

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES78861
RECEIVED**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1****OCT 07 2013**Department of Water Resources
Eastern RegionName of Applicant(s) David & Sandra Anderson, Steven & Theresa Bjerklie, and Danny & Simon Kwan Phone: 208-354-3909Mailing Address: 159 N Mt. Washburn Dr., 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 Representative

Name of representative Luke H. Marchant Phone: (208) 523-0620Mailing Address: P.O. Box 50130, Idaho Falls, ID 83405 Email: lmarchant@holdenlegal.com

- ☐ Send all correspondence for this application to the representative and not 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.

Luke H. Marchant
Signature of Applicant or Authorized Representative

Luke Marchant, Attorney
Print Name and Title if applicable

10/7/2013
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

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 if **Part1A.2**. The purpose of this transfer is to change the point of diversion from its current location to an old, unused well located in the SE1/4NW1/4SE1/4 of Section 23, T5N, R44E.

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.	<u>Right Number</u>	<u>Amount</u> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>	<u>Source & Tributary</u>
All or part					
☒ ☐	<u>22-13805</u>	<u>0.09 cfs/32.67 ac-ft</u>	<u>Irrigation</u>	<u>04/15</u> to <u>10/15</u>	<u>Ground Water</u>
☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>
☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>
☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>
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☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>
☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>
☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>

Total authorized under rights: 0.09 cfs and/or 32.67 ac-ft.

2. Total amount of water proposed to be transferred or changed 0.09 Cubic feet per second and/or 32.67 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 for diversion
		SE	NW	SE	23	5N	44E	Teton	Ground Water	

Per Transfer Memo 24, Part 12, it is not necessary to run an ESPA analysis because the proposed point of diversion is in a model grid cell adjacent to the current point of diversion.

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	

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. A pump will be placed in an existing well that is currently not being used.

- b. Who owns the property at the point(s) of diversion? Mark L. Wade
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Restrictive Covenants that run with the land provide for the use of the well by the Applicants. See attachment No. 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 or 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: _____

- 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) of use: Water Right No. 22-13828 is also diverted from the existing point of diversion.

- 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

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from an Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Name of Applicant(s) David and Sandra Anderson

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A *Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of Applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer).

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder (see Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner. Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #2b 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).**
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☐ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm>
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer (See Part 1.5.c)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A).
- ☐ ☒ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B). Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☒ ☐ #9 Other. Please describe: AQV Restrictive Covenants

Attachment No. 2a Water Right Ownership Documentation

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

9/30/2013

WATER RIGHT NO. 22-13805

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DAVID F ANDERSON
Current Owner	SANDRA J ANDERSON
	159 N MT WASHBURN DR
	DRIGGS, ID 83422
	(208)354-3909
Current Owner	STEVEN L BJERKLIE
Current Owner	THERESA A BJERKLIE
Current Owner	DANNY Q KWAN
Current Owner	SIMON W KWAN
	C/O DAVID F ANDERSON
	159 N MT WASHBURN DR
	DRIGGS, ID 83422
	(208)354-3909

Priority Date: 02/25/1975

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/15	0.09 CFS	32.67 AFA
Total Diversion			0.09 CFS	

Location of Point(s) of Diversion:

GROUND WATER|NWSENE|Sec. 23|Township 05N|Range 44E|TETON County

GROUND WATER|NWSENE|Sec. 23|Township 05N|Range 44E|TETON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION TETON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	44E	23		NESE 13										

Total Acres: 13

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for 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. This right is a split from former right 22-7128 .

Dates:

Licensed Date:

Decreed Date: 03/23/2009

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

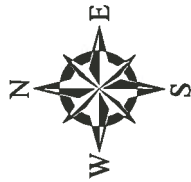
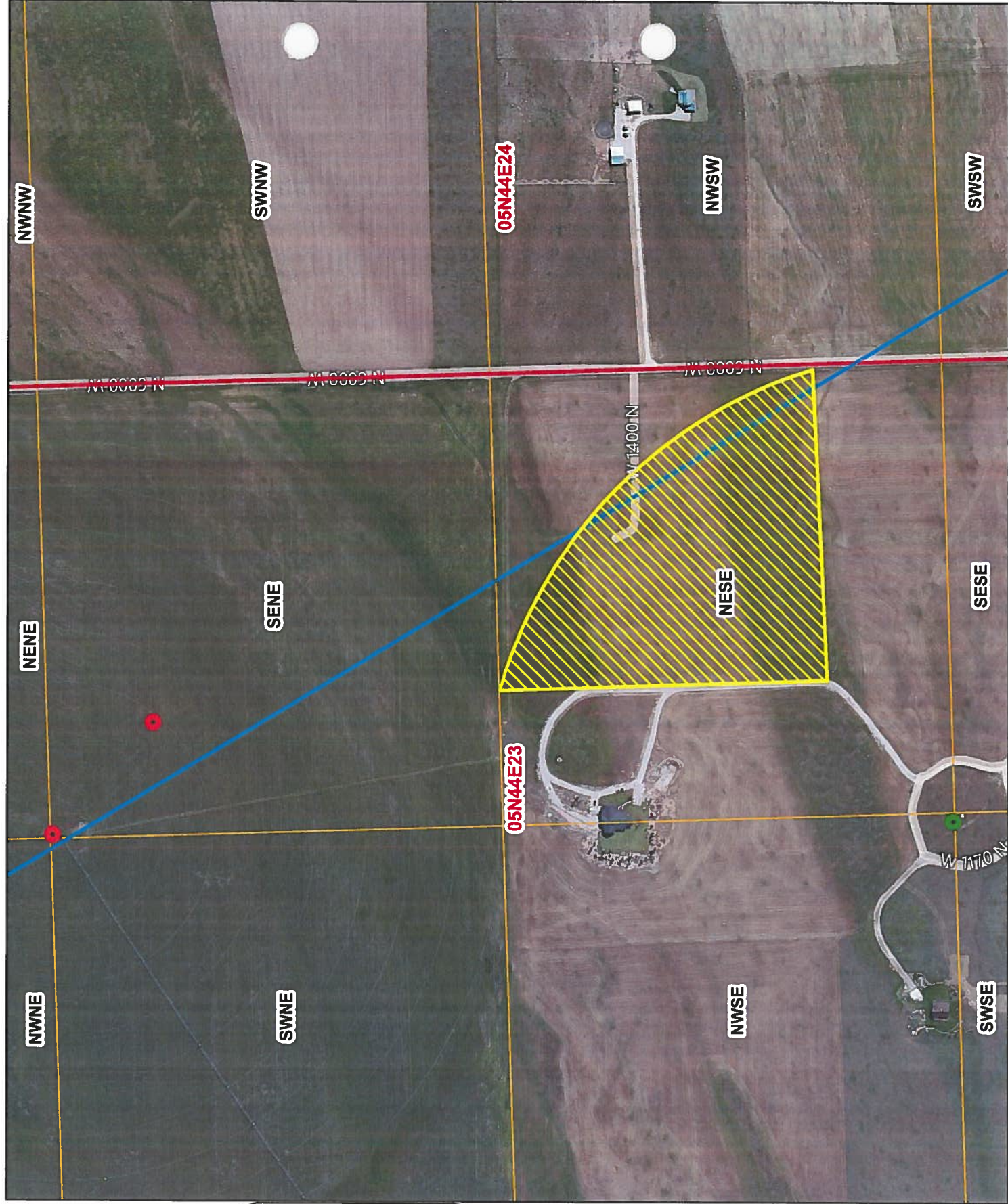
Water District Number:

Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

Attachment No. 7a Map - Proposed POD

WATER RIGHT NO. 22-13805 TRANSFER



Legend

- New Point of Diversion
- Current Points of Diversion
- Current Place of Use
- Model Grid
- Section Lines
- Quarter Quarters

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Bing Aerial Photo



Prepared by:
Luke H. Marchant
10/7/2013

Attachment No. 9

Other

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35-9024-G

MAY 19 1936

TETON COUNTY

124014

AQV RESTRICTIVE COVENANTS

COPY

The following are covenants running with the lands and shall be binding in perpetuity upon all lands in the SE-1/4, Sec. 23, T. 5 N. R. 44 W, Teton County, Idaho. With respect to lands hereafter conveyed by the undersigned, these covenants may be amended or rescinded by affirmative resolution of owners representing a majority of the acreage so conveyed within said SE-1/4, Sec. 23; such resolution to be subscribed by those assenting, with a description of the lands they represent, duly acknowledged and recorded in the office of the Teton County Clerk.

The premises shall be used for residential and agricultural uses only, and no other character of business shall be conducted upon the premises than as herein specified. The following agricultural uses are prohibited: lumber mills, trucking, meat packing plants, slaughterhouses, feedlots, dairy, stagnant ponds or other activity which might produce unsanitary conditions, obnoxious odors or disturbing noises. Livestock shall be fenced in and shall not be permitted to overgraze their pasture.

The premises shall not be used for any purpose which might produce loud, disturbing noises or unsightly accumulations of rubbish, refuse or junk.

Household pets or small animals shall be contained on the premises and shall not be permitted to run at large so as to annoy wildlife or livestock. Howling or barking dogs must be muzzled or removed from the premises.

Refuse or garbage shall not be disposed of upon the premises unless systematically composted. Trash shall be protected from blowing winds until properly disposed of by removal or incineration. Burning of household trash shall be personally supervised at all times, and shall not be conducted during windy conditions or in proximity to ground cover which might ignite. No burning is permitted during the time of field crop dry-down from August 15 to September 20 of each year unless conducted in a proper incinerator equipped with a chimney.

The discharge of firearms upon the premises is strictly forbidden, whether for hunting, rodent control, target practice or any other reason.

Outdoor loudspeakers shall be limited to moderate listening levels and shall not be operated to broadcast loud and boisterous sounds. To preserve the natural beauty of nighttime skies, there shall be no unattended outdoor lighting, such as mercury vapor lights which illuminate indiscriminately. This shall not prohibit outdoor lighting to illuminate outdoor activities. This part shall not proscribe the use of small yard lamps and porch lights.

The premises may be used for "Home Occupations" as defined in

78861

124014

zoning ordinances, provided that there be no retail activity catering to the general public.

In addition to the limitations of zoning restrictions, these lands shall not be subdivided into tracts smaller than five (5) acres in size, and not more than one single family dwelling and one guest house shall be permitted thereon.

Outbuildings, work and equipment sheds shall not be constructed of salvaged materials, and shall be constructed in a workman-like manner. Buildings shall be completed within 12 months after the start of construction. Mobile homes shall not be occupied or permitted to remain on the premises. Travel trailers shall not be occupied as a residence.

The grantor operates an irrigation well pumping equipment located at the center of the SE-1/4, Sec. 23 aforesaid. Whenever grantor shall abandon irrigated farming for one growing season, said well and pumping equipment shall become the joint property of landowners in said Sec. 23. The property owners may use the same for fire protection, apply for an irrigation water right or any other purpose common to them, and grantor may not thereafter reclaim ownership or use of the same. Grantor reserves the existing predated irrigation water right of record.

If any part of these covenants shall be adjudged contrary to law, then only the portion so adjudged shall be inoperative and the remaining provisions hereof shall remain in full force and effect.

WITNESS our hands this 15th day of May, 1996.

FILED
AT THE REQUEST OF

ALLIANCE TITLE AND ESCROW

AT 10 MINUTES PAST 9 a.m.

DATE May 29, 1996

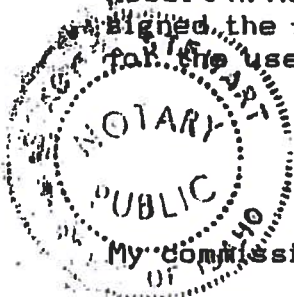
State of Idaho Angela Drake

County of Teton BY Nora Righy CLERK OF RECORD
DEPUTY

Robert A. Hufsmith
Robert A. Hufsmith

Guilomar W. Hufsmith
Guilomar W. Hufsmith

On this 15th day of May, 1996, before me personally appeared Robert A. Hufsmith and Guilomar W. Hufsmith who acknowledged that they signed the foregoing instrument individually and as trustees of title for the uses and purposes therein set forth.



Shad. Swank
Notary Public

My commission expires: 6-28-97 124014

78861



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

Email: lmarchant@holdenlegal.com

October 4, 2013

RECEIVED

OCT 07 2013

Department of Water Resources
Eastern Region

Idaho Department of Water Resources
Attn: Blake Jordan
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

RE: Application for Transfer of Water Right No. 22-13805.

Dear Blake:

Enclosed for processing you will find an *Application for Transfer of Water Right No. 22-13805*. The purpose of this application is to move the point of diversion of the water right from its current locations to a well that is currently unused approximately ½ mile to the south. The proposed point of diversion is not on land owned by the applicants; however, restrictive covenants that are tied to the land give the applicants the right to use of the well. A copy of these covenants, which were recorded in Teton County, are attached as attachment 9 to the application.

As always, if you have any questions, do not hesitate to contact me.

Best Regards,

Luke H. Marchant
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

G:\WPDATA\RLH\14505-01 Anderson, David\blake jordan ltr 2013.10.04.docx