CO 80203, the party of the second part,

WITNESSETH, that the said parties of the first part, for and in consideration of the sum of One and No/100 Dollars, lawful money of the United States of America, and other valuable consideration, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold and by these presents, does grant, bargain, sell, convey, and confirm unto the said party of the second part, and its assigns forever, that certain water right, more particularly described as follows:

<u>Right No.</u>	<u>Priority</u>	<u>Quantity (cfs/ac-ft)</u>	<u>Purpose of use</u>	<u>Period of Use</u>
22-13723A	10/10/1974	.18 CFS/60 APY	Irrigation	4/15 to 10/15

SOURCE: Ground water

POINT OF DIVERSION: NESESE/Sec. 05/Township 05N/Range 45E/TETON County

PLACE OF USE: Sec. 05/Township 05N/Range 45E/TETON County SESE - 34 acres

ACREAGE LIMIT: This right will be limited to the irrigation of 20 acres within the place of use described above in a single irrigation season.

TOGETHER WITH all rights appertaining thereto,

TO HAVE AND TO HOLD, all and singular, the said water right, unto the said party of the second part, and to its assigns forever.

IN WITNESS WHEREOF, The said parties of the first part, have, as aforesaid, hereunto set their hands and seals the day and year first above written.

Kerry Gee

Kathleen Gee

STATE OF IDAHO,)
 ss.
County of Madison.)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for said State, personally appeared Kerry Gee and Kathleen Gee, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

Notary Public for Idaho
Residing at:
My Commission Expires:

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 1 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 42-248/42-1409(5) Rev. 07/10

RECEIVED

MAR 20 2012

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

)

Water Rights: 22-13721 & 22-13723

Case No. 39576

)

)

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

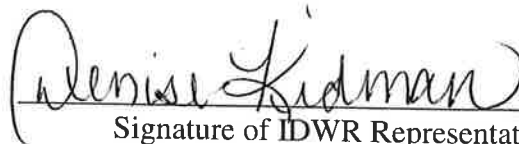
IDWR has completed the following Administrative proceeding:

- ☐ 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

SCANNED

MAR 23 2012

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

Kerry Gee

Represented by:

Ray W Rigby
25 N 2nd E
PO Box 250
Rexburg ID 83440-0250

BC Properties LLC

Represented by:

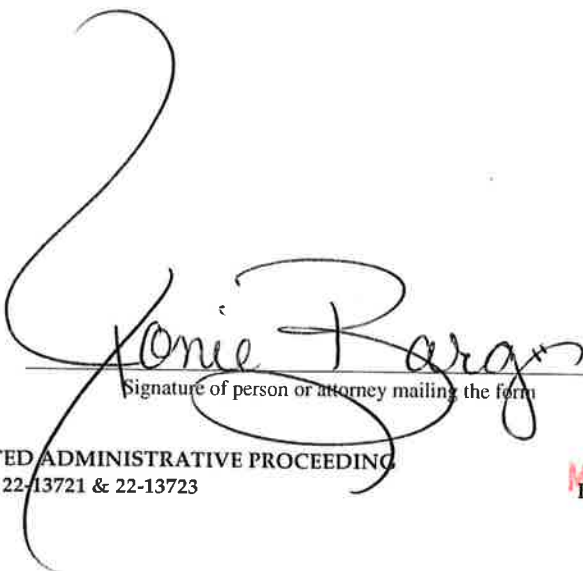
Chad Marlow
PO Box 4842
Jackson WY 83001

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

NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING
22-13721 & 22-13723

3/20/2012

SCANNED

MAR 23 2012
Page 2

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

RIGHT NUMBER: 22-13723

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

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.660 CFS 218 AFY

PRIORITY DATE: 10/10/1974

POINT OF
DIVERSION:

T05N R45E S5 NESESE Within TETON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/15	0.660 CFS
		218.00 AFY

PLACE OF USE: IRRIGATION in TETON County

T05N R45E S05 NWSW 39.00 T05N R45E S05 SWSW 35.00

74 ACRES TOTAL

This right is limited to the irrigation of 72.5 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 74 acres in a single irrigation season. Combined Right Nos.: 22-13721 & 22-13723.

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Use of water under this right is combined with water from Leigh Creek Canal.

This right is a split from former right 22-7105.

SCANNED

MAR 23 2012

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

RIGHT NUMBER: 22-13721

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: 0.580 CFS

PRIORITY DATE: 05/25/1898

POINT OF
DIVERSION:

T06N R45E S33 SWSE 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	0.580 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T05N R45E S05 NWSW 39.00	T05N R45E S05 SWSW 35.00	
	74 ACRES TOTAL		

This right is limited to the irrigation of 29.2 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 74 acres in a single irrigation season. Combined Right Nos.: 22-13721 & 22-13723.

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

Use of water under this right is combined with water from Leigh Creek Canal.

Water is delivered through Gale Moffat Ditch.

This right is a split from former right 22-568B.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

SCANNED

MAR 23 2012

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

In Re SRBA

Case No. 39576

)
)
)
)
)

A.

Subcase: 22-13723

(Insert Water Right Number)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Kerry Gee

Address: 2364 E HWY 33

SUGAR CITY, ID 83448

Daytime Phone: (208)356-3783

Name and Address of Attorney, if any:

RAY W. RIGBY

P.O. BOX 250

REXBURG, IDAHO 83440

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

Name: BC PROPERTIES LLC

Address: PO BOX 28

DRIGGS, ID 83422

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

1. ☐ **Name and Address**
Should be:
2. ☐ **Source**
Should be:
3. ☒ **Quantity**
Should be:
4. ☐ **Priority Date**
Should be:
5. ☐ **Point of Diversion**
Should be:
6. ☐ **Instream Flow Beginning and Ending Point**
Should be:
7. ☐ **Purpose(s) of Use**
Should be:
8. ☐ **Period of Year**
Should be:
9. ☐ **Place of Use**
Should be:
10. ☐ **Other Conditions of Approval**
11. ☐ **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):**

The right from which this right was split, (22-7105), use to cover the full SE1/4, the SESW, and the W1/2 of the SW1/4 of Section 5, Township 5N, Range 45E. However, the W1/2 of the SW1/4 has recently been sold, with all water rights reserved to Kerry Gee and Gerald Gee. However, the Department erroneously split the right and assigned a portion of the right to the W1/2 of the SW1/4. The full 2.26 cfs should remain on the SE1/4 and the SESW of Section 5.

F. VERIFICATION (must be completed)

STATE OF IDAHO,)
 ss
County of Madison.)

Kerry Gee, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

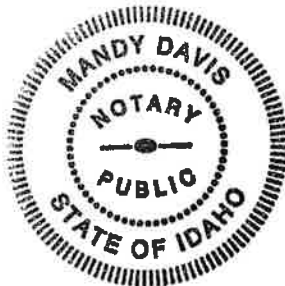
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objections, know its contents and believe that the statements are true to the best of my knowledge.

Kerry Gee
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn before me on:

July 25, 2007



Mandy Davis

Notary Public for Idaho

Residing at: St. Anthony

My Commission Expires: 6-24-2011

INSTRUCTIONS FOR MAILING

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

G. CERTIFICATE OF MAILING

I certify that on July 25, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707
2. One copy to the claimant of the water right at the following address:
Name: BC PROPERTIES LLC
Address: PO BOX 28
DRIGGS, ID 83422
3. Copies to:
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment and Nat'l Resources Div
550 W. Fort Street, MSC 033
Boise, ID 83724

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



Signator of objector or attorney
mailing on Objector's behalf

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 22-13723

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: BC Properties, LLC

Address: PO Box 28

Driggs, ID 83422

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:** Condition No. 6 on the Recommendation should be removed from the Recommendation.

☐ 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):** Water Right No. 22-13721 was abandoned and forfeited many years ago and replaced with groundwater right No. 22-13723. No water from Leigh Creek Canal is used for the irrigation of this property.

VERIFICATION (Must be Completed)

State of Idaho)
)ss.
County of Bonneville)

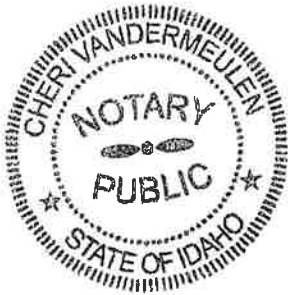
Kent W. Foster, duly sworn, upon oath, deposes and says:

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: BC Properties, LLC

Address: PO Box 28
Driggs, ID 83422

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:\WP\DATA\KWF\10627-005 Rocky Mtn. Environmental\Objection, 22-13723.wpd



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

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

May 30, 2007

BC PROPERTIES LLC
PO BOX 28
DRIGGS ID 83422

RE: Notice of Change of Water Right Ownership (NCO) for
22-568B, 22-7105 and Notice of Completed Administrative Proceeding
(NCAP)

Dear Sir or Madam:

The Idaho Department of Water Resources (IDWR) received an NCO changing the right holder for a portion of the above referenced water right(s). Based on this NCO, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated with new water right numbers reflecting the division of the water right(s).

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 the water right(s) as recorded in the SRBA.

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

Respectfully,

Jennifer Crabtree
Technical Records Specialist

Enclosure

SCANNED

JUN 04 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 SRBA)

Water Rights: 22-7105 SPLIT
INTO 22-13722 & 22-13723

Case No. 39576)

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

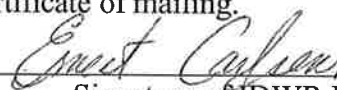
IDWR has completed the following Administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party SPLIT GEE—GEE/ BC PROPERTIES
- ☐ 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: May 30, 2007



Signature of IDWR Representative

SCANNED

JUN 04 2007

CERTIFICATE OF MAILING

I certify that on June 4, 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:
JERALD & KERRY GEE
2364 E HWY 33
SUGAR CITY ID 83448

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:
JERALD & KERRY GEE BC PROPERTIES LLC
2364 E HWY 33 PO BOX 28
SUGAR CITY ID 83448 DRIGGS ID 83422

4. One copy to:

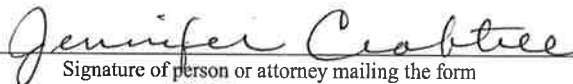
Each party in the subcase, or attorney of record
N/A

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

JUN 04 2007

RECEIVED

APR 13 2007

Department of Water Resources
Eastern Region

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

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).

needs
XCAP

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
22-568 B		yes			
22-7105		yes			

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)

Jerald/Kerry GEE
2364E HWY 33

4. New Owner/Claimant(s)

SUGAR CITY, ID 83448
Name Connector (Check one): [] and, [] or, [] and/or

New Mailing Address

BC Properties LLC

City, State and ZIP Code

PO BOX
28

Driggs, Idaho 83422-Box 28
(208) 351-2633

New Telephone Number

SCANNED

JUN 04 2007

5. Date you acquired the property _____

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) _____

Ken J. Chao

BL Properties
member

(title if applicable)

(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 _____ Date _____
 Received by _____ Date _____
 Processed by _____ AJ Date _____

Receipt Amt. _____
 Receipt No. _____
 WR _____ Date _____

SCANNED

JUN 04 2007



ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

FILED EFFECTIVE
2007 FEB 26 AM 10:37
SECRETARY OF STATE
STATE OF IDAHO

1. The name of the limited liability company is:

BC PROPERTIES LLC

2. The street address of the initial registered office is:

241 N. 350 W., Driggs, Idaho 83422

and the name of the initial registered agent at the above address is:

Ken Chambers

3. The mailing address for future correspondence is:

P.O. Box 28, Driggs, ID 83422

4. Management of the limited liability company will be vested in:

Manager(s) ☐ or Member(s) ☒ (please check the appropriate box)

5. If management is to be vested in one or more manager(s), list the name(s) and address(es) of at least one initial manager. If management is to be vested in the member(s), list the name(s) and address(es) of at least one initial member.

Name

Address

Ken Chambers

P.O. Box 28, Driggs, ID 83422

Lucra Investments Inc.

750 N. 150 E., Teton, ID 83452

6. Signature of at least one person responsible for forming the limited liability company:

Signature: LM

Typed Name: Chad Marlowe

Capacity: Organizer

Signature _____

Typed Name: _____

Capacity: _____

Secretary of State use only

g:\corpform\llc\form\llcorganization.pdf
Revised 07/2002

Web Form

IDAHO SECRETARY OF STATE
02/26/2007 05:00
CK: 1004 CT: 204196 BH: 1035911
1 @ 100.00 = 100.00 ORGAN LLC # 2

W59728

SCANNED

JUN 04 2007

RECORDING REQUESTED BY
First American Title Company

185905 MAR 15 '07 PM 1:57

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

Instrument # 185905

TETON COUNTY, IDAHO

2007-03-15

01:57:00 No. of Pages: 2

Recorded for : FIRST AMERICAN

MARY LOU HANSEN

Ex-Officio Recorder Deputy

Index to: DEED, WARRANTY

Fee: 6.00

Space Above This Line for Recorder's Use Only

WARRANTY DEED

File No.: **197465-T (km)**

Date: **March 05, 2007**

For Value Received, **C. Kerry Gee and Kathleen F. Gee, Trustees, under the Kerry & Kathleen Gee Living Trust, dated October 22, 2003**, 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:

Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho

Section 5: W $\frac{1}{2}$ SW $\frac{1}{4}$

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.

SCANNED

JUN 04 2007

Date: 03/05/2007

Warranty Deed
- continued

File No.: 197465-T (km)

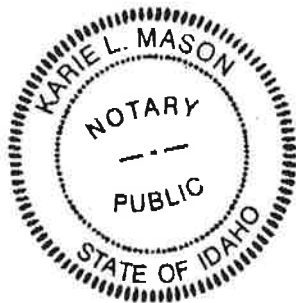
C. Kerry Gee and Kathleen F. Gee, Trustees,
under the Kerry & Kathleen Gee Living Trust,
dated October 22, 2003

C. Kerry Gee
C. Kerry Gee, Trustee

Kathleen F. Gee
Kathleen F. Gee, Trustee

STATE OF Idaho)
COUNTY OF Teton)
SS.

On this 8 day of March, 2007, before me, a Notary Public in and for said State, personally appeared **C. Kerry Gee and Kathleen F. Gee**, known or identified to me to be the person(s) whose name(s) are subscribed to the within instrument as trustees of the **C. Kerry Gee and Kathleen F. Gee, Trustees, under the Kerry & Kathleen Gee Living Trust, dated October 22, 2003** Trust, and acknowledged to me that they executed the same as such trustee.



Karie L. Mason
Notary Public of Idaho
Residing at: Victor
Commission Expires: 8-19-2010