

MEMORANDUM

Date: March 14, 2022
To: Transfer 85692
From: Jake Nebeker
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the place of use and the point of diversion for a 13.3-acre portion of water right 22-2175B and a 7.7-acre portion of water right 22-7032. The proposed place of use is currently irrigated through a water supply bank rental.

Authority to File:

The applicant is the current water right owner of record for water rights 22-2175B and 22-7032. The proposed place of use is owned by the applicant. The proposed point of diversion is on land owned by DS&S INC. An easement agreement was provided in the application for the use of this point of diversion. The existing place of use for water right 22-7032 is owned by Bench Farms LLLP, a partnership owned by the applicant, Richard Smith. The existing place of use for water right 22-2175B is the Sky Meadows subdivision, owned by various lot owners in the subdivision. IDWR records include a 2006 Warranty Deed from Richard Smith to Sky Meadows Development, LLC where water right 22-2175B was withheld from the sale of the existing place of use. The applicant, Richard Smith, has the authority to make the change.

Water Right Validity:

Water right 22-7032 was decreed in the SRBA in 2012 and has since been approved in transfer No. 85421 in 2021. Forfeiture does not appear to be an issue for this right.

Water right 22-2175B was decreed in the SRBA in 2008. In 2014, 39 acres of this right was leased to the water supply bank. The applicant uses this water on the proposed place of use and will discontinue the lease and rental of the transferred portion upon approval of this transfer. The water supply bank is aware and ready to make the change. Forfeiture does not appear to be an issue.

Injury to Other Water Rights:

Other rights do not appear to be injured by the proposed change. The quantity authorized to be diverted will not change as a result of this transfer. This transfer required the ESPA Model to be run, which resulted in no mitigation required. The transfer was advertised without protest. The water master was notified and did not oppose the approval of this transfer.

Enlargement of Use:

The proposed change does not appear to result in enlargement because neither rate nor volume nor irrigated acreage will increase as a result of this transfer. A water supply bank rental that is currently covering the proposed place of use will be discontinued and the rental agreement will be amended upon the approval of this transfer.

Local Public interest:

No issues identified.

Beneficial Use/Conservation of Water Resources:

No issues identified.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

RECORDING REQUESTED BY
First American Title Company

AND WHEN RECORDED MAIL TO:
First American Title Company
127 East Main
Rexburg, ID 83440

POU for WR#22-2175B

Instrument # 333811

REXBURG, MADISON, IDAHO

2007-01-02 10:27:00 No. of Pages: 3

Recorded for: FIRST AMERICAN TITLE

MARILYN R. RASMUSSEN

Fee: 9.00

Ex-Officio Recorder Deputy

First American Title Company

Space Above This Line for Recorder's Use Only

WARRANTY DEED

File No.: 187533-RX (ns)

Date: December 21, 2006

For Value Received, **Dick Smith Farms, Inc., Retirement Plan, Richard F. Smith, Beneficiary and Richard F. Smith and Jill Smith, husband and wife**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **Sky Meadows Development, LLC**, hereinafter called the Grantee, whose current address is **365 Granite Creek Road, Santa Cruz, CA 95060**, the following described premises, situated in **Madison County, Idaho**, to-wit:

Township 6 North, Range 40 E.B.M., Madison County, Idaho
Section 32: SW $\frac{1}{4}$ SW $\frac{1}{4}$, EXCEPT that portion of Lots 10, 11 and 12, Block 11 of Valley View Estates Subdivision, Division No. 3, City of Rexburg, Madison County, Idaho, which extends over the West Section line of the land described hereinabove.

ALSO EXCEPT: Commencing at the Southwest corner of said Section 32; thence N00°00'00"E a distance of 1265.88 feet along the west line of said Section 32; thence S89°57'46"E a distance of 45.57 feet to the Point of Beginning; thence N00°00'00"E a distance of 50.00 feet along the east line of Lot 12, Blk 11 of the Valley View Estates Subdivision, Division No. 3 to a $\frac{1}{2}$ inch rebar found in the North line of said Southwest Quarter of the Southwest Quarter (per ROS Inst. No. 230039); thence S89°57'46"E a distance of 60 feet along said North Line to a $\frac{1}{2}$ inch rebar; thence S00°00'00"W a distance of 50.00 feet to a $\frac{1}{2}$ inch rebar; thence North 89°57'46"W a distance of 60.00 feet to the Point of Beginning.

ALSO EXCEPT Pole Line Road.

SUBJECT TO: a mainline easement described as follows: Commencing at the Southwest corner of said Section 32; thence N00°00'00"E a distance of 1265.88 feet along the west line of said Section 32; thence S89°57'46"E a distance of 45.57 feet to the Point of Beginning. Thence S89°57'46"E a distance of 60.00 feet; thence N00°00'00"E a distance of 50.00 feet to the North line of said SW $\frac{1}{4}$ SW $\frac{1}{4}$; thence N89°57'46"E along said North line a distance of 1274.43 feet more or less to the Northeast corner of said SW $\frac{1}{4}$ SW $\frac{1}{4}$; thence S00°00'00"E a distance of 12.00 feet; thence S89°57'46"W a distance of 1262.43 feet; thence S00°00'00"E a distance of 50.00 feet; thence S89°57'46"W a distance of 72.00 feet; thence N00°00'00"E a distance of 12.00 feet to the Point of Beginning.

SUBJECT TO: Memorandum of Leases upon the terms, conditions, and covenants contained in the Memorandum of Leases recorded May 16, 2003 as Instrument #303716 and #303717

ALL WATER RIGHTS APPURTENANT TO THE ABOVE DESCRIBED PROPERTY ARE SPECIFICALLY EXCLUDED FROM THIS CONVEYANCE.

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.

RECEIVED

JAN 29 2015

DEPARTMENT OF
WATER RESOURCES

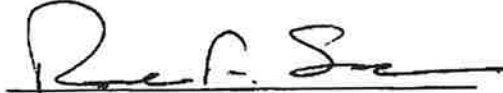
Submitted by J. Rigby - Lease Review 22-2175B (Part)

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.

Dick Smith Farms, Inc., Retirement Plan

By: 

Richard F. Smith, Trustee



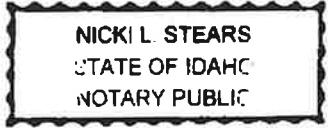
Richard F. Smith



Jill Smith

STATE OF Idaho)
SS.
COUNTY OF Madison)

On this 28th day of December, 2006, before me, a Notary Public in and for said State, personally appeared **Richard F. Smith**, known or identified to me to be the person(s) whose name(s) is subscribed to the within instrument as Trustee of the **Dick Smith Farms, Inc., Retirement Plan Trust**, and acknowledged to me that he executed the same as such Trustee.



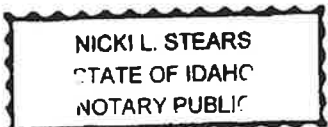
NICKI L. STEARS
STATE OF IDAHO
NOTARY PUBLIC



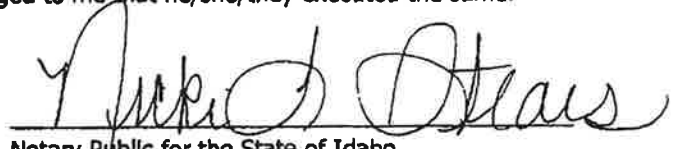
Notary Public of Idaho
Residing at: Idaho Falls, Idaho
Commission Expires: 1-3-2012

STATE OF Idaho)
SS.
COUNTY OF Madison)

On this 28th day of December, 2006, before me, a Notary Public in and for said State, personally appeared **Richard F. Smith and Jill Smith**, 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.



NICKI L. STEARS
STATE OF IDAHO
NOTARY PUBLIC



Notary Public for the State of Idaho
Residing at: Idaho Falls, Idaho
My Commission Expires: 1-3-2012



0004620097

**STATE OF IDAHO**

Office of the secretary of state, Lawrence Denney

REINSTATEMENT ANNUAL REPORT

Idaho Secretary of State

PO Box 83720

Boise, ID 83720-0080

(208) 334-2301

Filing Fee: \$30.00

For Office Use Only

-FILED-

File #: 0004620097

Date Filed: 2/22/2022 1:54:24 PM

POU for WR# 22-2175B

Reinstatement Annual Report Form

Select one: Standard, Expedited or Same Day Service (see descriptions below)

Standard (filing fee \$30)

Current Entity Name

SKY MEADOWS DEVELOPMENT, LLC

The file number of this entity on the records of the Idaho Secretary of State is:

0000179763

Organized under the laws of:

IDAHO

Entity Type:

Limited Liability Company (D)

Entity Subtype:

Limited Liability Company Subtype

Limited Liability Company

Limited Liability Company Name:

Limited Liability Company name

SKY MEADOWS DEVELOPMENT, LLC

The registered agent on record is:

Registered Agent

PH CORPORATE SERVICES, LLC

Commercial Registered Agent

Physical Address

4445 WEST 1200 NORTH

DAYTON, ID 83232

Mailing Address

Agent or Address Change?

☐ Appoint new agent (address change not available).

The mailing address of the corporation is:

AARON JENSEN
6225 S 440 E
MURRAY, UT 84107-7406

Limited Liability Company Managers and Members

Name	Title	Address
+ Aaron k Jensen	Manager	6225 SOUTH 440 EAST MURRAY, UT 84107

The Application for Reinstatement must be signed by at least one governor.

Job Title:

Manager

Aaron Jensen

02/22/2022

Sign Here

Date

DU004-0400 02/22/2022 1:54 PM RECEIVED BY ID SECRETARY OF STATE LAWRENCE DENNEY



0004591896

**STATE OF IDAHO***Office of the secretary of state, Lawrence Denney***ANNUAL REPORT**

Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$0.00

For Office Use Only

-FILED-

File #: 0004591896

Date Filed: 2/3/2022 10:56:52 AM

POU for WR # 22-7032

Entity Name and Mailing Address:

Entity Name:

BENCH FARMS LLLP

The file number of this entity on the records of the Idaho Secretary
of State is: 0000036034

Address

PO BOX 8
REXBURG, ID 83440-0008

Entity Details:

Entity Status

Active-Current

This entity is organized under the laws of:

IDAHO

If applicable, the old file number of this entity on the records of the
Idaho Secretary of State was: L6843

The registered agent on record is:

Registered Agent

RICHARD SMITH
Registered Agent

Physical Address

950 S MILLHOLLOW RD
REXBURG, ID 83440

Mailing Address

Limited Partnership General Partners

Name	Business Address
Richard Smith	950 S MILLHOLLOW RD REXBURG, ID 83440

The annual report must be signed by an authorized signer of the entity.

Job Title: Manager

Richard Smith

Sign Here

02/03/2022

Date

DU000-3300 02/03/2022 10:56 AM RECEIVED BY ID SECRETARLY OF STATE LAWRENCE DENNEY

Basin	Sequence	Suffix	Basis	Priority Date	Div Rate	Source List	Water Use List	Current Owner	WSB Status	Total Acres	Acre Limit	Volume
22	2156		Decreed	8/3/1954	1.900	GROUND WATER	IRRIGATION	D S & S INC		146.0		511.0 associated right
22	7054 A		Decreed	3/31/1972	2.580	GROUND WATER	IRRIGATION	D S & S INC		155.0		543.0 associated right
22	7054 B		Decreed	3/31/1972	2.670	GROUND WATER	IRRIGATION	D S & S INC		160.0		560.0 associated right
22	7509		License	7/1/1985	2.780	GROUND WATER	IRRIGATION	D S & S INC		139.0		associated right
22	7510		License	7/1/1985	1.550	GROUND WATER	IRRIGATION	D S & S INC		155.0		associated right
22	7538		License	6/27/1988	0.380	GROUND WATER	IRRIGATION	D S & S INC		38.0		associated right
					8.40 cfs	current combined limit						
					8.76 cfs	new combined limit w/ 22-14441 and 22-14442						
22	7502		License	6/27/1985	0.800	GROUND WATER	IRRIGATION	SMITH, JILL ; SMITH, RICHARD F		40.0		140.0 associated right
22	7032		Decreed	3/13/1970	1.730	GROUND WATER	IRRIGATION	SMITH, JILL D; SMITH, RICHARD F		89.8		315.0
22	2175 A		Decreed	2/23/1960	1.390	GROUND WATER	IRRIGATION	SMITH, RICHARD F	Active	87.0		304.5 associated right
22	2175 B		Decreed	2/23/1960	1.250	GROUND WATER	IRRIGATION	SMITH, RICHARD F	Active	78.0	78.0	273.0