

DISCLOSURE OF WD-74J FOR TRANSFER 79876 HEARING 3/8/2016

Witnesses for WD-74J

Jack Jakovac, Chairman WD-74J

Bob Loucks, Water User in WD-74J

Exhibits

- Objection of WD-74J to Proposed Transfer 79876
- Facts & Timeline on Proposed Transfer 79876
- Deed to L-22 Canal ROW from Pine Creek Ranch to Gladys Porter
- Affidavits from Irrigators who share the POD and ditch
 - Morgan & Alisa Peets
 - Tom & Ann Stephenson
- Affidavits from Owner of L-22 Canal ROW
 - Jack & Sharon Jakovac



OBJECTION OF WD-74J TO PROPOSED TRANSFER 79876

Water Right 74-15672

No water has been diverted from Withington Creek to this Place of Use (POU) since 1998 when wheel-lines were installed on the portion not irrigated by the center pivot. Most of the POU (the area irrigated by center pivot) has been irrigated with Lemhi River Water (currently 74-15708) since 1974. Since 1998 the water cannot be used in the on-ranch system, since no ditches or pipelines connect the POD to the POU.

In the Snake River Basin adjudication (SRBA), this water right was decreed 11/6/2007. The water has not been diverted and applied throughout the period (from the decree to the present (including the 2015 irrigation season) 8 irrigation seasons. The water right should be forfeited or abandoned.

Water Right 74-2165B

No water has been applied to this POU from POD L-22 since 1974. The L-22 canal had failed. So to avoid liability and re-construction cost, Pine Creek Ranch deeded the canal ROW back to the Porter Ranch (currently Jack Jakovac Ranch) 7/2/1974. The L-22 Canal has not been used to convey water to any of the property currently owned by BNH Properties, LLC since that time. The POU has been continuously irrigated with Lemhi River water (currently 74-15708) since that right was transferred to POD L-13 in 1974.

In the SRBA, this water right was decreed 9/19/2007. Since it has not been legally diverted since 1974, this water right should be forfeited or abandoned. To resolve this objection and maintain the acreage, the POD could be transferred to L-13.

Water Right 74-15708

WD-74J has no objection to any element of this water right. The POD of the parent right, 74-827, was legally transferred from L-22 to L-13 in 1974. At that time center pivots were installed on the Jolley Ranch part of Pine Creek Ranch.

FACTS & TIMELINE ON PROPOSED TRANSFER 79876									
Date	Event	Water Right	Source	Owner	Date	POD	Q(cfs)	Acres	
11/23/1911	Withington Creek Decree		Withington Creek						
	Decreed			Shenon Land & Orchard Co.	4/15/1885		2.00	131.0	
	Decreed			Minnie Shenon	7/19/1910		5.60	320.0	
1915	Shenon trade 1/2 of 1st Right on Withington Creek for ROW and construct L-22 Canal								
11/1/1971	Lemhi Adjudication Initiated								
	Decreed	74-216C	Withington Creek	Jolley, Eldon & Edna	4/15/1885	WI 2	0.90	87.5	
	Decreed	74-2165B	Lemhi River	Jolley, Eldon & Edna	11/6/1913	L-22	2.08	88.1	
	Decreed	74-827	Lemhi River	Jolley, Eldon & Edna	8/17/1915	L-22	8.14	271.3	
1972 ??	Pine Creek Ranch (DeLorean) purchase Jolley Ranch								
1974	Pine Creek Ranch Install two pivots to irrigate POU of 74-2165B, & part of 74-827 and 74-216C								
7/2/1974	Pine Creek Ranch Deed L-22 canal ROW to Gladys Porter (Bill Sager's mother)								
1974	Pine Creek Ranch Transfer POD for 74-827 from L-22 to L-13								
1981	Pine Creek Ranch sell ranch property to Stephenson Family								
1986	Tom & Ann Stephenson purchase part of POU 216C								
		74-216C	74-216G	Stephenson Ranch					
			74-216F	Tom & Ann Stephenson					
1990-91	Lemhi Claims filed in Snake River Basin Adjudication (SRBA)								
1998	Stephenson Ranch install Wheel-lines on part of POU 74-216G and 74-827 not under pivot								
6/24/2003	Bonucelli & Bosanko Investments purchase part of Stephenson Ranch from (John Stephenson Estate) Coral Stephenson								
1/4/2005	Morgan & Alisa Peets purchase 6 acres of flood irrigated property under POU 74-216G and 74-827								
		74-216G	74-15586	Gordon Stephenson					
			74-15587	Morgan & Alisa Peets					
		74-827	74-15584	Gordon Stephenson					
			74-15585	Morgan & Alisa Peets					
4/5/2006	Tom & Ann Stephenson purchase remaining flood irrigated property under POU 74-15586 and 74-15584								
		74-15586	74-15672	Gordon Stephenson			0.79	76.3	
			74-15671	Tom & Ann Stephenson					
		74-15584	74-15674	Gordon Stephenson					
			74-15673	Tom & Ann Stephenson					
6/7/2006	Allen Bodenhamer purchase part of Bonucelli - Boron Properties								
8/9/2006	Water right split	74-15674	74-15708	Bonucelli - Boron Properties			6.95	231.5	
			74-15709	Allen Bodenhamer					
2007	9/19 - 11/6 SRBA Partial Decrees in Lemhi Basin								
2/6/2014	BNH Properties, LLC purchased the rest of Bonucelli (Montgomery Properties, LLC)	74-15672	Withington Creek	BNH Properties, LLC			0.79	76.3	
		74-2165B	Lemhi River	BNH Properties, LLC			2.08	88.1	
		74-15708	Lemhi River	BNH Properties, LLC			6.95	231.5	
2015	BNH Properties apply for Transfer 79876								

QUITCLAIM DEED

For Value Received PINE CREEK RANCHES, INC., a corporation

do hereby convey, release, remise and forever quit claim unto GLADYS PORTER, a widow,

the following described premises, to-wit:

All rights of the grantor in and to the so-called "McCormick ditch" over and across the premises situate in Lemhi County, Idaho, to-wit:

The NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 10, the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 3, the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, all in Twp. 20 N., Rge. 23 E.B.M.

together with their appurtenances.

Dated: June 25, 1974

PINE CREEK RANCHES, INC.

President

Secretary

STATE OF IDAHO, COUNTY OF Lemhi
On this 25th day of June, 1974,
before me, a notary public in and for said State, personally
appeared DONALD M. HAGGLUND, known to me
to be the President of PINE CREEK
RANCHES, INC.,

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged to
me that said corporation executed the same.

Residing at Salmon, Idaho
Comm. Expires 3-21-77

STATE OF MICHIGAN)
County of LANSING) ss.

On the 25 day of JUNE, 1974,
before me, the undersigned, a Notary Public
in and for said State, personally appeared
JOHN Z. DELOREAN, known to me to be the
Secretary of the corporation that executed
the instrument and acknowledged to me that
such corporation 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
Residing at
Commission

No. 127060

State of Idaho) ss.

County of)

This instrument was filed for

record at the request of _____

Sherman F. Furey, Jr.

at 11:46 o'clock A. M.

July 2 19 74

and duly filmed and indexed in the

file of Deeds

Records of _____

Eleanor Aldous

Ex-Officio Recorder

By Amelia H. Frazier

Deputy.

Fees \$1.00 Paid _____

AFFIDAVIT OF MORGAN & ALISA PEETS

We are Morgan & Alisa Peets. We purchased 6 acres from Gordon Stephenson on Withington Creek in January 2005 and constructed a residence. When we purchased the property, 74-216G was split to 74-15586 (Stephenson) and 74-15587 (us). Tom Stephenson purchased the remainder of the flood irrigated 74-15586 POU in 2006. We share a Point of Diversion (Wi 2) and conveyance ditch with Tom Stephenson (74-15671) and BNH Properties, LLC. (74-15672). Water has not been diverted from this POD to BNH Properties (or prior owners) since we purchased our property in 2005.

Alisa Peets

Morgan and/or Alisa Peets

1-26-16

Date

STATE OF IDAHO)
) ss.
 County of Lemhi

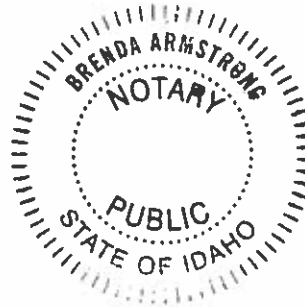
On the 26 day of January, 2016, before me,
 the undersigned Notary public, personally appeared
Alisa Peets, known to me to

be the person whose name is subscribed to the foregoing
 instrument, and acknowledged to me that s/he executed the same.

IN WITNESS WHEREOF I have set my hand and seal the day and
 year as above written

Brenda Armstrong
 Notary Public for Idaho

Residing at SALMON ID
 Commission Expires 3/19/2017



AFFIDAVIT OF TOM & ANN STEPHENSON

We are Tom & Ann Stephenson. We own two water rights on Withington Creek (74-216F and 74-15671). Tom's family purchased and took possession of the Pine Creek Ranch in the spring of 1981. We moved to the house on the old Jolley Ranch and irrigated that ranch. We obtained our first property from Tom's family in 1986 and constructed a residence. POU 74-216C was split to 74-216G (Stephenson Ranch) and 74-216F (us). Wheel-line sprinklers were installed on most of the Place of Use of 74-216G not irrigated by the pivot in 1998. Since that time, the area of POU 74-216G under the wheel-lines has been irrigated by pump from the L-13 canal with Lemhi River (74-15708) water.

Gordon Stephenson sold a 6 acre parcel of this property to Morgan and Alisa Peets in January 2005 and POU 74-216G was split to 74-15587 (Peets) and 74-15586 (Stephenson). We purchased additional property from Gordon Stephenson on 4/5/2006. Water right 74-15586 was split to 74-15672 (Gordon Stephenson) and 74-15671 (us). All POU 74-216G flood irrigated from Withington Creek since 1998 is owned by Peets and us. We have continuously flood irrigated this property. We share a POD (Wi 2) and conveyance ditch with Peets and BNH Properties, LLC. Water has not been diverted at this POD to the POU of 74-15672 by BNH or prior owners since 1998.

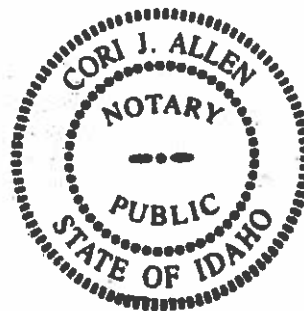
Tom Stephenson
Tom and/or Ann Stephenson

Jan 20, 2016
Date

State of Idaho, Lemhi County ss:

On this 20 day of January, 2016, before me Cori J Allen, a Notary Public in and for said county and state, personally appeared Tom Stephenson; known or proven to me to be the person(s) who executed the foregoing instrument. In witness wherefore, I have hereunto set my hand and affixed my official seal the day and year in the certificate first above written.

Cori J. Allen
Notary Public residing at: Salmon, ID
Commission Expires: June 02, 2018



Copy

AFFIDAVIT OF JACK & SHARON JAKOVAC

We are Jack and Sharon Jakovac. We purchased a ranch on Withington Creek in 1995 from Bill and Maxine Sager. We have operated and irrigated the ranch since that time. We own two water rights on Withington Creek (74-216J and 74-221). We also own the property where POD Wi 2 is located. Water has not been diverted at POD Wi 2 to the POU of 74-15672 by BNH or any prior owners since we purchased the ranch.

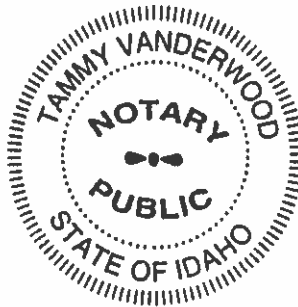
We also own the ROW of the L-22 canal through our ranch. It was abandoned by Pine Creek Ranch and deeded back to Gladys Porter (Bill Sager's mother) on 7/2/1974. So no Lemhi River water (74-2165B) has been delivered from L-22 to the POU since 1973.

Sharon Jakovac

Jack and/or Sharon Jakovac

1-20-2016

Date



Tammy Vanderwood 1/20/16

EXPIRES 4/25/19

RECEIVED

FEB 19 2016

Department of Water Resources
Eastern Region

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of February, 2016, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, certified mail with return receipt requested, postage prepaid and properly addressed to the following:

Documents Served: Witnesses list and documents for the 3/8/2016 Hearing on Transfer 79876

Certified Mail

BNH Properties LLC
Brett Herbst
PO Box 367
Spanish Fork, UT 84660

Idaho Department of Water Resources
James Cefalo, Hearing Officer
900 N Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Courtesy copies sent via email to:

Rick Sager, Watermaster WD-74 (rick375@centurytel.net)

Steve Herbst (nelsonangusranch@yahoo.com)



Jack Jakovac
Chairman, WD-74J