

RECEIVED

NOV 07 2007

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

NOV 07 2007

Department of Water Resources
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?
22-13766	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐

2. Previous Owner's Name: Elliot Creek LLC

Name of current water right holder/claimant

3. New Owner(s)/Claimant(s): Elliot Creek Ranch LLC

Name of each new owner as listed on the conveyance document

New owner continued

Name connector ☐ and ☐ or ☐ and/or

1025 S Cook St.

Mailing address

Denver

CO

80209

City

State

ZIP

307-734-1217

jamie@conservationsolutions.net

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: 3/19/2007

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]

Signature of new owner/claimant

Title, if applicable

Date

Signature: [Signature]

Signature of new owner/claimant

Title, if applicable

Date

For IDWR Office Use Only:

Received by [Signature] Date [Date] Receipt No. [Number] Receipt Amt. [Amount]

Approved by [Signature] Processed by [Signature] Date [Date]

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
FREDERICK J. HAHN, III
KARL R. DECKER
SHAN B. PERRY
DeANNE CASPERSON*
AMELIA A. SHEETS
JAN N. ALLRED**
ROBERT L. HARRIS
DEBORAH S. O'MALLEY

1000 RIVERWALK DRIVE, SUITE 200
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

*Also Licensed in Missouri & Kansas
**Also Licensed in Utah & Colorado

March 16, 2007

RECEIVED
MAR 19 2007
Department of Water Resources
Eastern Region

Roger Warner
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

Re: Applications for Ponds of Elliot Creek Ranch, LLC and Elliot Creek, LLC

Dear Roger:

Since you are the one we have spoken with on this matter, we thought we would forward these applications directly to you. We have enclosed five Applications for Permit, one on behalf of Elliot Creek Ranch, LLC, and four on behalf of Elliot Creek, LLC, two different companies, but for both of whom the engineering has been done by Anderson Engineering.

There are maps and charts attached to each application and we have also enclosed our check in the amount of \$500.00 for the filing fee which we computed as \$100.00 for each application.

If you find anything amiss, please let us know and we would happy to try supply anything missing or correct anything that needs to be corrected. We will of course appreciate anything that can be done to expedite the processing of these applications. Thank you for your kind attention to this matter.

Yours very truly,



Kent W. Foster

Enclosures



IDAHO SECRETARY OF STATE Viewing Business Entity

Ben Ysursa, Secretary of State

[[New Search](#)] [[Back to Summary](#)]
[[Get a certificate of existence for ELLIOTT CREEK LLC](#)]

ELLIOTT CREEK LLC

425 S HOLMES
IDAHO FALLS, ID 83401

Type of Business: LIMITED LIABILITY COMPANY

Status: EXISTING 21 Jun 2006

State of Origin: IDAHO

Date of 21 Jun 2006

Origination/Authorization:

Current Registered Agent: SCOTT P ESKELSON
425 S HOLMES
IDAHO FALLS, ID 83401

File Number: W51967

Date of Last Annual Report:

Amendments:

[[Help Me Print/View TIFF](#)]

Amendment filed 21 Jun 2006 ARTICLES OF
ORGANIZATION

[View Image \(TIFF
format\)](#)

[Idaho Secretary of State's Main Page](#)

[State of Idaho Home Page](#)

Comments, questions or suggestions can be emailed to: sosinfo@sos.idaho.gov

FILED EFFECTIVE

2 / 2

251



ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

2006 JUN 21 PM 3:57

SECRET
STATE OF IDAHO

1. The name of the limited liability company is:

Elliott Creek LLC

2. The street address of the initial registered office is:

425 South Holmes, Idaho Falls, ID 83401

and the name of the initial registered agent at the above address is:

Scott P. Eskelson

3. The mailing address for future correspondence is:

425 South Holmes, Idaho Falls, ID 83401

4. Management of the limited liability company will be vested in:

Manager(s) ☒ or Member(s) ☐ (please check the appropriate box)

5. If management is to be vested in one or more manager(s), list the name(s) and address(es) of at least one initial manager. If management is to be vested in the member(s), list the name(s) and address(es) of at least one initial member.

Name	Address
<u>William H. Anderson</u>	<u>2417 W. Main, Bozeman, MT 59718</u>
_____	_____
_____	_____
_____	_____
_____	_____

6. Signature of at least one person responsible for forming the limited liability company:

Signature: _____

Typed Name: William H. Anderson

Capacity: Manager

Signature: _____

Typed Name: _____

Capacity: _____

Secretary of State use only

g:\comp\mms\LLC\form\new\organization.pdf
Revised 07/2002
Web Form

IDAHO SECRETARY OF STATE
06/22/2006 05:00
CK: NONE CT: 113824 BH: 961363
1 @ 100.00 = 100.00 ORGAN LLC # 2

WS1967

WATER USE AGREEMENT

This agreement is made and entered into this 21st day of March, 2007, by and between Elliot Creek, LLC, a limited liability company whose address is 2410 N. Allen, Suite 104, Boise, ID 83716, hereafter referred to as "Elliot Creek", and Bates Ranch, LLC, a limited liability company whose address is 1022 S. Oak St. Denver, CO, hereafter referred to as "Bates Ranch",

WITNESSETH:

That for and in consideration of the payment by Elliot Creek to Bates Ranch in the sum of fifty Dollars (\$ 50), and other good and valuable consideration, receipt whereof is hereby acknowledged by Bates Ranch, the parties hereto agree as follows:

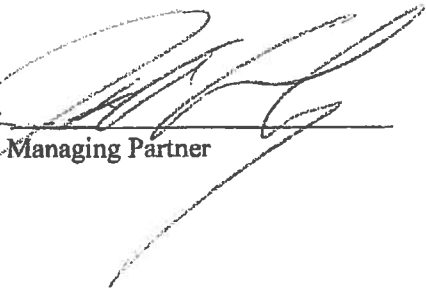
1. Elliot Creek has filed four (4) applications with the Idaho Department of Water Resources to appropriate rights to construct small dikes on its property in Section 22, T4N., R45E., for the purpose of raising water levels to create ponds for aesthetic and fish and wildlife habitat improvement purposes. It has been determined that one of the requirements will be to provide enough water from an existing valid water right to offset the volume of water to be stored in each pond the first time, by drying up the number of acres irrigated in one irrigation season which would have required diversion of the equivalent volume of water for such irrigation. The total amount of water required to fill said proposed ponds one time is 26.84 acre feet. At the rate of 3.0 acre feet per acre annual water volume requirement to raise a crop, this would require drying up 8.94 acres of irrigated ground for one irrigation season.
2. Bates Ranch is the owner of the S½ SE¼, Sec. 20, T5N., R45E., in Teton County, Idaho, and is the holder of portions of Water Rights Nos. 22-677 and 22-4189 which are appurtenant thereto for the irrigation of 33 acres of said land. Bates Ranch hereby agrees to reduce applications of irrigation water under said rights on said land by 26.84 acre feet by not irrigating 8.94 acres of said irrigated lands for one irrigation season, from April 1, 2007, through October 31, 2007, and to authorize Elliot Creek to use 26.84 acre feet of water to fill the above referenced ponds the first time in exchange therefore.
3. The provisions of this agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of the parties hereto.

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

ELLIOT CREEK, LLC

By: 
Its: Managing Partner

BATES RANCH, LLC

By: 
Its: Managing Partner

WATER USE AGREEMENT

This agreement is made and entered into this 26th day of March, 2007, by and between Elliot Creek Ranch, LLC, a limited liability company whose address is 1025 S. Cook St. Denver CO, hereafter referred to as "Elliot Creek Ranch", and Bates Ranch, LLC, a limited liability company whose address is 1025 S. Cook St. Denver CO, hereafter referred to as "Bates Ranch",

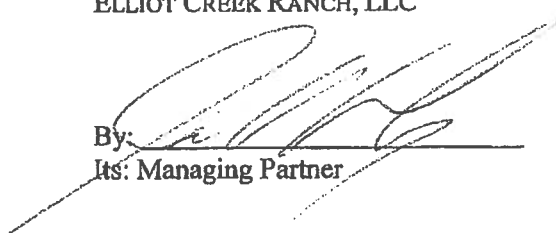
WITNESSETH:

That for and in consideration of the payment by Elliot Creek Ranch to Bates Ranch in the sum of \$50 Dollars (\$ 50), and other good and valuable consideration, receipt whereof is hereby acknowledged by Bates Ranch, the parties hereto agree as follows:

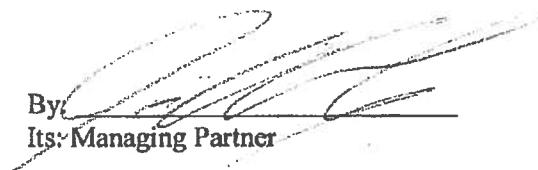
1. Elliot Creek Ranch has filed an application with the Idaho Department of Water Resources to appropriate rights to construct small dikes on its property in Section 21, T4N., R45E., for the purpose of raising water levels to create ponds for aesthetic and fish and wildlife habitat improvement purposes. It has been determined that one of the requirements will be to provide enough water from an existing valid water right to offset the volume of water to be stored in each pond the first time, by drying up the number of acres irrigated in one irrigation season which would have required diversion of the equivalent volume of water for such irrigation. The total amount of water required to fill said proposed ponds one time is 11.6 acre feet. At the rate of 3.0 acre feet per acre annual water volume requirement to raise a crop, this would require drying up 3.87 acres of irrigated ground for one irrigation season.
2. Bates Ranch is the owner of the S½ SE¼, Sec. 20, T5N., R45E., in Teton County, Idaho, and is the holder of portions of Water Rights Nos. 22-677 and 22-4189 which are appurtenant thereto for the irrigation of 33 acres of said land. Bates Ranch hereby agrees to reduce applications of irrigation water under said rights on said land by 11.6 acre feet by not irrigating 3.87 acres of said irrigated lands for one irrigation season, from April 1, 2007, through October 31, 2007, and to authorize Elliot Creek Ranch to use 11.6 acre feet of water to fill the above referenced ponds the first time in exchange therefore.
3. The provisions of this agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of the parties hereto.

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

ELLIOT CREEK RANCH, LLC

By: 
Its: Managing Partner

BATES RANCH, LLC

By: 
Its: Managing Partner



Elliott Creek Water Rights Budget and Narrative
ELLIOTT CREEK, LLC, PARCEL A, PONDS 5, 6, & 7
2-27-2007

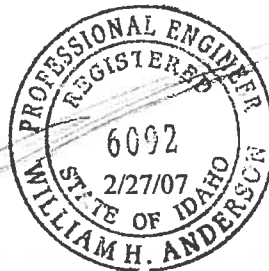
The following tables are calculations of historic and proposed consumptive use on the Elliott Creek LLC (EC) Property. The data used in the calculations is based on an IDWR Study on Potential Evapotranspiration, "*Allen, Richard G. and Clarence W. Robison, 2006. Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho*, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID. 145 p." Table "**Driggs, ID Evapotranspiration**" is attached listing specific potential evapotranspiration rates for the ground cover specific to EC.

A jurisdictional wetland study completed during November 2004 on the EC property was used to determine areas of each type of ground cover to compare the historic ground cover and proposed ground cover. Table "**Elliott Creek – Ponds 5, 6, 7, Parcels B and C**" is attached which compares consumptive use between historic and proposed ground cover. The table used the surface area of each type of ground cover with the corresponding evapotranspiration rate to calculate the consumptive use on a monthly, growing season, and annual basis.

The conclusion for the EC property, Ponds 5, 6, & 7, is that there was no significant change between the historic consumptive use and the proposed consumptive use. Specifically, with proposed roads the consumptive use decreased 0.0083 cfs and with out roads, the consumptive use decreased 0.0015 CFS during the growing season (May – September). Both changes in consumptive use are not significant.

Table "**Elliott Creek – Ponds 5, 6, 7, Parcels B and C**" also shows the irrigated acreage required to be taken out of production for filling the pond. The acreage required is 5.07 acres.

William H. Anderson, P.E.



RECEIVED
MAR 19 2007
Department of Water Resources
Eastern Region

Ident. No. 22-13766

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

1. Name of Applicant Elliot Creek Ranch, LLC Phone 208-523-0620
Mailing address c/o Holden, Kidwell, Hahn & Crapo, PLLC, PO Box 50130, Idaho Falls, ID 83405-0130
2. Source of water supply Unnamed Stream and Swamps which is a tributary of Teton River
3. Location of point of diversion is Township 4N Range 45E Sec. 21, in the 1/4, NE 1/4, SE 1/4, Govt. Lot _____,
E.B.M., Teton County;
additional points of diversion if any: NESW, Section 22, T4N., R45E.
4. Water will be used for the following purposes:
Amount 11.6 afa for Aesthetic and Wildlife STORAGE purposes from 01/01 to 12/31 (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) _____ and/or (b) 11.6
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source Small berms or dikes 1 - 3 feet in height to raise water level to form pond on existing wetlands
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
 - d. Is ground water with a temperature of greater than 85°F being sought? No
 - e. If well is already drilled, when? _____; Drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; show name of municipality. _____
 - d. Domestic; show number of households. _____
 - e. Other; describe fully. Ponds will be shallow ponds created by raising existing water level in wetlands 1 - 2 feet by construction of low dike, as shown on map, for aesthetic purposes and to improve fish and wildlife habitat.

9. Description of place of use:

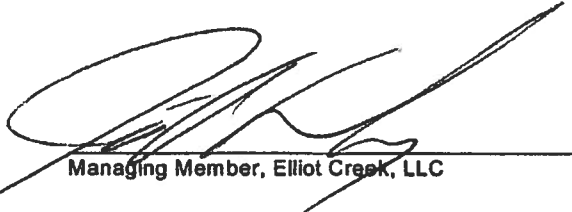
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	45E	21													WJ				

Total number of acres to be irrigated _____

- Describe any other water rights used for the same purposes as described above. _____
- Who owns the property at the point of diversion? Applicant
 - Who owns the land to be irrigated or place of use? Applicant
 - If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____
- Remarks: Applicant has control of Water Right Nos. 22-677 and 22-4189 for irrigation purposes. Applicant will forego irrigation of 3.87 acres under said rights for one irrigation season to provide one time fill of 11.6 acre feet for ponds, the level of which will be maintained thereafter by dikes raising existing water level. See attached map, evaporation/evapotranspiration comparison charts and narrative of engineer explaining that creation of ponds in existing wetlands will not increase consumptive use.
- MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.


Managing Member, Elliot Creek, LLC

Received by SC Date 3/19/07 Time _____ Preliminary check by _____
 Fee \$ 100- Receipted by SC # E032702 Date _____
 Publication prepared by SC Date 3/18/07 Published in Teton Valley News
 Publication approved _____ Date _____



ANDERSON
ENGINEERING, INC.

Elliott Creek Water Rights Budget and Narrative
ELLIOTT CREEK RANCH, LLC, PARCEL F, PONDS 8 & 9
2-27-2007

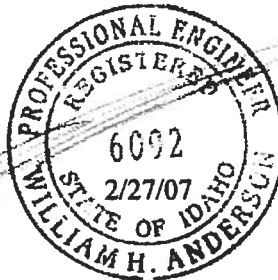
The following tables are calculations of historic and proposed consumptive use on the Elliott Creek Ranch LLC (ECR) Property. The data used in the calculations is based on an IDWR Study on Potential Evapotranspiration, "*Allen, Richard G. and Clarence W. Robison, 2006. Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho*, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID. 145 p." Table "Driggs, ID Evapotranspiration" is attached listing specific potential evapotranspiration rates for the ground cover specific to ECR.

A jurisdictional wetland study completed during November 2004 on the ECR property was used to determine areas of each type of ground cover to compare the historic ground cover and proposed ground cover. Table "Elliott Creek – Ponds 8 and 9, Parcel F" is attached which compares consumptive use between historic and proposed ground cover. The table used the surface area of each type of ground cover with the corresponding evapotranspiration rate to calculate the consumptive use on a monthly, growing season, and annual basis.

The conclusion for the ECR property, Ponds 8 & 9, is that there was no significant change between the historic consumptive use and the proposed consumptive use. Specifically, with proposed roads the consumptive use decreased 0.0030 cfs and with out roads, the consumptive use decreased 0.0001 CFS during the growing season (May – September). Both changes in consumptive use are not significant.

Table "Elliott Creek – Ponds 8 and 9, Parcel F" also shows the irrigated acreage required to be taken out of production for filling the pond. The acreage required is 3.87 acres.

William H. Anderson, P.E.



January 2007

Driggs, ID
Evapotranspiration
IDWR Study

Potential Evapotranspiration:

(mm/day)	January	February	March	April	May	June	July	August	September	October	November	December
Wetlands - narrow stand	0.56	0.80	0.83	1.24	1.67	2.96	7.57	9.10	3.08	0.99	0.56	0.52
Open Water - shallow systems	0.76	1.17	1.56	2.61	3.63	4.32	4.58	4.25	3.24	2.33	1.20	0.79
Open Water - Stock Ponds/lakes	0.88	1.37	1.82	3.04	4.23	5.04	5.35	4.96	3.78	2.72	1.40	0.93
Grass Pasture - High Management	0.47	0.69	0.82	1.36	3.55	6.20	6.67	6.15	3.74	1.33	0.58	0.45
Grass Pasture - Low Management	0.47	0.68	0.81	1.32	2.95	5.16	5.53	5.12	3.24	1.27	0.58	0.45
Bare Soil - Gravels	0.81	1.05	1.12	1.56	2.05	2.16	1.62	1.62	1.50	1.20	0.79	0.77
Willows - shrub communities	0.55	0.73	0.79	1.19	2.69	5.19	5.96	5.54	3.46	1.07	0.56	0.52
Poplar Trees - Aspen	0.56	0.75	0.84	1.21	2.06	5.81	7.87	7.30	4.31	1.34	0.58	0.52

The potential daily E_T (E_{Tpot}) represents the total estimated flux of E_T that would occur if there were no moisture stress imposed by soil water shortage in the 'root zone'. E_{Tpot} includes evaporation from the soil surface from both precipitation and any simulated irrigation. E_{Tpot} was computed as $E_{Tpot} = E_{Tbas} + K_e$.

Evapotranspiration - Mean of the average daily value for month

Credits:

1. "Allen, Richard G. and Clarence W. Robison, 2006. *Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho*. Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID. 145 p."



ELLIOTT CREEK - PONDS 8 AND 8, PARCEL F

PONDS 8 & 9 (Parcel F) - 5.8 acres:

	Sq. Ft.	% Tot. Area	January	February	March	April	May	June	July	August	September	October	November	December	Growing Season	Net Annual
HISTORIC ET																
Wetlands - narrow stand	92263.00	39.2%	5953.41	7294.72	8379.16	12114.44	18559.26	22819.34	78421.94	91867.85	30089.71	9894.41	5471.04	5246.59	153.00	365
Open Water - shallow systems	23660.00	9.3%	1821.06	2532.17	3217.86	6052.18	8897.85	10917.36	10974.27	10183.54	7513.02	5582.98	2782.80	1892.54	244158.11	295314.87
Open Water - Stock Pond/Slake	33340.00	14.0%	3162.59	4447.52	6541.43	10873.85	15203.43	17530.38	18228.83	17827.19	13147.79	8776.20	4869.55	3342.60	47386.14	71786.00
Grass Pasture - High Management	13853.00	5.3%	663.99	894.40	1163.93	1897.87	5027.88	8514.38	8465.17	8727.25	5139.10	1897.36	794.51	638.58	36889.59	125681.80
Grass Pasture - Low Management	8331.00	3.1%	3539.56	5017.61	6817.84	10438.42	24101.27	40780.80	45179.87	11650.00	25818.85	10375.86	4568.70	3676.47	177334.51	222074.31
Bare Soil - Gravel	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Willows - shrub communities	200.00	0.1%	11.19	13.41	16.07	23.42	54.72	102.16	121.23	112.69	88.11	21.76	11.02	10.58	458.90	586.36
Poplar Trees - Aspen	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Historic ET (HET)	252847.00	100.0%	16159.36	20180.13	26453.89	41087.99	96954.31	105879.55	161391.20	170546.53	81572.36	37638.52	18518.42	14310.75	588346.58	763181.04

PROPOSED ET

Wetlands - narrow stand	75794.00	30.0%	4316.76	5570.01	6398.05	9250.19	12973.19	22081.11	58353.31	70147.30	22978.29	7631.41	4177.51	4008.42	185431.19	227783.54
Open Water - shallow systems	59530.00	20.0%	3905.89	5430.83	8016.94	12940.29	18654.00	21484.60	23536.91	21841.02	10113.45	11874.02	5987.95	4656.86	101630.80	153866.37
Open Water - Stock Pond/Slake	101059.00	40.0%	9044.66	12718.23	19708.01	30237.29	43476.05	50130.25	54987.45	50979.01	37597.49	27858.23	13925.07	9556.57	237170.45	359316.51
Grass Pasture - High Management	12833.00	5.0%	803.82	800.87	1053.47	1890.85	4860.74	7708.29	8580.05	7901.00	4640.84	1708.67	721.10	578.12	33388.92	40546.81
Grass Pasture - Low Management	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Bare Soil - Gravel	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Willows - shrub communities	12832.00	5.0%	706.59	847.08	1014.83	1479.48	3455.88	6452.59	7656.90	7117.32	4301.72	1374.65	686.05	2694.42	26944.42	35771.45
Poplar Trees - Aspen	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Proposed ET (PET)	252847.00	100.0%	18577.52	25368.22	35189.39	55638.11	83020.87	107866.84	163103.62	157985.86	88638.99	50644.98	25487.85	18873.02	587603.78	817383.48

HET minus PET (CF/month)
Net change - in CFS

Roads and Driveways - 1.04 acres (12' travel/16' total) - Parcel F:

	Sq. Ft.	% Tot. Area	January	February	March	April	May	June	July	August	September	October	November	December	Growing Season	Net Annual
HISTORIC ET																
Wetlands - narrow stand	20037.60	44.2%	1141.22	1472.54	1691.45	2446.47	3403.27	5837.57	15426.82	18544.79	8074.22	2017.51	1104.40	1050.70	153.00	365
Open Water - shallow systems	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Open Water - Stock Pond/Slake	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Grass Pasture - High Management	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Grass Pasture - Low Management	25034.80	55.8%	1207.87	1576.18	2081.30	3382.34	7580.06	12380.98	14209.40	13156.90	8056.68	3353.28	1442.24	1156.26	55333.01	69844.31
Bare Soil - Gravel	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Willows - shrub communities	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Poplar Trees - Aspen	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Historic ET (HET)	45302.40	100.0%	2349.09	3050.72	3772.75	5727.81	10983.33	18669.55	29836.22	31700.69	14130.89	5280.78	2546.65	2215.96	105119.57	130653.26

PROPOSED ET

Wetlands - narrow stand	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Open Water - shallow systems	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Open Water - Stock Pond/Slake	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Grass Pasture - High Management	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Grass Pasture - Low Management	19833.86	44.0%	982.81	1245.13	1642.08	2589.56	5880.41	10123.20	11210.73	10379.55	5356.43	2574.52	1137.88	912.27	44050.33	55104.76
Bare Soil - Gravel (roads)	25069.34	56.0%	2089.82	2446.98	2889.75	3985.19	5285.30	5393.33	4179.83	4179.83	3745.37	3006.17	1872.58	1866.71	22787.66	41164.95
Willows - shrub communities	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Poplar Trees - Aspen	0.00	0.0%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Proposed ET (PET)	45302.40	100.0%	3042.73	3692.10	4531.84	6484.84	11269.70	15516.54	15380.56	14559.38	10101.80	5870.79	3110.44	2888.96	68337.99	96289.71

HET minus PET (CF/month)
Net change - in CFS

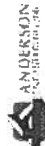
Summary: (Positive numbers = less consumptive use, negative numbers = more consumptive use)

HET minus PET (CF/month)	-4119.09
HET minus PET Average daily CFS	-0.0015
HET minus PET Average daily GPM	-0.69

Summary without roads:

HET minus PET (CF/month)	-3422.18
HET minus PET Average daily CFS	-0.0013
HET minus PET Average daily GPM	-0.57

Conclusion: The water features do not significantly change the consumptive use of water on the property. This is based on calculating the historic consumptive use (HET) and subtracting the proposed consumptive use (PET). With proposed roads, the consumptive use decreased 0.0013 cfs and with out roads the consumptive use decreased 0.0011 cfs during the growing season.



2/27/2007

ELLIOTT CREEK - PONDS 8 AND 9, PARCEL F

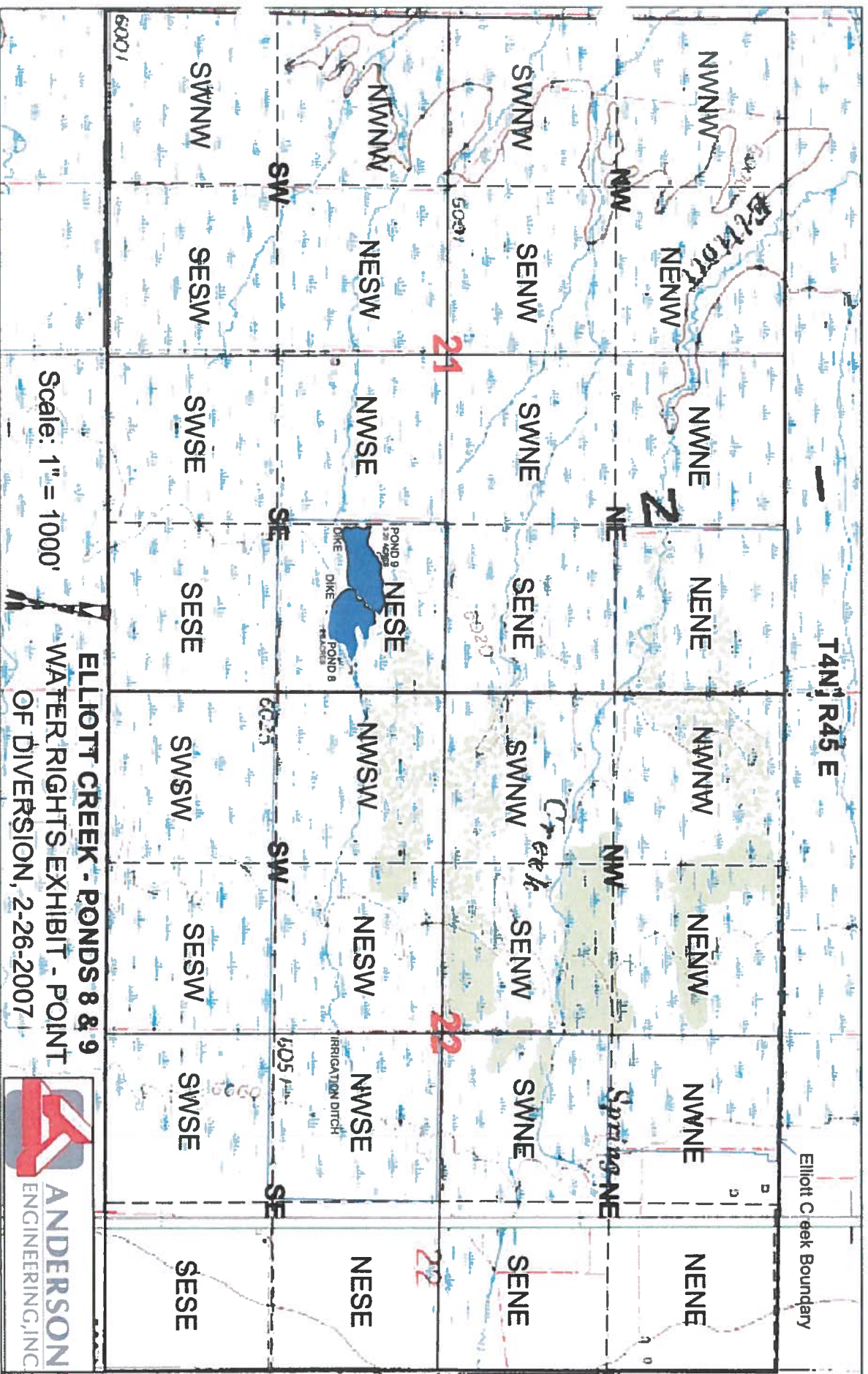
Parcel	Driveway (ft.)		Road (ft.)		Total Access (ft.)		Total Access (Acres, 16' wide)	
	UPLAND	WETLAND	UPLAND	WETLAND	UPLAND	WETLAND	UPLAND	WETLAND
F	1618.00	674.00	75.00	575.00	1691.00	1249.00	0.56	0.46

Pond Number	Point of Diversion (2)		Average Pond Surface		Average Pond Depth		Pond Capacity		One Time Fill Volume above Ground Water	
	NESE, Sec.21	NESE, Sec.21	acres	ft (1)	ft (1)	acres-feet (1)	ft	acres-feet	acres	acres
8 & 9	NESE, Sec.21	NESE, Sec.21	5.80	4.50	28.10	2	11.6	3.87		

Notes:

1. Average pond depth equals average total pond depth that includes ground water.
2. The point of diversion area includes surface and waste water and springs upstream of the place of use.





State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 22-13766

Priority: March 19, 2007

Maximum Diversion Volume: 11.6 AF

This is to certify, that ELLIOT CREEK LLC
C/O HOLDEN, KIDWELL, HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM
SWAMPS

Tributary: ELLIOTT CREEK
ELLIOT CREEK

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	11.6 AF
WILDLIFE STORAGE	01/01 to 12/31	11.6 AF

LOCATION OF POINT(S) OF DIVERSION:

SWAMPS	NE¼SE¼	Sec. 21	Twp 04N	Rge 45E, B.M.	TETON County
UNNAMED STREAM	NE¼SW¼	Sec. 22	Twp 04N	Rge 45E, B.M.	TETON County
SWAMPS	NE¼SW¼	Sec. 22	Twp 04N	Rge 45E, B.M.	TETON County
UNNAMED STREAM	NE¼SE¼	Sec. 21	Twp 04N	Rge 45E, B.M.	TETON County

PLACE OF USE: AESTHETIC STORAGE and WILDLIFE

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N	45E	21																	X

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2013**.
2. Subject to all prior water rights.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
5. This right does not grant any right-of-way or easement across the land of another.

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 22-13766

6. To mitigate for the depletion of water under this right and to prevent injury to senior water right holders, the right holder for rights 22-13696 and 22-13699 has agreed to cease diverting and using water as authorized by these water rights for the purposes and amounts specified below during the calendar year when initial fill is occurring under this right. Moreover, the official record for the following water rights will be annotated to show what diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

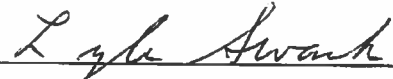
Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
22-13696	Irrigation	0.15	11.6	7.5
22-13699	Irrigation	0.15	11.6	7.5

The land that will no longer be irrigated under these rights is located within the S½ SE¼, Section 30, Township 05N, Range 45E, B.M. and is limited to a combined total of 7.5 acres and a combined total volume of 11.6 AF.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this permit approval shall be reduced by the same proportion as the reduction to the mitigation rights.

7. The mitigation plan associated with this right provides for the initial one time fill of the pond with 11.6 acre feet. Subsequent annual refill of the pond up to 11.6 acre feet is authorized by this permit when deliverable in priority. To restore the pond to its maximum storage elevation because of fluctuations in the water level during periods when water is not deliverable under this permit will require the permit holder to provide a mitigation plan for the additional storage volume.
8. In connection with the proof of beneficial use submitted for this permit, the permit holder shall also submit a report showing a) the elevation of the ground water prior to storage, and b) following construction of the berm the biweekly elevation of water being stored in the pond.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 13th day of May, 2008.


for: DAVID R. TUTHILL, JR., Director



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

November 12, 2007

Dave Carlson
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RECEIVED

NOV 14 2007

Department of Water Resources
Eastern Region

Re: Conservation Solutions - Application for Permit

Dear Dave:

Our client sent us a copy of the publication notice for the applications numbers 22-13764, 13765, 13766, 13767 and 13768. We noticed that all are listed in the name of Elliot Creek, LLC. Actually, 22-13766 should be in the name of Elliot Creek Ranch, LLC, although we hope that does not make much difference to the processing of these applications.

We also notice that the last time we sent you a first page for number 22-13768, it still contained a mistake under number 4. The amount should have been 0.4 afa rather than just 04 afa. We have again revised this page and are enclosing it with this letter. Thank you for your continued assistance.

Yours very truly,

Kent W. Foster

Enclosure

G:\WPDATA\KWF\11925 Anderson, Bill\Dave Carlson ltr 111207.wpd cdv



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

May 14, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

ELLIOT CREEK LLC
C/O HOLDEN, KIDWELL, HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

RE: Permit No. 22-13764, 22-13765, 22-13766, 22-13767, 22-13768

Permits Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permits authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permits.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-525-7161.

Sincerely,

A handwritten signature in black ink that reads "Lyle Swank". The signature is written in a cursive style with a large, stylized "L" and "S".

Lyle Swank

Eastern Region Manager

Enclosure(s)

LS:sc

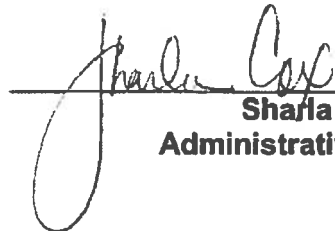
CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2008 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permits) to the person(s) listed below:

RE: WATER RIGHT NOs. 22-13764, 22-13765, 22-13766, 22-13767, 22-13768

**ELLIOT CREEK LLC
C/O HOLDEN, KIDWELL, HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405**

**WATER DISTRICT 01
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402**



Shafla Cox
Administrative Assistant

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

RECEIVED

NOV 06 2003

TETON CO. ID
CLERK RECORDER

Order No. 3050312193-T

FOR VALUE RECEIVED**158350****WARRANTY DEED**ALLIANCE TITLE & ESCROW CORP. INC.
P.O. BOX 644 / 78 N. MAIN STREET
DRIGGS, IDAHO 83422**Robert J Wilson and Sharmar Lee Wilson, Husband and Wife**

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Elliott Creek Ranch LLC, an Delaware Limited Liability Company

whose current address is

1025 South Cook Street Denver, CO 80209

the grantee(s), the following described premises, in County, Idaho, TO WIT:

Township 4 North, Range 4S East, Boise Meridian, Teton County, Idaho.**Section 21: NE 1/4 SE 1/4****Section 22: N 1/4 SW 1/4, NW 1/4 SE 1/4**

Together with any and all improvements and appurtenances thereto, including rents, issues and profits thereof and reversions and remainders.

Together with and including all water rights, and all oil, gas, and other mineral rights owned by Grantors.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: 11/06/2003
Robert J. Wilson
Sharmar Lee Wilson

State of Idaho

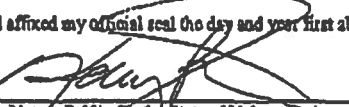
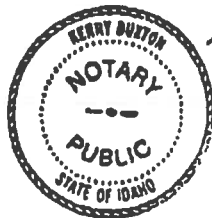
County of Teton

} ss.

On this 6th day of November 2003, before me, a Notary Public in and for said state, personally
Appeared Robert J. Wilson and Sharmar Lee Wilson

known or identified to me to be the person(s) whose name(s) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

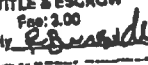
IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.


Notary Public for the State of Idaho
Residing at Driggs, ID
Commission Expires: 2-1-08**Instrument # 158350****DRIGGS, TETON, IDAHO**

2003-11-06 01:49:31 No. of Pages: 1

Recorded for: ALLIANCE TITLE & ESCROW

NOLAN G. BOYLE

Ex-Officio Recorder Deputy 

Instrument: DEED, WARRANTY

158350