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Norman M. Semanko, ISB #4761
BARKER ROSHOLT & SIMPSON LLP
113 Main Avenue West, Suite 303
P.O. Box 485
Twin Falls, Idaho 83303-0485
Telephone: (208) 733-0700
Facsimile: (208) 735-2444

RECEIVED
MAR 31 2008
DEPARTMENT OF
WATER RESOURCES

Attorney for Petitioner J. R. and Patricia Challis

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF ROBIN)
WEGNER'S WATER RIGHT NOS.) PETITION FOR DECLARATORY
72-00007A, 72-10032, 72-16559) RULING REGARDING
and 72-16560) FORFEITURE AND ILLEGAL
USE OF WATER RIGHTS

_____) 11/17/2000 12/5/2001
Petitioner J. R. and Patricia Challis ("Petitioner" or "Challis") hereby petition the
Idaho Department of Water Resources ("Department" or "IDWR") for a declaratory 12/5/2001
ruling that water right nos. 72-00007A, 72-10032 and 72-16560, owned by Robin J.

Wegner ("Respondent" or "Wegner"), have been statutorily forfeited, in whole or in part, 12/5/2001
pursuant to I.C. Sec. 42-222(2) for five (5) years or more of non-use, without a valid
defense thereto, and, further, that the current use of water right no. 72-16559 is illegal
and otherwise unauthorized and must be discontinued, pursuant to I.C. Sec. 42-351.

This petition is brought pursuant to the Rules of Procedure of IDWR (IDAPA
37.01.01), the Idaho Administrative Procedure Act (I.C. Sec. 67-5232 et seq), I.C. Sec.
42-222(2), I.C. Sec. 42-351, and all other applicable authority.

BACKGROUND

Petitioner Challis is a water right owner in the Challis Creek drainage, with water rights diverted from many of the same sources as Wegner's water rights. In addition, the point of diversion of Wegner's water right 72-10032 is located on Challis' property, with the source of another of Wegner's water rights, 72-16559, originating on Challis' property. Wegner's two Bear Creek water rights, 72-00007A and 72-16560, as well as spring flow from 72-10032, could conceivably be conveyed across/through Challis' property, to reach Wegner's place of use -- although this has not occurred for a period of well over five years, if ever.

Challis and Wegner entered into a "Water Rights Agreement" in May, 2001, to settle litigation in the Snake River Basin Adjudication ("SRBA") regarding their respective water right claims from Bear Creek and two springs located on Challis' property. A copy of said agreement is attached hereto as Exhibit "A". Wegner's remaining water right claims were subsequently decreed in the SRBA, during December of 2001.

Despite this agreement, Wegner has chosen not to use most of her water rights, or to do any of the work necessary to put the rights to use. Despite this obvious non-use, Wegner filed two applications for permit, nos. 72-16693 and 72-16694, seeking to consolidate her water rights through use of a pond constructed on her property. These applications are the subject of a separate proceeding before IDWR. Wegner has also engaged in the illegal use of water through the pond. *See e.g.*, April 27, 2007 letter from IDWR to Robin Wegner, attached hereto as Exhibit "B".

As part of their 2001 agreement, the parties agreed to release one another from any potential cause of action accruing prior to the date of the agreement, and they agreed not to file any lawsuit arising from the subject matter of the dispute as it pertained to any acts or omissions which occurred prior to the date of the agreement. However, the agreement in no way limited the ability of the parties to enforce their rights as it pertained to future acts or omissions occurring after May of 2001.

Given that more than five years of non-use has occurred since the 2001 agreement and subsequent decreeing of Wegner's water rights, and further given Wegner's current attempt at consolidating her water rights for use through a pond on her property by way of applications for permit nos. 72-16693 and 72-16694, as well as the illegal use of water currently being made by Wegner, Challis has chosen to file this petition for a declaratory ruling from the Department.

GROUND FOR DECLARATORY RULING

In support of this Petition, Challis alleges as follows:

1. The above-referenced water rights owned by Wegner have previously been decreed in the SRBA, as follows:
 - a. Water right no. 72-00007A was decreed on November 11, 2000.
 - b. Water right nos. 72-10032, 72-16559 and 72-16560 were decreed on December 5, 2001.
2. There has been no diversion or beneficial use by Wegner of her water rights from Bear Creek since they were decreed, a period of non-use of at least six (6) years. Specifically, as confirmed by the 2001-2007 Watermaster's Reports for the Water District, attached hereto as Exhibits "C" through "I", the January 30, 2006 letter from

Challis to Wegner, attached hereto as Exhibit “J”, and Challis’ “Water Right Usage Breakdown” through 2007, attached hereto as Exhibit “K”, the following non-use has occurred:

a. Water right no. 72-00007A (Bear Creek), decreed on November 11, 2000, was not diverted or beneficially used by Wegner at any point during 2001, 2002, 2003, 2004, 2005, 2006 or 2007, a period of seven (7) years. The right was authorized for temporary, emergency use by another water user, from a different point of diversion, at a different place of use, during the 2005 irrigation season, with a limited amount of use.

b. Water right no. 72-16560 (Bear Creek), decreed on December 5, 2001, was not diverted or beneficially used at any point during 2002, 2003, 2004, 2005, 2006 or 2007, a period of six (6) years.

c. Water right no. 72-10032 (spring located on Challis property), decreed on December 5, 2001, was not diverted or beneficially used at any point during 2002, 2003, 2004, 2005, 2006 or 2007, a period of six (6) consecutive years.

3. Water right no. 72-16559 (spring/unnamed stream originating on Challis property and flowing to Wegner property), decreed on December 5, 2001, has been used by Wegner, but the recent/current use is illegal and otherwise unauthorized, as confirmed by IDWR’s previous correspondence to Wegner, attached hereto as Exhibit “B”.

4. Challis hereby incorporates by reference and relies upon as further grounds for this petition all information in the SRBA and IDWR water right files for the above-referenced water rights, the IDWR files for applications for permit nos. 72-16693 and 72-16694, and any information that may be presented at hearing on this matter.

5. I.C. Sec. 67-5232 and Rule 400 of IDWR's Rules of Procedure allow any person to petition the Department to issue a declaratory ruling on the applicability of statutory provisions that it administers. I.C. Sec. 42-222(2) provides that a water right shall be lost and forfeited, in whole or in part, by failing to put it to beneficial use for a term of five (5) years. In addition, I.C. Sec. 42-351 authorizes the Department to determine illegal or unauthorized uses of water rights.

6. Idaho Code Sec. 67-5232(3) and Rule 402 of IDWR's Rules of Procedure require the Department to issue an order on this petition.

7. Since Wegner is seeking the consolidation of all of the above-referenced water rights in a pond on her property, pursuant to pending water right permit applications 72-16693 and 72-16694, it is prudent for IDWR to issue an order declaring that water right nos. 72-00007A, 72-10032 and 72-16560 have been forfeited for lack of use – so that Wegner is not allowed to transfer and revive their use through the permit applications. It is also appropriate to formally declare the illegal use by Wegner under water right no. 72-16559, as set forth in IDWR's letter attached as Exhibit "B".

REQUEST FOR HEARING

Upon expiration of the 21-day response period authorized under Rule 270.01 of IDWR's Rules of Procedure, a hearing should be held on this petition to coincide with the April 24-25 hearing dates currently scheduled for consideration of permit applications 72-16693 and 72-16694. Such a consolidation of proceedings is authorized pursuant to Rule 556 of IDWR's Rules of Procedure. The proceedings involve the same parties and related issues. Wegner seeks to consolidate the above-referenced water rights through the permit proceedings. Holding the hearings during the same dates would best conserve

the resources of the parties and the Department and provide a timely resolution of the related issues in both proceedings, without prejudicing any of the parties. Alternatively, a hearing should be held on this petition as soon as feasible, with a declaratory ruling issued prior to any decision regarding permit applications 72-16693 and 72-16694, so as to avoid any illegal transfer, revival or unauthorized use of Wegner's water rights.

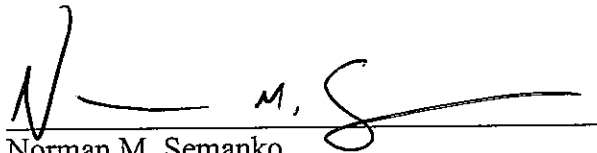
RELIEF REQUESTED

WHEREFORE, Petitioner Challis respectfully prays that the Department issue an order declaring that:

1. Water right nos. 72-00007A, 72-10032 and 72-16560 have been forfeited, in whole or in part, pursuant to I.C. Sec. 42-222(2); and
2. The current use of water right no. 72-16559 is illegal and otherwise unauthorized and must be discontinued, pursuant to I.C. Sec. 42-351.

Respectfully submitted this 31st day of March, 2008.

BARKER ROSHOLT & SIMPSON LLP

A handwritten signature in black ink, appearing to read 'N. M. S.', is written over a horizontal line.

Norman M. Semanko
Attorney for Petitioner J. R. and Patricia Challis

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PETITION FOR DECLARATORY RULING REGARDING FORFEITURE AND ILLEGAL USE OF WATER RIGHTS was served by the method indicated below to the following parties:

Original to:

David Tuthill, Director
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
Fax: (208) 287-6700

☒ Hand Delivery
☐ U.S. Mail
☐ Facsimile

Copies to:

Robert G. Haynes
Idaho Department of Water Resources
7600 N. Mineral Dr., Suite 100
Coeur d'Alene, ID 83815
Fax: (208) 762-2819

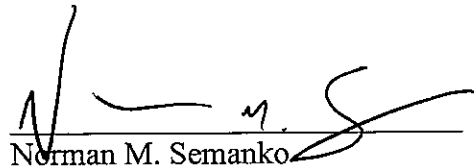
☐ Hand Delivery
☒ U.S. Mail
☐ Facsimile

Robin J. Wegner
HC 63 Box 1576
Challis, ID 83226

☐ Hand Delivery
☒ U.S. Mail
☐ Facsimile

Patrick D. Brown
Hutchinson & Brown LLP
104 Lincoln Street
P.O. Box 207
Twin Falls, ID 83303-0207
Fax: (208) 733-9343

☐ Hand Delivery
☒ U.S. Mail
☐ Facsimile



Norman M. Semanko

EXHIBIT “A”

WATER RIGHTS AGREEMENT

THIS AGREEMENT is entered into between J. R. CHALLIS and PATRICIA W. CHALLIS, husband and wife, residing in Challis, Idaho, hereinafter referred to as "Challis", and ROBIN J. WEGNER, a single woman, residing in Challis, Idaho, hereinafter referred to as "Wegner".

WHEREAS, Challis and Wegner have been engaged in litigation in the Snake River Basin Adjudication (SRBA) regarding their respective water right claims from Bear Creek and two springs located on the Challis property; and

WHEREAS, Wegner may desire to use a ditch located on the Challis property to facilitate the delivery of water to her property, which has been used to convey water to the Wegner property in the past; and

WHEREAS, Wegner is willing to clear, maintain and clean and put and keep said ditch in good repair at her sole expense except as otherwise stipulated herein; and

WHEREAS, the parties desire to prevent any flooding of the Challis property; and

WHEREAS, the parties are agreeable to certain changes to the Wegner ditch; and

WHEREAS, the parties desire to facilitate the use of water from the boundary/east pasture spring located on the Challis property; and

WHEREAS, Wegner is considering changing the points of diversion for water rights 72-00007A, 72-16560 and 72-10032 to a point on Challis Creek, and/or piping water all or in part; and

WHEREAS, the parties desire to settle this matter upon mutually agreeable terms.

NOW, THEREFORE, in consideration of the mutual promises below, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Water Right Descriptions. The water right claims in dispute should be decreed as listed below. The parties agree to sign and file a Standard Form 5 (Stipulated Elements of a Water Right) with the SRBA Court for each of the water right claims, with the elements as they are listed below.

0222723
Custer County Reg. of
Jack & Patricia Challis
Time 1:40 P.M. Date 5/15/01
Ethel M. Peck, Clerk
Janet Langis 33.00
Deputy

- a. Right Number: 72-10032
 Name & Address: Robin J. Wegner
 HC 63 Box 1576
 Challis, ID 83226
 Source: Spring Tributary: Sinks
 Quantity: .04 cfs
 Priority Date: 10/10/1911
 Point of Diversion: T14N R18E S03 SESWNE Custer County
 Purpose and
 Period of Use: Irrigation 4-1 to 10-31 .04 cfs
 Place of Use: Irrigation T14 R18E S02 SWNW
 12 acres
- b. Right Number: 72-16559
 Name & Address: Robin J. Wegner
 HC 63 Box 1576
 Challis, ID 83226
 Source: Unnamed Stream Tributary: Sinks
 Quantity: .06 cfs
 Priority Date: 10/10/1911
 Point of Diversion: T14N R18E S02 NWSWNW Custer County
 Purpose and
 Period of Use: Irrigation 4-1 to 10-31 .06 cfs
 Stockwater 1-1 to 12-31 .02 cfs
 Place of Use: Irrigation T14N R18E S02 SWNW
 12 acres
 Stockwater T14N R18E S02 SWNW
- c. Right Number: 72-16560
 Name & Address: Robin J. Wegner
 HC 63 Box 1576
 Challis, ID 83226
 Source: Bear Creek Tributary: Challis Creek
 Quantity: 1.00 cfs
 Priority Date: 10/10/1911
 Point of Diversion: T14N R18E S03 NESWNW Custer County
 Purpose and
 Period of Use: Irrigation 4-1 to 10-31 1.0 cfs
 Place of Use: Irrigation T14N R18E S02 SWNW
 12 acres
- d. Right Number: 72-16561
 Name & Address: J R Challis
 Patricia Challis
 P.O. Box 1220
 Challis, ID 83226-1220
 Source: Spring Tributary: Sinks
 Quantity: .02 cfs
 Priority Date: 10/10/1911

Point of Diversion: T14N R18E S03 NESENE` Custer County
Purpose and
Period of Use: Stockwater 1-1 to 12-31 .02 cfs
Place of Use: Stockwater T14N R18E S03 SENE

The parties understand and acknowledge that any decree for the above-listed water rights is contingent upon consent to the Standard Form 5's by the Idaho Department of Water Resources (IDWR), issuance of recommended partial decrees by the SRBA Special Master, and issuance of partial and final decrees by the SRBA Court. The parties agree that any failure by IDWR or the SRBA Court to recommend or decree the water rights consistent with the elements set forth above shall not negate or otherwise affect this agreement and that all provisions of this agreement shall remain in full force and effect upon execution by the parties hereto.

In addition, the following water rights have already been decreed by the SRBA Court: 72-00007A (Wegner), 72-10033 (Wegner), 72-00007C (Challis), 72-10368 (Challis), 72-16562 (Challis), 72-16563 (Challis), 72-16564 (Challis) and 72-16565 (Challis).

2. Bear Creek Diversion; Maintenance and Cleaning of Wegner Ditch. Water from Bear Creek may be diverted for use by Challis under water right nos. 72-00007C and 72-10368 and Challis will retain the right to divert from Bear Creek; provided that Challis shall be responsible for a proportionate share of the maintenance costs of the diversion structure and measuring device from Bear Creek only for those periods, if any, that Challis actually diverts water from Bear Creek. Wegner shall have a right to divert water from Bear Creek under water right nos. 72-00007A and 72-16560, consistent with this agreement. The parties agree to pay their proportionate share of the costs for the licensed contractor that shall be hired to do any such maintenance work within thirty (30) days of receiving a copy of the contractor's bill or invoice from the party contracting said work. Proportionate shares shall be determined by water usage during the prior irrigation season, as established by applicable IDWR usage records. The parties acknowledge and agree that the ditch which carries water from Bear Creek to the Wegner property needs repair, beginning at the point at which the diversion ditch from Bear Creek splits in Challis' west pasture and continuing on to the Wegner property ("the Wegner ditch"), and is in need of clearing and cleaning. While in no way limiting Wegner's responsibility for clearing, maintaining, and cleaning the full length of the Wegner ditch, in particular, the parties have been advised and understand that there is a boggy area west of the Challis house which is a high seepage area and has a low bank on the downstream side of the ditch. Wegner agrees to perform the clearing, ditch maintenance and cleaning that is necessary to put the full length of the Wegner ditch into good repair and to prevent flooding from the ditch onto the Challis

property, including lining the ditch and/or building up the banks, and/or to place the ditch into an adequately sized pipe. Water shall not be diverted into the ditch for conveyance and use by Wegner (under water rights nos. 72-00007A and/or 72-16560) until such work is completed. All said work shall be performed by a licensed contractor with equipment adequate to achieve the required result. Wegner agrees to provide reasonable notice to Challis before the commencement of any work. The parties agree to cooperate with one another on the scope and nature of any work.

3. Access to Wegner Ditch. Challis acknowledges and agrees that Wegner has an easement for the Wegner ditch, clearing, maintenance, cleaning and repair of the ditch, and for reasonable access to the ditch for said purposes, subject to this agreement and the applicable provisions of Idaho law. However, the size and scope of the ditch easement shall not be enlarged beyond the size reasonably necessary to convey the Wegner rights, as a result of this agreement, nor shall the burden on the Challis property be increased. Challis shall continue to have a right to use the Wegner ditch for purposes of irrigating the Challis property; provided that Challis shall only be required to pay a proportionate share of maintenance of the ditch for those periods, if any, that Challis actually uses the Wegner ditch. The parties agree to pay their proportionate share of the costs for the licensed contractor that shall be hired to do any such maintenance work within thirty (30) days of receiving a copy of the contractor's bill or invoice from the party contracting said work. Proportionate share shall be determined by water usage during the prior irrigation season, as established by applicable IDWR usage records.

4. Prevention of Flooding from Wegner Ditch. It is not in the best interest of either party for flooding to occur from failure or overflow of the Wegner ditch. As a result, Wegner agrees that no water will be diverted into the ditch until the ditch clearing, maintenance and cleaning, or piping, which is necessary to prevent flooding on the Challis property is performed. In the event that flooding does occur, Wegner agrees to immediately upon notification or other information, cease the flow of water into the Wegner ditch or pipe from Bear Creek until the problem(s) is (are) corrected. If Wegner is not immediately available to discontinue the flow of water into the ditch or pipe, or otherwise fails to do so, Challis shall have the right to cause the flow of water to be discontinued so as to prevent further damage to the Challis property. Upon correction of any flooding problem(s), water will again be allowed to flow into the ditch or pipe. Nothing herein shall limit the respective rights or obligations of either party in the event that legal action is commenced arising out of any flooding that may or is alleged to occur in the future.

5. Installation of Measuring Device. Wegner agrees to pay the cost of providing, installing and maintaining a measuring device of a type approved by and in accordance with installation requirements of IDWR, near the point at which the diversion ditch splits in the Challis west pasture, prior to the diversion of any water into the Wegner ditch, so that water can be properly allocated between the parties, pursuant to their respective water rights. Future maintenance on the flow control gate currently installed and controlling flow into the Wegner ditch shall be Wegner's sole responsibility.

6. Relocation of Portion of Wegner Ditch. The parties agree that a portion of the Wegner ditch which lies upstream and adjacent to what is commonly referred to as "the middle spring", located on Challis' property in T14N, R18E, S03, SESWNE, and which serves as the source for water right nos. 72-10032 (Wegner) and 72-16563 (Challis), will be relocated to its original location at the toe of the old county road, now the Challis driveway, to the north of the current ditch location. Challis agrees to provide and install the pipe and perform the work necessary to carry flow under the road that Challis has had constructed at the middle spring. Challis will also install a mechanism to split any middle spring flow evenly between the parties and a pipe from said split to the relocated Wegner ditch.

7. Selection of East Pasture Ditch by Wegner. Within sixty (60) days of signing this agreement, Wegner agrees to select a location for that portion of the Wegner ditch which runs through the Challis east pasture, immediately to the west of the Wegner property. As identified by the parties, there are three ditches that may have been used in the past and Wegner agrees to select one of these three. If Wegner does not choose one of these three ditches within 60 days, Wegner will then have the right to use the southern-most ditch, located nearest to Challis Creek as had been her choice prior to this agreement. Upon expiration of the 60-day period, Challis shall then have the right to fill-in the remaining ditches and Wegner shall have no future right to utilize any ditch other than the aforementioned.

8. Transfer of Points of Diversion. It is understood that Wegner is considering the possibility of seeking to transfer the points of diversion for water right nos. 72-00007A, 72-16560, and 72-10032 to a point on Challis Creek. Challis agrees to cooperate with Wegner on said transfer, subject to further agreement as to the location of any new system on or across the Challis property; provided that the parties understand and acknowledge that Challis has not consented, and does not in any way herein consent, to the diversion of water across their property from Challis Creek. In the event that Wegner seeks to transfer the points of diversion for all three of the above-mentioned water rights to Challis Creek at a location on the Wegner property, Challis agrees to convey water right no. 72-16563 to

Wegner by quit claim deed after the successful completion of the transfer process with IDWR. If such transfer is not approved, Challis shall retain all title and interest to water right no. 72-16563. Should successful completion of the transfer occur, Wegner shall have no further right to use or access Bear Creek or the middle spring and agrees to abandon all portions of the Wegner ditch and any other ditches located on the Challis property, to remove any pipe that may have been constructed on the Challis property under this agreement, and relinquish any easement whatsoever on the Challis property. The costs of the transfer process shall be Wegner's sole responsibility.

9. Use of Boundary/East Pasture Spring. It is acknowledged and agreed that Challis has a right to use stockwater from the spring located in the Challis east pasture, which is commonly referred to as "the boundary spring" or "east pasture spring", pursuant to water right no. 72-16561, as described in paragraph no. 1 above. In addition, Wegner has a right to use water for irrigation and stockwater purposes, from the point at which spring water from the Challis property enters upon the Wegner property as an unnamed stream, pursuant to water right no. 72-16559, as described in paragraph no. 1 above. To facilitate the natural flow of water to the Wegner property, the parties agree that Challis shall return the spring to its original condition by filling in the ditch that was constructed during 2000 to facilitate the building of a fence on the property line between the Challis and Wegner properties. All work done pursuant to this paragraph no. 9 will be done consistent with the advice, recommendations, and directions received from Brockway Engineering during the parties' conference call with Brockway Engineering on April 12, 2001, in order to prevent disruption or diminishment of the spring flows to Wegner. Upon said return of the spring to its original condition, the parties agree to jointly observe the flow from the spring to determine the location of the discharge orifice and resulting natural flow toward the Wegner property. Challis will leave an undisturbed strip of land approximately four (4) feet wide, located between said spring orifice and the Wegner property, so as to allow the natural flow of water to the Wegner property, and may thereafter build up the sides of said strip of land in a manner that does not impede the natural flow of water from the spring. Challis shall have continued and unrestricted access to the spring and natural flow of water within the four foot (4') strip of land for stockwater purposes, pursuant to water right no. 72-16561. Only once the natural flow of water enters Wegner's property, shall Wegner have the right to use it, pursuant to water right no. 72-16559. Wegner shall be entitled to use the water that flows naturally onto the property, but will not pump the water so as to deprive Challis of water needed for his stock under water right no. 72-16561.

10. High Water Claim by Challis. It is understood that Challis intends to file an additional or amended claim for high water from Bear Creek and Challis Creek to increase the quantity of high water that may be diverted, consistent with IDWR guidelines. All other elements are to be consistent with water right no. 72-10368. Wegner agrees not to oppose any late or amended claim by Challis, or to object to any recommendation by IDWR in the SRBA, or to otherwise challenge or participate in such high water claim made by Challis.

11. Notice and Cooperation. The parties agree to make reasonable efforts to communicate with one another about their respective water diversion and use activities, including any plans for changes in their systems, and to cooperate to the extent possible on any such changes.

12. Mutual Release. The parties agree to release one another from any potential cause of action accruing prior to the date of this agreement and agree further not to file any lawsuit arising from the subject matter of this dispute as it pertains to any acts or omissions which occurred prior to the date of this agreement. This provision in no way limits the rights of the parties to seek enforcement of this agreement in the future.

13. Entire Agreement. This agreement is the entire agreement between the parties as to the settlement of the rights in dispute and the other covenants and obligations set forth in it. It, however, does not limit the remedies available to either party in law or equity.

14. Binding Nature. This agreement shall constitute a covenant which runs with the Wegner and Challis properties and shall be binding upon the parties and their heirs, successors and assigns, as well as their agents, employees, or anyone else acting on their behalf. Upon execution, the parties shall cause a copy of this agreement to be recorded with Custer County, the cost of which shall be borne evenly by both parties.

15. Attorney Fees. In the event that either party is required to enforce the terms of this agreement in an administrative or judicial proceeding, the prevailing party shall be entitled to a reasonable attorney fee from the losing party.

16. Counterparts. This agreement may be executed in counterparts.

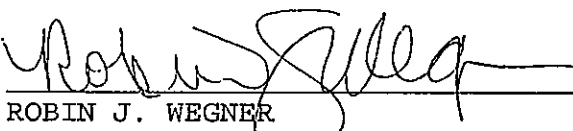
DATED THIS 15th day of May, 2001.



J. R. CHALLIS



PATRICIA W. CHALLIS

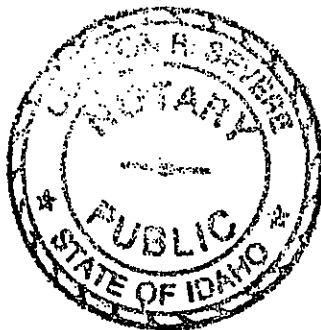


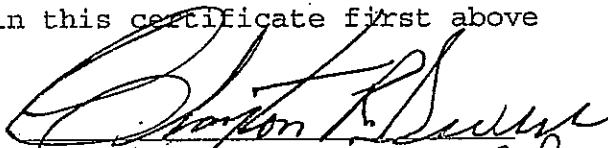
ROBIN J. WEGNER

STATE OF IDAHO)
) ss.
County of CUSTER

On the 15th day of May, 2001, before me, a Notary Public, in and for said County and State, personally appeared J. R. CHALLIS, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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

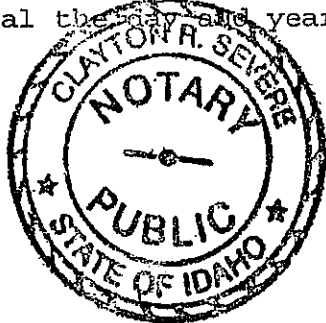



NOTARY PUBLIC FOR IDAHO
Residing at: Challis, Id.
My commission expires: 3-16-2003

STATE OF IDAHO)
) ss.
County of CUSTER)

On the 15th day of MAY, 2001, before me, a Notary Public, in and for said County and State, personally appeared PATRICIA W. CHALLIS, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

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

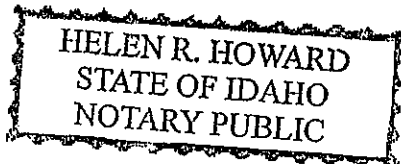


Clayton R. Severe
NOTARY PUBLIC FOR IDAHO
Residing at: Challis, Id.
My commission expires: 3-16-2003

STATE OF IDAHO)
) ss.
County of CUSTER)

On the 14th day of May, 2001, before me, a Notary Public, in and for said County and State, personally appeared ROBIN J. WEGNER, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

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



Helen R. Howard
NOTARY PUBLIC FOR IDAHO
Residing at: Challis
My commission expires: 3/20/04

EXHIBIT “B”



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

April 27, 2007

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

ROBIN J WEGNER
HC 63 BOX 1576
CHALLIS, ID 83226

RE: Illegal Storage Pond

Dear Ms. Wegner:

In 2006, you constructed a pond on your property. The pond currently stores surface water and ground water. Following construction of the pond, you filed an application to appropriate water with the Idaho Department of Water Resources (the Department) to authorize storage of water in the pond. The application has not been approved. Based on available information, the Department concludes that you are storing water for irrigation and perhaps other purposes. Your pending application seeks a water right for irrigation and irrigation storage.

Your pond is approximately 100 feet wide by 140 feet long, with a maximum depth of six feet. Assuming an average depth of three feet, the pond stores just less than one acre-foot of water. The pond was constructed on an existing slope by forming an approximately 36-inch high berm on the downhill side using soil excavated from the pond interior. The two sources of water currently stored are: 1) ground water entering at locations where the excavation intercepts the ground water table, and 2) surface water inflow from a spring originating on Jack Challis' property and entering your property as an unnamed stream approximately 12 feet from the pond.

You hold a valid, decreed water right (72-16559) from the unnamed stream originating on Mr. Challis' property authorizing the following uses:

- 0.02 cubic feet per second (cfs) for stock watering from 01/01 through 12/31
- 0.06 cfs for irrigation of up to 12 acres from 04/01 through 10/31
- Total diversion authorized is 0.06 cfs

Although you have a right to use water from an unnamed stream, you do not hold a valid water right to store or beneficially use the volume of water currently stored. Your pond is storing spring water in excess of the 24-hour volume limit allowed under your existing right and is also storing groundwater without a water right.

Storage and use of water without a water right is an illegal diversion and use of water under Idaho Code § 42-351. Section 42-351 authorizes the Department to issue notices of violation and cease and desist orders for an illegal diversion and use of water. Idaho Code § 42-1701B authorizes the Department to commence a civil enforcement action, which includes a monetary penalty, for these violations. In addition, waters you are storing and using are within

the boundaries of Water District 72A, and are regulated by a watermaster. This letter describes actions you must take to avoid enforcement activities, associated monetary penalties, and curtailment of use of water by the watermaster.

The Department has the authority to require you to remove or alter the pond until the Department approves a water right permit. These activities could include breaching the berm, backfilling the excavation, and modifying the berm such that the volume of spring water stored does not exceed 0.12 acre-feet (the 24-hr volume of your existing right). However, the Department feels that such an approach would be unduly burdensome relative to the impact on the resource, given the remaining time frame for approval or denial of the pending applications and the minimal impact this pond has on existing water rights. Instead, the Department feels that, pending issuance or denial of permits for these ponds, compliance should focus on limiting the beneficial uses of the stored water to the quantities authorized by the water rights. Specific activities to satisfy this goal are listed below. Of course, you may voluntarily elect to breach and/or backfill your pond until a permit or water right authorizing the storage is secured, in which case there would no longer be a violation.

Stored water cannot be used for irrigation and stock watering. Spring water can only be used within the limitations of water right 72-16559. Given the current configuration of the pond, which includes an overflow pipe that regulates the storage level, any inflow to the pond from the spring will discharge through the overflow pipe. Although the pond intercepts groundwater, a net diversion of groundwater out the overflow pipe is unlikely given that the natural groundwater levels are at or below the ground surface and the overflow pipe is above the ground surface. Therefore, any outflow from the pond is water from the unnamed stream flowing from the spring. You must do the following:

1. You must not beneficially use any stored water pumped or otherwise taken from the pond. Stored water is any water in excess of that amount which naturally passes the overflow pipe.
2. You must not beneficially use the stored water in the pond. Beneficial uses in the pond include stocking with fish, recreation, aesthetics, etc.
3. Because the pond captures all the water flowing from the springs, and discharges all the captured water through the overflow pipe, water in excess of the flow rate authorized by water right 72-16559, might be used. As a result, **pursuant to Idaho Code § 42-701, on or before May 25, 2007, you must: (a) install a measuring device or other means of measurement approved by the watermaster or the Department that will accurately measure the flow you are using for irrigation and stockwater from the outlet pipe; and (2) install a locking control valve or other locking controlling mechanism to allow water in excess of your authorized flow rate stored in your reservoir to spill onto the ground immediately outside of the reservoir berm.** The flow diverted cannot exceed 0.06 cfs total diversion for irrigation and stockwater, and cannot exceed 0.02 cfs for stockwater purposes.
4. You must limit the place of use irrigated to no more than 12 acres, as described in water right 72-16559.

Ms. Wegner
April 27, 2007
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5. At the end of the irrigation season (October 15, 2007), unless permit No. 72-16693 has been approved by the Department, you must breach the berm and reduce the level of water to ground surface.

Because your water use is regulated by a watermaster, the measuring device and controlling works will be under the control of the watermaster for Water District no. 72A. The watermaster, Jack Challis, may adjust the controlling works to insure the flow rate for your water right is not exceeded. **If the necessary measuring device and controlling works are not installed on or before May 25, 2007, the watermaster will shut off all deliveries of water from your pond for beneficial uses and will allow water from the pond to spill next to the berm.**

Non-compliance with the above may also result in monetary civil penalties of up to \$50,000 pursuant to Section 42-1701B, Idaho Code.

Please contact IDWR if you have any questions or comments.

Sincerely,



Gary Spackman
Administrator, Water Management Division

Enclosure: Copy of Idaho Code § 42-701

cc: Jack Challis
Gary Chamberlain
Norm Semanko
Bob Foster
Southern Region
Nick Miller

EXHIBIT “C”

J. R. Challis - March 26, 2002

Water District 72-C, Challis Creek
2001 Watermaster's Report

Water Right Owner	Water Right No.	J. R. Challis - March 26, 2002		Total CFS (24 Hour) Sec. Ft.)	Total Cost	2001 Adopted Budget Amount	Balance Debit or Credit
		Diversion G.P.S. I.D. No.	CFS (24 Hour) Sec. Ft.) Per Diversion				
Arrabito, Betty Jo	72-00004N	A0002718		2.77	\$25.00	\$25.00	\$0.00
Axline, Keith D.	72-00029A	A0002586 A0002587		27.72	\$25.00	\$25.00	\$0.00
Baker, Robert E.	72-00020M	A0002518		No Use	\$25.00	\$25.00	\$0.00
Bauchman, Stephen (Airport Ranch)	72-00006C	A0007592 A0007593	548.10	1638.32	\$931.65	\$788.91	\$142.74
(Peel Field)	72-00014	A0002701	158.25				
	72-00032L	A0007592 A0007593	49.77				
	72-00189A	A0007596	46.35				
	72-00189B						
	72-10246A	A0007596	55.18				
	72-10246B						
(Bradbury Ranch)	72-10263	A0002701 A0002703	484.87				
	72-10267	A0002701 A0002703	295.80				
Belkowski, Frank H.	72-04180A	A0007591		2.90	\$25.00	\$25.00	\$0.00
Bird, Byron R.	72-00004K	A0002717		27.00	\$25.00	\$25.00	\$0.00
	72-00004L	A0002717					
Black, Dennis H.	72-00018B	A0002703		1.02	\$25.00	\$25.00	\$0.00
Bloxham, Ronald W.	72-00012F	A0002705		9.00	\$25.00	\$25.00	\$0.00
Bruce, Marilyn	72-00032G	A0002721		3.91	\$25.00	\$25.00	\$0.00
Buehler, Werner G.	72-04180C	A0007591		3.71	\$25.00	\$25.00	\$0.00
Burchill, R. Richard	72-00029C	A0002578 A0007594		57.76	\$32.79	\$27.13	\$5.66
Butterfield, Jenness R.	72-10051	A0002715		No Use	\$25.00	\$25.00	\$0.00
Butts, Thomas A.	72-00032E	A0002723	99.28	132.28	\$75.10	\$62.07	\$13.03
(Irrigation from storage)	72-02147B	A0002723					
(Irrigation from storage)	72-02149H	A0002723	33.00				
	72-04158	A0002723					
Cain, Pierre C.	72-00020G	A0002714		5.67	\$25.00	\$25.00	\$0.00

Water Right Owner	Water Right No.	Diversion G.P.S. I.D. No.	CFS (24 Hour) Sec. Ft.) Per Diversion	Total CFS (24 Hour) Sec. Ft.)	Total Cost	2001 Adopted Budget Amount	Balance Debit or Credit
Callistini, Andrew M.	72-00006D	A0007593		No Use	\$25.00	\$25.00	\$0.00
Challis, J. R.	72-00007C	A0002582	166.82	216.02	\$122.63	\$74.32	\$48.31
		A0002586	0.00				
		A0002588	2.80				
	72-10368	A0002582	0.00				
		A0002586	0.00				
		A0002588	46.40				
Connolly, Patrick L.	72-10471A	A0002704		No Use	\$25.00	\$25.00	\$0.00
Cope, Stephen G.	72-10204	A0002715		No Use	\$25.00	\$25.00	\$0.00
Cordova, Orlando A.	72-07278			Waste	\$25.00	\$25.00	\$0.00
Cox, Eugene M.	72-10066	A0002703		399.84	\$226.99	\$135.16	\$91.83
Cullinane, Ray				46.00	\$26.11	\$35.51	(\$9.40)
	72-00012H	A0002600					
	72-00012J	A0002600					
Curtis, Linda A.	72-00032K	A0007590		63.62	\$36.12	\$25.00	\$11.12
Dale, L. A.				57.33	\$32.55	\$66.68	(\$34.13)
	72-00008D	A0002580	15.30				
	72-02081C	A0002580	0.00				
(Irrigation from storage)	72-04000B	A0002580	0.00				
	72-04215B	A0002580	42.03				
Deen, Mark William	72-00020A	A0002718		10.08	\$25.00	\$25.00	\$0.00
Dungan, Jim L.				53.70	\$30.49	\$39.42	(\$8.93)
	72-00012G	A0002600	34.80				
		A0002705	0.00				
	72-02104D	A0002600	18.90				
		A0002705	0.00				
Dunkle, James	72-00004G	A0002718		3.71	\$25.00	\$25.00	\$0.00
Enzenauer, Everett P.	72-00032N	A0007586		119.70	\$67.95	\$55.62	\$12.33
Evans, D.V.M., Rodney	72-00004M	A0002718		2.64	\$25.00	\$25.00	\$0.00
Foss, Sally				75.60	\$42.92	\$43.19	(\$0.27)
	72-00032F	A0002724	75.60				
(Irrigation from storage)	72-02149F	A0002724	0.00				

Water Right Owner	Water Right No.	Diversion G.P.S. I.D. No.	CFS (24 Hour) Sec. Ft. Per Diversion	Total CFS (24 Hour) Sec. Ft.)	Total Cost	2001 Adopted Budget Amount	Balance Debit or Credit
Gammache, Wm. T. & Anthony D.	72-00012B	A0002702	59.28	974.88	\$553.44	\$470.40	\$83.04
	72-00012D	A0002703					
		A0002705	127.20				
	72-00025B	A0002703	25.20				
		A0002705					
	72-00025E	A0002702					
	72-04162	A0002703					
		A0002705	317.52				
	72-04163	A0002716	173.88				
	72-04164C	A0002702	126.00				
	72-10138	A0002716	82.80				
	72-10409	A0002705	63.00				
Green, Estate of Gerald D.				81.87	\$46.48	\$44.88	\$1.60
	72-00013C	A0002707	81.87				
	72-04088A	A0002707	0.00				
Green, Roberta Helen				574.36	\$326.06	\$212.12	\$113.94
	72-00020E	A0002714	30.24				
	72-00026	A0003052	138.60				
		A0003053	44.18				
	72-00027	A0003052	0.00				
		A0003053	0.00				
	72-00032C	A0002724	109.62				
	72-00056	A0002724	118.44				
(Irrigation from storage)	72-02147A	A0002713	0.00				
		A0002716	0.00				
(Irrigation from storage)	72-02149E	A0002724	133.28				
	72-04085	A0002724	0.00				
	72-04086	A0003052	0.00				
		A0003053	0.00				
Green, Ronald Clyde				110.10	\$62.50	\$59.18	\$3.32
	72-00013D	A0002707	15.60				
	72-04088B	A0002707	94.50				
Hamilton, Russell	72-00020Q	A0002715		6.30	\$25.00	\$25.00	\$0.00
Hammond Family Corp.	72-00004P	A0007589		8.40	\$25.00	\$25.00	\$0.00
Hawkins, James N.	72-00004J	A0002718		5.28	\$25.00	\$25.00	\$0.00
Hayse, M.D., Bruce M.				199.71	\$113.38	\$65.52	\$47.86
	72-00031	A0002598	0.00				
	72-02109	A0002597	148.68				
		A0002612	51.03				
		A0007595	0.00				

Water Right Owner	Water Right No.	Diversion G.P.S. I.D. No.	CFS (24 Hour) Sec. Ft. Per Diversion	Total CFS (24 Hour) Sec. Ft.)	Total Cost	2001 Adopted Budget Amount	Balance Debit or Credit
Henderson, Alan	72-00023B	A0002608		75.00	\$42.58	\$92.96	(\$50.38)
	72-02050B	A0002608					
	72-10149B	A0002608					
	72-10156	A0002608					
Hughes, Delbert H.	72-10272	A0002594		No Use	\$25.00	\$205.54	(\$180.54)
	72-10276	A0002594					
Inskeep, Oliver Roy	72-00020F	A0002715		6.30	\$25.00	\$25.00	\$0.00
Ivie, Brent L.	72-04180D	A0007591		No Use	\$25.00	\$25.00	\$0.00
Jarvis, Lon Thomas	72-00020L	A0002718		10.08	\$25.00	\$25.00	\$0.00
Johnston, James J.	72-00010A	A0002599		26.00	\$25.00	\$25.00	\$0.00
Keefer, Nida	72-10130A	A0002605		No Use	\$25.00	\$25.00	\$0.00
	72-10130B	A0002605					
Knox, Jerry W.	72-00020P	A0007587		6.30	\$25.00	\$25.00	\$0.00
Long, Steven G.	72-00004S	A0002718		No Use	\$25.00	\$25.00	\$0.00
Lukkes, Lloyd J.	72-04180B	A0007591		1.76	\$25.00	\$25.00	\$0.00
Lusher, Betty Rustin	72-00024A	A0002593		6.40	\$25.00	\$25.00	\$0.00
	72-04231A	A0002593					
Moore, Donnie G.	72-00020H	A0002714		No Use	\$25.00	\$25.00	\$0.00
Odom, Don	72-00004D	A0002718		8.16	\$25.00	\$25.00	\$0.00
Peters, Donald W.	72-10059	A0002715		2.52	\$25.00	\$25.00	\$0.00
Pethan, Meryl	72-00024F	A0002594		54.18	\$30.76	\$44.30	(\$13.54)
		A0002709	25.20				
	72-00032A	A0002594					
		A0002709	25.20				
	72-04231F	A0002594					
		A0002709	3.78				
Phillips, George F.	72-00004F	A0002718		4.32	\$25.00	\$25.00	\$0.00
Phillips, Steve F.	72-00004R	A0002718		5.28	\$25.00	\$25.00	\$0.00

Water Right Owner	Water Right No.	Diversion G.P.S. I.D. No.	CFS (24 Hour) Sec. Ft. Per Diversion	Total CFS (24 Hour) Sec. Ft.)	Total Cost	2001 Adopted Budget Amount	Balance Debit or Credit
Philps, Richard Allen				1058.90	\$601.14	\$339.05	\$262.09
	72-00001	A0007585	381.60				
	72-00013B	A0002707	79.30				
(Irrigation from storage)	72-02147C		No Use				
(Irrigation from storage)	72-02149G	A0007586	400.00				
	72-04049	A0007585	198.00				
Piva, Julian	72-00006B	A0003063		140.40	\$79.71	\$50.89	\$28.82
Piva, Robert A.				1034.00	\$587.00	\$419.61	\$167.39
	72-00004Q	A0007589	82.80				
	72-00032B	A0007589	55.44				
	72-02044	A0002713	375.76				
(Irrigation from storage)	72-02149B		352.00				
	72-10483	A0002713	168.00				
Rankin, Steve				No Use	\$25.00	\$25.00	\$0.00
	72-00029B	A0002578					
	72-10044	A0002585					
		A0002586					
		A0007594					
Robins, Allen	72-00020K	A0002714		No Use	\$25.00	\$25.00	\$0.00
Schultz, Harry	72-00004H	A0002718		3.60	\$25.00	\$25.00	\$0.00
Schut, Paul H.				105.14	\$59.69	\$90.75	(\$31.06)
	72-00016A	A0002705	20.48				
		A0002707					
	72-00019C	A0002707	84.66				
Sidlo, Larry G.				18.60	\$25.00	\$25.00	\$0.00
	72-00007B	A0002590					
	72-16555	A0002590					
Simmons, Dwight	72-00004C	A0002718		2.64	\$25.00	\$25.00	\$0.00
Stanley, D.V.M., David W.J.				151.20	\$85.84	\$59.39	\$26.45
	72-00032D	A0002581	75.60				
		A0002583					
		A0002584					
		A0002586					
		A0002587					
	72-10168	A0002581	75.60				
		A0002583					
		A0002584					
		A0002586					
		A0002587					

Water Right Owner	Water Right No.	Diversion G.P.S. I.D. No.	CFS (24 Hour) Sec. Ft.) Per Diversion	Total CFS (24 Hour) Sec. Ft.)	Total Cost	2001 Adopted Budget Amount	Balance Debit or Credit
Stephens, Beth N.	72-00023A	A0002705 A0002707		113.18	\$64.25	\$108.73	(\$44.48)
	72-02050A	A0002705 A0002707	55.44				
	72-10149A	A0002705 A0002707	77.74				
Stevenson, Lynn T.	72-10471B	A0002704		No Use	\$25.00	\$25.00	\$0.00
Strickler, Fred E.	72-00030	A0002610		65.00	\$36.90	\$42.30	(\$5.40)
Strickler, Ted R.	72-00032P	A0007588	61.43	93.83	\$53.27	\$63.91	(\$10.64)
	72-04180F	A0007588	32.40				
Stuart, Tab J.	72-00020J	A0002714		15.12	\$25.00	\$25.00	\$0.00
Sullivan, Joseph J.	72-10039	A0002719		6.93	\$25.00	\$25.00	\$0.00
Swindell, Richard	72-00004T	A0002718		5.28	\$25.00	\$25.00	\$0.00
Tanner, Daniel C.	72-00020N	A0002715		16.90	\$25.00	\$25.00	\$0.00
Taylor, Robert L.	72-00002C	A0002713		2.40	\$25.00	\$25.00	\$0.00
Thomas, Michael L.	72-00008C	A0002579 A0002580	24.75 55.98	301.83	\$171.35	\$130.64	\$40.71
	72-02081D	A0002579 A0002580					
(Irrigation from storage)	72-04000A		No Use				
	72-04215A	A0002579 A0002580	221.10				
Thornton, C. Rod	72-00024D	A0002593 A0002594 A0002711	17.40	17.40	\$25.00	\$25.00	\$0.00
	72-04231D	A0002593 A0002594 A0002711					
Valnoski, Robert J.	72-00008A	A0002611	168.00	251.30	\$142.66	\$68.91	\$73.75
	72-04095	A0002611	83.30				
Van Alfen, John	72-10083	A0002718		3.60	\$25.00	\$25.00	\$0.00

Water Right Owner	Water Right No.	Diversion G.P.S. I.D. No.	CFS (24 Hour) Sec. Ft.) Per Diversion	Total CFS (24 Hour) Sec. Ft.)	Total Cost	2001 Adopted Budget Amount	Balance Debit or Credit
Van Kampen, Thomas J.	72-00029B 72-16604			4.50	\$25.00	\$25.00	\$0.00
Watson, Kent S.	72-00032Q 72-04180G	A0007588 A0007588		No Use	\$25.00	\$25.00	\$0.00
Wegner, Robin J.	72-00007A 72-10033	A0002588 A0002589	No Use 2.60	2.60	\$25.00	\$25.00	\$0.00
Wren, Estate of Dorothy M.	72-00028	A0002591		63.00	\$35.77	\$25.00	\$10.77
Yacomella, Antony R.	72-00032J	A0002722		12.60	\$25.00	\$25.00	\$0.00
Yacomella, Madge	72-00032H	A0002722		12.60	\$25.00	\$25.00	\$0.00
Zollinger, Linda Ann	72-00024E	A0002593		8.64	\$25.00	\$25.00	\$0.00
Totals				8638.69	\$6,093.08	\$5,297.09	\$795.99

Note:

This Watermaster's Report was prepared by J. R. Challis on March 26, 2002, from flows reported by Jay Horton, Watermaster. Because data was incomplete it was necessary to utilize some water right owner input and/or interpolate from the prior years history and my knowledge of the conditions and situation to reach some flow conclusions. Cost per for other than minimal users came out to be \$.5677 per CFS.

EXHIBIT “D”

**WATER DISTRICT 72-C
CHALLIS CREEK**

**P. O. Box 910
Challis, Idaho 83226-0910**

**2002
Watermaster's Report**

Richard A. Philps, Watermaster

Prepared by J. R. Challis, Secretary/Treasurer

AFFIDAVIT OF WATERMASTER

State of Idaho)
)ss
County of Custer)

Richard A. Philps, being first duly sworn, deposes and says that he is Watermaster on Challis Creek, Water District 72-C, having been lawfully appointed by the Director, Idaho Department of Water Resources, Boise, Idaho, and that the volumes of water, as stated in this report, prorated by him to the several users, are correct; the sum of

\$ 8,371.04

is justly due as stated.

Richard A. Philps, Watermaster

Subscribed and sworn to before me this _____ day of January, 2003.

Notary Public

(SEAL)

My Commission Expires _____

Boise, Idaho _____, 2003

I HEREBY CERTIFY, That Richard A. Philps was lawfully appointed Watermaster of Water District 72-C, Challis Creek, and that his bill for services rendered prorated to several users, as herein sworn to, is, to the best of my knowledge and belief, correct.

Karl J. Dreher, Director

By _____

Idaho Department of Water Resources

Water Right Owner	Water Right No.	Diversion GPS I.D. No.	CFS (24 Hour Sec. Ft.) Per Diversion	Total CFS (24 Hour Sec. Ft.) Minimum Users	Non Minimum Users	Total Cost	2002 Adopted Budget	Debit or (Credit) Balance
Van Alfen, John & Ida	72-10083	A0002718	4.02	4.02		\$50.00	\$50.00	\$0.00
Van Kampen, Thomas J. & Leslie I.					86.25	\$78.83	\$50.00	\$28.83
	72-00029B	A0002585	9.68					
		A0002586	16.94					
	72-16604	A0002585	9.32					
		A0002586	50.31					
Watson, Kent S. & Debra L.				9.91		\$50.00	\$50.00	\$0.00
	72-00032Q	A0007588	8.77					
	72-04180G	A0007588	1.14					
Wegner, Robin J.				7.60		\$50.00	\$50.00	\$0.00
	72-00007A	A0002588	No Usage					
	72-10033	A0002589	7.60					
	72-16560	A0002588	No Usage					
Whitman, Betty Jo	72-00004N	A0002718	4.68	4.68		\$50.00	\$50.00	\$0.00
Wren, Estate of Dorothy M.	72-00028	A0002591	23.54	23.54		\$50.00	\$50.00	\$0.00
Yacomella, Antony R.	72-00032J	A0002722	15.00	15.00		\$50.00	\$50.00	\$0.00
Yacomella, Madge	72-00032H	A0002722	15.00	15.00		\$50.00	\$50.00	\$0.00
Zollinger, Linda Ann				15.83		\$50.00	\$50.00	\$0.00
	72-00024E	A0002593	8.21					
	72-04231E	A0002593	7.62					
TOTALS			6686.44	827.62	5821.88	\$8,371.04	\$7,720.50	\$650.54

EXHIBIT “E”

**WATER DISTRICT 72-C
CHALLIS CREEK**

**P. O. Box 910
Challis, Idaho 83226-0910**

**2003
Watermaster's Report**

Richard A. Philps, Watermaster

Prepared by J. R. Challis, Secretary/Treasurer

AFFIDAVIT OF WATERMASTER

State of Idaho)
)ss
County of Custer)

Richard A. Philps, being first duly sworn, deposes and says that he is Watermaster on Challis Creek, Water District 72-C, having been lawfully appointed by the Director, Idaho Department of Water Resources, Boise, Idaho, and that the volumes of water, as stated in this report, prorated by him to the several users, are correct; the sum of

\$ 4,040.69

is justly due as stated.

Richard A. Philps, Watermaster

Subscribed and sworn to before me this _____ day of December, 2003.

Notary Public

(SEAL)

My Commission Expires _____

Boise, Idaho January _____, 2004

I HEREBY CERTIFY, That Richard A. Philps was lawfully appointed Watermaster of Water District 72-C, Challis Creek, and that his bill for services rendered prorated to several users, as herein sworn to, is, to the best of my knowledge and belief, correct.

Karl J. Dreher, Director

Idaho Department of Water Resources

By _____

Water Right Owner	Water Right No.	Diversion GPS I.D. No.	CFS (24 Hour Sec. Ft.) Per Diversion	Total CFS (24 Hour Sec. Ft.) Minimum Users	Non Minimum Users	Total Cost	2003 Adopted Budget	Debit or (Credit) Balance
Van Kampen, Thomas J. & Leslie I.					63.10	\$47.53	\$50.00	(\$2.47)
	72-00029B	A0002585	12.32					
		A0002586	1.98					
	72-16604	A0002585	9.52					
		A0002586	39.28					
Watson, Kent S. & Debra L.				6.38		\$47.53	\$50.00	(\$2.47)
	72-00032Q	A0007588	5.38					
	72-04180G	A0007588	1.00					
Wegner, Robin J.				No Usage		\$47.53	\$50.00	(\$2.47)
	72-00007A	A0002588	No Usage					
	72-10033	A0002589	No Usage					
	72-16560	A0002588	No Usage					
Whitman, Betty Jo	72-00004N	A0002718	4.59	4.59		\$47.53	\$50.00	(\$2.47)
Wren, Estate of Dorothy M.	72-00028	A0002591	28.00	28.00		\$47.53	\$50.00	(\$2.47)
Yacomella, Antony R.	72-00032J	A0002722	9.00	9.00		\$47.53	\$50.00	(\$2.47)
Yacomella, Madge	72-00032H	A0002722	12.00	12.00		\$47.53	\$50.00	(\$2.47)
Zollinger, Linda Ann				34.35		\$47.53	\$50.00	(\$2.47)
	72-00024E	A0002593	12.11					
	72-04231E	A0002593	22.24					
TOTALS			6474.29	593.23	5881.06	\$4,040.69	\$7,350.00	(\$3,356.84)
Unpaid							\$150.00	
Total 2003 Adopted Bidget							\$7,500.00	

EXHIBIT “F”

**WATER DISTRICT 72-C
CHALLIS CREEK**

**P. O. Box 910
Challis, Idaho 83226-0910**

**2004
Watermaster's Report**

Richard A. Philps, Watermaster

Prepared by J. R. Challis, Secretary/Treasurer

AFFIDAVIT OF WATERMASTER

State of Idaho)
)ss
County of Custer)

Richard A. Philps, being first duly sworn, deposes and says that he is Watermaster on Challis Creek, Water District 72-C, having been lawfully appointed by the Director, Idaho Department of Water Resources, Boise, Idaho, and that the volumes of water, as stated in this report, prorated by him to the several users, are correct; the sum of

\$ 4,850.50

is justly due as stated.

Richard A. Philps, Watermaster

Subscribed and sworn to before me this _____ day of January, 2005.

Notary Public

(SEAL)

My Commission Expires _____

Boise, Idaho January _____, 2005

I HEREBY CERTIFY, That Richard A. Philps was lawfully appointed Watermaster of Water District 72-C, Challis Creek, and that his bill for services rendered prorated to several users, as herein sworn to, is, to the best of my knowledge and belief, correct.

Karl J. Dreher, Director
Idaho Department of Water Resources

By _____

Water Right Owner	Water Right No.	Diversion GPS I.D. No.	CFS (24 Hour Sec. Ft.) Per Diversion	Total CFS (24 Hour Sec. Ft.) Minimum Users	Non Minimum Users	Total Cost	2004 Adopted Budget	Debit or (Credit) Balance
USDI Bureau of Land Management	72-00008F	A0002611	16.11	20.49		\$35.00	\$35.00	\$0.00
	72-04095B	A0002611	4.38					
Valnoski, Robert P.	72-00008E	A0002611	89.08		104.68	\$49.95	\$109.08	(\$59.13)
	72-04095A	A0002611	15.60					
Van Kampen, Thomas J. & Leslie I.	72-00029B	A0002585	5.06	16.72		\$35.00	\$35.00	\$0.00
		A0002586	11.66					
	72-16604	A0002585	0.00					
		A0002586	0.00					
Watson, Kent S. & Debra L.	72-00032Q	A0007588	8.57	9.77		\$35.00	\$35.00	\$0.00
	72-04180G	A0007588	1.20					
Wegner, Robin J.	72-00007A	A0002588	No Usage	5.87		\$35.00	\$35.00	\$0.00
	72-10033	A0002589	5.87					
	72-16560	A0002588	No Usage					
Wilson, Harold D.	72-00004N	A0002718	6.64	6.64		\$35.00	\$35.00	\$0.00
Wren, Estate of Dorothy M.	72-00028	A0002591		No Usage		\$35.00	\$35.00	\$0.00
Yacomella, Antony R.	72-00032J	A0002722	9.80	9.80		\$35.00	\$35.00	\$0.00
Yacomella, Madge	72-00032H	A0002722	9.80	9.80		\$35.00	\$35.00	\$0.00
Zollinger, Linda Ann	72-00024E	A0002593	8.01	8.01		\$35.00	\$35.00	\$0.00
	72-04231E	A0002593	0.00					

EXHIBIT “G”

**WATER DISTRICT 72-C
CHALLIS CREEK**

**P. O. Box 910
Challis, Idaho 83226-0910**

**2005
Watermaster's Report**

Richard A. Philps, Watermaster

Prepared by J. R. Challis, Secretary/Treasurer

AFFIDAVIT OF WATERMASTER

State of Idaho)
)ss
County of Custer)

Richard A. Philps, being first duly sworn, deposes and says that he is Watermaster on Challis Creek, Water District 72-C, having been lawfully appointed by the Director, Idaho Department of Water Resources, Boise, Idaho, and that the volumes of water, as stated in this report, prorated by him to the several users, are correct; the sum of

\$ 5,978.52

is justly due as stated.

Richard A. Philps, Watermaster

Subscribed and sworn to before me this _____ day of January, 2006.

Notary Public

(SEAL)

My Commission Expires _____

Boise, Idaho January _____, 2006

I HEREBY CERTIFY, That Richard A. Philps was lawfully appointed Watermaster of Water District 72-C, Challis Creek, and that his bill for services rendered prorated to several users, as herein sworn to, is, to the best of my knowledge and belief, correct.

Karl J. Dreher, Director
Idaho Department of Water Resources

By _____

Water Right Owner	Water Right No.	Diversion GPS I.D. No.	CFS (24 Hour Sec. Ft.) Per Diversion	Total CFS (24 Hour Sce. Ft.) Minimum Users	Non Minimum Users	Total Cost	2005 Adopted Budget	Debit or (Credit) Balance
USDI Bureau of Land Management	72-00008F	A0002611	23.56	43.33		\$35.00	\$35.00	\$0.00
	72-04095B	A0002611	19.77					
Valnoski, Robert P.	72-00008E	A0002611	140.1		175.46	\$103.08	\$75.98	\$27.10
	72-04095A	A0002611	35.36					
Van Kampen, Thomas J. & Leslie I.	72-00029B	A0002585	9.46	53.3		\$35.00	\$35.00	\$0.00
		A0002586	4.84					
	72-16604	A0002585	18					
		A0002586	21					
Watson, Kent S. & Debra L.	72-00032Q	A0007588	11.05	24.23		\$35.00	\$35.00	\$0.00
	72-04180G	A0007588	13.18					
Wegner, Robin J.	72-00007A	A0002588	0		75.27	\$44.22	\$35.00	\$9.22
		A0002722	19.77					
	72-10033	A0002589	55.5					
	72-16560	A0002588	0					
Wilson, Harold D.	72-00004N	A0002718	5.438	5.438		\$35.00	\$35.00	\$0.00
Wren, Estate of Dorothy M.	72-00028	A0002591	44.25	44.25		\$35.00	\$35.00	\$0.00
Yacomella, Antony R.	72-00032J	A0002722	0	0		\$35.00	\$35.00	\$0.00
Yacomella, Madge	72-00032H	A0002722	0	0		\$35.00	\$35.00	\$0.00

EXHIBIT “H”

**WATER DISTRICT 72-B, GARDEN CREEK
&
WATER DISTRICT 72-C, CHALLIS CREEK**

**2006
WATERMASTER'S REPORT**

AFFIDAVIT OF WATERMASTER

State of Idaho)
)ss
County of Custer)

J. R. Challis, being first duly sworn, deposes and says that he is Watermaster on Garden Creek, Water District 72-B, and Challis Creek, Water District 72-C, having been lawfully appointed by the Director, Idaho Department of Water Resources, Boise, Idaho, and that the volumes of water, as stated in this combined report, prorated by him to the several users, are correct; the sum of

\$ 11,204.64

is justly due as stated.

J. R. Challis, Watermaster

Subscribed and sworn to before me this _____ day of January, 2007.

Notary Public

(SEAL)

My Commission Expires _____

Boise, Idaho January _____, 2007

I HEREBY CERTIFY, That J. R. Challis was lawfully appointed Watermaster of Water District 72-B, Garden Creek, and Water District 72-C, Challis Creek, and that his bill for services rendered prorated to several users, as herein sworn to, is, to the best of my knowledge and belief, correct.

Director By _____
Idaho Department of Water Resources

Water Right Owner	Water Right No.	Diversion GPS I.D. No.	CFS (24 Hour Sec. Ft.) Per Diversion	Total CFS (24 Hour Sec. Ft.) Minimum Users	Non Minimum Users	Total Cost & 2007 Budget Amount
Valnoski, Robert P.	72-00008E	A0002611	122.500		193.840	\$130.86
	72-04095A	A0002611	71.340			
Van Kampen, Thomas J. & Leslie I.	72-00029B	A0002585	17.160	66.160		\$50.00
		A0002586	0.000			
	72-16604	A0002585	0.000			
		A0002586	49.000			
Watson, Kent S. & Debra L.	72-00032Q	A0007588	13.475	28.375		\$50.00
	72-04180G	A0007588	14.900			
Wegner, Robin J.	72-00007A		0.000	44.460		\$50.00
	72-10033	A0002589	44.460			
	72-16560		0.000			
Wilson, Harold D.	72-00004N	A0002718	7.084	7.084		\$50.00
Wren, Estate of Dorothy M.	72-00028	A0002591	28.600	28.600		\$50.00
Yacomella, Antony R.	72-00032J	A0002722	15.800	15.800		\$50.00
Yacomella, Tony S. & Madge E.	72-00032H	A0002722	15.400	15.400		\$50.00
Zollinger, Linda Ann	72-00024E	A0002593	15.100	24.380		\$50.00
	72-04231E	A0002593	9.280			
Sub Totals				1078.743	7282.272	\$8,515.84
Water District 72-B, Garden Creek						
Andrews, Robert W. & Barbara D.	72-10297B	2511	6.500	6.500		\$50.00
Armbruster, Mark Alan & Vicki B.	72-04061A	2510	21.360	30.260		\$50.00
	72-10017	2510	8.900			
Butts, Thomas A. & Claudia	72-00051K		0.000	0.000		\$50.00
Carlisle, Linda L.	72-00077		Unknown	0.000		\$50.00
Challis Ranger District	72-00051D	3067	51.000	51.000		\$50.00
Ralph E. Rau, District Ranger						

EXHIBIT “I”

**GARDEN CREEK & CHALLIS CREEK
WATER DISTRICT No. 72-A
2007
WATERMASTER'S REPORT**

AFFIDAVIT OF WATERMASTER

State of Idaho)
)ss
County of Custer)

J. R. Challis, being first duly sworn, deposes and says that he is Watermaster on Water District 72-C, having been lawfully appointed by the Director, Idaho Department of Water Resources, Boise, Idaho, and that the volumes of water, as stated in this combined report, prorated by him to the several users, are correct; the sum of

\$ 23,642.02

is justly due as stated.

J. R. Challis, Watermaster

Subscribed and sworn to before me this _____ day of January, 2008.

Notary Public

(SEAL)

My Commission Expires _____

Boise, Idaho January _____, 2008

I HEREBY CERTIFY, That J. R. Challis was lawfully appointed Watermaster of Water District 72-A and that his bill for services rendered prorated to several users, as herein sworn to, is, to the best of my knowledge and belief, correct.

By _____
Director, Idaho Department of Water Resources

Water Right Owner	Water Right No.	Diversion GPS I.D. No.	CFS (24 Hour Sec. Ft.) Per Diversion	Total CFS (24 Hour Sec. Ft.) Minimum Users	Non Minimum Users	Minimum Billing OR CFS Useage Charges
Thornton, C. Rod & Christine L.	72-00024D	A0002593	12.790	12.790		\$50.00
		A0002711	0.000			
	72-04231D	A0002593	0.000			
		A0002711	0.000			
USDI Bureau of Land Management	72-00008F	A0002611	17.400	36.310		\$50.00
	72-04095B	A0002611	18.910			
Valnoski, Robert P.	72-00008E	A0002611	75.720		184.910	\$161.48
	72-04095A	A0002611	109.190			
Van Alfen, John K.	72-16716	A0002713	0.500	20.300		\$50.00
	72-16718	A0002713	19.800			
Van Kampen, Thomas J. & Leslie I.	72-00029B	A0002585	16.720		78.720	\$68.75
		A0002586	0.000			
	72-16604	A0002585	62.000			
		A0002586	0.000			
Walsh, Jerold P. & Carol J.	72-00106D		0.000	0.000		\$50.00
Watson, Kent S. & Debra L.	72-00032E	A0002723	73.780		196.530	\$171.63
	72-00032Q	A0007588	11.550			
	72-02147B	A0002723	8.280			
		A0007588	0.000			
	72-02149H	A0002723	34.920			
		A0007588	0.000			
	72-04158	A0002723	50.000			
	72-04180G	A0007588	18.000			
Wegner, Robin J.	72-00007A		0.000	53.100		\$50.00
	72-10033	A0002589	53.100			
	72-16560		0.000			
Whitten, Claudia A.	72-00065		0.000	0.000		\$50.00
Wilson, Harold D.	72-00004N	A0002718	7.788	7.788		\$50.00
Winegarner, Jon	72-00078		0.000	0.000		\$50.00
Wood, David M. & Deborah K.				30.580		\$50.00

EXHIBIT “J”



CHALLIS CREEK RANCH, LLC

RandRforHorses.com

January 30, 2006

Robin J. Wegner & Gary Thor
HC 63 Box 1576
Challis, ID 83226

Dear Robin & Gary:

Contrary to advice of Counsel I have decided to write you regarding the pond recently excavated on your property. It is our sincere hope that an amicable solution can be found before this becomes a very, very expensive legal confrontation that we hope you too would like to avoid.

It is now confirmed by IDWR that the excavation you contracted with Tupper Construction earlier this month will unquestionably require a pond permit/water right. This is necessitated, at least in part, by the now obvious influx of ground water on all sides as well as the natural flow and subbing from our spring, 72-16651, which began simultaneous with your excavation and continues at this writing (if now only by subbing because of frozen ground and/or the berm you had Tupper Construction construct along the west entry pond edge following Mr. Robert E. Foster's letter of January 10, 2006). The maximum size of the excavation is, of course, by statute limited to 24 Hour Second Feet of those water rights that can and will supply the pond. It thus can only be assumed by the current size it is your intent to attempt to justify same by combining your water rights 72-00007A (0.15 cfs), 72-16560 (1.0 cfs) and 72-00032 (.04 cfs) with 72-16559 (0.06 cfs) and this new pond permit/right to achieve appropriate size compliance. However, we both know the only realistic, logical and/or economical means to supply this pond (other than ground water) is, of course, our spring (72-16561).

While it is not the responsibility of IDWR to concern themselves (much less enforce) with our Water Rights Agreement of May 15, 2001 (Custer County Registration No. 0222723 of the same date), as it might pertain to this matter, it is undoubtedly your responsibility. Therefore we feel it best you be aware of the consequences of your actions should you chose to continue your present course. Perhaps more importantly taking you at your word as stated in your January 11th letter to IDWR, "We sincerely wish to make the best use of our property.", we are confident retrospect scrutiny of your actions in this regard will confirm this is not your best choice.

CHALLIS CREEK ROAD - P. O. BOX 1220 - CHALLIS, IDAHO 83226-1220
PHONE: (208) 879-4617 - FAX: (208) 879- 5238 - Outside Idaho Toll Free: 1-866-CCR4RnR (227-4767)
E-MAIL: Jack@RandRforHorses.com or Trish@RandRforHorses.com

Our Agreement clearly limits your use of the flow from our spring (72-16651) solely to your water right 72-16559. There is no question this mutually agreed settlement was to insure a proportional share of this flow distributed in accordance with the Agreement provision while making every effort not to dry up the spring, an issue that has in the past manifested itself in more serious and usually consecutive drought years. This is further confirmed in the specific Agreement prohibition of your pumping from this spring flow. The addition of a new permit/right for this new pond with the obvious objective to blatantly circumvent the purpose and writing of this provision becomes rather obvious.

This intent becomes even more transparent when one realistically considers the near impossibility of feeding this pond with flow from 72-00007A, 72-16560 and/or 72-00032. For starters 72-00007A has not been released since 1997 (and then it soaked into the ground and/or evaporated before it reached our house; less than halfway to your property line). Rights 72-16560 and 72-00032 (both 1911 "high water" rights which historically would not be released much past the end of June anyway due to priority) have never been delivered to your property since Adjudication confirmation in 2001. Even:

- **IF** you were to comply with the conditions of our Agreement and spend the thousands of dollars it will cost you clearing and reconstructing the historical ditch across the entire length of our property to carry any or all of these flows; and
- **IF** you could get any or all of these flows to reach your property (over a mile away) via that open ditch before they soaked into the ground and/or evaporated; and
- **IF** this could be done without any ditch leakage/seepage (which historically has occurred in multiple locations and, if reoccurs, gives us the right by Agreement to terminate all flows);
- **THEN** delivery of such must, again by Agreement, be via the southern most ditch across our east pasture to your property line well in excess of 100 yards downgrade from your new pond.

As the foregoing clearly exemplifies, your continued pursuit of a new permit/right for this pond as it currently exists would leave us no alternative but to not only file an Objection with IDWR to such application but simultaneously file a civil action for Breach of Agreement. This would undoubtedly result in an extensive delay in addition to the very long, drawn out and, most importantly, very expensive legal battle mentioned prior. Again, this not being our desire, and we hope not yours as well, let us consider some alternatives.

It apparently has been suggested that the flows from Bear Creek across our property (again, over a mile in length) might be contained in a pipe installed under what would be the historical ditch location (your only location option). One would have to question the sheer logic of such an installation, much less your necessary initial expenditure or ongoing maintenance costs, since transfer of those rights to your Eddie Creek diversion and then piped from there to your entire property (not just the three acres presently served from that diversion) would involve a fraction of pipe length and resulting installation cost for such alternative. Of no less importance this alternative could be coupled with a system split to serve you as well as the Sidlos allowing total elimination of one of your two diversions and the need for a second fish screen.

As I think you know Idaho Fish & Game (IF&G) had initially favorably considered the suggestion to place a large pipeline along the toe of the hill from Diversion A0002586 on the Burchill property eastward across the Van Kampen property, the southern portion of the Axline property, the Stanley property and, of course, onto the southern portion of our property. This single line could then serve as a means of gravity pressurized flow to all these individual sprinkler systems (or discharged anywhere on these respective properties enabling continued ditch flooding if anyone so desired). This system not only provided all involved with the far, FAR more effective and efficient delivery of their rights but allowed the total elimination of at least seven (7) other diversions, annual maintenance of each and subsequently the cost of installing and maintaining fish screens at these diversions. The advantages and significant reductions in environmental impact are clearly obvious.

However, one of those diversions, A0002588, the one of single greatest concern to IF&G due to the three (3) foot plus dam which all but eliminates the possibility of fish being able to travel any further up Bear Creek (and the one from which you could divert were you to meet all the previously outlined criteria), you apparently would not agree to abandon. As a result IF&G has "scrubbed" the idea and this option is currently "off the table".

Many including us feel the obvious choice that would most benefit all concerned, be of least cost and, not of any lesser importance, vastly improve or minimize environmental impact, would be the combination of all your and the Sidlo rights from Eddie Creek into a single pipeline and the consolidation of Van Kampen, Axline, Stanley and our rights into a single pipeline from Diversion A0002586. However, perhaps you have a better idea. I know we, and I am confident your affected neighbors, would welcome any reasonable alternative.

In any case we would hope you know by now litigation in the final analysis only benefits those with "Attorney At Law" behind their name. The choice, however, is yours.

Sincerely,
Challis Creek Ranch, LLC

J. R. Challis

cc: Allen Merritt – IDWR, Southern Region
Robert E. Foster – IDWR, Salmon Office (via email attachment)
Tim Luke – IDWR, Boise (via email attachment)
Scott E. Axline
Larry G. & Judy A. Sidlo
David W. J. Stanley, D.V.M.
Thomas J. & Leslie I. Van Kampen
Norman M. Semanko, Attorney At Law (via email attachment)

EXHIBIT “K”

Robin J. Wegner Water Right Usage Breakdown

Water Right No. Source POD/Ditch	72-00007A Bear Creek A0002588	72-16560 Bear Creek A0002588	72-10032 CCR Spring A0002588	72-16559 CCR Spring East Pasture	72-10033 Eddie Creek A0002589	72-16566 RJW Spring Stock Water	72-16693	72-16694
2007	No Usage	No Usage	No Usage	See Note 4		See Note 3	Application Under Protest	Application Under Protest
2006	No Usage	No Usage	No Usage	See Note 4	44.46 CFS	See Note 3		
2005	See Note 1	No Usage	No Usage	See Note 4	55.5 CFS	See Note 3		
2004	No Usage	No Usage	No Usage	See Note 4	5.87 CFS			
2003	No Usage	No Usage	No Usage	See Note 4	No Usage			
2002	No Usage	No Usage	No Usage	See Note 4	No Usage			
2001	No Usage	No Usage	No Usage	See Note 4	No Usage			
2000	See Note 2	No Usage	No Usage	See Note 4	3.7 CFS			
1999	No Usage	Did Not Exist	No Usage	See Note 4	No Usage			
1998	No Usage	Did Not Exist	No Usage	See Note 4	No Usage			

Notes:

1. The usage of this water right was sold and thereby transferred to another water right owner on the Highline Canal at POD No. A0002722 under Emergency Order Authorizing Transfer Change Application No. TC-72-03-Wegner for a portion of the 2005 irrigation season (19.77 CFS delivered).
2. In an effort to prove the Futile Call reality of this delivery call this right was released by the Watermaster into the ditch but flow never reached the Wegner property nor any location where it could have been merged with 72-10032.
3. Small excavated area collecting ground subbing for stock water.
4. This is a subbing spring (though it oftentimes dries up in consecutive drought years) in the CCR, LLC east pasture.