

Maxey, Shaun

From: Maxey, Shaun
Sent: Thursday, September 28, 2017 9:40 AM
To: 'steven@mobmerch.com'
Subject: Correction to Idaho Water Right Application
Attachments: 97-7545-WELLS-APP-CORRECT-LTR.pdf; 97-7545-WELLS-APP-CORRECT-EXAMPLE.pdf;
97-7545-WELLS-APP-FOR-CORRECTION.pdf

Mr. Wells or Mrs. Wells:

Attached letter and other attachments are being sent to you via U.S. mail today.

Please telephone me if you have questions. I will be out of the office Thursday afternoon.

Shaun Maxey

Shaun M. Maxey
Sr. Water Resource Agent
Idaho Department of Water Resources, Northern Region
7600 N Mineral DR Suite 100
Coeur d'Alene, ID 83815-7763
Phone (208) 762.2816 /2800
Fax (208) 762.2819
www.idwr.idaho.gov



State of Idaho •

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815-7763
Phone: (208) 762-2800 • Fax: (208) 762-2819 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 28, 2017

Time Sensitive Response Required 10/30/2017

Steven Wells and Regina Wells
13220 Bridgeview Way
Mount Vernon, WA 98273

RE: Rule 35 Incomplete Application for Permit—Incorrect Point of Diversion Legal description

Dear Mr. and Mrs. Wells:

The purpose of this letter is to follow-up on my August 10, 2017 letter and request your help in correcting the incorrect legal description for the point of diversion on your Application for Permit. Please complete the following steps to accurately complete Line 4 of your Application for Permit.

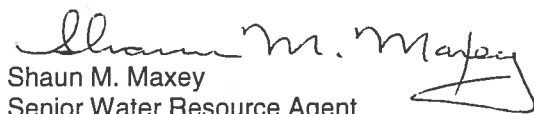
- Review the enclosed Do Not Return Example showing the required correction.
- Correct the enclosed copy of your Application showing the required correction on Line 4.
- Initial and date the correction on Line 4 of your Application.
- Return your corrected Application via U.S. mail to the address shown above.

Idaho Department of Water Resources (IDWR) received your partially corrected Application for Permit on July 21, 2017 for .04 Cubic Feet per Second (CFS) using Priest Lake for Domestic purposes. Correction of the Line 4 Application Point of Diversion legal description, matching the Application map, is required before IDWR can publish accurate legal notices.

Please telephone me for assistance to submit the completed Application with the correct information or contact me for an appointment at the IDWR Northern Region office by October 30, 2017. Please submit a written request if you need additional time to provide the information. IDWR can grant additional time upon a showing of good cause for the delay.

I can be reached at (208) 762-2816.

Respectfully,


Shaun M. Maxey
Senior Water Resource Agent

Idaho Department of Water Resources, Northern Region

Enclosures

Application with incorrect Line 4 legal description & labeled IDWR Map

DIVISION OF LANDS AND WATERWAYS
ENDOWMENT LEASING BUREAU
300 N 6TH STREET, SUITE 103
PO Box 83720
BOISE, ID 83720-0050
PHONE (208) 334-0200
FAX (208) 334-3698



TOM SCHULTZ, DIRECTOR
DIANE FRENCH, DEPUTY DIRECTOR

STATE BOARD OF LAND COMMISSIONERS
C. L. "Butch" Otter, Governor
Lawrence E. Denney, Secretary of State
Lawrence G. Wasden, Attorney General
Brandon D. Woolf, State Controller
Sherri Ybarra, Sup't of Public Instruction

June 6, 2016

Steven Wells
Regina Wells
13220 Bridgeview Way
Mount Vernon WA 98273

RECEIVED
JUL 21 2017
IDWR/NORTHERN

RE: Assignment of Lease No. R100118 - ATTACHED

The Idaho Department of Lands has recorded the assignment of lease R100118 from Don J. and Barbara S. Benefiel to you. Enclosed is your copy of the assigned lease. Please keep it in a safe place; you will need it for future transactions.

The above lessee name and address has been recorded as the 'lessee of record' information. All billing and other lease correspondence will be mailed to this address. All change-of-address requests must be submitted in writing, signed by the lessee of record, and mailed to this office at PO Box 83720, Boise, Idaho 83720-0050, OR mailed to our area office listed below.

A copy of the Assignment Summary is also being mailed to the Bonner County Assessor's office for their information. You will need to contact their office regarding the change of ownership.

Please contact our Idaho Department of Lands, Priest Lake Office at (208) 443 - 2516 prior to making any improvements to the lease site or if you have any questions.

Diana Barbour
Technical Records Specialist
Division of Lands and Waterways

Enclosure(s)

cc: Bureau File
Area Office
Bonner County Assessor
Don J Benefiel

draw 11 ens of
mar kbottles.com
2023

Assigned to Steven and Regina Wells
of 13220 Bridgeview Way
Mount Vernon WA 98273
Recorded: 5/28/2016



RESIDENTIAL COTTAGE SITE LEASE
No. R100118
DON J. BENEFIEL AND BARBARA S. BENEFIEL

LESSOR Name and Address: State Board of Land Commissioners, acting by and through the Idaho Department of Lands
300 North 6th Street, Suite 103
PO Box 83720
Boise ID 83720-0050

LESSEE Name and Address: Don J. Benefiel
Barbara S. Benefiel
17106 N Triple Butte Cir
Colbert WA 99006

This is to certify that this is a true and correct copy of this document, the original of which is on file with the Idaho Department of Lands (IDL).
Diana Barber 5/28/16
IDL Representative Date

Lease Term: Commencement: January 1, 2015
Expiration: December 31, 2018

Rent: The annual rent payment is due on January 1st of each year or in accordance with Section D.1.2 on Attachment A.

Rent terms are more particularly described in Section D. Rental Rate within the Lease Provisions.

Land Legal Description: See Attachment B of this Lease.

LESSOR, in consideration of the rent paid and the covenants, conditions and restrictions hereinafter set forth, in the Lease (including all Attachments), does hereby lease and demise unto LESSEE the lands described in Attachment B of this Lease for the uses specified herein.

Use of Premises: Residential Cottage Site
See Section B. Use of Leased Premises within the Lease Provisions

Bond: Not Applicable

Liability Insurance: See Section M. Insurance in the Lease Provisions, Attachment A.

Lease Index: LEASE DATA
SIGNATURE PAGE
ATTACHMENT A – LEASE PROVISIONS
ATTACHMENT B – LEGAL DESCRIPTION

This lease agreement (Lease), including the Lease Data, Signature Page and all Attachments (which are incorporated herein in their entirety) is made and entered into by and between LESSOR and LESSEE.

LESSOR SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

COUNTERSIGNED: STATE BOARD OF LAND COMMISSIONERS OF THE STATE OF IDAHO

Ben Ysursa
Secretary of the State of Idaho

C. L. "Butch" Otter
President of the State Board of Land Commissioners
and Governor of the State of Idaho

Thomas M. Schultz, Jr.
Director of Department of Lands



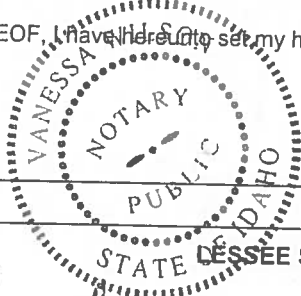
STATE OF IDAHO

COUNTY OF ADA

(SEAL)

On this 19th day of December, in the year 2019, before me, a Notary Public in and for said State, personally appeared C. L. "Butch" Otter, known to me to be the President of the State Board of Land Commissioners of the State of Idaho and the Governor of the state of Idaho; and Ben Ysursa, known to me to be the Secretary of the State of Idaho and Thomas M. Schultz, Jr., known to me to be the Director, that executed the within instrument, and acknowledged to me that the State Board of Land Commissioners of the State of Idaho and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.



Vanessa Wilson
Notary Public for the State of Idaho
Commission expires: 8-11-2020

LESSEE SIGNATURES

x D. Z. Smith
(LESSEE)

x _____
(LESSEE)

x B. Benefield
(LESSEE)

x _____
(LESSEE)

STATE OF WA

COUNTY OF Snohomish



On this 24 day of Nov, in the year 14, before me, a Notary Public in and for said State, personally appeared Donna Barbara Benefield known to me to be the person(s) who executed the instrument as LESSEE, and acknowledged to me that such person(s) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

Linda C. Knapp
Notary Public
Commission expires: 05/04/2018

Attachment A Lease Provisions

A. DEFINITIONS

1.1 **Definitions.** For purposes of this Lease, the following definitions shall apply:

- 1.1.a. **"Abandonment"** means the relinquishment of all interests in Personal Property, Non-Approved Personal Property or Personal Belongings located upon the Leased Premises with no intention to reclaim or reuse. Following any termination of the Lease, abandonment shall be deemed conclusive upon the occurrence of any of the following events: 1) LESSEE fails to maintain with LESSOR proof of insurance on all Personal Property and Non-Approved Personal Property located upon the Leased Premises upon any termination of the Lease following notice of default for lack of proof of insurance by LESSOR; or, 2) LESSEE fails to remove Personal Property, Non-Approved Personal Property or Personal Belongings prior to termination of the Lease, and LESSEE fails to acquire a land use permit from LESSOR within two (2) months of any termination of the Lease to provide LESSEE time for removal not to exceed six (6) months, provided however, LESSOR may allow a reasonable extension for removal of the Personal Property if such removal is prevented due to weather or other circumstance determined acceptable in LESSOR's sole discretion.
- 1.1.b. **"Appraised Value"** means the market value of the Leased Premises in its vacant and unimproved state (unless Improvements are owned by LESSOR, in which event the Improvements shall be included) and/or Personal Property as determined by qualified licensed appraisers hired by LESSOR to make such determination.
- 1.1.c. **"Commercial Use"** means any use of the Leased Premises for profit; provided however, that such use shall not include the following:
 - 1.1.c.i. limited home-office use of the Leased Premises which does not result in increased vehicular traffic, and does not hold the Leased Premises out as a commercial or professional establishment or a place to regularly meet with customers or clients for business purposes; or
 - 1.1.c.ii the rental of the Leased Premises to third parties for residential or vacation purposes; provided however, that the Leased Premises shall not be rented to third parties for more than an aggregate of sixty (60) days in any calendar year.
- 1.1.d. **"Improvement" or "Improvements"** means all buildings, structures, additions or developments owned by LESSOR that have been erected upon, affixed or attached to, the Leased Premises, including, but not limited to, buildings, garages, fences, sheds, homes, driveways, decks, and docks owned by LESSOR. Any Improvement owned by LESSOR is and shall be part of the underlying real property interest of LESSOR in the fee simple title to the land.
- 1.1.e. **"Leased Premises"** means that particularly described lot or parcel of state endowment land owned by LESSOR in fee simple and which has been made available to private individuals through this Lease for the purpose of constructing and maintaining a Residence, together with any Improvements owned by LESSOR.
- 1.1.f. **"LESSOR"** means the State Board of Land Commissioners and the Idaho Department of Lands, collectively.
- 1.1.g. **"Non-Approved Personal Property"** means all buildings, structures, additions or developments belonging to LESSEE that have been erected upon, affixed or attached to, the Leased Premises after January 1, 2012, without the express written consent of LESSOR, and those which were erected upon, affixed or attached to the Leased Premises prior to January 1, 2012, that were not expressly approved in writing by LESSOR and would not have been approved by LESSOR, including, but not limited to,

buildings, garages, fences, sheds, homes, driveways, decks, and docks. All Non-Approved Personal Property shall be subject to removal by LESSEE, or by LESSOR and charged to LESSEE, upon notice by LESSOR. Any interest LESSEE has in Non-Approved Personal Property remain the personal property of LESSEE until Abandonment or other transfer of title thereto, even though such Non-Approved Personal Property, if owned by LESSOR, would immediately become part of LESSOR's real property interest in fee simple title to the land.

- 1.1.h. **"Personal Belongings"** means all movable personal property belonging to LESSEE not affixed or attached to the Leased Premises, including, but not limited to, household goods and furnishings.
- 1.1.i. **"Personal Property"** means all buildings, structures, additions or developments belonging to LESSEE that have been erected upon, affixed or attached to, the Leased Premises with the written consent of LESSOR, or Non-Approved Personal Property placed on the lease site prior to January 1, 2012, that otherwise would have been permitted by LESSOR, including, but not limited to, buildings, garages, fences, sheds, homes, driveways, decks, and docks. Any interest LESSEE has in Personal Property remain the personal property of LESSEE until Abandonment or other transfer of title thereto, even though such Personal Property, if owned by LESSOR, would immediately become part of LESSOR's real property interest in fee simple title to the land.
- 1.1.j. **"Residence"** means a cabin, house or other structure used by LESSEE to provide living accommodations upon the Leased Premises for LESSEE occupancy only, and not for Commercial Use. Mobile homes, motor homes, and trailers shall not be considered a Residence for purposes of this Lease; provided however, manufactured homes that conform to applicable state or local building codes, ordinances, and any applicable CC&Rs may be allowed.
- 1.1.k. **"Hazard Tree"** means any tree that is dead, diseased or with structural defects likely to cause failure of all or part of the tree that would reasonably be determined to be a hazard from falling and causing damage to person or property.
- 1.1.l. **"Restore the Leased Premises" or "Restoration of the Leased Premises"** means the restoration of the Leased Premises to that state and condition as nearly as reasonably possible to the condition of the premises as they existed prior to the placement or construction of any Personal Property or Non-Approved Personal Property thereon.
- 1.1.m. **"CC&Rs"** shall mean any "Addendum to Declaration of Covenants, Conditions and Restrictions" which may be recorded in the respective office of the county recorder for either Valley County or Bonner County, Idaho, which may be applicable to the Leased Premises.

B. USE OF LEASED PREMISES

- 1.1 **Residential Use Only.** The Leased Premises and any Personal Property, Non-Approved Personal Property and Improvements thereon shall be used by LESSEE solely for residential purposes, and/or for limited home office purposes and rentals as described in Section A.1.1.c.
- 1.2 **All Other Uses Prohibited.** No other uses shall be made of the Leased Premises or Personal Property or Non-Approved Personal Property by LESSEE without the prior written approval of LESSOR. In no event shall the Leased Premises be devoted to any business or Commercial Use, nor shall any enterprise of a commercial nature be permitted to exist thereon; except as otherwise provided herein. Any rental of the Leased Premises in violation of this Lease, including for any Commercial Use, shall result in the termination of the Lease upon notice to LESSEE.
 - 1.2.a. **Rental Agreement Subordinate.** Any rental of the Leased Premises shall be subordinate to the terms of this Lease regardless of whether specified in such rental agreement, and shall terminate upon the termination of this Lease for any reason whatsoever.

C. LEASE TERM/RENEWAL

1.1 Term. The term of this Lease shall be 4 years.

D. RENTAL RATE

1.1 Annual Rent Formula. The annual rent shall be calculated as follows:

1.1.a. **Rent.** The initial annual lease payment shall be calculated at four percent (4%) of the Appraised Value of the Leased Premises as set forth herein.

$(4\% \text{ rental rate}) \times (\text{2013 appraised land value}) = \text{2015 rent}$

The 2013 appraised land value for your cottage site is \$430,000.00. Based on this land value and the formula above, your initial annual lease payment shall be \$17,200.00.

1.1.b. **Reappraisal during Lease Term.** The Leased Premises shall be reappraised at approximately five (5) year intervals on a schedule established by LESSOR. The appraisal shall be compliant with the Uniform Standards of Professional Appraisal Practice (2010-2011 Edition, or subsequent editions then in effect), ("USPAP"). The value of the Leased Premises for purposes of calculating rent shall be adjusted for the lease year immediately following the year in which the appraisal is performed in order to reflect the market value of the Leased Premises established by the reappraisal. Rent for said year shall be calculated at four percent (4%) of the reappraised value of the Leased Premises.

1.1.b.i. **LESSEE's Right to Dispute Appraisal.** In the event LESSEE objects to the reappraisal determining the appraised value of the Leased Premises within forty-five (45) days of the mailing of notice by LESSOR to LESSEE of the reappraised value of the Leased Premises, then LESSEE shall file with the Director of the Department of Lands a statement clearly objecting to the reappraisal within said forty-five (45) day period. A LESSEE shall have the right to request and receive a copy of the reappraisal affecting the specific premises the subject of this Lease, and none other. The reappraisal shall remain the property of LESSOR and shall be used by LESSEE only for the purposes of determining whether to object to the reappraisal. If an objection to the reappraisal is timely filed with the Director, then the Department of Lands shall hire a second appraiser to review the reappraisal in accordance with USPAP standards. The appraiser hired to review the reappraisal (the "reviewer") must apply the appraisal review methods and techniques that are necessary for credible assignment results. When necessary for credible assignment results in the review of analyses, opinions, and conclusions, the reviewer must: (i) develop an opinion as to whether the analyses are appropriate within the context of the requirements applicable to that work; (ii) develop an opinion as to whether the opinions and conclusions are credible within the context of the requirements applicable to that work; and (iii) develop the reasons for any disagreement. LESSEE shall be responsible to pay the costs of the reviewer at the time of filing the objection if such cost can be determined at such time; otherwise, LESSEE shall pay such cost prior to the actual appraisal review. Failure to pay such cost for the reviewer shall result in a withdrawal of LESSEE's objection to the reappraisal. If the reviewer determines that the reappraisal the subject of review is not compliant with USPAP standards, then the noncompliant reappraisal shall be of no further effect, and LESSOR shall hire, at LESSOR's cost, a new appraiser to reappraise the Leased Premises consistent with USPAP standards. LESSEE shall then have the same right to object to any such subsequent reappraisal within forty-five (45) days of notice of such subsequent reappraisal as set forth above until a reappraisal satisfies USPAP standards.

1.1.c. **Annual Market Value Adjustment.** The market value of the Leased Premises shall be adjusted each year following the commencement of the lease year, and beginning one year following the year in which any reappraisal becomes effective for purposes of calculating rent. The value of the Leased Premises shall be adjusted upwards, but never downwards, using the "Consumer Price Index, Urban, U.S. City Average, All Items 1982-

1984=100" (as published by the United States Bureau of Labor Statistics at www.bls.gov/cpi/ for the twelve months preceding preparation of the annual billing)("CPI"), by multiplying the appraised value, or the adjusted value for the immediately preceding year, by a fraction, the numerator of which is the CPI for the month of the year in which the calculation is made, and the denominator of which is the CPI for the same month of the previous year, not to exceed a four percent (4%) increase of the appraised value or the adjusted value of the Leased Premises from the prior year ("cap"); provided however, that the cap on the annual adjusted value shall not in any way limit or affect the market value of the Leased Premises as determined by any appraisal or reappraisal as provided in Section D.1.1.b, above. Rent for each such year shall be calculated at four percent (4%) of such adjusted value.

1.1.d. Billing Statement. Changes in the annual rent will be reflected on the annual billing statement that shall be mailed by LESSOR to LESSEE at LESSEE's address of record at least 30 days prior to the due date on the billing statement.

1.2 Rental Payment Due. Rent accrues and shall be due and payable in full in advance on or before January 1 of each year; or, in the alternative, provided one-half (½) of the rent is paid on or before January 1, then LESSEE may pay the second one-half (½) of the rent due on or before June 1, together with a deferred rent charge in the amount of 3% of the deferred payment. LESSEE shall pay the annual rental to LESSOR without abatement, offset, or deduction of any kind.

1.3 Valuation.

1.3.a. Valuation Process. The Leased Premises shall be valued by a qualified licensed appraiser hired by LESSOR. The Land Board may adopt a valuation process that does not require each lot to be individually valued or appraised each year; methods which annually value representative lots or annually apply an indexing value may be adopted.

1.3.b. Reserved Right of Valuation. LESSOR reserves the final right to determine the value of the Leased Premises or any portion thereof in accordance with its fiduciary duties under Article IX, Section 8 of the Idaho Constitution.

1.3.c. Adjustment of Lot Valuation. If a portion of the Leased Premises is sold, exchanged or reconfigured pursuant to paragraph N.1.1.h or paragraph N.1.1.i, the value of the Leased Premises shall be determined by a qualified licensed appraiser hired by LESSOR, and the rental rate shall be adjusted to account for the effect, if any, of any sold, exchanged or reconfigured portion of the Leased Premises in the year of any such sale, exchange or reconfiguration; and, if there is any reduction in the value of the Leased Premises due to such adjustment, the annual lease payment shall be adjusted for the remaining portion of the lease year, and LESSEE shall be credited in the amount of the prorated effect on the annual lease payment paid, or such prorated portion may be returned to LESSEE, in LESSOR's discretion. If the value of the Leased Premises is increased as a result of any such reconfiguration, then LESSEE shall pay rent in an additional amount to reflect the increase in value to the Leased Premises within thirty (30) days of receiving notice of such additional rental amount by LESSOR.

1.4 Late Charge and Interest. If annual rental is not paid in full by the due date, LESSOR may declare a default and terminate the Lease upon thirty (30) days written notice to LESSEE. In the event any rent due hereunder is not paid in full when due, LESSEE shall pay, in addition to such rent, a late charge in the first calendar month of such delinquency the amount of Twenty Five Dollars (\$25.00) or one percent (1%) of the unpaid rent, whichever is greater. For each subsequent calendar month, or any portion thereof, of such delinquency, LESSEE shall pay an additional late charge equal to one percent (1%) of the then unpaid rent, plus interest.

The parties acknowledge and agree that the late charge described herein is a reasonable attempt to estimate and to compensate LESSOR for higher administration costs associated with administering such late payments and is not intended as a penalty. By assessing this late charge, LESSOR does not waive any right to declare a breach and to pursue any right or remedy available to LESSOR by reason of such breach, after expiration of any applicable notice or cure

period. Payments shall be applied first to late charges and interest accruing to the date of payment, and then to the reduction of the outstanding principal amount of rent owing.

- 1.5 **Lien.** The amount of the unpaid rent, late charge, and interest, together with all other amounts due and owing by LESSEE to LESSOR pursuant to this Lease, shall be a lien on LESSEE's Personal Property and Non-Approved Personal Property and Personal Belongings on the Leased Premises which shall have priority over all other liens, mortgages, deeds of trust, security interests, encumbrances or other similar instruments or transactions.
- 1.6 **Land Transaction.** At any time during the term of this Lease, LESSEE may apply to acquire the Leased Premises through a land exchange or auction, which may be agreed to by LESSOR, in LESSOR's sole discretion. In the event of a pending sale or exchange transaction, LESSEE shall continue to timely pay and fulfill all other terms and conditions of this Lease until such time as a sale or exchange is consummated. If a sale or exchange occurs during the term of this Lease, the lease payment shall be prorated through the date of closing or consummation of such sale or exchange; provided however, that if the date of closing or consummation of such sale or exchange occurs on any day of a particular month, then entire month shall be used for purposes of calculating the proration as if such closing occurred on the last day of such month.

E. **ASSIGNMENT**

1.1 **Assignment Generally.**

- 1.1.a. **Assignment.** LESSEE shall not assign the Lease, or any interest therein, without obtaining the prior written consent of LESSOR, which consent may be withheld in LESSOR's sole discretion. LESSEE shall provide to LESSOR, for LESSOR's review, a copy of all assignment documents and agreements. If LESSOR consents to the assignment of this Lease; (i) LESSEE shall remain liable to LESSOR for full performance of LESSEE's obligations unless LESSOR shall approve the release as provided in Section E.1.2 below; (ii) the assignee of LESSEE ("Assignee"), by accepting the assignment of this Lease, does assume, and shall be deemed to have assumed, all of LESSEE's obligations under this Lease, and agrees to abide by all terms and conditions of this Lease; and (iii) such assignment shall be subject to the terms and conditions of this Lease. If LESSEE transfers or assigns its interest in the Lease, or any interest therein, following the written approval of LESSOR, LESSEE shall provide to LESSOR one true and correct executed copy of all assignment documents and agreements, including any purchase agreement, contract of sale or assignment, signed and acknowledged by LESSEE and Assignee. LESSOR may require additional documentation as LESSOR deems appropriate. Any assignment executed without LESSOR's prior written consent shall be void and unenforceable at the option of LESSOR and may result in the termination of this Lease upon notice to LESSEE.
- 1.1.b. **Necessary Forms.** LESSEE shall provide prior written notice to LESSOR, and must receive the prior written consent of LESSOR, prior to LESSEE's execution of any assignment, mortgage, deed of trust or security interest which may affect LESSEE's leasehold interest or any Personal Property and Non-Approved Personal Property owned by LESSEE, using forms provided by LESSOR and accompanied by a processing fee in such amount as determined from time to time by any applicable rule or policy of LESSOR.
- 1.1.c. **Good Standing Required.** No request for LESSOR's approval of any assignment or release will be considered unless all rent due, late payment charges, and interest have been paid in full, and LESSEE is in good standing under all other terms and conditions of the Lease.
- 1.1.d. **Personal Property.** Upon an approved assignment, the ownership of all existing Personal Property and Non-Approved Personal Property of LESSEE under this Lease may be separately negotiated between LESSEE and such Assignee; provided however, that ownership of any Personal Property and Non-Approved Personal Property which remains on the Leased Premises after such assignment shall be presumed and treated by LESSOR as being owned by Assignee for all purposes under this Lease, including,

but not limited to, the obligation for the removal thereof in accordance with this Lease, together with the duty to Restore the Leased Premises, and relating to the enforcement of any term, condition or payment, due or owing by LESSEE, as well as any payment which may be made to LESSEE, if any, under paragraph K.1.4.c. below, relative to any such Personal Property, and Assignee shall be responsible for all such duties and obligations relative to the Personal Property and Non-Approved Personal Property regardless of any agreement between LESSEE and Assignee therefor.

1.1.e. Specific Transaction Only. Any consent or acknowledgment by LESSOR herein provided or hereafter given to any act or assignment, mortgage, deed of trust, security interest, pledge, or encumbrance in LESSEE's leasehold interest or to Personal Property and Non-Approved Personal Property shall be held to apply only to the specific transaction thereby approved. LESSEE shall be obligated to obtain the immediate release of any instrument, lien or encumbrance caused by, or related to, LESSEE which may be recorded against LESSEE's interest in the Leased Premises or any Personal Property or Non-Approved Personal Property without LESSOR's prior written consent or otherwise in violation of the terms of this Lease.

1.1.f. Assignment to Natural Persons. An assignment of this Lease shall be limited to natural persons. In the event LESSEE's interest in this Lease is to be passed to LESSEE's heirs and successors through probate, any such transfer or assignment must be approved by LESSOR, which approval shall not be unreasonably withheld.

1.2 Release.

1.2.a. No Release for Assignment. No assignment shall act as a release of LESSEE's obligations hereunder unless LESSOR executes a separate written Release of LESSEE. LESSOR has no obligation to release LESSEE, and LESSOR may withhold such release at LESSOR's sole discretion. Assignments of this Lease must be done on forms provided by LESSOR.

1.2.b. Request for Release upon Assignment. If LESSEE assigns its interest in this Lease and if LESSEE desires to be released from its obligations under this Lease, LESSEE shall provide a written request to LESSOR requesting that LESSEE be released from all obligations arising under this Lease from and after the date of such assignment, together with a copy of the fully executed assignment and assumption of Lease whereby LESSEE assigned its interest in the Lease to Assignee and Assignee assumed all of LESSEE's obligations under this Lease, agreed to be solely responsible for all of the obligations of LESSEE under this Lease, and such other information as LESSOR may reasonably request ("Release Request"). LESSOR shall have sixty (60) days after receipt of the Release Request to either (i) grant the Release Request, in which event LESSEE shall be released from all obligations arising under this Lease from and after the date of such assignment, or (ii) deny the Release Request, in which event LESSEE shall remain liable to LESSOR under this Lease; provided however, that the failure to grant the Release Request within sixty (60) days shall be deemed a denial. LESSOR's denial of a Release Request shall not invalidate or void the assignment and shall not prohibit LESSEE from making subsequent Release Requests thereafter. A request for release upon assignment shall be granted or denied within LESSOR's sole discretion.

1.3 Leasehold Mortgage.

1.3.a. Leasehold Mortgage. LESSEE shall not allow any mortgage, deed of trust or security interest, lien, encumbrance or other similar instrument or transaction ("Leasehold Mortgage"), to be filed or recorded in the Office of the Department of Lands, with any County Recorder's Office, or with the Office of the Secretary of State without first obtaining LESSOR's prior written consent therefor, which consent may be withheld or denied in LESSOR's sole discretion. Any Leasehold Mortgage may only encumber LESSEE's leasehold interest in this Lease and/or LESSEE's interest in any Personal Property owned by LESSEE, provided such Leasehold Mortgage is properly perfected, including in the office of the Secretary of State, and provided the Leasehold Mortgage acknowledges LESSOR's priority in any proceeds of Personal Property and Personal

Belongings as provided for in this Lease, including, but not limited to, Section K. Personal Property shall retain its character as personal property of LESSEE. The Leasehold Mortgage shall terminate upon the termination of this Lease for any reason, and such Leasehold Mortgage shall not encumber or require subordination of LESSOR's fee title to the Leased Premises. Any Leasehold Mortgage shall be limited to the amount of an appraisal of the Personal Property by the lender of the Personal Property, and subject to approval of the appraisal and amount by LESSOR. In the event LESSEE breaches its obligations under this Lease, LESSOR agrees to provide the holder of such Leasehold Mortgage ("Lienholder") with a copy of any Notice of Breach and/or Notice of Termination provided by LESSOR to LESSEE under Section Q below, provided LESSEE has provided LESSOR with the name and address for such Lienholder prior to the date of such notice. In the event Lienholder shall consist of more than one person or entity, Lienholder shall provide notice to LESSOR identifying one such person or entity which shall receive notice from LESSOR, and which notice to said person or entity shall constitute notice upon each and every person or entity constituting Lienholder; otherwise, if Lienholder does not identify any one person or entity for the receipt of notice, then notice upon any one person or entity constituting Lienholder shall constitute notice on all persons and entities constituting Lienholder. Lienholder shall have the right to cure any default or breach specified in the Notice of Breach or Notice of Termination during the same time allowed to LESSEE or within thirty (30) days after the receipt of said notice by the Lienholder, whichever is greater. Upon the termination of this Lease for any reason, the Leasehold Mortgage shall terminate and LESSEE shall immediately acquire the written release in recordable form (and record and/or file the same in any office as may be required) to effect the release of any Leasehold Mortgage or lien of any kind affecting any interest of LESSEE in the Lease, the Leased Premises, and/or in any Personal Property and Non-Approved Personal Property thereon. Lienholder shall acknowledge this requirement in the Leasehold Mortgage, and shall, upon the execution of a Leasehold Mortgage involving LESSEE or this Lease, agree to, and shall, immediately release any Leasehold Mortgage upon the termination of this Lease. Notwithstanding the foregoing, a Leasehold Mortgage may remain upon LESSEE's leasehold interest in the Lease or LESSEE's Personal Property interest upon an assignment approved in writing by LESSOR of all of LESSEE's interest in the Lease and all Personal Property and Non-Approved Personal Property upon the Leased Premises provided such assignment specifically provides therefore, and provided further, that any such assignment is approved by both Lienholder and LESSOR, which approval or consent may be withheld in LESSOR's sole discretion.

1.3.b. Leasehold Mortgage Subject to Terms. Any mortgage, deed of trust, lien, encumbrance or other similar transaction approved by LESSOR shall be subject to the Lease and each and every term, covenant, condition, and restriction set forth in this Lease, and in addition, shall be subject to all rights and interests of LESSOR.

F. ENVIRONMENTAL, SAFETY AND SANITARY REQUIREMENTS

1.1 No Hazardous Materials. LESSEE shall neither commit nor permit the use, placement, transport or disposal of any hazardous waste, including petroleum products, such as oil, gasoline, or any other substance that is or is suspected to be a hazardous substance or material, not including the following materials kept for LESSEE's own residential use and only in small quantities: gasoline not to exceed fifteen (15) gallons related to the use or enjoyment of their property for uses such as lawnmowers, snow machines and small water craft; kerosene; heating oil; propane tanks or other commercial sources of heating; and other household cleaners; solvents; paints and similar materials not otherwise prohibited by law. LESSEE shall be responsible and shall pay all costs for the removal and/or the taking of all other necessary or appropriate remedial action regarding any hazardous waste, substance or material which LESSEE may have caused to be introduced to or upon the Leased Premises. Any such remediation or removal or storage must be conducted in accordance with applicable federal, state, or local law, regulation, rule and ordinance, and LESSEE shall immediately, upon the introduction of any hazardous waste, substance or material onto the Leased Premises, contact LESSOR and the Idaho Department of Environmental Quality (DEQ), provided however, LESSEE shall not forestall commencing any necessary remediation while negotiating the terms of any consent order with DEQ unless LESSEE is so authorized in writing by LESSOR. LESSEE shall

indemnify, defend and hold LESSOR harmless from all costs, expenses, damages or fines relating to pollution and hazardous substances and materials including, without limiting the generality of the foregoing, attorney fees and costs of defense and enforcement of LESSOR's rights hereunder.

- 1.2 **Fire and Safety Regulations.** LESSEE shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including, but not limited to, those of the Idaho Department of Lands for fire protection and prevention, and shall at all times observe reasonable precautions to prevent fire on the Leased Premises. LESSEE agrees to keep the Leased Premises free from fire hazards. Firewood storage shall be confined to a location, away from the Residence. Roofs shall be kept clear of all debris and needles on a regular basis to minimize fire hazard. LESSEE is prohibited from burning garbage or household trash. Any burning on the Leased Premises, including the burning of wood, weeds or other debris, but excepting simple campfires necessary for the use under this Lease, requires the prior written permission of LESSOR. Any burning must comply with all applicable federal, state or local laws, regulations, rules and ordinances. Barbecue devices designed for use out of doors are permitted.
- 1.3 **Sanitary Requirements.** LESSEE shall at all times keep the Leased Premises in a clean and sanitary condition, free of trash, garbage and litter. LESSEE shall not dispose of sewage except in conformity with all applicable federal, state, and local laws, rules, regulations and ordinances pertinent to LESSEE's use, and shall dispose of sewage on the Leased Premises only if specifically authorized by LESSOR and the local governmental which would otherwise have jurisdiction over such matters. LESSEE shall not store, dispose of, or otherwise maintain trash, garbage, litter, unused or discarded household items, or unlicensed or abandoned vehicles, boats or trailers on the Leased Premises, and shall dispose of all such trash, garbage or other items in conformity with all legal requirements. LESSEE shall be responsible for all costs associated with sewage, garbage and litter disposal. LESSOR may require LESSEE to furnish a certificate or other satisfactory proof of compliance with applicable laws, rules, regulations and ordinances.

G. NO WARRANTY OF SUITABILITY; QUIET ENJOYMENT

- 1.1 **No Warranty.** LESSEE acknowledges that neither LESSOR, nor any agent of LESSOR has made any representation or warranty with respect to the Leased Premises or concerning the suitability of the Leased Premises for the uses intended by LESSEE, or concerning any access or the condition of such access to the Leased Premises. LESSEE acknowledges that it has accepted the Leased Premises together with access thereto in an AS IS CONDITION, accepting any and all known and unknown faults therein.
- 1.2 **Quiet Enjoyment.** LESSOR agrees that LESSEE, upon payment of the rent and performing the terms of this Lease, may quietly have, hold and enjoy the Leased Premises, for the purposes and uses allowed hereunder during the term hereof. LESSEE acknowledges that the Lease is non-exclusive, and LESSOR retains the right to use the Leased Premises, or to grant rights to others for use of the Leased Premises, or to authorize the public to use the Leased Premises, to the extent any such use is not incompatible with LESSEE's purpose and uses allowed hereunder.

- 1.3 **Use Limited to Site.** LESSEE shall confine all Personal Property, Non-Approved Personal Property and Personal Belongings, vehicles, and pets to the Leased Premises. No trespass onto adjacent property, whether state land or private, will be permitted and may result in the termination of this Lease.

H. WATER DEVELOPMENT

- 1.1 **Water Development.** LESSEE shall be entitled to water for domestic purposes only insofar as natural springs, streams, lakes, existing wells or water systems serving the Leased Premises are capable of supplying the same and are not subject to a prior right or claim that prevents its lawful appropriation for use on the Leased Premises. LESSEE shall neither drill and use a water well nor develop and use any source of water without the prior written consent of (i) LESSOR or its authorized agent, and (ii) any department or agency of the State of Idaho having jurisdiction to regulate water rights. LESSOR shall not unreasonably withhold consent for LESSEE to drill a well or develop another appropriate water source or to seek any necessary permits for the same, where such drilling or other development is necessary to either provide or restore a domestic

water source for the Leased Premises. All water rights with respect to the Leased Premises shall be taken in the name of the State of Idaho. LESSEE shall not cause any water to be conveyed off the Leased Premises.

I. LANDSCAPING AND REMOVAL OF VEGETATION

LESSOR Consent Required. LESSEE shall neither landscape nor remove any vegetation, including trees (with the exception of Hazard Trees as otherwise provided herein), from the Leased Premises without the prior written consent of LESSOR or its authorized agent. Landscaping shall constitute non-creditable improvements by LESSEE. The Personal Property, Non-Approved Personal Property, Improvements and Leased Premises shall be maintained by LESSEE to reduce fire hazards and to provide a natural, but managed appearance. The identification and felling of any Hazard Tree on the Leased Premises is the responsibility of LESSEE. Following the identification of any Hazard Tree, and prior to the felling thereof, LESSEE shall obtain the express written consent of LESSOR; provided however, that LESSEE may take immediate action to remove any hazardous tree that poses immediate danger to life or property without first contacting LESSOR, but shall so notify LESSOR within five (5) days thereafter.

J. NOXIOUS WEEDS

LESSEE Obligations. LESSEE shall cooperate with LESSOR or any other agency authorized to undertake programs for the control and eradication of noxious weeds. LESSEE shall take measures to control noxious weeds on the Leased Premises in accordance with Title 22, Chapter 24, Idaho Code.

K. PERSONAL PROPERTY

1.1 Construction of Personal Property - Prior Consent of LESSOR Required.

1.1.a. Generally. Without having secured the prior written consent of LESSOR, plus the prior written consent of any other department or agency of the State of Idaho having jurisdiction under the circumstances, and subject to applicable CC&Rs, if any, LESSEE or LESSEE's agents, shall not place, effect or erect any Personal Property, including any road, on the Leased Premises; shall not place or build any dock, piling, quay, mooring device or boathouse, in or on the water frontage adjacent to the Leased Premises; shall not place any houseboat in the water adjacent to the Leased Premises; and, shall not make any excavation in, fill upon, or alteration of any lake or stream bed adjacent to the Leased Premises.

1.1.b. Procedures to Obtain LESSOR's Consent. LESSEE may erect, affix or attach Personal Property upon the Leased Premises only after written consent has first been granted by LESSOR in accordance with this Lease. LESSEE must furnish a complete set of construction plans and accurate plot plans of all proposed Personal Property contemplated and shall submit those plans and drawings to LESSOR or LESSOR's designee. LESSOR shall make a decision to approve or disapprove any requested Personal Property with or without conditions within one hundred twenty (120) days after LESSEE submits all necessary permits, approvals and plans reasonably required to be submitted to LESSOR; provided however, that the failure of LESSOR to affirmatively approve any plans submitted by LESSEE hereunder shall be deemed a denial by LESSOR. Once the construction plans are approved and permitted by LESSOR, then LESSEE shall construct the Personal Property within two (2) years of approval in compliance with the approved plans and all applicable building codes, rules, laws, ordinances and CC&Rs; failure to construct within the two (2) years shall result in approval to construct being revoked; and failure to construct in accordance with the plans or in accordance with applicable laws shall result in a default of the Lease. Consent is not required for ordinary maintenance and repairs to existing Personal Property as needed from time to time; provided however, the replacement of any Personal Property shall require LESSOR's prior consent and compliance with the procedures set forth herein.

1.1.c. Non-Approved Personal Property. Any Non-Approved Personal Property shall be subject to immediate removal by LESSEE following notice by LESSOR. LESSOR or its authorized agent reserves the right to remove any Non-Approved Personal Property, with