

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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MAR 25 2015

Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) James and Jacklyn Klausmann or Jeffrey and Darcy Klausmann Phone 208-354-6929Mailing address PO Box 1218, Driggs, ID 83422 Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☒ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No RepresentativeName of Representative Rocky Mountain Environmental Associates Phone 208-524-2353Mailing address 482 Constitution Way St 303, Idaho Falls, ID 83402 Email kristin.rmea@gmail.com

- ☐ Send all correspondence for this application to the representative and not to the applicant.
OR
- ☒ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant or Authorized Representative Print Name and Title if applicable JEFFREY KLAUSMANNDate 3-19-15Signature of Applicant or Authorized Representative Print Name and Title if applicable Darcy KlausmannDate 3-19-15

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☒ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**.

See Attached Narrative in Support of Application

Narrative in Support of Transfer for Water Right Nos. 22-178A and 22-179B Woods Creek 2, LLC

Woods Creek 2, LLC proposes to excavate a 1.4 acre pond along an existing ditch, which carries water from Woods Creek to irrigated lands. This application is proposed as an agreement between applicant and Idaho Fish and Game to acquire water rights for the new pond through transfer.

Analysis of published topographic maps demonstrate that the areas of these applications are comprised of wetland features. The areas along the Teton River are known for their springs and wetland complexes. It is well known hydrologically that the Teton River and the area nearby (adjacent to the proposed place of use) is a ground water discharge area where the aquifer flow path is an upward gradient toward the Teton River. It is anticipated based on the hydrology and experience with existing storage features on the property, that once full, the pond will have very little to no seepage losses due to the interaction with ground water.

Mitigation for the stored volume will be provided by a one-season rental of water through the Water Supply Bank.

This transfer proposes to provide evaporation compensation for the 1.4 acre pond. Using precipitation and evaporation data for Driggs, Idaho, it appears that a pond of the proposed size would experience a loss of 2.4 af to evaporation. The water rights to be transferred were originally used for irrigation of grass hay. Evapotranspiration data from the Driggs, Idaho (NWS-102676) station indicates that the consumptive use of grass hay is 2.04 afa/acre. Thus, a total of 1.2 ($2.4 \text{ af} / 2.04 \text{ afa/acre} = 1.2 \text{ ac}$) acres are required to transfer to compensate for evaporative losses.

There are two overlapping water rights: 22-178A and 22-179B. Proportionate shares of each right are offered for transfer.

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Department of Water Resources
Eastern Region



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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☐ ☒	22-178A	0.015 cfs	Diversion to Storage	4/15 to 10/31	Woods Creek
☐ ☐		2.4 afa	Recreation Storage	4/15 to 10/31	Woods Creek
☐ ☐				to	
☐ ☒	22-179B	0.02 cfs	Diversion to Storage	4/15 to 10/31	Woods Creek
☐ ☐		2.4 afa	Recreation Storage	4/15 to 10/31	Woods Creek
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.035 cfs and/or 2.4 acre-feet.

2. Total amount of water proposed to be transferred or changed 0.035 cubic feet per second and/or 2.4 acre-feet per annum.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
		NE	SW	NW	33	5N	45E	TETON	WOODS CREEK	

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	45E	32				R													
Total Acres (for irrigation use)																			

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

An existing point of diversion and ditch system will convey the proposed water to the place of use. A screened diversion box will be installed. Measuring devices and lockable works could be installed at this location.

- b. Who owns the property at the point(s) of diversion? Woods Creek 2 LLC

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

Applicant is contracted to sell the proposed transferred water rights to property owner. See Attachment #9

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: _____

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:
The land now irrigated will be dried up upon approval of this transfer.

- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:
The proposed diversion and delivery system also delivers irrigation water rights to Woods Creek 2 LLC and one downstream user. No other water rights exist on the proposed place of use for the same purpose.

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1 of the application, attach a **Part 2A** report obtained from any Department office or from the Department's website @ www.idwr.idaho.gov, Water Right Transfers, Step 1.

Insert Part 2A reports into the application following Part 1.

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

- ☒ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the **Part 2B** form can be obtained from any Department office or from the Department's website @ www.idwr.idaho.gov, Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number: 22-178A

1. amount 0.015 cfs (cfs/ac-ft) for Irrigation purposes from 4/15 to 10/31
 amount 2.4 afa (cfs/ac-ft) for _____ purposes from _____ to _____
 amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
 amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
 amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
 amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
 amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
 amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per $\frac{1}{4}$ $\frac{1}{4}$ tract.)

[illegible]

WATER RIGHT NO. 22-178A

Owner Type Name and Address

Current Owner JACKLYN KLAUSMANN

Current Owner JAMES KLAUSMANN

C/O JEFFREY KLAUSMANN

PO BOX 1218

DRIGGS, ID 83422

(208) 354-3690

Priority Date: 06/01/1887

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	TETON RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.6 CFS	210 AFA
Total Diversion			0.6 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAM	SESESW	Sec. 33	Township 05N	Range 45E	TETON County
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Place of Use Legal Description: IRRIGATION TETON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
05N	45E	32		SWSW	3.4		SESW	21						
				SWSE	24									

Total Acres: 48.4

Conditions of Approval:

This partial decree is subject to such general provisions necessary for the definition of the rights or for

1. C18 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.
2. Diversion of the unnamed stream is limited to those times water is available for diversion under this right and priority from Woods Creek.
3. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. 01.
4. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
5. E55 Right Nos. 22-178A and 22-179B are limited to the irrigation of a combined total of 48.4 acres in a single irrigation season.

Decreed Date: 11/24/2008

WATER RIGHT NO. 22-179B

Owner Type Name and Address

Current Owner JACKLYN KLAUSMANN

Current Owner JAMES KLAUSMANN

C/O JEFFREY KLAUSMANN

PO BOX 1218

DRIGGS, ID 83422

(208) 354-3690

Priority Date: 06/01/1899

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
WOODS CREEK	TETON RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.8 CFS	
Total Diversion			0.8 CFS	

Location of Point(s) of Diversion:

WOODS CREEK	NWSWNW	Sec. 34	Township 05N	Range 45E	TETON County
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Place of Use Legal Description: IRRIGATION TETON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
05N	45E	32		SWSW	3.4		SESW	21						
				SWSE	24									

Total Acres: 48.4

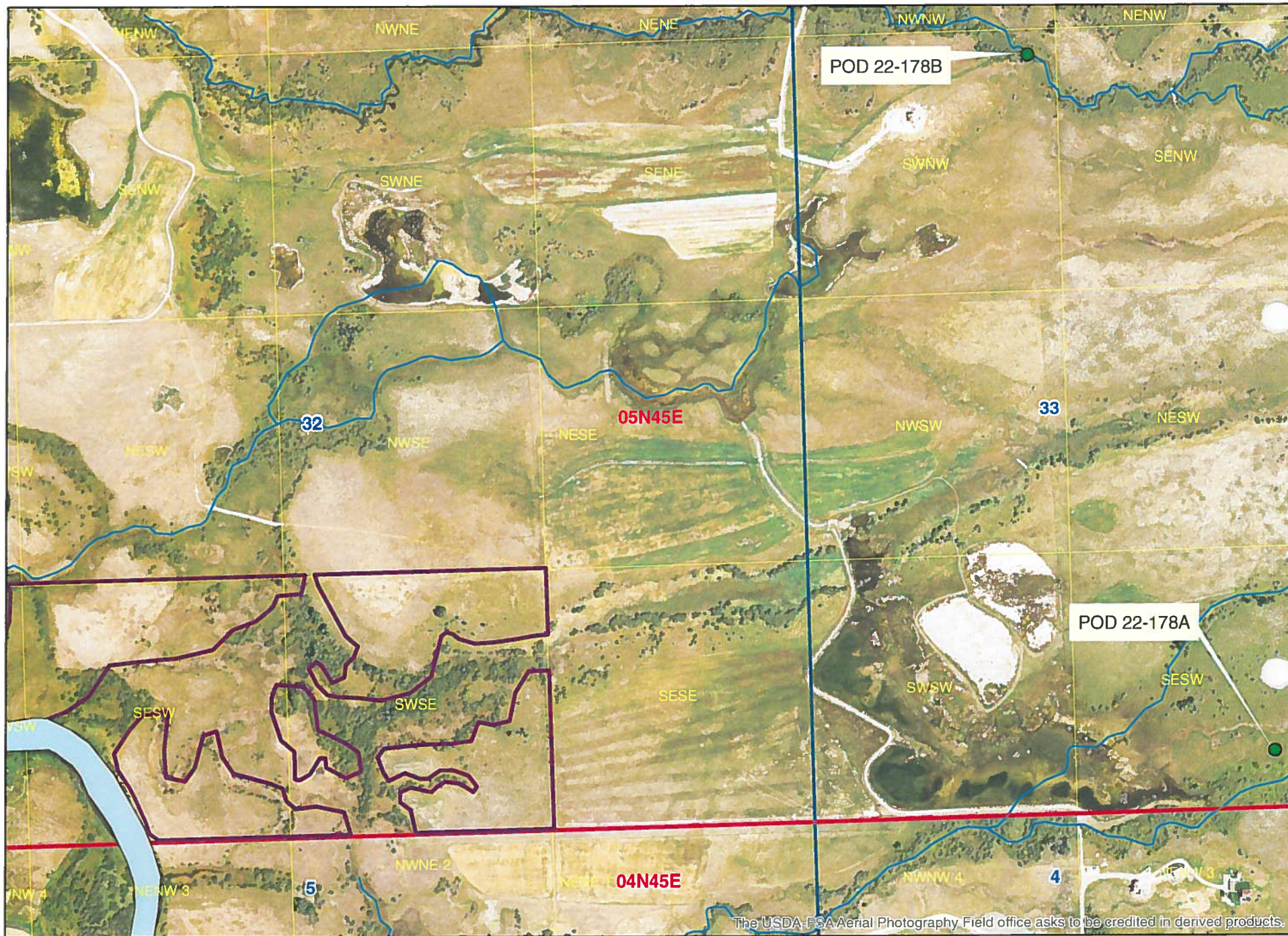
Conditions of Approval:

- This partial decree is subject to such general provisions necessary for the definition of the rights or for
1. C18 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.
 2. E55 Right Nos. 22-178A and 22-179B are limited to the irrigation of a combined total of 48.4 acres in a single irrigation season.
 3. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Decreed Date: 11/24/2008

IDUR Added

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Klausmann

 Existing Place of Use

0 0.075 0.15 0.3 Miles

Attachment #7a

Water Right No. 22-178A and 22-179B



0 180 360 720 Feet

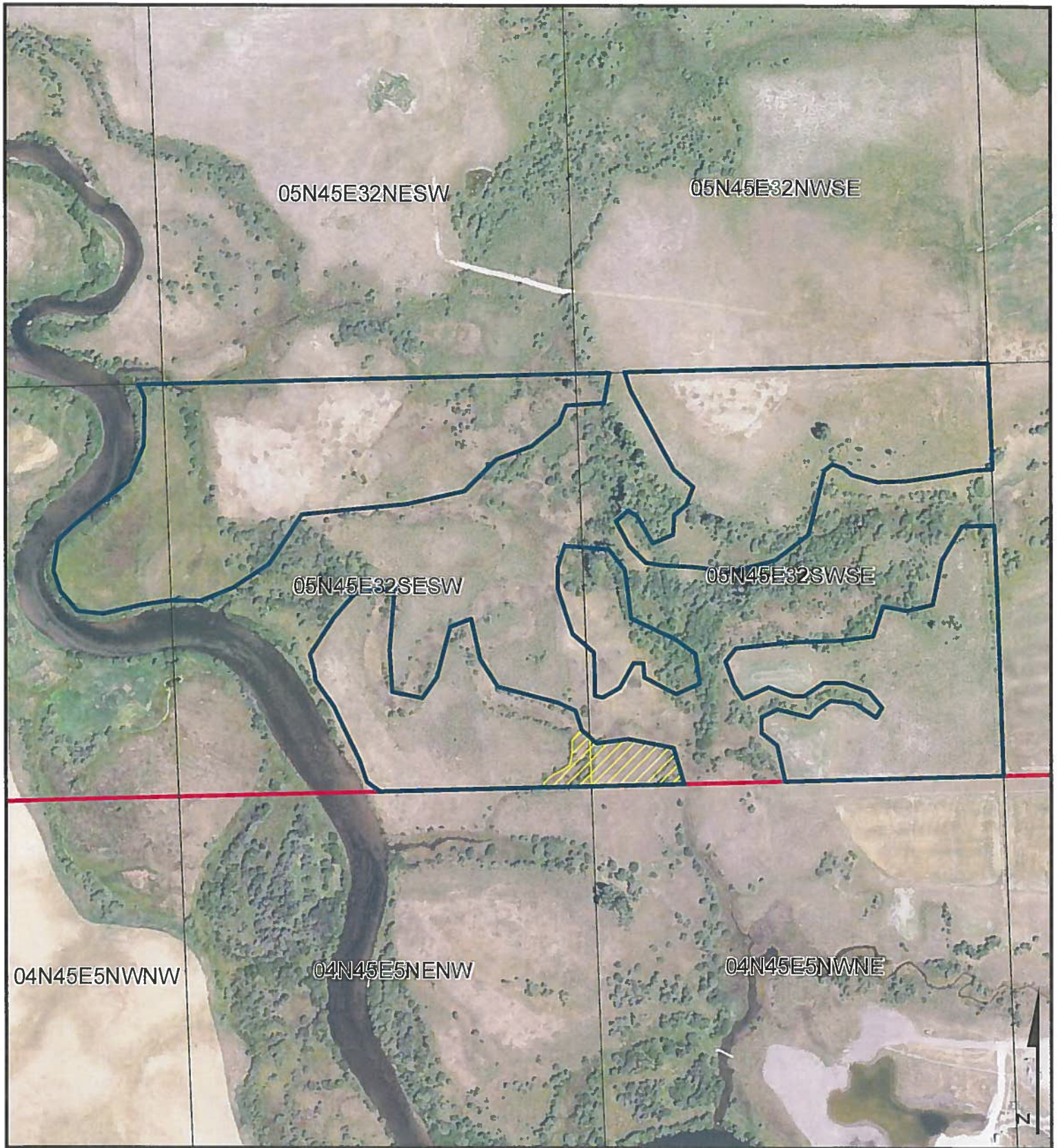
- Existing POD
- Existing Ditch
- Proposed Pond
- Township and Range
- Section
- QQ

2013 NAIP Photography

79935

Attachment #7b

Water Right No. 22-178A and 22-179B



WR POU 22-178A & 22-179B

Acres to be Dried Up

Township and Range

Section

QQ

0 300 600 1,200 Feet

2013 NAIP Photography

79935

Rocky Mountain
ENVIRONMENTAL
ASSOCIATES, INC.

Pond Calculations

Climate Station: Driggs, Idaho (NWS--102676)

Project Name: Woods Creek II

Pond Consumptive Use Calculations													
Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Annual FWW Evaporation (inches)	35	35	35	35	35	35	35	35	35	35	35	35	35
Monthly Distribution (%) #1	1	2	4	7	12	15	19	16	11	6	4	3	100
Monthly FWS Evaporation (in/mo)	0.35	0.7	1.4	2.45	4.2	5.25	6.65	5.6	3.85	2.1	1.4	1.05	35
Avg. Total Precipitation (in/mo) #2	1.43	1.08	1.11	1.28	1.91	1.86	1.11	1.19	1.29	1.25	1.11	1.39	16.01
Pond Loss [(Evap.) - (Precip., in.)] #3	0	0	0.29	1.17	2.29	3.39	5.54	4.41	2.56	0.85	0.29	0	20.79
Pond Surface Area (acres)	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4
Total Pond Loss (ac-in)	0.0	0.0	0.4	1.6	3.2	4.7	7.8	6.2	3.6	1.2	0.4	0.0	29.1
Total Pond Loss (ac-ft)	0.0	0.0	0.0	0.1	0.3	0.4	0.6	0.5	0.3	0.1	0.0	0.0	2.4 #7
Irrigation Consumption Crop													
Grass Hay (mm/yr)	623	# 4 = (Precipitation Deficit Growing Season, Site & Crop Specific (mm))											
Mean Irr. Requirement (ac-in/ac/seas.) =	24.5	# 5 = [(Precipitation Deficit (#4)) + (25.4) = ac-in/ac/season]											
Mean Irr. Requirement (ac-ft/ac/seas.) =	2.04	# 6 = [(Precipitation Deficit (#5)) + (12) = ac-ft/ac/season]											
Acres to dry up for pond use =	1.19 rounded = 1.2	# 8 = [(Pond Loss Total (#7)) + (Mean Irrig. Req (#6))]											

Summary				
Original Surface Water Right 22-178A	Diversion Rate (cfs)	Place of Use (acres)	cfs per acre	AF per acre (#6)
	0.6	48.4	0.012	2.04
Amount of 22-178A Needed For Evaporation	Pond Surface Area (acres)	Acres Equivalent to Evaporation Use (#8)	cfs	AF (#7)
	1.4	1.2	0.015	2.4
Original Surface Water Right 22-179B	Diversion Rate (cfs)	Place of Use (acres)	cfs per acre	AF per acre (#6)
	0.8	48.4	0.017	2.04
Amount of 22-179B Needed For Evaporation	Pond Surface Area (acres)	Acres Equivalent to Evaporation Use (#8)	cfs	AF (#7)
	1.4	1.2	0.020	2.4
Total Water Transferred		22-178A	22-179B	Amt Transferred
	cfs	0.015	0.020	0.035 cfs
	AF	2.4	2.4	2.4 AF
	acres	1.20	1.20	1.2 acres

#1 - Molnau, Myron, Kporde, Kojo C.S., and Craine, Katherine L., 1992. Monthly shallow pond evaporation in Idaho. ASAE paper PNW 92-111.

#2 - Data collected from the Western Regional Climate Summary, Monthly Climate Summary @ <http://www.wrcc.dri.edu/summary/Climsmsid.html> -See attached;

#3 - Note: for months where precipitation exceeds evaporation, the resultant pond loss is set to zero

#4, 5 & 6 - <http://www.kimberly.uidaho.edu/ETIdaho/> Precipitation Deficit values used synonymously w/mean irrigation requirement. Values from Allen, Richard G. & Clarence W. Robison, 2012. Evapotranspiration & Consumptive

Irrigation Water Requirements for Idaho: Supplement updating the Time Series through December 2008, Research Technical Completion Report, Kimberly Research & Extension Center, University of Idaho, Moscow, ID.

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Eastern Region

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?
22-178A	Yes ☐		Yes ☐		Yes ☐
22-179B	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐

2. Previous Owner's Name: James and Jacklyn Klausmann
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Jeffrey Klausmann or Darcy Klausmann
Name of each new owner as listed on the conveyance document
James Klausmann, II or Yvonne Klausmann
New owner continued Name connector ☐ and ☒ or ☐ and/or
PO Box 1218
Mailing address
Driggs ID 83422
City State ZIP
208-354-6929
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: November 22, 2011
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):
 - \$25 per *undivided* water right.
 - \$100 per *split* water right.
 - No fee is required for pending adjudication claims.

7. Signature: [Signature] Title, if applicable
Signature: [Signature] Title, if applicable
For IDWR Office Use Only: 3/26/15 E040819
Received by sc Date 3/25/15 Receipt No. E040808 Receipt Amt. \$25.00
Approved by _____ Processed by _____ Date _____

Instrument # 220442

TETON COUNTY, IDAHO
 01-12-2012 14:17:16 No. of Pages: 2
 Recorded for: FIRST AMERICAN TITLE - REXBURG
 MARY LOU HANSEN Fee: \$13.00
 Ex-Officio Recorder Deputy, Mary Lou Hansen
 Index to: DEED, GIFT

First American Title Company

402691-RX

GIFT DEED

In consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration, the adequacy of which is acknowledged, **James M. Klausmann** and **Jacklyn S. Klausmann**, husband and wife (hereinafter referred to collectively as "Donors"), do hereby transfer, grant, and convey as a gift unto **Jeffrey M. Klausmann** and **Darcy M. Klausmann**, husband and wife, and **James M. Klausmann, II** and **Yvonne Klausmann**, husband and wife (all of which are collectively "Donee" hereunder), c/o **Jeffrey M. Klausmann**, P.O. Box 1218, Driggs, ID 83422, the following described parcel of real property located in Teton County, Idaho, to wit:

A parcel of land in the S½SW¼ and the SW¼SE¼ of Section 32, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, being more particularly described as follows:

Beginning at the Southwest corner of said SW¼SE¼, where found a 5/8" diameter rebar with a 2" diameter aluminum cap stamped "A.W. Eng.-LS2860"; thence South 89°44'47" East, along the South line of said SW¼SE¼, a distance of 1317.72 feet to the Southeast corner of said SW¼SE¼, where found a 5/8" diameter rebar with a 2" diameter aluminum cap stamped "A.W. Eng.-LS2860"; thence North 01°10'23" West, along the East line of said SW¼SE¼, a distance of 1306.69 feet to the Northeast corner of said SW¼SE¼; thence North 89°39'37" West, along the North line of said SW¼SE¼, a distance of 1317.31 feet to the Northwest corner of said SW¼SE¼; thence North 89°40'07" West, along the North line of the SE¼SW¼ of said Section 32, a distance of 1311.13 feet to the Northwest corner of said SE¼SW¼, where found a 5/8" diameter rebar with a 2" diameter aluminum cap stamped "A.W. Eng.-LS2860"; thence North 89°34'48" West, along the North line of the SW¼SW¼ of said Section 32 a distance of 168.39 feet to the median line of the Teton River; thence along said median line, the following courses and distances:

South 13°49'13" East, 121.27 feet;
 South 30°17'54" West, 297.16 feet;
 South 40°15'14" West, 65.51 feet;
 South 22°28'35" West, 143.98 feet;
 South 09°00'14" West, 109.66 feet;
 South 39°47'18" East, 106.10 feet;
 South 83°03'42" East, 230.69 feet;
 North 84°40'46" East, 64.32 feet;
 South 89°07'53" East, 153.81 feet;

South 70°37'29" East, 45.84 feet;
 South 55°18'22" East, 184.79 feet;
 South 32°16'37" East, 105.17 feet;
 South 22°36'00" East, 87.64 feet;
 South 28°47'50" East, 133.47 feet;
 South 30°09'13" East, 88.47 feet;

South 32°42'22" East, 69.17 feet to the South line of said SE¼SW¼;
 thence South 89°43'13" East, along said South line of the SE¼SW¼, a
 distance of 795.46 feet to the point of beginning.

Together with all improvements, water, water rights, ditches, ditch rights, easements,
 tenements, appurtenances, reversions, remainders, rents, issues, and profits whatsoever.

Effective Date: November 22, 2011

Donors:

James M. Klausmann
 James M. Klausmann

Jacklyn S. Klausmann
 Jacklyn S. Klausmann

CERTIFICATE OF ACKNOWLEDGMENT

State of New Jersey

SS

County of Somerset

On December 1, 2011, before me, LORRAINE SUTTER, Notary Public in and for said
 county, personally appeared **James M. Klausmann** and **Jacklyn S. Klausmann**, who
 have satisfactorily identified themselves as the signers to the above-referenced document.

(Affix Notary Stamp Here)

My Commission Expires: 10/24/2014

Lorraine Sutter
 (Notary Signature)

12/1/11
 (Date)

Gift Deed – Page 2

WATER RIGHTS PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is made and entered into this 29 day of January, 2015 (the "Effective Date") by and between **Jeffrey Klausmann** and **Darcy Klausmann**, husband and wife, and **James Klausmann, II, and Yvonne Klausmann**, husband and wife, of PO Box 1218, Driggs, Idaho 83422, hereafter "SELLER", and **Woods Creek 2, LLC**, an Idaho Limited Liability Company, of 3953 Maple Ave., Ste 290, Dallas, Texas 75219, hereafter "BUYER";

WITNESSETH:

That for and in consideration of the mutual covenants and agreements set forth below, the parties hereto agree as follows:

1. **Water Right Purchase.** SELLER hereby sells to BUYER, and BUYER hereby purchases from SELLER, the following described merchantable and valid water rights or water right portions for the consideration and subject to the terms and conditions contained herein:

A portion of Idaho Department of Water Resources (IDWR)
Water Right License No. 22-178A.

Source:	Unnamed Stream tributary to Teton River
Purpose:	Irrigation
Priority:	June 1, 1887
Quantity (Diversion Rate):	0.015 cfs (Total of the right is 0.6 cfs for 48.4 acres)
Place of Use (Acreage):	1.2 acres.

A portion of Idaho Department of Water Resources (IDWR)
Water Right License No. 22-179B.

Source:	Woods Creek tributary to Teton River
Purpose:	Irrigation
Priority:	June 1, 1899
Quantity (Diversion Rate):	0.02 cfs (Total of the right is 0.8 cfs for 48.4 acres)
Place of Use (Acreage):	1.2 acres.

The above portions of Water Right No. 22-178A and 22-179B are hereinafter referred to as the "Water Rights." The Water Rights shall be conveyed from SELLER to BUYER by Special Warranty Deed, in the form set forth in Exhibit "A" attached hereto. Said Special Warranty Deed

will be executed and recorded by SELLER as grantor to BUYER as grantee, and delivered to grantee together with Idaho Department of Water Resources (IDWR) Change of Ownership Form in the form attached hereto as Exhibit "B" upon closing.

2. **Purchase Price.** The purchase price for the Water Rights is [REDACTED] lawful money of the United States, to be paid by BUYER to SELLER as follows:
 - a. **Down Payment.** The sum of [REDACTED] shall be paid as a down payment upon the execution of this agreement, receipt whereof is hereby acknowledged by SELLER;
 - b. **Remaining Balance.** The remaining balance of [REDACTED], shall be paid in cash, within thirty (30) days of receipt of notice of formal approval by Idaho Department of Water Resources of the Application for Transfer referenced in Paragraph 3 hereof.
3. **Application for Transfer.** It is understood and agreed that BUYER will initiate the appropriate transfer proceeding under *Idaho Code* §§ 42-108 and 42-222, by filing an application with IDWR to change the point of diversion, place of use and nature of use of the Water Rights as provided in said application. The filing fees and all costs and expenses of such proceedings shall be borne by BUYER. This transfer and Water Rights will remain in the name of SELLER until this agreement is closed and paid for by the BUYER. At the closing, Buyer shall cause the Special Warranty Deed, duly executed by Seller, to be recorded in the appropriate public records. The BUYER's place of use and point of diversion will be used for the transfer. The parties agree to cooperate in the prosecution of said transfer proceeding to the end that it might be approved by the Idaho Department of Water Resources with as much dispatch as possible.
4. **Closing.** The closing of this transaction and delivery of the executed Assignment (including the Special Warranty Deed) to BUYER and the remaining balance of the purchase price for the Water Rights to SELLER shall take place at the office of Rocky Mountain Environmental Associates, Inc, within thirty days of BUYERS receipt of approval from the Department of the application for

transfer. The BUYERS shall be given possession and use of the Water Rights and the water appurtenant thereto, upon closing.

5. **Processing of Application for Transfer.** In the event the transfer is not approved by the Idaho Department of Water Resources, or not approved in a manner satisfactory to BUYER, BUYER shall have the right to have said application withdrawn. In the event BUYER withdraws said application, SELLER agrees to promptly refund any portion of the purchase price paid by BUYER prior to the date of such withdrawal, to BUYER, without interest, within ten (10) days of the filing of the Notice of Withdrawal.
6. **Signature Deadline.** SELLER hereby agrees to sign this Agreement within ten (10) business days after BUYER signs this Agreement. If SELLER does not sign the Agreement within the specified time period, BUYER may terminate this Agreement by providing written notice to SELLER within five (5) business days after BUYER signs this Agreement.
7. **Seller's Representations and Warranties.** SELLER represents and warrants to BUYER that:
 - 7.1 **Authority.** SELLER has full power and authority to enter into this Agreement and complete the Transaction.
 - 7.2 **Binding Agreement.** Upon SELLER's execution of this Agreement, this Agreement will be binding and enforceable against SELLER in accordance with its terms.
 - 7.3 **Title.** SELLER has good and marketable fee simple title to the Water Rights. SELLER believes in good faith that there are no unrecorded agreements, leases, liens or encumbrances which may affect title to the Water Rights.
 - 7.4 **Other Agreements.** SELLER shall not, prior to any termination of this Agreement, enter into or execute any easement, encumbrance, lease, or other agreement, with respect to the Water

Rights. SELLER shall not solicit any other offers for the portion of the Water Rights in which BUYER and SELLER are under contract to purchase.

7.5 **No Litigation or Condemnation**. There are no suits, claims, proceedings or investigations pending or threatened with respect to the Water Rights or which will adversely affect SELLER's ability to meet its obligations with respect to this Agreement. SELLER has no knowledge of or reason to suspect any proposed public improvements that could result in any condemnation or taking of all or a portion of the Water Rights.

7.6 **Snake River Basin Adjudication**. SELLER has researched and reviewed the Water Rights and warrants that claims for the Water Rights have been filed in the Snake River Basin Adjudication (the "SRBA").

8. **BUYER's Representations and Warranties**. BUYER represents and warrants to SELLER that:

8.1 **Authority**. BUYER is a validly existing Idaho Limited Liability Company and has full power and authority to enter into this Agreement and complete the Transaction.

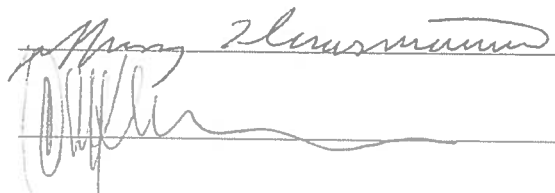
8.2 **Binding Agreement**. Upon BUYER's execution of this Agreement, this Agreement will be binding and enforceable against BUYER in accordance with its terms, and upon BUYER's execution of the additional documents contemplated by this Agreement, they will be binding and enforceable against BUYER in accordance with their terms.

9. **Attorney's Fees**. Should either party default in the performance of any of the covenants or agreements contained herein, such defaulting party shall pay to the other party all costs and expenses, including, but not limited to, a reasonable attorney fee, including such fees on appeal, which the offended party may incur in enforcing this agreement or in pursuing any remedy allowed by law for breach hereof, whether such is incurred by the filing of suit or otherwise.

10. **Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may be detached from each counterpart and combined into one instrument. This Agreement may be signed and delivered by facsimile (fax or email) which shall be effective as an original.
11. **Binding Effect.** This Agreement is binding upon and inures to the benefit of the parties to this Agreement and their respective successors and assigns.
12. **Reliance Upon Statements/Integration and Merger.** This Agreement sets forth the entire understanding of the parties with respect to the matters set forth in this Agreement as of the date both Buyer and Seller sign the Agreement; it supersedes all prior oral or written agreements of the parties as to the matters set forth in this Agreement; and it cannot be altered or amended except by an instrument in writing, signed by Buyer and Seller.
13. **Severability.** If any provision of this Agreement or any portion of any provision of this Agreement is determined to be invalid, illegal or unenforceable, the invalidity, illegality or unenforceability may not alter the remaining portion of such provision, or any other provision of this Agreement, as each provision of this Agreement is deemed severable from all other provisions of this Agreement.
14. **Governing Law.** This Agreement is governed by, and construed and enforced in accordance with, the laws of the State of Idaho.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

JEFFREY AND DARCY KLAUSMANN

Handwritten signatures of James and Yvonne Klausmann in black ink, written over two horizontal lines.

JAMES AND YVONNE KLAUSMANN

WOODS CREEK 2, LLC

By: _____
Its: _____

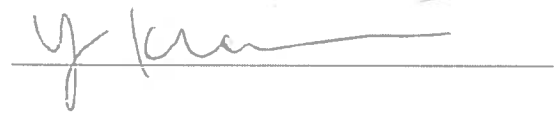
Termination Date: January 31, 2015

If BUYER does not accept this contract of sale on or before the Termination Date above, this contract is voidable by the SELLER.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

JEFFREY AND DARCY KLAUSMANN

JAMES AND YVONNE KLAUSMANN

WOODS CREEK 2, LLC

By: _____
Its: _____

Termination Date: January 31, 2015.

If BUYER does not accept this contract of sale on or before the Termination Date above, this contract is voidable by the SELLER.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

JEFFREY AND DARCY KLAUSMANN

JAMES AND YVONNE KLAUSMANN

WOODS CREEK 2, LLC

By: Jay Ellis
Its: JAY ELLIS
Manager

Termination Date: January 31, 2015.

If BUYER does not accept this contract of sale on or before the Termination Date above, this contract is voidable by the SELLER.

Exhibit A Form of Deed

When Recorded Return To:

xxx

SPECIAL WARRANTY DEED FOR Water Rights

[Name of Seller], an [type of company] registered to do business in [state] as [name], whose address is [address] ("Grantor"), does hereby grant, bargain, sell, assign, and convey unto [Name of Seller], an [type of company] registered to do business in [state] as [name], whose address is [address] ("Grantee"), and to Grantee's heirs, successors, and assigns forever, all of Grantor's right, title, and interest in the Water Rights described in Exhibits [xxx] hereto (collectively the "Water Rights").

Grantor assigns to Seller any other interest it may have in the Water Rights including any claim, permit, license, or shares of stock evidencing, claiming, or representing such Water Rights.

To the extent the Water Rights, or any of them, are represented by a permit or other property not conveyable by deed, this deed shall be deemed and shall operate as a bill of sale therefore.

Grantor retains no residual or reversionary interest in any of the Water Rights.

Grantor hereby covenants and warrants to Grantee as follows:

- I. that Grantor is the owner in fee simple of the Water Rights;
- II. that Grantor has not conveyed any of the Water Rights to anyone other than Grantee;
- III. that each of the Water Rights is free from all liens, claims, or encumbrances;
- IV. that Grantor has the authority to convey the Water Rights to Grantee;
- V. the Grantor has disclosed to Grantee in writing in good faith all relevant information known to Grantor bearing on the validity and extent of the Water Rights.

Grantor makes no other covenants or warranties as to the Water Rights.

[end of text; signature page to follow]

IN WITNESS WHEREOF, the undersigned authorized officers of Grantor, acting on behalf of Grantor, have caused their names to be hereunto subscribed on the date shown by each name.

Grantor: [NAME OF SELLER]

Dated: _____ By: _____
Name
Title

Exhibits:
Exhibit 1 to Water Rights Deed: Description of Water Rights No. [number] (or portion thereof)
Exhibit 2 to Water Rights Deed: Description of Water Rights No. [number] (or portion thereof)
[Etc.]

[Add appropriate notary forms]

Exhibit B