

**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

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 purpose of this Application is to correct an error in the place of use of water right no. 11-930.

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

1. **Right Number** **Priority** **Amount** **Nature of Use** **Period of Use**

11-930	04/15/1885	0.6 cfs	Irrigation	undefined
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2. Total amount of water being transferred 0.6 cubic feet per second.
3. Source of water Bear River tributary to Great Salt Lake.
4. Point(s) of Diversion: 1

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local Name for Diversion
		NE	NE	11	15S	45E	Bear Lake	

5. Lands irrigated or place of use:

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	
15S	45E	2				20									10				30

Total Acres 30

PART 1

6. General Information:

- a. Description of diversion system. Water rights will continue to be diverted through Sorenson 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 correct IDWR records. There will be no change to actual historic water use under this water right.
- d. Remarks: IDWR records incorrectly reflect a place of use that includes 10 acres in the NESW Section 2. Such lands cannot be irrigated from the point of diversion of this water right. The point of diversion (NENE Sec. 11) is into the Sorenson Ditch which flows northeast of the Bear River. This right has never been used on land in the NESW Sec. 2. but has been used in the NESE Section 2. The place of use mistake is the result of an error in the Terrell Decree. Attached to this Application are two maps—one showing the decreed place of use and one showing the actual place of use. This Application seeks to correct the place of use to properly include 10 acres in the NESE Sec. 2.

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: Attached is an IDWR Water Right Report for Water Right No. 11-930 and the excerpt from the Terrell Decree of water right 11-930 upon which IDWR records are based.
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

(if the entire right is to be changed by the applicant, omit part B and C.)

1. Amount n/a cfs for n/a purposed from n/a to n/a
2. Points of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local Name for Diversion
		NE	NE	11	15S	46E	Bear Lake	

3. Lands irrigated or place of use:

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	
15S	45E	2									10								10

Total Acres 10

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. Amount 0.6 cfs for Irrigation purposed from undefined to undefined
2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local Name for Diversion
		NE	NE	11	15S	46E	Bear Lake	

3. Lands irrigated or place of use:

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	
15S	45E	2				20													20

Total Acres 10

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Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

07/02/2008

WATER RIGHT NO. 11-930

<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	/	/	0.6 CFS	
Total Diversion			0.6 CFS	

Location of Point(s) of Diversion:

BEAR RIVER	NENE	Sec. 11	Township 15S	Range 45E	BEAR LAKE County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION BEAR LAKE 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>
15S	45E	2		SENE	20									

Page	5	8	NESW	10															
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Total Acres: 30

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Conditions of Approval:

1.	AGRICULTURAL RIGHT. P/U APPARENT ERROR IN RANGE, SHOULD BE 45E.
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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:

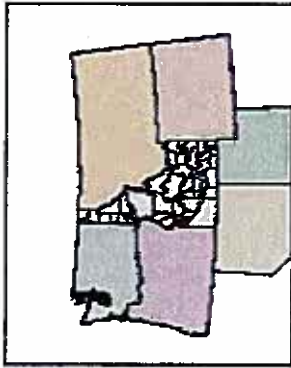
Mitigation Plan: False

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Created: February 29, 2008



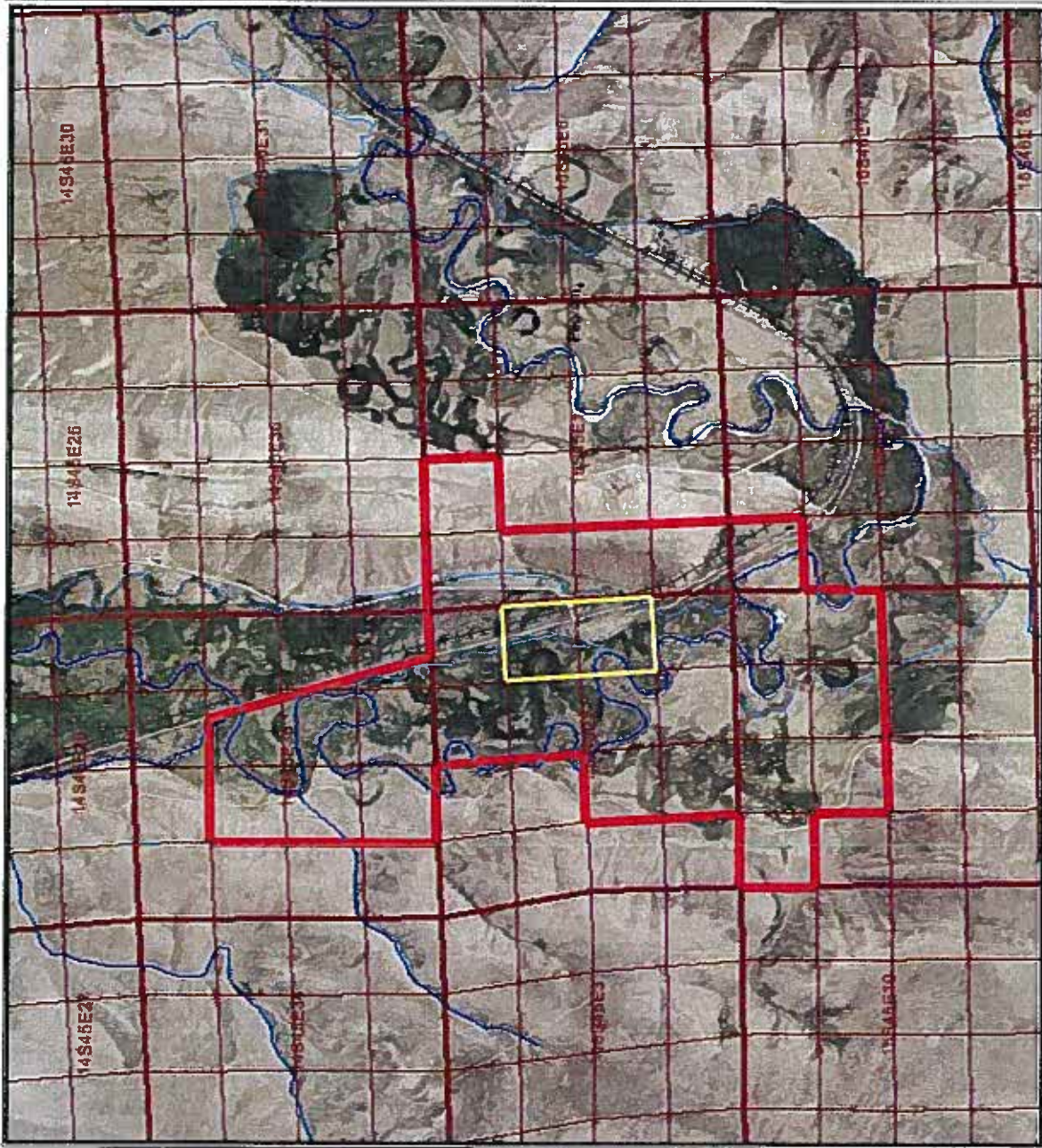
- Legend**
- Highways
 - Railroads
 - Major Roads
 - Interstates
 - U.S. Highway
 - State Highway
 - Other
 - Lakes
 - Major Rivers
 - Rivers
 - Creeks
 - Rivers
 - Stream courses
 - Streams
 - PLS - Section
 - PLS - quarter quarter
 - Cities
 - Counties
 - State
 - High Res. NAIP (2006)
- = Four Pines Ranch
- = WR No. 11-930

Prepared by the ArcGIS MapServer at



Idaho Department of Water Resources
1215 West State Street, 4th Floor
Boise, Idaho 83720-0008
Phone (208) 333-1000
www.idwr.idaho.gov

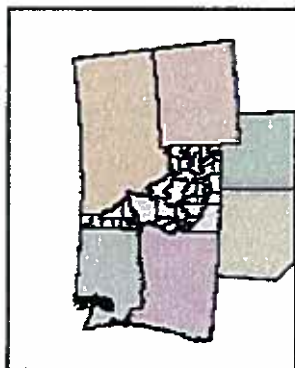
Water Right 11-930 (Actual)



The Idaho Department of Water Resources is maintaining this web site as a public service. Persons using information from this site for official purposes, or other purposes, for which accuracy and completeness are required, are hereby notified that they should first verify the information with the public records or other primary sources from which the information was obtained.

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Created: February 29, 2008



Water Right 11-930 (Decreed)



- Legend**
- Railroads
 - Major Roads
 - Interstate
 - U.S. Highway
 - State Highway
 - Other
 - Lakes
 - Major Rivers
 - Rivers
 - Creeks
 - Streams
 - Spreads
 - PLS - Section
 - PLS - quarter quarter
 - Cities
 - Counities
 - State
 - High Res. MAP (2005)
- = Four Pine Ranch
 = WR No. 11-930



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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 "Water Right 11-930 (Actual)".

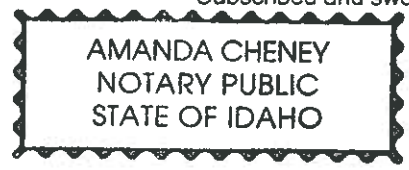
B. CHANGES IN NATURE OF USE

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 corrects IDWR records. There is no change to historic irrigation practices 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.

[Signature]
(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 8 pages and _____ attachments
Received by _____ Date _____ Protest filed by _____
Prelim check by _____ Fee _____
Receipted by [Signature] Date 7-9-08 E034223
Published in News Examiner 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

Index to: WARRANTY DEED

Fee: 8.00

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

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EXHIBIT

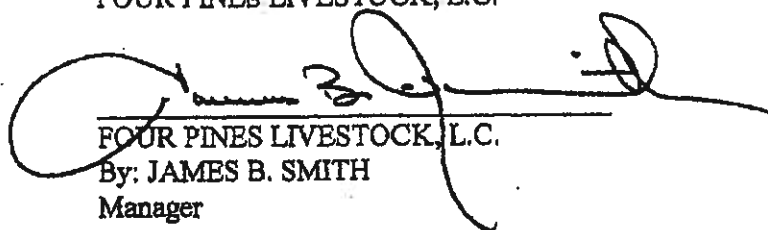
A

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

7491-4

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 ½" BY 24" IRON PIN); THENCE SOUTH 00° 02' WEST A DISTANCE OF 660 FEET TO A POINT (MARKED WITH A ½" BY 24" IRON PIN); THENCE SOUTH 89° 58' EAST A DISTANCE OF 660 FEET TO A POINT (MARKED WITH A ½" 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 ½" 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.

3/1/57
J.S.

No. W 28768	Due no later than Feb 29, 2008 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. RETREAT AT BEAR LAKE, LLC (THE) BRUCE BARRETT 346 EAST 3300 SOUTH SALT LAKE CITY UT 84115		IDAHO SERVICE COMPANY 101 S CAPITOL BLVD 10TH FLOOR BOISE ID 83702- USA			
			3. <u>New</u> Registered Agent Signature:*			
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
MANAGER	NOLAN HAYWARD	346 EAST 3300 SOUTH	SALT LAKE CITY	UT	USA	84115
MANAGER	MARTIN PRIER	346 EAST 3300 SOUTH	SALT LAKE CITY	UT	USA	84115
MANAGER	LEE TIBBITTS	1717 SOUTH 450 WEST	LOGAN	UT	USA	84321
MANAGER	BRADLEY AUGER	676 S VISTA VIEW LN	N SALT LAKE	UT	USA	84054
MANAGER	BRUCE BARRETT	4134 E WILDCREEK ROAD	SANDY	UT	USA	84092
5. Organized Under the Laws of: ID W 28768		6. Annual Report must be signed.*				
		Signature: Bruce Barrett		Date: 02/19/2008		
		Name (type or print): Bruce Barrett		Title: Manager		
Processed 02/19/2008		* Electronically provided signatures are accepted as original signatures.				