

Form 1-222
12-92STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

1. Name of Applicant BC Properties, LLC Phone (208) 705-0859Mailing Address P.O. Box 28, Driggs, ID 83422c/o Rocky Mountain Environmental Associates, Inc.482 Constitution, Ste 303(208) 524-2353Idaho Falls, ID 83402Fax (208) 524-1795

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 changes: Applicant is under contract to sell groundwater rights to Leigh Creek, LLC and desires to transfer that portion of water to the buyer's property to mitigate for evaporative losses in four ponds.

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

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

22-13584	01/08/1991	0.03 cfs	Diversion to Storage	01/01 to 12/31
		2.6 AF	Fire Protection Storage	01/01 to 12/31
		2.6 AF	Recreation Storage	01/01 to 12/31
		2.6 AF	Aesthetic Storage	01/01 to 12/31

2. Total amount of water being transferred 0.03 cubic feet per second and/or 2.6 acre-feet per annum.3. Source of water Groundwater tributary to N/A

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local Name for Diversion
		NW	NE	25	06N	45E	TETON	

5. Lands irrigated or place of use: All uses share same legal description.

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
6N	45E	25	F	F															

Total Acres NA

RECEIVED

JAN 08 2008

Department of Water Resources
Eastern Region

PART 1

8. General Information:

- a. Description of diversion system: Submersible pump diverts water directly into the neighboring pond; water will be piped to remaining ponds.
- 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.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: A total of 1.3 acres of irrigated land will be dried up for mitigation purposes.
- d. Remarks: The water right 22-13584 has been split through warranty deed, but has not yet been recorded with IDWR. Applicants own 37.5 ac of the original 46.2 ac. See attached Split History for more details of ownership and concurrent transfers from the same water right. This right is not sufficient to provide the entire storage component of the ponds. The additional volume will be transferred from surface water rights owned by Leigh Creek, LLC that are appurtenant to the place of use described in this transfer (See companion transfer). The attached mitigation plan details the anticipated use of ground water in conjunction with the surface water.

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__

for the Director

STATE OF IDAHO

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

WATER RIGHT NO. 22-13584

Owner Type Name and Address
Current Owner JARED E NUSBAUM
Current Owner LINDA S NUSBAUM

Priority Date: 01/08/1991
Basis: License
Status: Active

Source Tributary
GROUND WATER

Beneficial Use From To Diversion Rate Volume
IRRIGATION 04/15 10/15 0.88 CFS
Total Diversion 0.88 CFS

Location of Point(s) of Diversion:

GROUND WATER SWNE Sec. 05 Township 05N Range 45E TETON County

Licensed Diversion Capacity: 2.74

Place(s) of use: IRRIGATION TETON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
05N	45E	5		SWNE	8.7									
				NESW	37.5									

Total Acres: 46.2

Conditions of Approval:

The right holder shall use the full allotment of appurtenant surface water rights, to the extent they are available, in conjunction with groundwater diverted pursuant to this right. This right to divert groundwater shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use without the approval of the Department. This right when combined with all other rights shall provide no more than .02 cfs per acre nor exceed a combined annual diversion volume of 161.7 af for the lands above.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

NO If yes, describe

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

1. Amount 0.03 cfs for IRRIGATION purposed from 4/15 to 10/15

2. Points of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local Name for Diversion
		SW	NE	5	05N	45E	TETON	

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	
5N	45E	5									1.3								1.3

Total Acres 1.3

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT*

1. Amount 0.85 cfs for IRRIGATION purposed from 4/15 to 10/15

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local Name for Diversion
		SW	NE	5	05N	45E	TETON	

3. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5N	45E	5			8.7						36.2								44.9

Total Acres 44.9

*Since there are or will be additional transfers pending on the same water right, remaining portions may vary depending on transfer approvals. See attached Split History diagram. Updates may be obtained from Rocky Mountain Environmental Associates.

PART 3

B. CHANGES IN NATURE OF USE

1.	New Nature of Use	Amount (cfs/af-ac)	Hours/days/year	Period of use
	<u>Diversion to Storage</u>	<u>0.03</u> cfs	<u>24hr/365d/yr</u>	<u>01/01</u> to <u>12/31</u>
	<u>Fire Protection Storage</u>	<u>2.6</u> ac-ft	<u>24hr/365d/yr</u>	<u>01/01</u> to <u>12/31</u>
	<u>Recreation Storage</u>	<u>2.6</u> ac-ft	<u>24hr/365d/yr</u>	<u>01/01</u> to <u>12/31</u>
	<u>Aesthetic Storage</u>	<u>2.6</u> ac-ft	<u>24hr/365d/yr</u>	<u>01/01</u> to <u>12/31</u>

2. Quantity and quality of return flows and location of discharge: No water will flow outside of the place of use; it is a closed system. Since water will be piped to the ponds, no water will be lost through seepage. This transfer is to provide for evaporative losses of the ponds. Quantity of water to be transferred is based on historical irrigation requirements of alfalfa hay-less frequent cuttings. The ponds will not require any additional water above what was being consumed on the original 1.3 acres of irrigated ground.

3. Describe effects on other water uses resulting from the proposed change: Since no additional water will be consumed, there will be no affects on other water uses.

BC Properties LLC

Transfer of Water Right 22-13584

New Place of Use



Legend

-  QQ
 -  Section
 -  Township and Range
- 2006 NAIP Photography

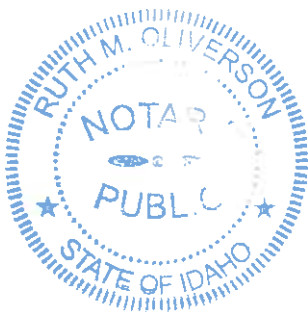


I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

[Signature] - Member BC Properties LLC
(Signature of Applicant) (Office or Position of Authority)
Ken R. Chambers
(Printed Name)

Subscribed and sworn to before me this 9 day of Nov., 2006



Ruth M. Oliveron
Notary Public
My Commission expires: 11/30/2010

FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and _____ attachments
Received by _____ Date 1/31/08 Protest filed by _____
Prelim check by _____ Fee 100-
Received by JB Date 1/31/08 EB33683
Published in _____ 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 _____

Application for Transfer of Water Rights

Ground Water Right 22-13584
Surface Water Rights 22-129J, 22-13530, 22-13555
Mitigation Plan

Leigh Creek, LLC (LC) plans to develop a piece of property on North Leigh Creek. The property has surface water rights listed above out of North Leigh Creek. As a part of the development, four lined ponds have been excavated, which will be used for fire protection, aesthetics, and recreation, totaling 1.47 acres in surface area and having a volume of 10 ac-ft.

Based on the irrigation requirements taken from the report published by Allen and Robison, the historical consumptive use of alfalfa hay-less frequent cuttings is 2.0 ac-ft. In order to fill the ponds of 10 ac-ft, 5 ac of irrigated land are required for mitigation. Annually, the four ponds will lose 2.6 ac-ft to evaporation according to precipitation and evaporation values from the Tetonia Experiment Station, Idaho. Using the historical consumptive use for alfalfa hay, 1.3 ac of irrigated land are required to mitigate for evaporative losses. Therefore, a total of 6.3 acres (5 ac for pond volume + 1.3 ac for evaporation) of land are needed for mitigation.

To satisfy the first time fill, LC proposes to dry up 5 ac of the 40 ac recommended in the SRBA for the surface water rights. The origin of the 5 ac are detailed in Figure 1 below. In addition to the roads, ponds, and housing footprints, another acre must be dried up to reach the total acres required. The east side of the road in Lot 4 will be dried up. Since Lot 4 is a total of 2.57 acres and the east side is at least one acre, it should be sufficient to provide the additional volume for the pond fill.

Figure 1	NENW	NWNE	NENE	TOTAL
ROADS (30' Wide x Length / 43,560)	0.4	1.5	0	1.9
PONDS	0	0.64	0.83	1.47
HOUSING FOOTPRINTS (14 lots x 2,000 sf / 43,560)	0.2	0.3	0.2	0.7
ADDITIONAL LANDS (taken from Lot 4)	1			1
TOTAL	1.6	2.4	1.0	5

For the first year, the surface water will only be used for the pond fill. No additional water will be available to maintain the ponds after initial fill. During subsequent years, the surface water will be used to refill the pond during the spring and to maintain the levels for as long as the water rights are available.

Ground water will also be necessary to maintain the ponds' water levels. Since no ground water rights are appurtenant to the property, LC has entered into an agreement with BC Properties LLC to purchase 1.3 acres of the water right 22-13584, a primary water right on the lands owned by BC Properties. Until the transfer has been approved and the closing sales have been completed, the transfer will remain in the name of BC Properties LLC. The 1.3 acres provide a diversion rate of 0.025 cfs, which can provide the volume of 2.6 ac-ft lost to evaporation within the original season of use. The need for this right will be greatest during the hottest summer months when evaporation is the highest. During the late fall to early spring, use will be minimal.

Pond Consumptive Use Calculations
Climate Station: Tetonla Experiment Station, Idaho 109065
Leigh Creek, LLC

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Annual FWW Evaporation (inches)*	35	35	35	35	35	35	35	35	35	35	35	35	35
Monthly Distribution (%)	1	2	4	7	12	15	19	16	11	6	4	3	100
Monthly FWS Evaporation (in/mo)	0.35	0.7	1.4	2.45	4.2	5.25	6.65	5.6	3.85	2.1	1.4	1.05	35
Avg. Total Precipitation (in/mo)**	1.71	1.1	1.05	1.28	2.08	1.82	1.06	1.07	1.28	1.28	1.1	1.46	16.3
Pond Loss (Evap. - Precip., in)	0	0	0.35	1.17	2.12	3.43	5.59	4.53	2.57	0.82	0.3	0	20.88
Pond Surface Area (acres)	1.47	1.47	1.47	1.47	1.47	1.47	1.47	1.47	1.47	1.47	1.47	1.47	1.47
Total Pond Loss (ac-in)	0.0	0.0	0.5	1.7	3.1	5.0	8.2	6.7	3.8	1.2	0.4	0.0	30.7
Total Pond Loss (ac-ft)	0.0	0.0	0.0	0.1	0.3	0.4	0.7	0.6	0.3	0.1	0.0	0.0	2.6

Note: for months where precipitation exceeds evaporation, the resultant pond loss is set to zero

Irrigation Consumption		Crop
Mean Irrig. Requirement (in/seas.)***	24.1	Alfalfa-less
Mean Irrig. Requirement (ft/seas.)***	2.00	frequent cuttings
Acres to dry up for pond use	1.28	

*Molnau, Myron, Kpordze, Kojo C.S., and Craine, Katherine L., 1992. Monthly shallow pond evaporation in Idaho. ASAE paper PNW 92-111.
 **Data obtained from the Western Regional Climate Center, Monthly Climate Summary, Period of Record 9/1/1905 to 5/31/1974.
 ***Precipitation Deficit values used synonymously with mean irrigation requirement. Values taken from Allen, Richard G. and Clarence W. Robison, 2006 (Revised 2007).
 Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho,
 Used 611 mm from the Tetonla Experiment Station

Summary of Transfer Requirements

BC Properties LLC for Leigh Creek LLC / North Leigh Creek Ranch

Original Ground Water Right to be Transferred 22 13584	Diversion Rate (cfs)	Place of Use (acres)	cfs per acre	AF per acre*		
		0.88	46.2	0.019	2.00	
Amount of Water Needed For Evaporation	Pond Surface Area (acres)	Acres Equivalent to Evaporative Loss	cfs required	Total Pond Loss (AF)**		
		Ac=Total Pond Loss / AF per ac				
		1.47	1.3	0.025	2.60	
Amount of Water Needed for Pond Fill***	Pond Depth (ft)	Pond Volume (AF)	Acres Equivalent to Pond Fill	cfs required	AF required	
			Ac= AF per ac / Pond Volume			
		12	10	5.00	0.095	10
Total Water Needed for Transfer		For Evaporation				
		cfs	0.025			
		AF	2.60			
		acres	1.3			

*Values calculated using the mean irrigation requirement of alfalfa hay-less frequent cuttings taken from Allen, Richard G. and Clarence W. Robison, 2006 (Revised 2007). Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID.

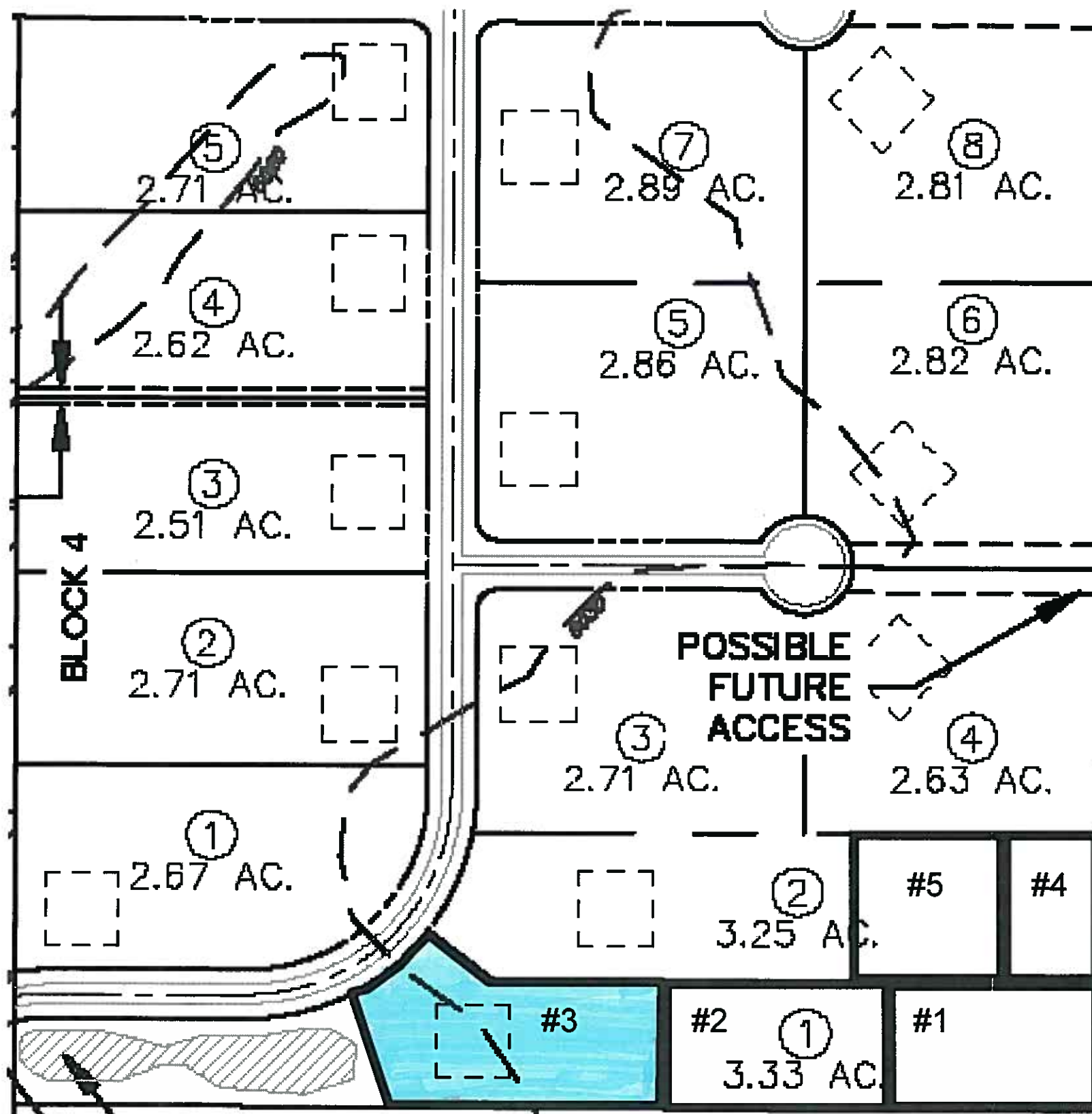
****Value calculated using precipitation and evaporation values from the Tetonia Experiment Station 109065.**

***These numbers are based on the ground water right being used in the transfer. However, the applicant is not transferring enough ground water to fill the pond, only maintain it. Pond fill will be accomplished through a transfer of surface water rights.



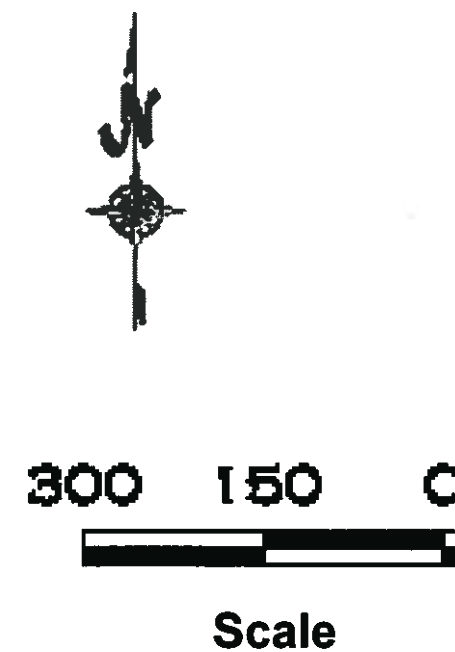
Map Indicating Lands to be dried up upon approval of Transfer

BC Properties LLC
T5N, R45E, Sec 5, NESW

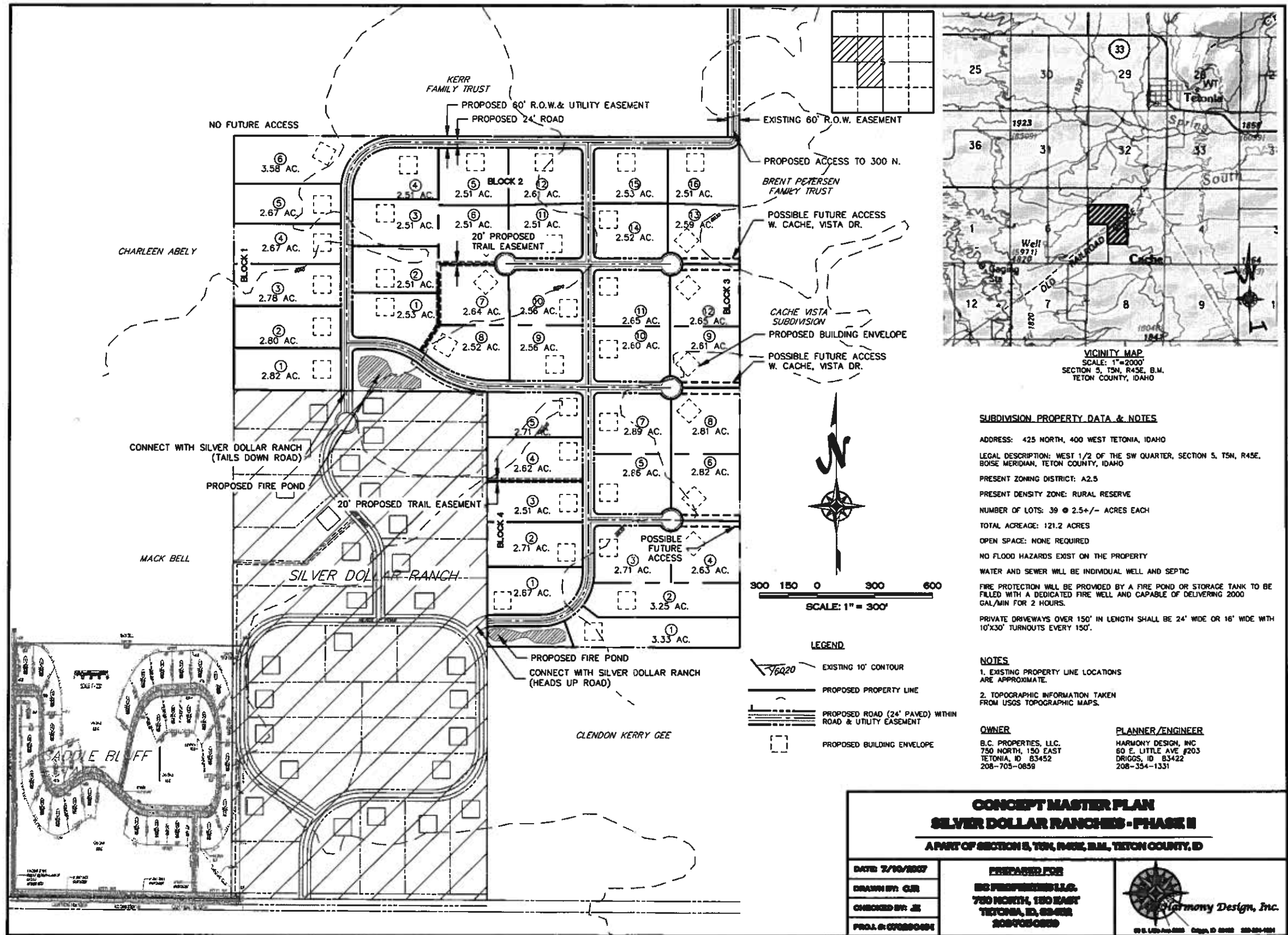


Buyers of the Water Rights from the Indicated Lands

- #1 – 1.0 ac – Surprise Valley Holdings LLC
- #2 – 1.0 ac – W. Michael Baker
- #3 – 1.3 ac – BC Properties LLC for Leigh Creek LLC
- #4 – 0.5 ac – Eureka Feeling, Inc
- #5 – 1.0 ac – Ludwig M. Long



See attached Concept Master Plan for entire map.



Memo

To: File

From: Kristin Moore

Date: November 6, 2007

Re: Water Right No. 22-13584

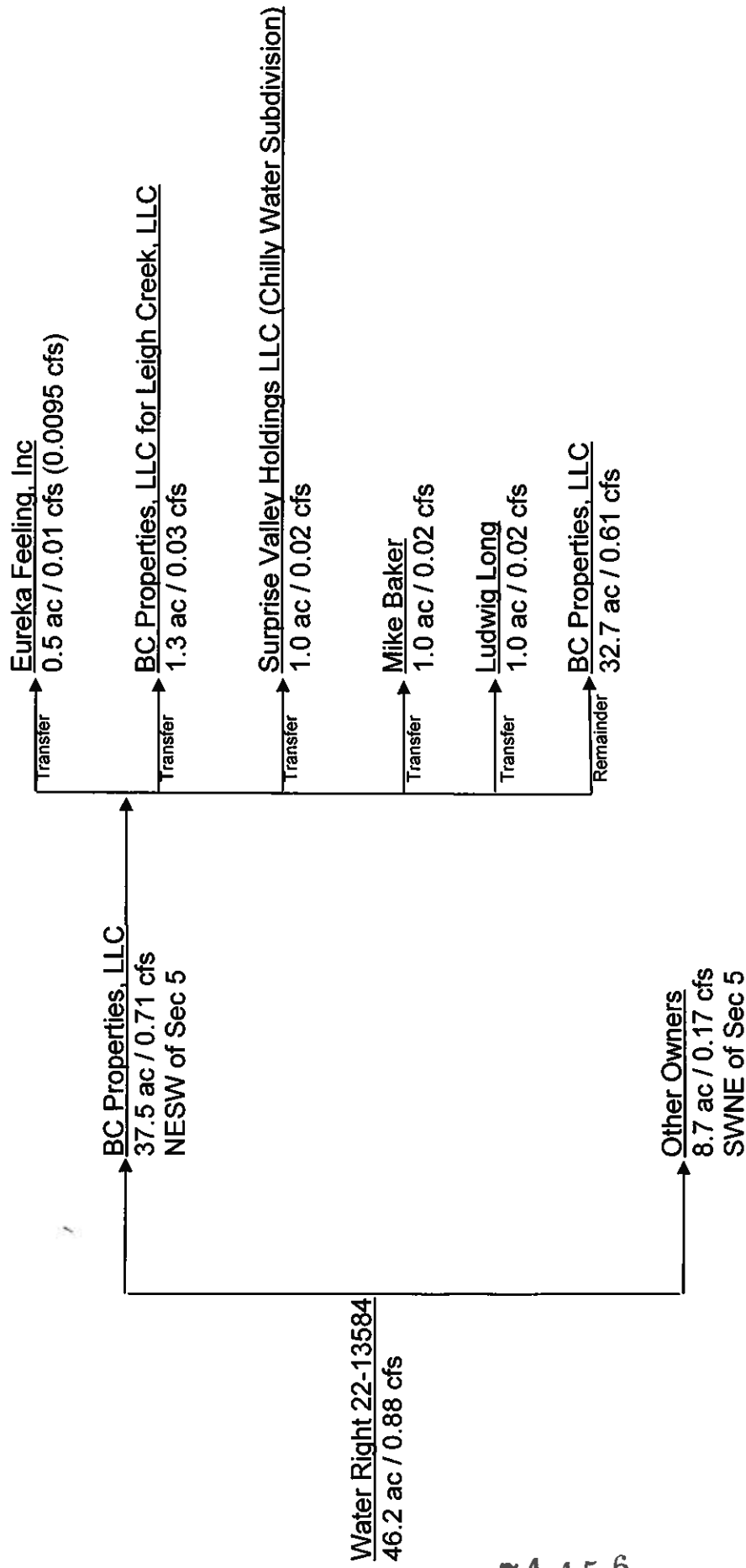
On Friday, October 26, 2007, Shelley Keen, Jeff Peppersack, Ernie Carlsen, Pam Skaggs, Roger Warner, Kristin Moore, Ken Chambers, and Jeff Borer met together in person or by teleconference to discuss water right 22-13584, a split right of 22-7690. The issue at hand was to determine if the ground water right was a primary or secondary right. A Due Diligence was performed on this right prior to the meeting. During the research, language was found in the original license 22-7690 indicating that the ground water was secondary to the surface water rights out of South Leigh Creek. Although the well was developed in 1977, an application for the ground water right was not submitted until 1991 by Mr. James Hatch, the previous property owner who developed the well. During the licensing process, it is believed that an assumption was made that the surface water was still in use. The field examiner made no mention of witnessing surface water being used on the property, only that there were surface water rights that were appurtenant to portions of the property. Since the IDWR database shows active surface water rights, a condition was placed on the ground water license 22-7690 indicating that it was secondary in nature. Based on historical irrigation practices Mr. Hatch detailed to Ken Chambers, one of the owners of right 22-13584, the subject ground in the NESW of Section 5 was never irrigated with surface water due to its higher elevation. Surface water was scarce on the entire place of use since it is located near the end of the Bell-McCracken ditch. Delivery of the full surface water rights was difficult and rare. When the well was developed, Mr. Hatch testified that the ground water was used as the primary source of irrigation from then on.

Based on the evidence discussed, it was determined by the group present at the meeting that the water right 22-13584 was a primary right on the subject ground in the NESW of Section 5, T5N, R45E. A decision was not made as to whether the ground water was primary on the remainder of the lands under the original license as it was not discussed in detail.



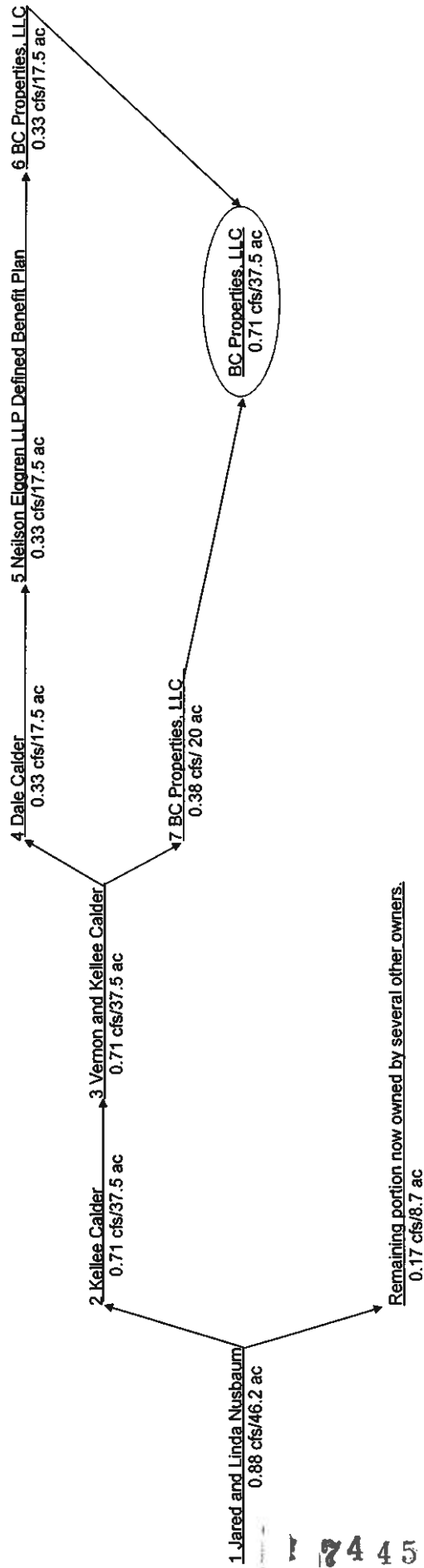
Split History

Pending Transfers of Water Right 22-13584



All diversion rates have been rounded to the hundredths.

Split History of Water Right No. 22-13584



Attached are the 7 Warranty deeds or quitclaims for the changes in ownership shown above.



136883
WARRANTY DEED

RECEIVED

MAR 01 2000

**TETON CO. ID
CLERK RECORDER**

For Value Received **JOHN CORREIA and CATHERINE J. CORREIA**, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
JARED E. NUSBAUM and LINDA S. NUSBAUM, husband and wife
whose address is: 9051 W. 65TH AVE., ARVADA, CO, 80004

Hereinafter called the Grantee, the following described premises situated in Teton County, Idaho, to-wit:

Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho

Section 5: SE1/4NW1/4, NE1/4SW1/4, Lots 2,3,4, SW1/4NE1/4

LESS: Beginning at the center of Section 5, T5N, R45E, B.M., Teton County, Idaho, and running thence South 89°42'21" East, 1320.15 feet; thence North 00°33'17" West, 717.00 feet; thence South 85°26'23" West, 1323.25 feet; thence South 00°33'17" East, 605.00 feet to the point of beginning.

LESS: A part of the West 1/2 Northeast 1/4 of Section 5, T5N, R45E, B.M., Teton County, Idaho being further described as:
Commencing at the NE1/4 corner of said Section 5; thence S 00°06'44" E. 2052.72 feet and thence N 85°24'32" E. 496.32 feet to the true point of beginning;
thence N 04°32'15" W. 33.86 feet to a point; thence N 43°02'41" E. 838.58 feet to a point; thence N 70°16'56" E. 263.46 feet to a point; thence S 00°37'46" E. 669.28 feet to a point; thence S 85°24'32" W. 827.73 feet to the point of beginning.

ALSO an irrigation well lot lying in the Southwestern corner of the SW1/4NE1/4 of Section 5, T5N, R45E, B.M., Teton County, Idaho being further described as: Beginning at an iron pin set by A-W Engineering, P.E./L.S. #2860, the Southwest corner of the NE1/4 of said Section 5 and running N 0°30'18" E. 40.0 feet along the West line of the NE1/4 of said Section 5; thence East 18 feet; thence South 0°30'18" W. 40.0 feet; thence West 18 feet to the point of beginning.

Subject to reservations in United States and State Patents; existing and recorded Right-of-ways, Easements, Zoning, Building and Subdivision ordinances; Taxes and Assessments as prorated between the parties hereto.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: 12/30/99


JOHN CORREIA


CATHERINE J. CORREIA

STATE OF CALIFORNIA)

COUNTY OF)

On this _____ day of _____ in the year _____, before me, a Notary Public in and for said State, personally appeared JOHN CORREIA and CATHERINE J. CORREIA, known or identified to me to be the person(s) whose name(s) are subscribed to the within Instrument, and acknowledged to me that they executed the same.

136883

FILED

AT THE REQUEST OF

First American

AT 05 MINUTES PAST 12 P.M.

DATE Mar. 1, 2000

Nolan G. Boyle

BY *Nora Boyle* CLERK OF RECORD

DEPUTY

Notary Public of _____
Residing at _____
Commission Expires _____

First American Title Company

RECEIVED

155220

JUN 05 2003

WARRANTY DEED

TETON CO., ID
CLERK RECORDER
Order No.: 3050312041-T

FOR VALUE RECEIVED

Jared E. Nusbaum and Linda S. Nusbaum, Husband and Wife

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Kelley Calder, a married person

whose current address is

330 Imperial Drive Morgan, UT 84050

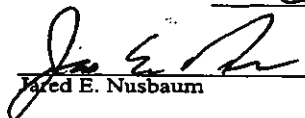
the grantee(s), the following described premises, in Teton County, Idaho, TO WIT:

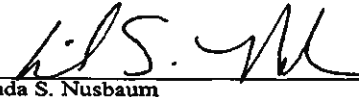
A portion of the SW ¼ of Section 5, Township 5 North, Range 45 east, Boise Meridian, Teton County, Idaho, being further described as follows: Beginning at the Center Quarter corner of Section 5, the point of beginning; thence North 89°33'31" West 1323.96 feet, South 00°01'09" East 1328.31 feet; South 89°28'20" East 1324.62 feet; thence North 00°02'53" West 1326.46 feet to the point of beginning.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: 6-5-03


Jared E. Nusbaum


Linda S. Nusbaum

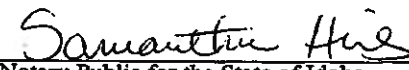
State of Idaho }
County of Teton } ss.

On this 5th day of June, 2003 before me, a Notary Public in and for said state, personally appeared Jared E. Nusbaum and Linda S. Nusbaum

known or identified to me to be the person(s) whose name(s) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

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




Notary Public for the State of Idaho
Residing at: Victor
Commission Expires: 2/25/08

155220

Instrument # 155220

DRIGGS, TETON, IDAHO
2003-08-05 03:17:05 No. of Pages: 1
Recorded for: ALLIANCE TITLE & ESCROW
NOLAN G. BOYLE Fee: 3.00
Ex-Officio Recorder Deputy R. Buraside
Index to: DEED, WARRANTY

74456

2

RECEIVED

158309

NOV 04 2003

TETON CO. ID
CLERK RECORDER

305032363 T
ALLIANCE TITLE & ESCROW CORP., INC.
P.O. BOX 644 / 78 N. MAIN STREET
DRIGGS, IDAHO 83422

QUITCLAIM DEED

ORDER NO.: 3050312363-T

FOR VALUE RECEIVED, Kellee Calder

Do(es) hereby convey, release, remise and forever quit claim unto

Vernon Calder and Kellee Calder, Husband and Wife

whose current address is: 330 Imperial, Morgan, UT 84050

the following described premises:

A portion of the SW ¼ of Section 5, Township 5 North, Range 45 east, Boise Meridian, Teton County, Idaho, being further described as follows: Beginning at the Center Quarter corner of Section 5, the point of beginning; thence North 89°33'31" West 1323.96 feet, South 00°01'09" East 1328.31 feet; South 89°28'20" East 1324.62 feet; thence North 00°02'53" West 1326.46 feet to the point of beginning.

TO HAVE AND TO HOLD the said premises, unto the said grantees, heirs and assigns forever.

October 23, 2003

Kellee Calder
Kellee Calder

State of Utah
County of Wilder

On this 21 day of October, in the year 2003, before me, a Notary Public in and for said state, personally appeared Kellee Calder known or identified to me to be the person 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 first above written.



Notary Public for the State of
Residing at: Ogden, Utah
Commission Expires: 10/7/06

Instrument # 158309

DRIGGS, TETON, IDAHO
2003-11-04 03:17:34 No. of Pages: 1
Recorded for: ALLIANCE TITLE & ESCROW
NOLAN G. BOYLE Fee: 3.00
Ex-Officio Recorder Deputy RBW:side
Index to: DEED, QUIT-CLAIM

158309

74 45 6

177406

QUIT CLAIM DEED

RECEIVED

JUN 01 2006

TETON CO., ID
CLERK RECORDS

Instrument # 177406

DRGGS, TETON, IDAHO

2006-06-01 01:22:25 No. of Pages: 2

Recorded for: VERNON CALDER

NOLAN G. BOYLE

Ex-Officio Recorder Deputy

Index to: DEED, QUIT-CLAIM

Kellee Calder, a married woman, GRANTOR of Morgan, County of Morgan, State of Utah, hereby Quit-Claims to Dale A. Calder, a married man, GRANTEE for the sum of Ten and no/100 (\$10.00) DOLLARS and other good and valuable consideration the following described tract of land in Teton County, State of Idaho:

A portion of the SW ¼ of Section 5, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, being further described as follows: Beginning at the Center Quarter corner of Section 5, the point of beginning; thence North 89°33'31" West 1323.96 feet, South 00°01'09" East 664.16 feet; South 89°35'36" East 1324.29 feet; thence North 00°02'53" West 663.25 feet to the point of beginning. Also identified as Parcel 10 of attached Plat map (20.17 acres).

WITNESS the hand of said Grantor, this 16 day of May, 2006.

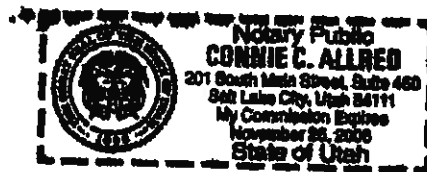
Kellee Calder
Kellee Calder
GRANTOR

STATE OF UTAH }
Salt Lake :ss.
COUNTY OF MORGAN }

On the 16th day of May, 2006, personally appeared before me Kellee Calder, the signer of the within instrument, who duly acknowledged to me that she executed the same.

Connie C. Allred
Notary Public
Residing at *Salt Lake City*, Utah

My Commission Expires: 11-25-06



177406

7 4 4 5 6

4

QUIT CLAIM DEED

Index to: DEED, QUIT-CLAIM

Dale A. Calder, a married man, GRANTOR of City of Pocatello, County of Bannock, State of Idaho, hereby Quit-Claims to Neilson Elggren LLP Defined Benefit Plan, a qualified retirement plan, GRANTEE for the sum of Ten and no/100 (\$10.00) DOLLARS and other good and valuable consideration the following described tract of land in Teton County, State of Idaho:

A portion of the SW ¼ of Section 5, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, being further described as follows: Beginning at the Center Quarter corner of Section 5, the point of beginning; thence North 89°33'31" West 1323.96 feet, South 00°01'09" East 664.16 feet; South 89°35'36" East 1324.29 feet; thence North 00°02'53" West 663.25 feet to the point of beginning. Also identified as Parcel 10 of attached Plat map (20.17 acres).

WITNESS the hand of said Grantor, this 16th day of May, 2006.

Dah A. Calhoun

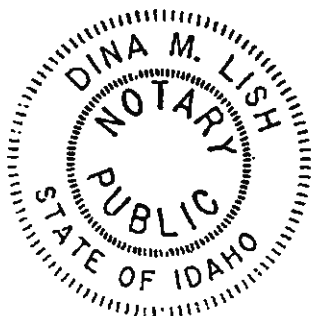
Dale A. Calder
GRANTOR

STATE OF IDAHO }
COUNTY OF BANNOCK } ss.

On the 16 day of May, 2006, personally appeared before me Dale A. Calder, the signer of the within instrument, who duly acknowledged to me that he executed the same.

Notary Public
Residing at Fort Hall, Id., Utah

My Commission Expires: 09-18-2007

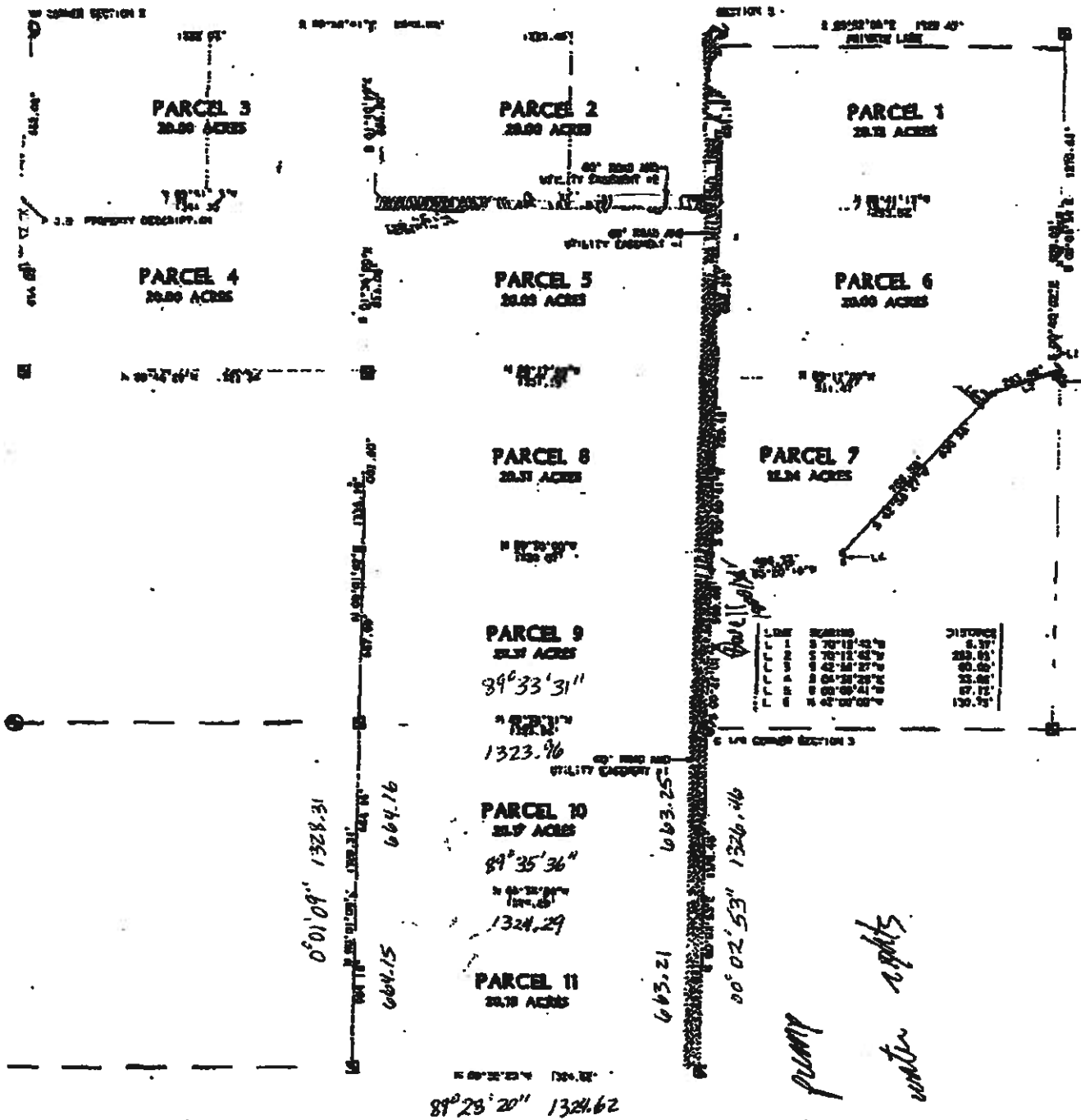


177407

FROM : R-L ENGINEERING

PRX NO. : 2007672952

Jun. 19 2002 02:58PM P2



RECORDING REQUESTED BY

189377 JUL 12 07 PM 2:10

AND WHEN RECORDED MAIL TO:

Instrument # 189377

TETON COUNTY, IDAHO

2007-07-12 02:10:00 No. of Pages: 2

Recorded for : FIRST AMERICAN

MARY LOU HANSEN

Ex-Officio Recorder Deputy

Index to DEED, WARRANTY

Fee: 6.00

Space Above This Line for Recorder's Use Only

WARRANTY DEED

File No.: ()

Date:

For Value Received, **NELLP, LLP Defined Benefit Plan, FBO Vernon L. Calder FKA: Neilson Elggren LLP Defined Benefit Plan FBO Vernon L. Calder**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **BC Properties LLC, an Idaho Limited Liability Company**, hereinafter called the Grantee, whose current address is **750 North 150 East, Teton, ID**, the following described premises, situated in **Teton County, Idaho**, to-wit:

A Portion of the SW 1/4 of Section 5, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho being further described as follows: Beginning at the Center Quarter corner of Section 5, the point of beginning; thence North 89°33'31" West 1323.96 feet, South 00°01'09" East 664.16 feet; South 89°35'36" East 1324.29 feet; thence North 00°02'53" West 663.25 feet to the point of beginning.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances, unto the said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

RECORDING REQUESTED BY

189380 JUL 12 '07 PM 2:11

AND WHEN RECORDED MAIL TO:

219605

Instrument # 189380

TETON COUNTY, IDAHO

2007-07-12

02:11:00 No. of Pages: 2

Recorded for : FIRST AMERICAN TITLE

MARY LOU HANSEN

Ex-Officio Recorder Deputy

Fee: 6.00

Index to DEED, WARRANTY

Space Above This Line for Recorder's Use Only

WARRANTY DEED

File No.: ()

Date:

For Value Received, **Kellee Calder, a married woman as her sole and separate property**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **BC Properties LLC, an Idaho Limited Liability Company**, hereinafter called the Grantee, whose current address is **750 North 150 East, Tetonia, ID**, the following described premises, situated in **Teton County, Idaho**, to-wit:

A portion of the SW 1/4 of Section 5, township 5 North, range 45 East, Boise Meridian, Teton County, Idaho being further described as follows: Beginning at the Center Quarter corner of Section 5, the point of beginning; thence North 89° 33'31" West 1323.96 feet, South 00°01'09" East 1328.31 feet; South 89°28'20" East 1324.62; thence North 00°02'53" West 1326.46 feet to the point of beginning.

LESS AND EXCEPTING THEREFROM A portion of the SW1/4 of Section 5, township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho being further described as follows: Beginning at the Center Quarter corner of Section 5, the point of beginning; thence North 89°33'31" West 1323.96 feet, South 00°01'09" East 664.16 feet; South 89°35'36" East 1324.29 feet; thence North 00°02'53" West 663.25 feet to the point of beginning.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances, unto the said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

**WATER RIGHTS PURCHASE
AND SALE AGREEMENT**

THIS AGREEMENT is made and entered into this 6st day of August, 2007, by and between BC Properties, LLC, an Idaho Limited Liability Company, of P.O. Box 28, Driggs, Id 83422, hereafter "SELLER", and Leigh Creek, LLC, an Idaho Limited Liability Company, of 1325 Johnson Street, Menlo Park, California 94025, hereafter "BUYER";

WITNESSETH:

That for and in consideration of the mutual covenants and agreements set forth below, the parties hereto agree as follows:

1. SELLER hereby sells to BUYER, and BUYER hereby purchases from SELLER, the following described water right, for the consideration and subject to the terms and conditions contained herein:

A portion of Idaho Department of Water Resources (IDWR)
Water Right License No. 22-13584.

Source:	Ground water
Purpose:	Irrigation
Priority:	January 8, 1991
Quantity:	up to 0.03 cfs (Total of the right is 0.88 cfs for 46.2 acres)
Place of Use:	up to 1.40 acres.

Said water right shall be conveyed from SELLER to BUYER by Quitclaim Deed, in the form set forth in Exhibit "A" attached hereto. Said Quitclaim Deed will be executed and recorded by SELLER as grantor to BUYER as grantee, and delivered to grantee together with Idaho Department of Water Resources (IDWR) Change of Ownership Form in the form attached hereto as Exhibit "B" upon closing.

2. The purchase price for said water right is \$ _____ per acre or the sum of _____ for a maximum of 1.40 acres, lawful money of the United States, to be paid by BUYER to SELLER as follows:

RECEIVED

JAN 10 2008

Department of Water Resources
Eastern Region

Department of Water Resources
Eastern Region

74 45 6

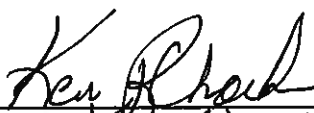
- a. The sum of \$ _____, as a down payment upon the execution of this agreement, receipt whereof is hereby acknowledged by SELLER, and the balance of \$ _____ OR the balance remaining calculated on the basis of \$ _____ per acre for that amount actually transferred to the BUYER, in cash, within thirty (30) days of receipt of notice of formal approval by Idaho Department of Water Resources of the Application for Transfer referenced in Paragraph 3 hereof.
3. It is understood and agreed that BUYER will initiate the appropriate transfer proceeding under *Idaho Code* §§ 42-108 and 42-222, by filing an application with IDWR in the form attached hereto as Exhibit "C" to change the point of diversion, place of use and nature of use of said water right as provided in said application. The filing fees and all costs and expenses of such proceedings shall be borne by BUYER. This transfer and water right will remain in the name of BC Properties LLC until the contract is closed and paid for by the BUYER. The BUYER's place of use and point of diversion will be used for the transfer. The parties agree to cooperate in the prosecution of said transfer proceeding to the end that it might be approved by the Idaho Department of Water Resources with as much dispatch as possible.
4. The closing of this transaction and delivery of the executed Assignment to BUYER and the entire purchase price for the contract to SELLER shall take place at the law office of Holden Kidwell, Hahn & Crapo, PLLC, within thirty days of BUYERS receipt of approval from the Department of the application for transfer. The BUYERS shall be given possession and use of the water right and the water appurtenant thereto, upon closing.
5. In the event the transfer is not approved by the Idaho Department of Water Resources, or not approved in a manner satisfactory to BUYER, BUYER shall have the right to have said application withdrawn. In the event BUYER withdraws said application, SELLER agrees to refund any portion of the purchase price paid by BUYER prior to the date of such withdrawal, to BUYER, without interest, within thirty (30) days of the filing of the Notice of Withdrawal.
6. Should either party default in the performance of any of the covenants or agreements contained herein, such defaulting party shall pay to the other party all costs and expenses,

including, but not limited to, a reasonable attorney fee, including such fees on appeal, which the offended party may incur in enforcing this agreement or in pursuing any remedy allowed by law for breach hereof, whether such is incurred by the filing of suit or otherwise.

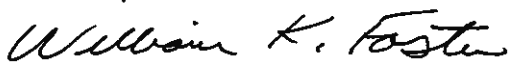
7. This agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

BC PROPERTIES, LLC

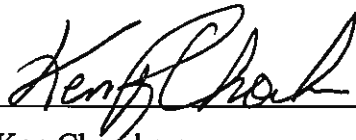

By: Ken Chambers
Its: Member

LEIGH CREEK, LLC


By: WILLIAM K. FOSTER
Its: MANAGING MEMBER

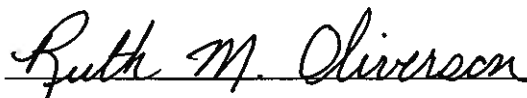
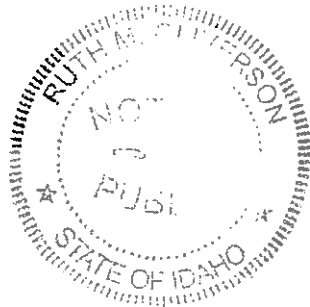
C:\Roger 2007\Leigh Creek LLC\Leigh Creek LLC\Leigh Ck Water Right Sales Agreement2.wpd:cdv

I, Ken Chambers, a managing member of BC Properties, LLC, authorize a revision to the Water Rights Purchase and Sale Agreement with Leigh Creek, LLC rounding the Quantity of water from "up to 0.027 cfs" to "up to 0.03 cfs."



Ken Chambers

Subscribed and sworn to before me this 10th day of January, 2008.



Notary Public

My Commission expires: 11/30/2010