

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant The Retreat at Bear Lake, LLC
d/b/a Black Bear Resort

Phone 801-259-0545

Mailing Address 507 Cynthia, North Salt Lake, Utah 84054

c/o Thomas J. Budge
Racine Olson Nye Budge & Bailey, chtd.
P.O. Box 1391, Pocatello, Idaho 83204

ph. 208-232-6101
fax 208-232-6109
email: tjb@racinelaw.net

ORIGINAL

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 the reason for the proposed change: The purposes of this application are (a) to update IDWR records to reflect the correct place of use of water right no. 11-7597 and (b) to create a shared place of use for water right nos. 11-7597 and 11-7601, both of which have historically been delivered through the Nuffer Ditch to irrigate lands within what is currently known as the Four Pines Ranch. This Application is supported by FSA Crop Reports and the Affidavit of Berdean Black attached.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

Right Number	Priority	Amount	Nature of Use	Period of Use
11-7597	04/15/1877	11.5 cfs 7.67 cfs	Irrigation Irrigation	4/15 to 7/1 7/1 to 9/30
11-7601	04/15/1885	0.35 cfs	Irrigation	4/15 to 10/31

2. Total amount of water being transferred 11.85 cubic feet per second.
3. Source of water Bear River tributary to Great Salt Lake.
4. Point(s) of Diversion: 3

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local Name for Diversion
			SE	31	14S	46E	Bear Lake	
			NE	11	16S	45E	Bear Lake	
		NE	SW	12	15S	46E	Bear Lake	

2 NW NE 6 15S 46E Bear Lake

Nuffer Ditch

5. Lands irrigated or place of use:

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	
15S	45E	2									26.4			41.1		5.3	38.9	8.0	119.7
		11	19.3	36.5	40.3	34.0	43.0	1.2		16.2									190.5
		12						12.3											12.3

Total Acres 322.5

RECEIVED
JUL 03 2008

Department of Water Resources
Eastern Region

74916

PART 1

8. General Information:

- a. Description of diversion system. Both water rights will continue to be diverted through Nuffer Ditch.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? ☐ Yes ☐ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes. n/a
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: This transfer will have no effect on lands now irrigated. The purpose of this transfer is to reconcile IDWR records with actual historic water use under these water rights.
- d. Remarks: Water Right No. 11-7601 provides for the irrigation of 17.5 acres within the above-defined place of use. Water Right No. 11-7597 provides for the irrigation of 305 acres within the above-defined place of use.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Right No. _____
 And said application is hereby _____, subject to the following limitations
 and conditions:

Witness my hand this _____ day of _____, 20__

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by: IDWR Water Right Reports for Water Right Nos. 11-7597 and 11-7601 are attached.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Warranty Deed attached.
10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? No.

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

1. All of Water Right Nos. 11-7579 and 11-7601 are being transferred.

page 4 of 9

Close

74916

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

07/02/2008

WATER RIGHT NO. 11-7597

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THE RETREAT AT BEAR LAKE LLC C/O BRAD AUGER 507 CYNTHIA WAY NORTH SALT LAKE, UT 84054

Priority Date: 04/15/1877

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BEAR RIVER	GREAT SALT LAKE

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	07/01	11.5 CFS	
IRRIGATION	07/01	09/30	7.67 CFS	
Total Diversion			11.5 CFS	

Location of Point(s) of Diversion:

BEAR RIVER	SE	Sec. 31	Township 14S	Range 46E	BEAR LAKE County
BEAR RIVER	NE	Sec. 11	Township 15S	Range 45E	BEAR LAKE County
BEAR RIVER	NESW	Sec. 12	Township 15S	Range 45E	BEAR LAKE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BEAR LAKE County

74916

page 589

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
15S	45E	2		SESW	39									
				SWSE	41									
		11		SWNE	40									
				NWNW	22		SENW	24						

74916

Place of Use Legal Description: IRRIGATION BEAR LAKE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
15S	45E	2		SESW	39									
				SWSE	41									
		11		SWNE	40									
				NWNW	22		SENW	24						

Total Acres: 332

Conditions of Approval:

1. MEADOW RIGHT. P/D NUFFER DITCH. P/U AC. IRR. 154.3 acres.

Dates:

Licensed Date:

Decreed Date: 03/07/1924

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 11

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

74916

Page 6 of 9

Close

74916

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

07/02/2008

WATER RIGHT NO. 11-7601

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THE RETREAT AT BEAR LAKE LLC C/O BRAD AUGER 507 CYNTHIA WAY NORTH SALT LAKE, UT 84054

Priority Date: 04/15/1885

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BEAR RIVER	GREAT SALT LAKE

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.35 CFS	
Total Diversion			0.35 CFS	

Location of Point(s) of Diversion:

BEAR RIVER	SE	Sec. 31	Township 14S	Range 46E	BEAR LAKE County
BEAR RIVER	NE	Sec. 11	Township 15S	Range 45E	BEAR LAKE County
BEAR RIVER	NESW	Sec. 12	Township 15S	Range 45E	BEAR LAKE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BEAR LAKE County

74916

page 729

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
15S	45E	12		NWNW	40									

Total Acres: 40

74916

Conditions of Approval:

1. P/D NUFFER DITCH. P/U AC. IRR. = 17.5 acres. AGRICULTURAL RIGHT.

Dates:

Licensed Date:

Decreed Date: 03/07/1924

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 11

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

74916

Page 889

EXHIBIT "A"

SORENSEN RANCH

IRRIGATED LAND

CL

Cache • Landmark

Engineers

Surveyors

Planners

1011 West 400 North
Suite 130
Logan, UT 84321
435.713.0099

EXHIBIT "A"
IRRIGATED ACRES
SORENSEN RANCH
PEGRAM, ID

NOTES

△ Aerial
photo
taken
Nov. 1,
2006

DATE:

27 JUN 2008

SCALE:

1" = 2000'

APPROVED BY:

L. ANDERSON

PROJECT NUMBER:

848-0401

SHEET:

A



LEGEND

— SORENSON RANCH
PROPERTY LINE

— SECTION LINE

--- 1/4 SECTION LINE

▨ SORENSON DITCH
IRRIGATED ACRES
257.85 ACRES

▨ NUFFER DITCH
IRRIGATED ACRES
322.49 ACRES



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

See attached map identified as "Exhibit 'A' Sorenson Ranch Irrigated Land."

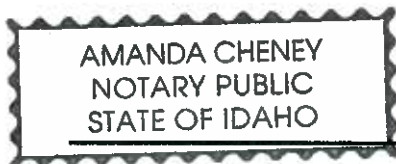
B. CHANGES IN NATURE OF USE

1. New Nature of Use. None.
2. Quantity and quality of return flows and location of discharge: None.
3. Describe effects on other water uses resulting from the proposed change: This transfer will have no effect on other water users. This transfer simply reconciles IDWR records with the split of Water Right No. 11-924 that occurred prior to 1950. There is no change to historic water use as a result of this transfer.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.

Thomas L. Berg
(Signature of Applicant)

Subscribed and sworn to before me this 2nd day of July, 2008.



Amanda Cheney
Notary Public Idaho
My Commission expires: 4/20/13

FOR DEPARTMENT USE ONLY

Transfer contains 9 pages and _____ attachments
Received by _____ Date _____ Protest filed by _____
Prelim check by _____ Fee _____
Receipted by IP Date 7-9-08 E034223
Published in Statewide Copies of protest forwarded by _____
Pub. Dates _____ Hearing held by _____ Date _____
Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial
_____ rec'd _____ By _____
Copy of transfer sent to lien holder _____

Instrument # 197591

BEAR LAKE COUNTY

2007-03-12 01:34:04 No. of Pages: 3

Recorded for : NORTHERN TITLE CO.

KERRY HADDOCK

Ex-Officio Recorder Deputy *Cindy* Fee: 8.00

Index to: WARRANTY DEED

RECORDATION REQUESTED BY:

Randall C. Budge
Racine, Olson, Nye, Budge & Bailey
P.O. Box 1391
Pocatello, Idaho 83204-1391

WHEN RECORDED MAIL TO:

The Retreat at Bear Lake, L.L.C.
C/o Brad Auger, Manager
507 Cynthia Way
North Salt Lake, Utah 84054

WARRANTY DEED

<u>Grantor</u>	<u>Grantee</u>
Four Pines Livestock, L.L.C. C/o Jim Smith, Manager 8086 Highway 30 Montpelier, Idaho 83354	The Retreat at Bear Lake, L.L.C. C/o Brad Auger, Manager 507 Cynthia Way North Salt Lake, UT 84054

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the Grantor hereby sells and forever transfers the following parcels of real property located in Bear Lake County, Idaho, to the Grantee, including the Grantor's right, title and interest therein:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED BY REFERENCE

TOGETHER WITH AND INCLUDING any and all fixtures and improvements, any and all appurtenances, tenements, and hereditaments, and any and all rents, issues, and profits that relate or otherwise pertain to the foregoing parcels of real property.

TO HAVE AND TO HOLD the foregoing parcels of real property unto the Grantee and its successors and assigns forever.

The Grantor hereby covenants that the Grantor is the owner in fee simple of the foregoing parcel of real property; that the foregoing parcel of real property are free and clear of any and all mortgages, liens, or other encumbrances, except those of record in the records of Bear Lake County, Idaho, current taxes, ordinances and federal and state rights and reservations, including, without limitation, patents, oil, gas and minerals; and that the Grantor will warrant and defend the same from any and all lawful claims whatsoever.

WARRANTY DEED - 1

74916

EXHIBIT

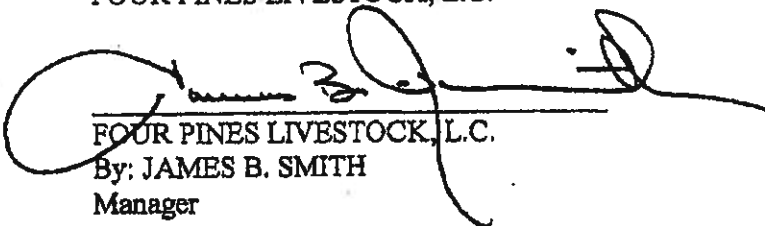
A

197591

IN WITNESS WHEREOF, the hand of said Grantor, this March 2, 2007.

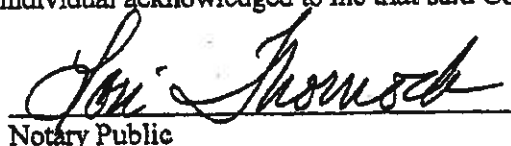
FOUR PINES LIVESTOCK, L.C.




FOUR PINES LIVESTOCK, L.C.
By: JAMES B. SMITH
Manager

State of IDAHO)
County of BEAR LAKE)

On March 2, 2007, personally appeared before me JAMES B. SMITH, who, being by me duly sworn, did say that he is the Manager/Member of FOUR PINES LIVESTOCK, L.C., and that the said instrument was signed in behalf of said Limited Liability Company by the authority of its Articles of Organization and Operating Agreement, and the aforesaid individual acknowledged to me that said Company executed the same.


Notary Public

Residing: Bloomington, ID
Expires: 10/24/2011

WARRANTY DEED - 2

74916

EXHIBIT "A"

TOWNSHIP 14 SOUTH, RANGE 45 EAST, BOISE MERIDIAN, BEAR LAKE COUNTY, IDAHO:
SECTION 35: THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THE EAST HALF OF THE SOUTHWEST QUARTER.

ALSO

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND THE WEST HALF OF THE SOUTHEAST QUARTER LYING WEST OF THE UNION PACIFIC RAILROAD RIGHT OF WAY.

TOWNSHIP 15 SOUTH, RANGE 45 EAST, BOISE MERIDIAN, BEAR LAKE COUNTY, IDAHO.
SECTION 1: LOTS 3 AND 4; THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER.

SECTION 2: THE EAST HALF, THE EAST HALF OF THE SOUTHWEST QUARTER.

SECTION 11: THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHWEST QUARTER, THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER.

SECTION 12: THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER.

SECTION 14: THE NORTH HALF OF THE NORTH HALF, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER.

EXCEPT THEREFROM A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 14, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SECTION 14 AFORESAID, (SAID CORNER BEING MARKED WITH A G.L.O. BRASS CAP MONUMENT STAMPED 1950) THENCE NORTH 0° 04' WEST A DISTANCE OF 2637.38 FEET, MORE OR LESS, TO THE EAST QUARTER CORNER OF SAID SECTION 14 (SAID QUARTER CORNER IS MARKED WITH A G.L.O. BRASS CAP MONUMENT STAMPED 1950); THENCE NORTH 00° 20' EAST A DISTANCE OF 2647.92 FEET; THENCE NORTH 89° 58' WEST A DISTANCE OF 2661.17 FEET TO THE TRUE POINT OF BEGINNING NEAR THE NORTH QUARTER CORNER OF SAID SECTION 14 (SAID POINT IS MARKED WITH A G.L.O. BRASS CAP MONUMENT STAMPED AS A WITNESS CORNER - 1950); THENCE NORTH 89° 58' WEST A DISTANCE OF 210.62 FEET TO A POINT (MARKED WITH A 1/2" BY 24" IRON PIN); THENCE SOUTH 00° 02' WEST A DISTANCE OF 660 FEET TO A POINT (MARKED WITH A 1/2" BY 24" IRON PIN); THENCE SOUTH 89° 58' EAST A DISTANCE OF 660 FEET TO A POINT (MARKED WITH A 1/2" BY 24" IRON PIN); THENCE NORTH 00° 00' EAST A DISTANCE OF 660 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 14 (MARKED WITH A 1/2" BY 24" IRON PIN); THENCE NORTH 89° 58' WEST A DISTANCE OF 449.38 FEET TO THE POINT OF BEGINNING.

SECTION 15: THE EAST HALF OF THE NORTHEAST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER.

EXCEPT THEREFROM ANY PORTION OF ALL THE ABOVE DESCRIBED PREMISES LYING WITHIN THE RIGHT OF WAY OF STATE HIGHWAY, COUNTY ROAD OR RIGHT OF WAY FOR RAILROAD, AS THE SAME PRESENTLY EXISTS.

TOGETHER WITH any and all appurtenant water rights including all or a portion of the following water rights identified in the records of the Idaho department of Water Resources: 11-00924, 11-00925, 11-00926, 11-00929, 11-4363, 11-7448.

3/1/67
J.S.

BEAR LAKE, IDAHO

FSA-578(02-01-91)

REPORT OF ACREAGE

PROGRAM YEAR 2003

FARM NUMBER: 1257

FARM SUMMARY

DATE: 06-05-2008

Operator Name and Address ID
 FOUR PINES LIMITED LIABILITY CORP 3816
 1750 KERSHAW ST
 OGDEN, UT 84403-0532

Original: _____
 Revision: _____
 Cropland: 471.3
 Farmland: 1,092.0

NOTE: The authority for collecting the following information is Pub.L 107-76. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The data will be used to determine eligibility for assistance. Furnishing the data is voluntary, however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the provisions of the Act.

Producer Name ID Crop Share
 RYAN SHAUL 5537 GRASS 1.0000

Crop Type	Prac	IU	Reported	Determined	Crop Type	Prac	IU	Reported	Determined	Crop Type	Prac	IU	Reported	Determined
GRASS NAG	I	GZ	173.1	173.1	GRASS NAG	N	GZ	313.3	313.3	GRASS WCR	I	GZ	361.6	361.6
GRASS WCR	N	GZ	89.7	89.7										

OPERATOR'S CERTIFICATION: I certify to the best of my knowledge and belief that the acreage of crops and land uses listed herein are true and correct, and that all required crops and land uses have been reported for the farm as applicable. The signing of this form gives FSA representatives authorization to enter and inspect crops and land uses on the above identified land.

Operator's Signature

Date

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, sex, age, marital status, or disability.

BEAR LAKE, IDAHO

FSA-578(02-01-91)

REPORT OF COMMODITIES

PROGRAM YEAR 2004

FARM NUMBER: 1257

FARM SUMMARY

DATE: 06-05-2008

Operator Name and Address ID

Original: _____

FOUR PINES LIMITED LIABILITY CORP 3816

Revision: _____

1750 KERSHAW ST

OGDEN, UT

64403-0532

Cropland: 471.3

Farmland: 1,092.0

NOTE: The authority for collecting the following information is Pub.L 107-76. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The data will be used to determine eligibility for assistance. Furnishing the data is voluntary, however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the provisions of the Act.

Producer Name	ID	C/C	Share
RYAN SHAUL	5537	GRASS	1.0000

Crop Type	Prac	IU	Reported	Determined	Crop Type	Prac	IU	Reported	Determined	Crop Type	Prac	IU	Reported	Determined
GRASS NAB	I	EZ	173.10	173.10	GRASS NAB	N	EZ	313.30	313.30	GRASS WCR	I	EZ	321.60	331.60
GRASS WCR	N	EZ	89.70	89.70	OFAV	I		.00						

OPERATOR'S CERTIFICATION: I certify to the best of my knowledge and belief that the acreage of crops and land uses listed herein are true and correct, and that all required crops and land uses have been reported for the farm as applicable. The signing of this form gives FSA representatives authorization to enter and inspect crops and land uses on the above identified land.

Operator's Signature

Date

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, sex, age, marital status, or disability.

AFFIDAVIT OF BERDEAN BLACK

STATE OF IDAHO)
 : ss
County of Bear Lake)

Berdean Black, being first duly sworn under oath, deposes and states as follows:

1. The facts recited in this Affidavit are true and correct to the best of my knowledge, information and belief.
2. I am a resident of the State of Idaho and I currently reside at 215 Washington Street, Montpelier, Idaho.
3. From approximately 1957 through 1962, I operated a ranch near Pegram, Idaho known at that time as the "Sorenson Ranch" (referred to herein as the "Ranch"). The Ranch was at that time owned by Hod Sanders who employed me to manage the Ranch. I am aware that the Ranch was subsequently owned by Kay Rigby for a time, who eventually lost the Ranch to the Farmers Home Administration (FHA). In recent years the Ranch was owned by Con Nebeker and Jim Smith. I understand that the Ranch is currently owned by the developers of Black Bear Resort near Bloomington, Idaho.
4. During the time that I operated the Ranch for Hod Sanders we raised grass hay primarily and some alfalfa hay. We also ran approximately 105 mother cows on the Ranch. I lived on the Ranch during that time and was personally engaged in the farming and ranching activities at the Ranch. We irrigated cropland at the Ranch using water rights from the Bear River delivered through the Nuffer Ditch and the Sorenson Ditch. There was no water master on either ditch; the water users simply worked cooperatively to take water in turn. One year we dropped a pump directly in the Bear River to irrigate part of the cropland on the Ranch.
5. The Nuffer Ditch delivered water to various landowners, with the Ranch located on the end of the Nuffer Ditch. Water delivered through the Nuffer Ditch was taken in turns. I recall that the Ranch was entitled to receive around 10cfs from the Nuffer Ditch. We used the water to raise grass hay on cropland south and west of the Bear River. The map attached hereto

as Exhibit A accurately identifies land that was irrigated on the Ranch using water delivered through the Nuffer Ditch.

6. The Sorenson Ditch delivered water to the Ranch as well as to property owned by a neighboring landowner named Baxter. The map attached hereto as Exhibit A accurately identifies land that was irrigated using water delivered through the Sorenson Ditch. We hayed all of that property every year, but on bad water years the water supply would decrease later in the summer and the property on the northern end of the land irrigated by the Sorenson Ditch would not produce a great crop. We were always able to get a good crop off of the southern portion of the property irrigated through the Nuffer Ditch.

7. We would take one crop of hay off of the Ranch each year and then irrigate and use the regrowth to provide pasture for the cows which we would turn out to graze in the fall.

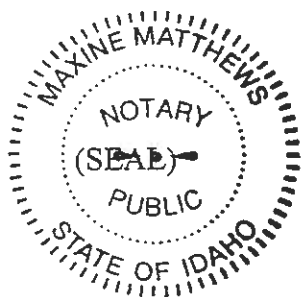
8. All water available from the Bear River through the Nuffer Ditch and the Sorenson Ditch was fully utilized each year for the beneficial purpose of raising irrigated hay and pasture and livestock watering as described above.

FURTHER YOUR AFFLIANT SAYETH NAUGHT.

DATED this 1st day of July, 2008.

Berdean Black
BERDEAN BLACK

SUBSCRIBED AND SWORN TO before me this 1st day of July, 2008.



Maxine Matthews
NOTARY PUBLIC FOR IDAHO,
Residing at: Paris
My Commission Expires: 11-14-12