

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

Name of Applicant South Leigh Creek LLC Phone 650-868-3708

Mailing address 1325 Johnson St., Menlo Park, CA 94025 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 Rocky Mountain Environmental Associates, Inc Phone (208) 524-2353/ Fax 524-1795

Mailing address 482 Constitution Way, Ste 303, Idaho Falls, ID 83402 Email kmoore@rockymountainenvironmental.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 no 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.

William Kelly Foster
Signature of Applicant or Authorized Representative

WILLIAM KELLY FOSTER
Print Name and Title if applicable

5-29-09
Date

MANAGING MEMBER
SOUTH LEIGH CREEK LLC

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 used to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attached additional pages if necessary and label it **Part 1A.2**. Applicant is proposing to change the nature of use of 5.0 ac of four overlapping surface water rights for use in two ponds located on the Desert and Kofoed ditches. This application is to provide for the storage component of the ponds, including the first time fill and subsequent necessary annual refills. Ground water is being purchased and transferred to provide for the annual evaporative losses.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

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B. DESCRIPTION OF RIGHT(S) 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>
<u>22-366B</u>	<u>0.23</u> cfs	<u>Irrigation</u>	<u>4/15</u> to <u>10/31</u>	<u>South Leigh Creek</u>
	<u>0.02</u> cfs	<u>Diversion to Storage</u>	<u>4/15</u> to <u>10/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Fire protection Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Aesthetic Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Recreation Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
<u>22-367B</u>	<u>0.70</u> cfs	<u>Irrigation</u>	<u>4/15</u> to <u>10/31</u>	<u>South Leigh Creek</u>
	<u>0.05</u> cfs	<u>Diversion to Storage</u>	<u>4/15</u> to <u>10/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Fire protection Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Aesthetic Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Recreation Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
<u>22-611A</u>	<u>1.10</u> cfs	<u>Irrigation</u>	<u>4/15</u> to <u>10/31</u>	<u>South Leigh Creek</u>
	<u>0.10</u> cfs	<u>Diversion to Storage</u>	<u>4/15</u> to <u>10/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Fire protection Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Aesthetic Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Recreation Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
<u>22-13588</u>	<u>0.30</u> cfs	<u>Irrigation</u>	<u>4/15</u> to <u>10/31</u>	<u>South Leigh Creek</u>
	<u>0.10</u> cfs	<u>Diversion to Storage</u>	<u>4/15</u> to <u>10/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Fire protection Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Aesthetic Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
	<u>11.0</u> AF	<u>Recreation Storage</u>	<u>1/01</u> to <u>12/31</u>	<u>South Leigh Creek</u>
Total <u>2.60</u> cfs and/or <u>11.0</u> ac-ft				

2. Total amount of water being transferred or changed 0.27 cubic feet per second and/or 11.0 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 proposed 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 #

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				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	45E	35			8.4	25									24.2	15.8			73.4
															FJR	FJR			

Total Acres (for irrigation use) 73.4

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

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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: The Desert and the Kofoed Ditches enter the property and empty into the east pond where they co-mingle. They exit the east pond as one ditch and flow through the west pond and onto neighboring property. All ditches and both on-stream ponds have been lined to reduce losses.

b. Who owns the property at the point(s) of diversion? Not applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system: Existing historical points of diversion.

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: NONE

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgage, 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 affect on the land now irrigated if the place of use is changed pursuant to this transfer: A total of 5.0 acres previously under irrigation will be dried up. Because of development, the ponds, the roads, and housing footprints within the place of use make up at least 5.0 acres that will be taken out of irrigation. Boundary of the permissible place of use is not proposed to be changed, but total acres irrigated should be 73.4 ac upon approval of 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: No other water rights are currently appurtenant to this place of use and purpose. Many other irrigation water rights share the same points of diversion as the water rights involved in this transfer. No change is being made to the quantity of water diverted from these points 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: _____

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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APPLICATION FOR TRANSFER OF WATER RIGHT PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1 B.1. of the application, attach a Proof Report (obtained from Department) or Details Report (obtained from website @ <http://idwr.idaho.gov/apps/ExtSearch/SearchWRAJ.asp>) Label it **Part 2A**.

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.

Right Number: _____

1. 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 _____
 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.)

Twp	Rge	Sec	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres _____

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WATER RIGHT NO. 22-366B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SOUTH LEIGH CREEK LLC Attorney 525 OAK KNOLL AVE MENLO PARK, CA 94025 (650)868-3708
	ROBERT L HARRIS HOLDEN KIDWELL HAHN & CRAPO PO BOX 50130 IDAHO FALLS, ID 83405-0130 (208)523-0620
Priority Date: 05/01/1898	Basis: Decreed
	Status: Active

<u>Source</u>	<u>Tributary</u>
SOUTH LEIGH 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	0.25	CFS
Total Diversion			0.25	CFS

Location of Point(s) of Diversion:

SOUTH LEIGH CREEK SENW Sec. 36 Township 06N Range 45E TETON County
 SOUTH LEIGH CREEK SWNW Lt 2 Sec. 31 Township 06N Range 46E TETON County
 SOUTH LEIGH CREEK NWN Lt 1 Sec. 32 Township 06N Range 46E TETON County
 SOUTH LEIGH CREEK NWNWSW Sec. 32 Township 06N Range 46E TETON County

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>
06N	45E	35		SWNE	8.4		SENE	25						
				NESE	27		NWSE	18						

Total Acres: 78.4

Conditions of Approval:

C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the
 C18 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.

E56 The rights listed below are limited to the irrigation of a combined total of 78.4 acres in a single irrigation season. Combined Right Nos.: 22-366B, 22-367B, 22-611A, 22-13588.

F15 One point of diversion for this water right is in Wyoming, T44N, R118W, Sec. 6 SENE Lot 2, 6 PM. The point of diversion described above as T6N R46E S32 NWNE Lot 1 is where the conveyance system enters Idaho.

This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941)
 160 ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.

F01 Water is delivered through the Kilpack Ditch, Kofoed Ditch, Beard Ditch, and Desert Ditch.

WATER RIGHT NO. 22-367B

Owner Type Name and Address

Current Owner	SOUTH LEIGH CREEK LLC	Attorney	ROBERT L HARRIS
	525 OAK KNOLL AVE		HOLDEN KIDWELL HAHN & CRAPO
	MENLO PARK, CA 94025		PO BOX 50130
	(650)868-3708		IDAHO FALLS, ID 83405-0130
			(208)523-0620

Priority Date: 05/01/1899

Basis: Decreed

Status: Active

Source Tributary
 SOUTH LEIGH CREEK TETON RIVER

Beneficial Use From To Diversion Rate Volume

IRRIGATION 04/15 10/31 0.75 CFS

Total Diversion 0.75 CFS

Location of Point(s) of Diversion:

SOUTH LEIGH CREEK SENW Sec. 36 Township 06N Range 45E TETON County
 SOUTH LEIGH CREEK SWNW Lt 2 Sec. 31 Township 06N Range 46E TETON County
 SOUTH LEIGH CREEK NWN Lt 1 Sec. 32 Township 06N Range 46E TETON County
 SOUTH LEIGH CREEK NWNWSW Sec. 32 Township 06N Range 46E TETON County

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>
06N	45E	35		SWNE 8.4			SENE 25							
				NESE 27			NWSE 18							

Total Acres: 78.4

Conditions of Approval:

- C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
- C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
- This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the
- C18 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.
- E56 The rights listed below are limited to the irrigation of a combined total of 78.4 acres in a single irrigation season. Combined Right Nos.: 22-366B, 22-367B, 22-611A, 22-13588.
- This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941)
- 160 ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.
- F15 One point of diversion for this water right is in Wyoming, T44N, R118W, Sec. 6 SENE Lot 2, 6 PM. The point of diversion described above as T6N R46E S32 NWNE Lot 1 is where the conveyance system enters Idaho.
- F01 Water is delivered through the Kilpack Ditch, Kofoed Ditch, Beard Ditch, and Desert Ditch.

WATER RIGHT NO. 22-611A

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Owner Type Name and Address

Current Owner SOUTH LEIGH CREEK LLC Attorney ROBERT L HARRIS
 525 OAK KNOLL AVE HOLDEN KIDWELL HAHN & CRAPO
 MENLO PARK, CA 94025 PO BOX 50130
 (650)868-3708 IDAHO FALLS, ID 83405-0130
 (208)523-0620

Priority Date: 01/22/1916

Basis: Decreed

Status: Active

Source Tributary
 SOUTH LEIGH CREEK TETON RIVER

Beneficial Use From To Diversion Rate Volume

IRRIGATION 04/15 10/31 1.2 CFS

Total Diversion 1.2 CFS

Location of Point(s) of Diversion:

SOUTH LEIGH CREEK SENW Sec. 36 Township 06N Range 45E TETON County
 SOUTH LEIGH CREEK SWNW Lt 2 Sec. 31 Township 06N Range 46E TETON County
 SOUTH LEIGH CREEK NWNE Lt 1 Sec. 32 Township 06N Range 46E TETON County
 SOUTH LEIGH CREEK NWNWSW Sec. 32 Township 06N Range 46E TETON County

Place of Use Legal Description: IRRIGATION TETON County

Township Range Section Lot Tract Acres Lot Tract Acres Lot Tract Acres Lot Tract Acres

06N 45E 35 SWNE 8.4 SENE 25
 NESE 27 NWSE 18

Total Acres: 78.4

Acre Limit: 60

Conditions of Approval:

C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration
 C18 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.

E56 The rights listed below are limited to the irrigation of a combined total of 78.4 acres in a single irrigation season. Combined Right
 Nos.: 22-366B, 22-367B, 22-611A, 22-13588.

This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4,
 160 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming
 from their obligations contained in the Roxana decree.

F15 One point of diversion for this water right is in Wyoming, T44N, R118W, Sec. 6 SENE Lot 2, 6 PM. The point of diversion
 described above as T6N R46E S32 NWNE Lot 1 is where the conveyance system enters Idaho.

F01 Water is delivered through the Kilpack Ditch, Kofoed Ditch, Beard Ditch, and Desert Ditch.

K06 This right is limited to the irrigation of 60 acres within the place of use described above in a single irrigation season.

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WATER RIGHT NO. 22-13588

Owner Type Name and Address

Current Owner	SOUTH LEIGH CREEK LLC	Attorney	ROBERT L HARRIS
	525 OAK KNOLL AVE		HOLDEN KIDWELL HAHN & CRAPO
	MENLO PARK, CA 94025		PO BOX 50130
	(650)868-3708		IDAHO FALLS, ID 83405-0130
			(208)523-0620

Priority Date: 01/22/1916

Basis: Decreed

Status: Active

Source Tributary
 SOUTH LEIGH CREEK TETON RIVER

Beneficial Use From To Diversion Rate Volume

IRRIGATION 04/15 10/31 0.4 CFS

Total Diversion 0.4 CFS

Location of Point(s) of Diversion:

SOUTH LEIGH CREEK SENW Sec. 36 Township 06N Range 45E TETON County
 SOUTH LEIGH CREEK SWNW Lt 2 Sec. 31 Township 06N Range 46E TETON County
 SOUTH LEIGH CREEK NWNE Lt 1 Sec. 32 Township 06N Range 46E TETON County
 SOUTH LEIGH CREEK NWNWSW Sec. 32 Township 06N Range 46E TETON County

Place of Use Legal Description: IRRIGATION TETON County

Township Range Section Lot Tract Acres Lot Tract Acres Lot Tract Acres Lot Tract Acres

06N	45E	35	SWNE 8.4	SENE 25
			NESE 27	NWSE 18

Total Acres: 78.4

Acre Limit: 20

Conditions of Approval:

C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of
 C18 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.

E56 The rights listed below are limited to the irrigation of a combined total of 78.4 acres in a single irrigation season. Combined Right
 Nos.: 22-366B, 22-367B, 22-611A, 22-13588.

This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4,
 160 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming
 from their obligations contained in the Roxana decree.

P21 This right is a split from former right 22-621.

K06 This right is limited to the irrigation of 20 acres within the place of use described above in a single irrigation season.

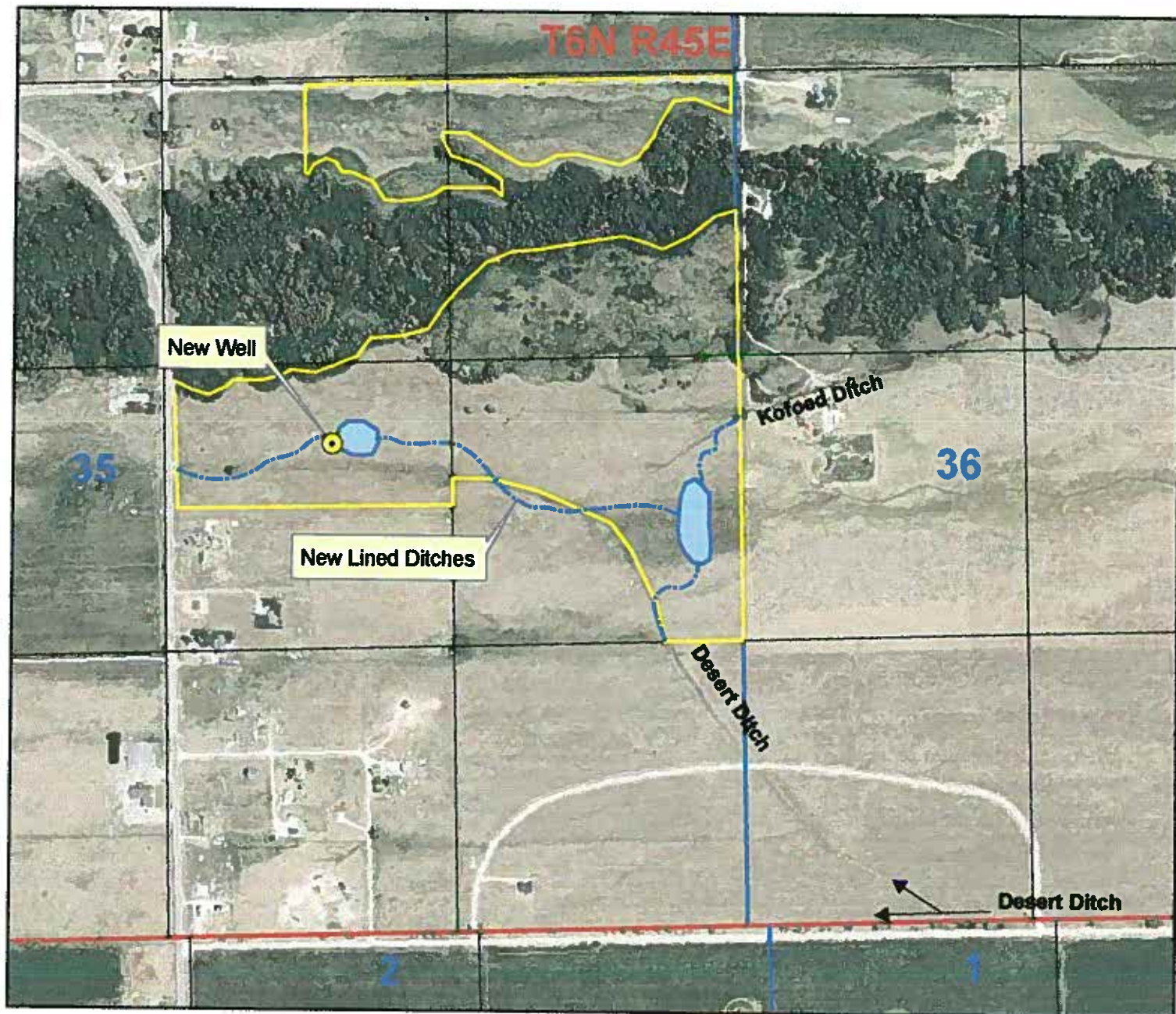
F15 One point of diversion for this water right is in Wyoming, T44N, R118W, Sec. 6 SENE Lot 2, 6 PM. The point of diversion
 described above as T6N R46E S32 NWNE Lot 1 is where the conveyance system enters Idaho.

F01 Water is delivered through the Kilpack Ditch, Kofoed Ditch, Beard Ditch, and Desert Ditch.

Attachment #7a

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Application for Transfer of Water Right South Leigh Creek LLC



2006 NAIP Photography

Legend

- Ponds
- Surface Rights POU Boundary
- Twp & Rng
- Section
- QQ

0 500 1,000 2,000 Feet



Rocky Mountain
ENVIRONMENTAL
ASSOCIATES, INC.

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Pond Calculations
Climate Station: Driggs, Idaho 102676
Project Name: South Leigh Creek LLC

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	1.42	1.09	1.1	1.24	1.9	1.84	1.11	1.19	1.3	1.23	1.07	1.38	15.87
Pond Loss [(Evap.) - (Precip., in.)] #3	0	0	0.3	1.21	2.3	3.41	5.54	4.41	2.55	0.87	0.33	0	20.92
Pond Surface Area (acres)	1.84	1.84	1.84	1.84	1.84	1.84	1.84	1.84	1.84	1.84	1.84	1.84	1.84
Total Pond Loss (ac-in)	0.0	0.0	0.6	2.2	4.2	6.3	10.2	8.1	4.7	1.6	0.6	0.0	38.5
Total Pond Loss (ac-ft)	0.0	0.0	0.0	0.2	0.4	0.5	0.8	0.7	0.4	0.1	0.1	0.0	3.2 #7

Irrigation Consumption Crop

Alfalfa-less freq cuttings (mm/yr)	667	# 4 = (Precipitation Deficit Growing Season, Site & Crop Specific (mm))											
Mean Irr. Requirement (ac-in/ac/season) =	26.3	# 5 = [(Precipitation Deficit (#4)) + (25.4) = ac-in/ac/season]											
Mean Irr. Requirement (ac-ft/ac/season) =	2.19	# 6 = [(Precipitation Deficit (#6)) + (12) = ac-ft/ac/season]											
Acres to dry up for pond use =	1.47	# 8 = [(Pond Loss Total (#7)) + (Mean Irrig. Req (#6))]											

Summary of Ground Water Requirements

Original Ground Water Right 22-13839	Diversion Rate (cfs)	Place of Use (acres)	cfs per acre	AF per acre (#6)
	0.42	22.5	0.019	2.19
Amount of Water Needed For Evaporation	Pond Surface Area (acres)	Acres Equivalent to Evaporation Use (#8)	cfs required	AF (#7) Required
	1.84	1.5	0.028	3.2
Total Water Needed for Transfer	Diversion Rate	0.03 cfs		
	Volume	3.2 AF		
	Acres	1.50 acres		

#1 - Molnau, Myron, Kpodze, 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/Climnsid.htm> - 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, 2006 (Revised 2007). Evapotranspiration & Consumptive Irrigation Water Requirements - Idaho, Research Technical Completion Report, Kimberly Research & Extension Center, University of Idaho, Moscow, ID.

Pond Calculations
 Climate Station: Driggs, Idaho 102676
 Project Name: South Leigh Creek LLC

Pond Fill Calculations			
Pond Description			
Surface Area (Acres)	Avg Depth (ft)	Volume (AF)	
1.84	6	11.0	
Acres Required for Pond Fill			5.0
			= Pond Volume / MIR (#6)
Irrigation Consumption Crop			
	Alfalfa-less freq cuttings (mm/yr)	667	# 4
	Mean Irr. Requirement (ac-in/ac/seas)	26.3	# 5
	Mean Irr. Requirement (ac-ft/ac/seas)	2.19	# 6

Summary of Surface Water Requirements							
Water Right #	Diversion Rate (cfs)	Acres	cfs per Acre	Acres to Transfer	cfs to Transfer	Volume to Transfer (AF)	Acres Remaining
22-366B	0.25	78.4	0.003	5.0	0.02	11.0	73.4
22-367B	0.75	78.4	0.01	5.0	0.05	11.0	73.4
22-611A	1.2	60	0.02	5.0	0.10	11.0	55.0
22-13588	0.4	20	0.02	5.0	0.10	11.0	15.0
Total	2.60	78.4		5.0	0.27	11.0	73.4
							2.33

#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, 2006 (Revised 2007). Evapotranspiration & Consumptive Irrigation Water Requirements - Idaho, Research Technical Completion Report, Kimberly Research & Extension Center, University of Idaho, Moscow, ID.

Mitigation Plan for South Leigh Creek, LLC

South Leigh Creek, LLC (SLC) is developing a new subdivision called South Leigh Creek Ranch east of Highway 33 near Tetonia, Idaho. The development straddles South Leigh Creek, with a majority of the development south of the creek. Historically, the irrigated land has been serviced by four ditches, the Kilpack and Beard ditches north of the creek and the Desert and the Kofoed ditches south of the creek. The changes proposed in this transfer will be made to the property and ditches south of the creek. Prior to entering the property, the Desert ditch splays to irrigate other neighboring properties. The branch that enters the subject property is controlled by a rectangular boarded headgate. Originally, the Desert and the Kofoed ditches that entered the property merged together, and then exited the west property boundary as one ditch. Today, the property has a reconfigured ditch system that features two lined ponds and lined ditches from border to border. Both the Desert and the Kofoed ditches still enter the property at the historical locations and merge together in the east pond. The ditch exits the east pond, flows across the property through the west pond, and exits in the same historical location at the west property boundary. The two ponds will cover a total of 1.84 acres in surface area and contain about 11.0 acre-feet in volume when filled. Two transfer applications are proposed to accommodate the pond water features. The first transfer entails drying up a portion of their existing irrigation *surface water* rights to fill and maintain the pond during the regular irrigation season (April to October). The second transfer is for the transfer of a portion of *ground water* right that will be used to maintain water levels in the ponds when surface water is not available (part of July and August and outside of the regular irrigation season).

Four surface water rights, including water rights 22-366B, 22-367B, 22-611A, & 22-13588, are appurtenant to the property. Lands irrigated under these water rights include a permissible place of use of 78.4 acres with a total diversion of 2.6 cfs from South Leigh Creek. Historically, alfalfa-hay has been irrigated on this property. According to the Evapotranspiration and Consumptive Irrigation Requirements for Idaho by Allen and Robison, alfalfa hay-less frequent cuttings near the Driggs NOAA station has a consumptive use volume of 2.19 AF/ac. Based on this limitation, it was determined by dividing the volume required (11.0 AF) by the historical consumptive use volume (2.19 AF/ac) that 5.0 acres of irrigated ground under these surface water rights will be required to dry up in order to obtain adequate volume for pond fill.

It is proposed to retain the existing water right boundary of the permissible place of use and decrease the number of irrigated acres to 73.4 acres. To ensure that there will not be an expansion of the water right due to this transfer, acres have been accounted for that will not be irrigated due to development, such as roads, the two ponds, and anticipated housing footprints. A total of 2.6 acres of roads within the permissible place of use have been constructed; 1.8 acres of ponds have been excavated and lined; and with the addition of at least 0.6 ac of anticipated housing footprints south of the creek, based on 2,500 sf houses on 11 lots, a total of 5.0 acres will not be irrigated. In addition to reducing irrigated acres by 5.0 acres, the diversion rate will be proportionately changed for each surface water right for a diversion rate of 2.33 cfs for irrigation and 0.27 cfs for diversion to storage.

It is essential that the ponds be maintained year-round for them to serve as fire protection ponds. Based on the Pond Consumptive Use Calculations (attached), it is anticipated that the ponds will lose 3.2 AF to evaporation each year, the majority lost during the irrigation season and very minimal losses during the non-irrigation season. However, since the surface water is typically cut off at the end of July through August and then again at the end of October, there will be some losses sustained to the ponds that must be replenished. Thus, SLC proposes to use a ground water right to compensate for annual evaporative losses when the surface water is unavailable. Since SLC does not own ground water rights on the subject property, they have contracted to purchase a portion of ground water right 22-13839 from BC Properties, LLC (A copy of the sales contract is attached). Given that alfalfa hay-less frequent cuttings was also historically irrigated under water right 22-13839, the historical crop consumption under this ground water right is 2.19 AF/ac. To determine the number of acres required to transfer, the volume required (3.2 AF) is divided by the historical consumptive use (2.19 AF/ac) to equate 1.5 acres necessary to transfer for annual evaporative losses. The new well from which the transferred right will be diverted has already been drilled and is adjacent to the west pond. Water can be pumped from the well directly into the west pond and through a 6" buried pipeline to the east pond.

Availability of Water

When surface water is not available to fill and maintain the ponds, ground water will be used to maintain the water levels. By maintaining water levels year-round, very little, if any, refill will be necessary when surface water becomes available in the spring. Since a full refill will not be necessary every year, surface water will be available to help maintain water levels until the ditches are turned off in late July.

The Desert and the Kofoed Ditches divert approximately 2.0 cfs each during the early season. After high water, the ditches will flow at about 1.0 cfs. Using a conservative combined diversion rate of 2.0 cfs flowing through both ditches during early season, first-time fill of the ponds would take about 2.75 days. However, it is likely in the spring that the ditches will be full to capacity and able to carry enough water to fill the ponds in significantly less time. Subsequent years will require less time to top off the ponds since they will be maintained by ground water during the winter.

SLC has lined all ditches and both ponds to minimize seepage losses that previously occurred as water flowed through the property; thus making more water available in the ditches to flow through the property to downstream users. In view of the fact that the ponds must be full in order for sufficient water to flow to downstream users, it is necessary to evaluate the risk to those users. If the ponds have been allowed to lose volume to evaporation, due to malfunction or non-use of ground water right, the expected losses would occur during August and the non-irrigation season. Typically, surface water is available to maintain the ponds through the end of July, at which time the ditches are turned off. Through the month of August, water levels are calculated to potentially drop by 4.4 inches from evaporation. When water becomes available again in September, averaging a combined flow rate of 1.0 cfs between both the Desert and the Kofoed ditches, refilling the ponds would take about 8.5 hours. It is probable that the combined flow

rate between both ditches will be higher than 1.0 cfs, since each ditch typically runs at about 1.0 cfs after high water flows. Thus, actual refill may occur in half the estimated time.

Again, assuming malfunction or non-use of the ground water right, it has been calculated that from November to April the ponds will potentially lose very minimal volume, only 0.1 AF, to evaporation. Refilling in the spring when the surface water is turned back down the ditches would take less than one hour based upon a combined flow rate of 2.0 cfs between both delivering ditches.

In summary, the ability to maintain full ponds is critical to prevent injury to other water rights and to address potential concerns of downstream water users. The following measures have been taken to ensure downstream users are not injured based on the changes proposed in the transfer: 5.0 acres of ground under surface water irrigation will be dried up; ground water has been contracted and is being transferred for supplemental pond maintenance; and the ponds and ditches have been lined across the property to prevent previous seepage losses, ensuring more water flows through the property to downstream water users.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 75669**APPLICATION FOR TRANSFER OF WATER RIGHT
MINIMUM REQUIREMENTS CHECKLIST**

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 and water right proof report or details report for Part 2A of the transfer application are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

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 Proof Report (obtained from Department) or Details Report (obtained on website) 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.
- ☐ ☒ #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).
- ☐ ☒ #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/water/rights/>.
- ☐ ☒ #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.)
- ☐ ☒ #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: Mitigation Plan

AGREEMENT

Bank of Jackson Hole,
Custodian of the Donald L.
I, Erakes IRA

owner of Lot 11, acknowledge a pond and interconnect channel has been constructed on my lot within South Leigh Creek Ranch for the benefit of the subdivision.

Bank of Jackson Hole, Custodian
By: by: Brian K. Jones SVP
Lot Owner, signature

Name: Brian K. Jones

Date: 7/15/09

AGREEMENT

I, Jon Staenberg, owner of Lot 12, acknowledge a pond and interconnect channel has been constructed on my lot within South Leigh Creek Ranch for the benefit of the subdivision.

By: _____

Lot Owner, signature

Name: _____

Jon Staenberg

Date: _____

7/14/09

AGREEMENT

BANK OF COMMERCE, TRUSTEE

I, FBO Carolyn Lee IRA Owner of Lot 13, acknowledge a pond and interconnect channel has been constructed on my lot within South Leigh Creek Ranch for the benefit of the subdivision.

BANK OF COMMERCE, TRUSTEE FBO Carolyn Lee IRA

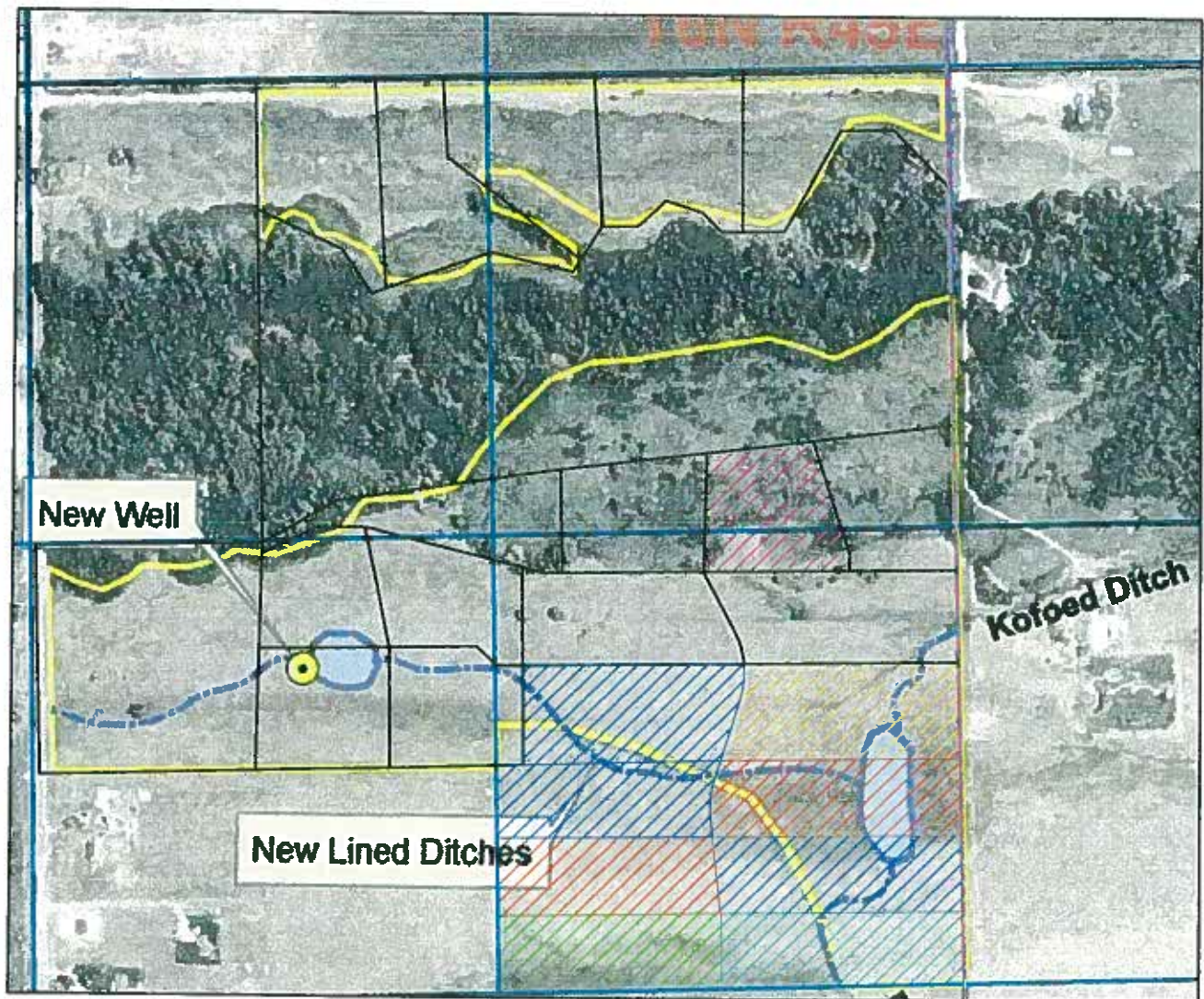
By: Sharon Garbman

Lot Owner, signature

Name: Sharon Garbman, the
U.C.E. President

Date: 7-8-09

South Leigh Creek/BC Properties Transfers



Legend

Township/Range

Sections

QQ

Taxlots

OWNER

BANK OF JACKSON HOLE FBO

HUTTON LIVING TRUST

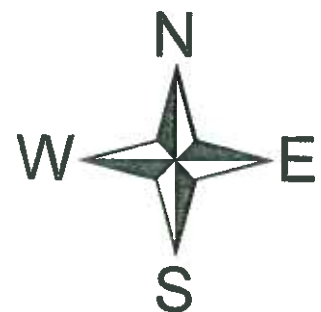
IOSSI, CHARLES M

LEIGH CREEK LLC

PIERSON, LISA BENNETT

SIMONETTI, ARTHUR JAMES

SOUTH LEIGH CREEK LLC



0 0.05 0.1 0.2 Miles

Property Ownership based on March 18, 2009 Teton Taxlot Data

75669

6/26/09

0100 - PARCEL MASTER INQUIRY

15:50:42

PARCEL: RP 005450000130 A

F9=MS

F17=DD

F23=AG

BANK OF COMMERCE TRUSTEE FBO
LEE, CAROLYN IRALEGAL DESCRIPTION
LOT 13 SOUTH LEIGH CREEK RANCH
SEC 35 T6N R45E

375 N YELLOWSTONE

ProVal Area Number 1

CODE AREA 6-0000 OWNER CD

PARC TYPE LOC CODE

EFFDATE 9112006 EXPDATE

PREV PARCEL RP06N45E351202T

IDAHO FALLS ID 83492

27 PAINTED PONY

X for parcel comments

CAT/ST#	RY	QUANTITY	UN	VALUE	HO	MRKT	HO	EXMP	CB	MRKT	OTHER
15 1	2008	3410	AC	200000							

TOTALS

3410

200000

ENTER NEXT PARCEL NUMBER RP

A

FKeys: F2=TX F3=Exit F5=SS F6=NM F7=LG
F8=CT F13=TM F18=HS F20=Srch F22=EU

75669

FKeys: F2=TX F3=Exit F5=SS F6=NM F7=LG
F8=CT F13=TM F18=HS F20=Srch F22=EU

6/26/09

0100 - PARCEL MASTER INQUIRY

15:50:49

PARCEL: RP 005450000120 A

F9=MS

F17=DD

F23=AG

STAENBERG, JON

LEGAL DESCRIPTION

LOT 12 SOUTH LEIGH CREEK RANCH
SEC 35 T6N R45E

1301 5TH AVE STE 1601

ProVal Area Number 1

CODE AREA 6-0000 OWNER CD

PARC TYPE LOC CODE

EFFDATE 9/1/2006 EXPDATE

PREV PARCEL RP06N45E351202T

SEATTLE WA 98101-2625

25 PAINTED PONY

X for parcel comments

CAT/ST#	RY	QUANTITY	UN	VALUE	HO MRKT	HO EXMP	CB MRKT	OTHER
15 1	2009	3470	AC	245000				

TOTALS

3470

245000

ENTER NEXT PARCEL NUMBER RP A

FKcys: F2=TX F3=Exit F5=SS F6=Nm F7=LG
F8=CT F13=TM F18=HS F20=SrcH F22=EU

6/26/09

0100 - PARCEL MASTER INQUIRY

15:50:51

PARCEL: RP 005450000110 A

F9=MS

F17=DD

F23=AG

BANK OF JACKSON HOLE FBO
FRANKS, DONALD LLEGAL DESCRIPTION
LOT 11 SOUTH LEIGH CREEK RANCH
SEC 35 T6N R45E

PO BOX 7000

ProVal Area Number 1

CODE AREA 6-0000 OWNER CD

PARC TYPE LOC CODE

EFFDATE 9112006 EXPDATE

PREV PARCEL RP06N45E351202T

JACKSON WY 83002

5405 PAINTED PONY DR

X for parcel comments

CAT/ST# RY	QUANTITY	UN	VALUE	HO MRKT	HO EXMP	CB MRKT	OTHER
15 1 2008	3890	AC	245000				

TOTALS

3890

245000

ENTER NEXT PARCEL NUMBER RP A

FKeys: F2=TX F3=Exit F5=SS F6=NM F7=LG
F8=CT F13=TM F18=HS F20=Scch F22=EU

199386 AUG 7 10E PM 2 40

FIRST AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SOUTH LEIGH CREEK RANCH

The undersigned, being the original Declarant and current owner of at least 90% of the lots in said subdivision, do hereby amend the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for South Leigh Creek Ranch Subdivision effective the 17 day of April, 2007.

Instrument # 199386
TETON COUNTY, IDAHO
2-7-2008 02:40:00 No. of Pages: 38
Recorded for: FRANK GEORGE COMPANY
MARY LOU HANSEN
E-Online Recording, Duplex
Fees: \$14.00

ITEM 1:
Article IV, Section 3.

Design Guidelines and Regulations, dated July 2006, are attached as Exhibit A.

ITEM 2:
Clarification of the approved waste water treatment system, and its impacts on affected lots within the subdivision.

Lots 6 and 7: Waste water treatment systems are designed and permitted for 5 bedrooms on each of these lots. The leach fields will be installed within platted easement on Lot 19 by Declarant during the development phase. The developer installed work will include piping from each leach field to associated lot line.

Lots 8 and 9: Waste water treatment systems are designed and permitted for 5 bedrooms on each of these lots. The leach fields will be installed within platted easement on Lot 10 by Declarant during the development phase. The developer installed work will include piping from each leach field to associated lot line.

Applications and permits for leach fields described above are on file with the District 7 Health Department, (208) 354-2220.

75669
75669

Lots 10 and 19 contain platted easements for primary and reserved wastewater drain fields. Specific locations for platted easements are identified on the recorded plat and illustrated on attached Exhibit B by Jorgensen Associates, P.C., dated September 27, 2006, titled "Individual Wastewater Treatment Systems". The work associated with installing the leach fields and associated piping, within the platted easements, is to be completed by Declarant during the development phase.

Each lot shall utilize an AdvanTex® extended treatment system (product Fact Sheet attached as Exhibit C). The wastewater systems have been designed and certified by an Idaho licensed Professional Engineer, and are on file at the District 7 Health Department.

ITEM 3:
Recreational Trail Map.

The Recreational Trail Map is attached as Exhibit D.

ITEM 4:
Easement for utilities.

In addition to easements shown on the plat, Declarant hereby reserves perpetual easements fifteen (15) feet in width: (1) on each side of the boundary line along the entire perimeter of each lot for the purpose of constructing, maintaining, operating or repairing electric, telephone, water, irrigation, ditches, creeks and sewer lines and for access to install and maintain recreation trails, and (2) everywhere within the subdivision, except building envelopes, to maintain installed equipment and facilities providing common services to all Lots.

ITEM 5:
Retention of water rights.

Water rights appurtenant to the property are retained by Declarant, to be transferred to an established HOA. Individual properties do not include water rights.

ITEM 6:
Article V, Section 3.

Fencing. Except for perimeter fencing around subdivision, no boundary fences around the exterior lot lines of any lot, or around the perimeter of any building envelope, are permitted. Privacy fences shall be permitted provided that they are adjacent and contiguous to structures, within the building envelope, and have been approved by the Committee for Design Review for location, type and finish.