

RECEIVED

DEC 09 2013

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATEMENT OF COMPLETION
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY	
Amt. of Fee \$:	50.00
Receipt No.	0898045
Receipt By:	HP
Date Received:	12-9-13

The Idaho Department of Water Resources considers this form a statement by the permit holder(s) that development of a water right has been completed and that water has been applied to beneficial use to the extent described below. This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner. Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, please contact any Department office or visit the Department's website at: www.idwr.idaho.gov for an Assignment of Permit form. If you wish to relinquish your permit because you have not established the authorized use of the water and are not applying for an extension, please notify the Department in writing.

- Permit No.: 84-12227 Telephone No.: Don Berry State of Idaho 208-476-0488 208-476-4587
- Name of Permit Holder(s): Don R. Berry and State of Idaho Dept. of Lands
- Mailing Address: 551 Huckleberry Butte Rd. (Don Berry) City: Orofino
State: ID Zip: 83544 Email: jsila@idl.idaho.gov
- Source of Water: Spring If GROUND WATER (well), Date Drilled: mo. N/A / yr. N/A
Well Driller: N/A Drilling Permit Number: N/A
- Extent of use(s) completed (as authorized by the water right permit):
Domestic (No. of households): X Stockwater (No. and type of stock): —
Irrigation (No. of acres): — Other: —
- Total rate of diversion or storage volume for which proof is submitted: 0.04 cfs OR — acre-feet.
- Compliance with a measuring device requirement, lockable controlling device requirement, and/or other conditions of permit: Refer to the approval conditions on your permit and respond accordingly. The Department will not issue a license if permit conditions are not met.

Measuring Device: Is a measuring device required?

Yes	☐	No	☒
Yes	☐	No	☐

If yes, has the measuring device been installed?

Lockable Controlling Device: Is a lockable device required to control the diversion?

Yes	☐	No	☒
Yes	☐	No	☐

If yes, has the lockable device been installed?

Other Conditions of Permit: Do the approval conditions on your permit require you to submit additional information in connection with your proof of beneficial use? If yes, list the conditions below and attach documents with the required information.

Requires Term Easement No. 6467, Amendment Completed?

Yes	☒	No	☐
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Attached

- Fee Enclosed: \$ 50.00 See fee schedule on back of the instructions for filing proof of beneficial use. Proofs filed without an appropriate fee, will be considered incomplete.

- Person to contact to accompany the Department representative during field examination of the water system.

Name: Don Berry or Jay Sila Telephone Number: Don Berry State of Idaho 208-476-0488 208-476-4587
Mailing Address: 551 Huckleberry Butte Rd. (Don Berry) City: Orofino
State: ID Zip: 83544 Email: jsila@idl.idaho.gov

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to a beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

Signature of permit holder: Don R Berry Jay I Sila (IDL representative) Date: 12/5/13
(Include your title, if on behalf of company or organization)

Mail to: Idaho Department of Water Resources, PO Box 83720, Boise, ID 83720-0098

222833

Instr ent # 222833

CLEARWATER COUNTY, OROFINO, IDAHO

8-30-2013 02:23:00 No. of Pages: 4

Recorded for : IDAHO DEPARTMENT OF LANDS

CARRIE BIRD

Fee: 0.00

Ex-Officio Recorder Deputy

300 N. 6th St, Suite 103

PO Box 83720

Boise, Idaho 83720-0050

Phone (208) 334-0200 Fax (208) 334-3698

IDAHO DEPARTMENT OF LANDS

AMENDMENT TO STATE OF IDAHO TERM EASEMENT NO. 6467

THIS Amendment to State of Idaho Term Easement No. 6467 ("Amendment"), is made this 22nd day of August, 2013, by and between the **STATE BOARD OF LAND COMMISSIONERS**, 900 North 6th Street, Suite 103, P.O. Box 83720, Boise, Idaho 83720-0050 ("Grantor"), and **Don R. Berry**, 551 Huckleberry Butte Road, Orofino, Idaho 83544 ("Grantee") (Grantor and Grantee, collectively, "Parties");

WHEREAS, Grantor issued State of Idaho Term Easement No. 6467 ("Easement") to Grantee on December 1, 2004, for a buried domestic water supply pipeline and spring collection box on State land;

WHEREAS, the Easement was recorded in the records of Clearwater County, Idaho, on December 6, 2004, as Instrument No. 197826;

WHEREAS, Section C.7. of the Easement required Grantee to file for a water right for the spring development on State land in the name of the State of Idaho within six (6) months of issuance of the Easement;

WHEREAS, Grantee applied to the Idaho Department of Water Resources ("IDWR") for a water right permit for the spring development in Grantee's name only, rather than in the name of the State of Idaho;

WHEREAS, IDWR identified the permit application as Water Right No. 84-12227;

WHEREAS, the permit application has been pending with IDWR since May 12, 2005;

WHEREAS, the Parties agree to amend the water right provision in the Easement to clarify the Parties' respective roles and identify the Parties as co-applicants for the permit so that IDWR can issue the permit for Water Right No. 84-12227; and

WHEREAS, the Parties agree this Amendment shall be effective upon the execution of this Amendment and this Amendment shall be recorded in the records of Clearwater County, Idaho;

NOW THEREFORE, the Parties agree that the above recitals are contractual in nature and that the Easement is hereby amended as follows:

1. Section C.7. of the Easement is hereby deleted in its entirety.

PTNWNW, Sec 19-37-3 EBM

2. New Section I is hereby added to the Easement, to be inserted after existing Section H, to read as follows:

I. Water Right:

1. The diversion of water on Grantor's land for use on Grantee's land requires a permit to appropriate waters of the State of Idaho ("Water Right Permit") issued by IDWR. The Idaho Department of Lands ("IDL"), on behalf of Grantor, and Grantee shall jointly apply to IDWR for the Water Right Permit. The Water Right Permit application shall be in the names of both IDL and Grantee. IDL and Grantee shall file an Assignment of Application for Permit form with IDWR to update the applicants' names on the previously submitted Water Right Permit application.

2. Grantee shall pay any fees required by IDWR related to obtaining Water Right No. 84-12227, including, but not limited to, the Water Right Permit application fee and the beneficial use examination fee.

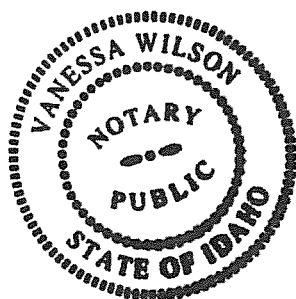
3. In the event of the cancelation, expiration, or otherwise termination of the Easement, any ownership interest held by Grantee in Water Right No. 84-12227 shall cease and IDL shall become the sole owner of the said water right. In such event, Grantee shall waive any right to object to the transfer of Water Right No. 84-12227 to the name of IDL exclusively. Additionally, in such event, IDL shall file with IDWR, or any successor agency, an application to transfer Water Right No. 84-12227 to land owned by the State of Idaho. Grantee hereby waives any right to object to the transfer of the said water right to State land.

3. All other terms and conditions of the Easement not specifically amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused these presents to be executed on the date of their respective signatures or the date of their respective acknowledgments.

Countersigned:

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



Vanessa Wilson
NOTARY PUBLIC for Idaho
Residing at Borise, Idaho
My Commission expires: 8-11-14

GRANTEE: DON R. BERRY

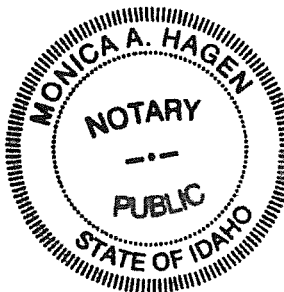
7/25/13
Date

Don R Berry
Don R. Berry

STATE OF IDAHO)
COUNTY OF Clearwater) ss.

On this 25th day of July, 2013, before me, a Notary Public in and for said State, personally appeared **Don R. Berry**, known or identified to me to be the person whose name is subscribed to the written instrument, and acknowledged to me that he executed the same.

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



Monica A Hagen
NOTARY PUBLIC for Idaho
Residing at Ramiah, Idaho
My Commission expires: 05/16/2017

RECEPTION ☒ INDEXED ☒
FILMED ☐ DELIVERED ☐
MAILED ☐

197826

IDAHO DEPARTMENT OF LANDS

954 W. Jefferson St. PO Box 83720
Boise, Idaho 83720-0050
Phone (208) 334-0200 Fax (208) 334-3698

STATE OF IDAHO

TERM EASEMENT NO. 6467

Instrument # 197826

CLEARWATER COUNTY, OROFINO, IDAHO
2004-12-06 08:00:00 No. of Pages: 6

Recorded for : DEPARTMENT OF LANDS

ROBIN CHRISTENSEN

Ex-Officio Recorder Deputy Fee: 0.00

RETURN TO: *

Cindy Gumm

THIS INDENTURE, made this 1st day of December, 2004, by and between the **STATE OF IDAHO, Department of Lands**, 954 West Jefferson Street, P.O. Box 83720, Boise, Idaho 83720-0050, acting by and through the State Board of Land Commissioners, (Grantor), and **DON R. BERRY**, 2812 Huckleberry Butte, Orofino, Idaho 83544, (Grantee);

WITNESSETH: That for and in consideration of the sum of **TWO HUNDRED FIFTY and no/100ths DOLLARS (\$250.00)**, lawful money of the United States of America, receipt whereof is hereby acknowledged, the Grantor does hereby grant to the Grantee, his heirs and successors, forever, a non-exclusive easement for the purpose of constructing, using, and maintaining a buried domestic water supply pipeline and spring collection box over, under, and across the following described lands situated in **CLEARWATER COUNTY**, State of Idaho, to-wit:

An easement for utility purposes located in the NW1/4 of the NW1/4 of Section 19, Township 37 North, Range 3 East, Boise Meridian, and being more particularly described as follows:

Beginning at the northwest corner of said Section 19; thence S 0° 24' 12" W along the west line of said Section 19 221.00 feet to the **REAL POINT OF BEGINNING**; thence continuing S 0° 24' 12" W along said west line 5.35 feet; thence N 69° 40' 58" E 313.68 feet; thence S 20° 19' 02" E 2.50 feet; thence N 69° 40' 58" E 10.00 feet; thence N 20° 19' 02" W 10.00 feet; thence S 69° 40' 58" W 10.00 feet; thence S 20° 19' 02" E 2.50 feet; thence S 69° 40' 58" W 311.78 feet to the **REAL POINT OF BEGINNING**.

Said parcel contains 0.04 acre, more or less.

Subject to the following terms:

A. General:

1. This easement may be assigned only with the prior written approval of the Grantor. The Grantee must provide the appropriate legal assignment documentation and pay the required easement assignment fee.

B. Limited Purpose:

1. This easement is granted for the sole benefit of the current household located in the S1/2SE1/4SE1/4 of Section 13, Township 37 North, Range 2 East, B.M.

*
DEPARTMENT OF LANDS
954 W. JEFFERSON STREET
P.O. BOX 83720
BOISE, ID 83720-0050

2. This easement does not give the Grantee authority to permit third party use of the easement area for any permanent purpose. Third party use shall be authorized only by the Grantor. The Grantor shall permit third party use only on the condition that said use shall not interfere with, nor unduly burden the Grantor's estate.

C. Grantees Covenants:

1. It is understood and agreed that the Grantee shall take measures to control noxious weeds within the easement boundary in accordance with Title 22, Chapter 24, Idaho Code. The Grantee shall cooperate with any state or other agency authorized to undertake programs for control or eradication of noxious weeds. Failure to comply would be justification for the Grantor to terminate the easement.

2. The Grantee, heirs and successors, will comply with all federal, state, and local laws, and with all state administrative rules including, but not limited to the Idaho Forest Practices Act, the Stream Channel Protection Act, and all environmental protection laws.

3. It is understood and agreed that the legal description described in this easement is that provided by the Grantee who assumes full responsibility for the buried domestic water supply pipeline and spring collection box being located within the described legal description. The Grantor assumes no responsibility involved with an inaccurate legal description.

4. The Grantee shall indemnify and hold harmless, the Grantor and its representatives against and from any and all demands, claims, or liabilities of every nature whatsoever, arising directly or indirectly from or in any way connected with the use authorized under this easement.

5. The Grantee agrees to indemnify the Grantor against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 et seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.) on the easement (unless the release or threatened release is wholly unrelated to the Grantee's activity on the easement), or resulting from the activity of the Grantee on the easement. This agreement applies without regard to whether a release is caused by the Grantee or its agent.

6. Grantee shall not fence the easement area without written authorization from the Grantor.

7. Grantee will, within six (6) months from the date of issuance of this easement, file for a water right on this spring development. **This water right must be filed in the name of the State of Idaho.**

D. Utilities:

1. The domestic water supply pipeline must be buried at least three (3) feet deep.
2. It is fully understood and agreed that if any future road construction or reconstruction affects the buried domestic water supply pipeline or spring collection box, it shall be the sole responsibility and expense of the Grantee for removing, relocating, and reinstalling of said buried domestic water supply pipeline or spring collection box necessitated by such construction or reconstruction. The Grantee agrees to move the buried domestic water supply pipeline or spring collection box, within ninety (90) days after receiving written notice from the Grantor that new construction or improvements are planned.
3. Prior to performing construction, reconstruction or maintenance to a degree that shall cause soil disturbance and or the destruction of vegetation, the Grantee shall obtain written authorization from the Grantor. The authorization shall provide for appropriate operating and reclamation procedures such as leveling the ground surface and reseeding of vegetation, if necessary; prevention of erosion; and any other special provisions appropriate to protect the land and other resources.
4. Grantee will remove the existing abandoned iron pipe waterline sections and dispose of them in an approved manner. The cistern lid will be redesigned so that it stays in place. Grantee will have six (6) months from date of easement to complete these items.
5. Upon termination or abandonment, the Grantee shall have twelve (12) months from the date of receipt of the final notice to remove all facilities or improvements. Grantee will be liable for any damage to Grantor's land or resources thereon caused by removal of such facilities or improvements.

E. Grantors Covenants:

1. The Grantor reserves to itself, its successors and assigns, all timber, present and future, within the easement area.
2. The Grantor reserves to itself, its successors, and assigns, the right to construct and maintain such spur roads over, through, or across the aforementioned easement as it may deem necessary in the administration and use of its adjoining land, provided that such use does not interfere with the rights and privileges hereby authorized to Grantee.
3. The Grantor reserves unto itself, its assigns and its successors in interest the right and privilege to use said easement for any and all purposes deemed necessary or desirable in connection with the control, management, administration, and use of Grantor's lands.
4. Nothing in this instrument will be construed as binding the Grantor to perform beyond its legal authority, or to expend any monies in excess of appropriations or other authorized funds available for such purposes.

5. In the event that the Grantor commences a contractual activity on the property, the Grantor and their contractor will take every precaution to protect the Grantee's pipeline and spring development. If damaged, it shall be restored by said contractor to the condition prior to commencement of said contractual activity.

F. Termination:

1. This easement shall be effective upon execution and shall continue for a period of thirty (30) years (or until Dec. 1 of 2034), subject only to the terms and provisions of this easement. To provide a potable domestic water supply, the grantee will be required to drill a well on privately owned land, before the end of the thirty (30) year term.

2. If at any time prior to termination Grantee determines that the easement, or any segment thereof, is no longer needed for the purposes granted, the easement traversed thereby shall terminate. In the event of such determination by Grantee, Grantee shall furnish to the Grantor or its successors in interests, a statement in recordable form confirming termination.

3. The Grantor may, at its option, terminate this easement for breach of any of the terms of this easement and/or pursue other remedies to enforce the terms of this easement. If termination occurs, the director shall notify the Grantee in writing of the termination. The Grantee shall have thirty (30) days from the date of notification to appeal to the director for reinstatement.

G. Authority:

1. This easement is issued by the authority of the Rules for Easements on State Land (IDAPA 20.03.08) dated July 1993.

H. Acceptance:

1. USE OF THIS EASEMENT BY THE GRANTEE CONSTITUTES ACCEPTANCE OF THE EASEMENT AND AGREEMENT TO BE BOUND BY THE TERMS HEREOF.

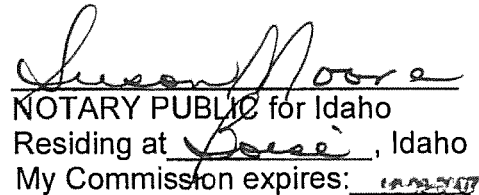


EXHIBIT A