

DEC 23 2008

DEPARTMENT OF
WATER RESOURCES

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Martin C. Hendrickson	Judson B. Montgomery	Raymond D. Givens (1917-2008)

Via Email and U.S. Mail

December 22, 2008

Aaron Marshall
Water Allocation Bureau
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

Re: *Powderhorn Ranch, LLC's Water Supply Bank Application for
Water Right No. 95-2200*

Dear Aaron:

This supplements my letter of December 15, 2008, which responded to your letter of November 25, 2008 in connection with the above-captioned matter.

Enclosed is the original *Affidavit of John F. Magnuson*, a faxed copy of which was included in my letter of December 15, 2008.

Also enclosed is the original *Supplemental Affidavit of John F. Magnuson* dated December 17, 2008. This affidavit provides further documentation that the subject water right was beneficially used during the 2003 irrigation season.

Sincerely,



Christopher H. Meyer

Encl: *Affidavit of John F. Magnuson* dated December 15, 2008
Supplemental Affidavit of John F. Magnuson dated December 17, 2008
cc: John F. Magnuson
Erica Buckley

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S:\CLIENTS\8925\CHM Ltr to A Marshall re 2nd Affidavit.DOC

AFFIDAVIT OF JOHN F. MAGNUSON

STATE OF IDAHO)
) ss.
COUNTY OF KOOTENAI)

JOHN F. MAGNUSON, being first duly sworn upon oath, deposes and says:

1. I am over the age of eighteen, have personal knowledge of the matters set forth herein, and am otherwise competent to testify thereto.

2. I am a Member and Managing Member of Bluegrass Development, LLC, an Idaho limited liability company.

3. Bluegrass Development, LLC is in turn the only Member of Bluewater Development, LLC, also an Idaho limited liability company. In other words, Bluewater Development, LLC is a subsidiary of Bluegrass Development, LLC.

4. Reference is made to certain property located in Kootenai County, Idaho and described as follows:

The North Half of Section 28, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho, excepting therefrom the Northwest Quarter of Section 28.

This property is referred to herein as the subject property.

5. The subject property included Water Right 95-2200.

6. Bluegrass Development, LLC purchased the subject property from the Gladys Jacklin Survivor's Trust and the Owen F. Jacklin Decedent's Trust on August 21, 2003. A true and correct copy of the Deed conveying the property from the Jacklins to Bluegrass Development is attached

hereto as Exhibit A.

7. I am personally acquainted with the Jacklin family and have been so acquainted for seventeen (17) years. Gladys and Owen Jacklin were wife and husband. Owen Jacklin passed away prior to 2003. Gladys and Owen Jacklin had a son, Terry Jacklin. The Jacklin family has been involved in farming in Kootenai County and Eastern Washington for in excess of seventy (70) years.

8. Owen and his two brothers, Lyle and Arden Jacklin, both of whom I knew, formed the Jacklin Seed Company. Jacklin Seed Company is a major domestic and international producer of bluegrass and turf seeds. Terry Jacklin was formerly an employee of Jacklin Seed Company. Terry left the company and pursued his own independent farming operations on the family properties. Terry and his family farmed the subject property, prior to the sale thereof to Bluegrass Development, for in excess of thirty (30) years. Those crops included, during the summer of 2003, bluegrass production. The property was irrigated through the subject Water Right. Prior to sale of the subject property, Terry Jacklin, farming under a Farming Lease from his mother, Gladys Jacklin (the owner of the property), actively farmed the property through the summer growing season of 2003.

9. At the end of the growing season of 2003, on August 21, 2003, Bluegrass Development purchased the subject property. Bluegrass Development then proceeded to preliminarily plat, during the fall of 2003, 47.49 acres of the subject property. This property was platted for residential purposes consisting of approximately 115 lots. The property that was platted was primarily in the northeast corner of the subject property. No disturbance of any kind was made to the subject property for purposes of development until after the purchase in late August of 2003. Construction proceeded from September of 2003 through early December of the same year. This construction was related to the infrastructure for the residential units depicted on the photograph

attached to the State of Idaho Department of Water Resources' November 25, 2008 letter to Bluewater Development, LLC.

10. The Jacklins, in selling the property, wanted to insure that development would not interfere with Terry Jacklin's ability to harvest the crop that he had raised through the summer growing season of 2003.

11. The Jacklin family also owned the adjacent (and westward) 160 +/- acre parcel (to which Water Right 95-2200 is appurtenant). The Jacklin family continued to farm that portion of the overall property during the summer of 2004.

12. I can state as an absolute certainty that the subject property was farmed by the Jacklin family in 2003 as I personally observed the same. Further, as a principal in Bluegrass Development, LLC, I know that the Company could not close the purchase of the same until Mr. Jacklin's crop was removed.

13. Upon my receipt of the November 25, 2008 letter from Aaron Marshall of the Department of Water Resources, I immediately undertook efforts to contact Terry Jacklin as the person most knowledgeable on the matters who could independently confirm that which I have stated herein under penalty of perjury. I attempted to locate Mr. Jacklin through attorney J. Steve Jolley of Spokane, who represented the Jacklin family in negotiating the purchase and sale of the subject property with Bluegrass Development.

14. On December 11, 2008, Mr. Jolley responded by providing me with contact information for Terry Jacklin. Mr. Jacklin now lives in Kingston, Washington. As of the date hereof, I am making contact with Mr. Jacklin, by written correspondence, to outline my request for additional information, to the extent necessary, to satisfy the inquiry made by IDWR in its November

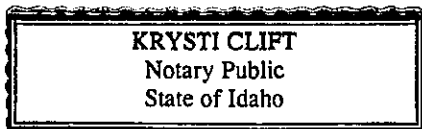
25, 2008 letter to Bluewater Development, LLC.

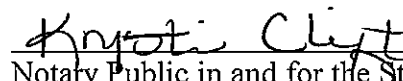
15. Should I prove successful in reaching Mr. Jacklin, and should he have information responsive to IDWR's request, I will provide the same through supplementation, either by an Affidavit of my own or through an Affidavit of Terry Jacklin. In any event, the same should be unnecessary as I have personal knowledge of the matters set forth herein having personally observed the same, having known the Jacklin family for seventeen (17) years, and having purchased the property to which the Water Right was appurtenant.

DATED this 15th day of December, 2008.


JOHN F. MAGNUSON

SUBSCRIBED AND SWORN to before me this 15th day of December, 2008.




Notary Public in and for the State of Idaho
Residing at: Coeur d'Alene
My commission expires: 11/13/14

BLUEWATER JFM AFF.wpd

SUPPLEMENTAL AFFIDAVIT OF JOHN F. MAGNUSON

STATE OF IDAHO)
) ss.
COUNTY OF KOOTENAI)

JOHN F. MAGNUSON, being first duly sworn upon oath, deposes and says:

1. I am over the age of eighteen, have personal knowledge of the matters set forth herein, and am otherwise competent to testify thereto.

2. This Supplemental Affidavit is intended to supplement my Affidavit of December 15, 2008.

3. On December 17, 2008, I was able to make contact with Terry Jacklin, who now lives in Washington state. Mr. Jacklin was previously identified in my prior Affidavit as the Jacklin family member who farmed the entirety of the subject property, as described in Paragraph 4 of my Affidavit, during the growing season of 2003.

4. Mr. Jacklin confirmed to me by phone on December 17, 2008 that he raised a Kentucky Bluegrass crop on the entirety of the subject property, as defined in Paragraph 4 of my earlier Affidavit, during the summer of 2003.

5. In 2003, Mr. Jacklin paid total power bills associated with the pumping improvements related to the subject property and the adjacent property (consisting of an additional 160+/- acres lying immediately to the west of the subject property). The total power bill through Avista Utilities for the 2003 growing season for both properties was \$7,295.00.

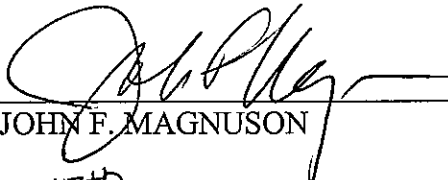
6. In 2004, Mr. Jacklin farmed the 160+/- acre parcel that lies immediately west of and

adjacent to the subject property. His power bill through Avista for farming that 160 acres during 2004 was \$2,121.66.

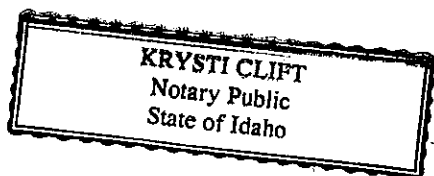
7. Based on the foregoing, it is clear that the power bill for 2003 independently verifies and supports that which I and Mr. Jacklin have stated: the subject property (benefitted by water right 95-2200) was farmed during 2003 for a commercially-viable crop and power bills associated with the pumping infrastructure related to said agricultural practices exceeded several thousand dollars.

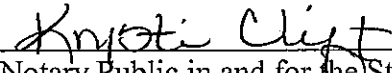
8. Mr. Jacklin indicated that he would forward copies of the power bills to me and I in turn will provide them to IDWR through supplemental affidavit.

DATED this 17th day of December, 2008.


JOHN F. MAGNUSON

SUBSCRIBED AND SWORN to before me this 17th day of December, 2008.




Notary Public in and for the State of Idaho
Residing at: Coeur d'Alene
My commission expires: 11/13/14

BLUEWATER JFM SUPP AFF.wpd