

Form 1-222
12-92

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

1. Name of Applicant Leigh Creek, LLC Phone 650-868-3708Mailing Address 1325 Johnson Street, Menlo Park, CA 94025c/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 proposes to transfer a portion of the surface water rights for fill and storage of four ponds within the North Leigh Creek Ranch subdivision.**B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE**

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

22-129J	01/22/1916	0.13 cfs	Diversion to Storage	04/15 to 10/31
		10.0 af	Fire Protection Storage	01/01 to 12/31
		10.0 af	Recreation Storage	01/01 to 12/31
		10.0 af	Aesthetic Storage	01/01 to 12/31
		0.87 cfs	Irrigation	04/15 to 10/31
22-13530	06/20/1897	0.10 cfs	Diversion to Storage	04/15 to 10/31
		10.0 af	Fire Protection Storage	01/01 to 12/31
		10.0 af	Recreation Storage	01/01 to 12/31
		10.0 af	Aesthetic Storage	01/01 to 12/31
		0.72 cfs	Irrigation	04/15 to 10/31
X 22-13555	01/20/1908	0.10 cfs	Diversion to Storage	04/15 to 10/31
		10.0 af	Fire Protection Storage	01/01 to 12/31
		10.0 af	Recreation Storage	01/01 to 12/31
		10.0 af	Aesthetic Storage	01/01 to 12/31
		0.70 cfs	Irrigation	04/15 to 10/31

2. Total amount of water being transferred 0.33 cubic feet per second and/or 10.0 acre-feet per annum.3. Source of water North Leigh Creek tributary to Spring Creek

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local Name for Diversion
1		NW	NE	29	6N	46E	TETON	North Leigh Canal

RECEIVED

JAN 08 2008

Department of Water Resources
Eastern Region

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	
6N	45E	25	7	20.6			7.4												35
			F	F															

Total Acres 35

PART 1

8. General Information:

- a. Description of diversion system: From the delivering ditch, a pump will divert water into a buried line which will inject water into the first pond. Connecting channels from the first pond will allow water to flow through to the remaining three 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: The 5 acres of the original place of use will be dried up. The remaining 35 acres will still be irrigated.
- d. Remarks: The portions that will be used for the ponds will be used for fill the first year and refill during subsequent years. Once the ponds are full, any additional water will be used for maintenance of water levels. In addition to this transfer of surface water, applicants have entered into an agreement with BC Properties LLC to purchase a portion of the ground water right 22-13584. BC Properties has filed a transfer for that portion of ground water, which will be used for mitigation of the evaporative losses (See companion transfer). Ownership will be changed after the closing costs of the sale have been paid. The attached mitigation plan details the use of surface and ground water together for the storage ponds. To determine the quantities to transfer for the three surface water rights, a percentage of the total diversion rate was used. Water right 22-129J has a diversion rate of 1 cfs, which is 38.2% of the total 2.62 cfs used on the 40 ac POU. Since 5 ac, or 0.33 cfs are needed for the ponds, 38.2% of 0.33 cfs = 0.13 cfs is proposed to be transferred for 22-129J. The same process was used to calculate the quantities for 22-13530 and 22-13555.

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

APPLICATION FOR TRANSFER OF WATER RIGHT**PART 2**

WATER RIGHT NO. 22-129J

<u>Owner Type</u>	<u>Name and Address</u>	<u>Attorney</u>
Current Owner	LEIGH CREEK LLC 525 OAK KNOLL AVE MENLO PARK, CA 94025 (650)868-3708	HOLDEN KIDWELL HAHN & CRAPO PLLC PO BOX 50130 IDAHO FALLS, ID 83405-0130 (208)523-0620

Priority Date: 01/22/1916

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
NORTH LEIGH CREEK	SPRING CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	1 CFS	
Total Diversion			1 CFS	

Location of Point(s) of Diversion:

NORTH LEIGH CREEK NWNE Lt 1 Sec. 29 Township 06N Range 46E TETON County

Place of Use Legal Description: 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>
06N	45E	25		NENE	8		NWNE	23						
				NENW	9									

Total Acres: 40

Conditions of Approval:

C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

F01 Water is delivered through North Leigh Canal.

E56 The rights listed below are limited to the irrigation of a combined total of 40 acres in a single irrigation season. Combined Right Nos.: 22-129J, 22-13530, 22-13555.

F15 The point of diversion for this water right is in Wyoming, T45N, R118W Sec. 32 SENW (L2), 6PM. The point of diversion shown above is where the conveyance system enters Idaho.

160 This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.

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

PART 2

WATER RIGHT NO. 22-13530

<u>Owner Type</u>	<u>Name and Address</u>	<u>Attorney</u>
Current Owner	LEIGH CREEK LLC 525 OAK KNOLL AVE MENLO PARK, CA 94025 (650)868-3708	HOLDEN KIDWELL HAHN & CRAPO PLLC PO BOX 50130 IDAHO FALLS, ID 83405-0130 (208)523-0620

Priority Date: 06/20/1897 Basis: Decreed Status: Active

<u>Source</u>	<u>Tributary</u>
NORTH LEIGH CREEK	SPRING CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.82 CFS	
Total Diversion			0.82 CFS	

Location of Point(s) of Diversion:

NORTH LEIGH CREEK NWNE Lt 1 Sec. 29 Township 06N Range 46E TETON County

Place of Use Legal Description: 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>
06N	45E	25		NENE 8			NWNE 23							
				NENW 9										

Total Acres: 40

Conditions of Approval:

C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

F01 Water is delivered through North Leigh Canal.

E56 The rights listed below are limited to the irrigation of a combined total of 40 acres in a single irrigation season. Combined Right Nos.: 22-129J, 22-13530, and 22-13555.

F15 The point of diversion for this water right is in Wyoming, T45N, R118W Sec. 32 SENW (L2), 6PM. The point of diversion shown above is where the conveyance system enters Idaho.

P21 This right is a split from former right 22-311.

This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. 160 Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.

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

PART 2

WATER RIGHT NO. 22-13555

Owner Type Name and Address

Current Owner LEIGH CREEK LLC
525 OAK KNOLL AVE
MENLO PARK, CA 94025
(650)868-3708

Priority Date: 01/20/1908

Basis: License

Status: Active

Source

Tributary

NORTH LEIGH CREEK SPRING CREEK

Beneficial Use From To Diversion Rate Volume

IRRIGATION 04/15 10/31 0.8 CFS

Total Diversion 0.8 CFS

Location of Point(s) of Diversion:

NORTH LEIGH CREEK NWNE Sec. 29 Township 06N Range 46E TETON County

Place of Use Legal Description: IRRIGATION TETON County

Township Range Section Lot Tract Acres Lot Tract Acres Lot Tract Acres Lot Tract Acres

06N 45E 25 NENE 8 NWNE 23
NENW 9

Total Acres: 40

Conditions of Approval:

F01 Water is delivered through North Leigh Canal.

E56 The rights listed below are limited to the irrigation of a combined total of 40 acres in a single irrigation season.
Combined Right Nos.: 22-129J, 22-13530, and 22-13555.

F15 The point of diversion for this water right is in Wyoming, T45N, R118W Sec. 32 SENW (L2), 6PM. The point of diversion shown above is where the conveyance system enters Idaho.

P21 This right is a split from former right 22-2029.

This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447
160 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.

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

PART 3**B. CHANGES IN NATURE OF USE****Sum of the three water rights described**

1.	New Nature of Use	Amount (cfs/af-ac)	Hours/days/year	Period of use
	<u>Diversion to Storage</u>	<u>0.33</u> cfs	<u>24hr/200d/yr</u>	<u>04/15</u> to <u>10/31</u>
	<u>Fire Protection Storage</u>	<u>10.0</u> ac-ft	<u>24hr/365d/yr</u>	<u>01/01</u> to <u>12/31</u>
	<u>Recreation Storage</u>	<u>10.0</u> ac-ft	<u>24hr/365d/yr</u>	<u>01/01</u> to <u>12/31</u>
	<u>Aesthetic Storage</u>	<u>10.0</u> ac-ft	<u>24hr/365d/yr</u>	<u>01/01</u> to <u>12/31</u>

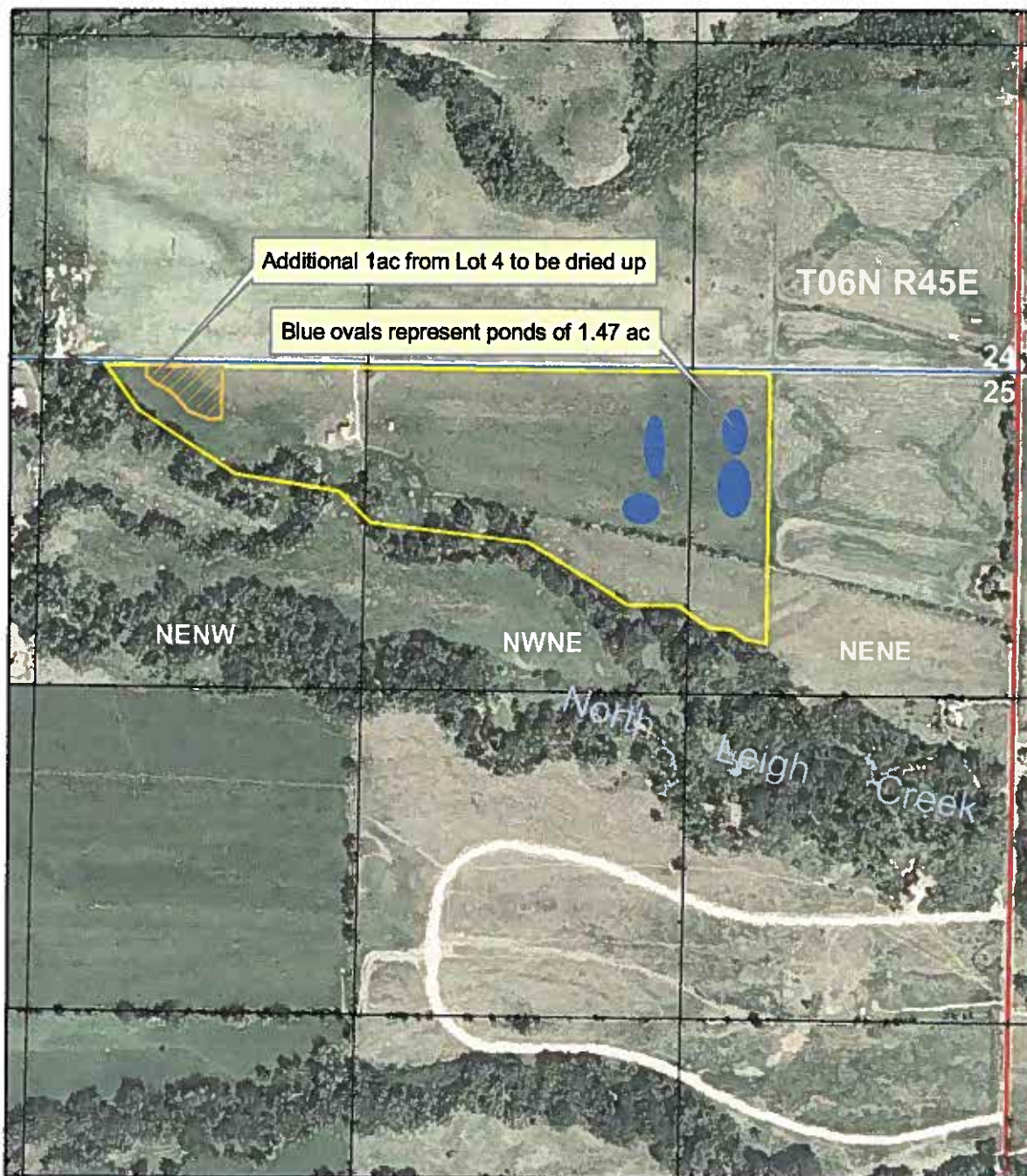
2. Quantity and quality of return flows and location of discharge: All water diverted from North Leigh Creek will be put to beneficial use within the property boundaries for irrigation or for the ponds. There will be no return flows.

3. Describe effects on other water uses resulting from the proposed change: No other water uses will be affected. Once filled the first time, the only water consumed from these water rights thereafter will be to aid in water level maintenance due to evaporation. The ground water right 22-13584 that is being transferred will also aid in the maintenance of the pond levels.

Leigh Creek, LLC

Place of Use

22-129J, 22-13530, 22-13555



Legend

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



0 500 1,000 2,000 Feet





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.

David W Parker

(Signature of Applicant)

PARTNER

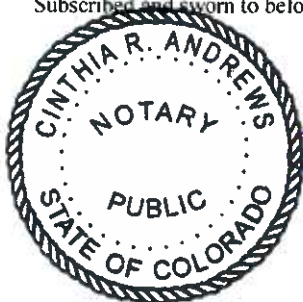
(Office or Position of Authority)

DAVID W PARKER

(Printed Name)

Subscribed and sworn to before me this

13TH day of DECEMBER 2007



Notary Public

My Commission expires:

31 OCTOBER 2009

My Commission Expires 10/31/2009

FOR DEPARTMENT USE ONLY

Transfer contains 9 pages and 1 attachments

Received by _____ Date 11/3/08 Protest filed by _____

Prelim check by _____ Fee 250

Received by JB Date 11/3/08 E033683

Published in Teton Valley News Copies of protest forwarded by _____

Pub. Dates March 27 & April 3, 08 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.

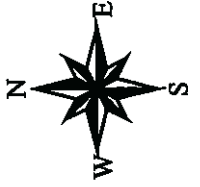
To satisfy the first time fill, LC proposes to dry up 5 ac of the 40 ac recommended in the SRBA for the surface water rights. The origin of the 5 ac are detailed in Figure 1 below. In addition to the roads, ponds, and housing footprints, another acre must be dried up to reach the total acres required. 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.

Leigh Creek, LLC Transfer 74448



0.2 Miles



OCT-10-2007 09:25
No. W 31822

WELL BANKER PALO ALTO
Annual Report Form

650 324 7863

P.03/03

Return to:
SECRETARY OF STATE
700 WEST JEFFERSON
PO BOX 83720
BOISE, ID 83720-0080

LEIGH CREEK LLC
625 OAK KNOLL LANE
MENLO PARK, CA 94025

JULIE SHAPIRO
65 E LITTLE AVE
DRIGGS, ID 83422

3. New Registered Agent Signature

NO FILING FEE IF
RECEIVED BY DUE DATE

4. Limited Liability Companies: Enter Names and Addresses of Managers.

Office held	Name	Street or P.O. Address	City	State	Zip
MANAGING MEMBER	WILLIAM K. FOSTER	1325 JOHNSON ST.	MENLO PARK, CA	94025	
MANAGING MEMBER	DAVID W. PARKER	214 ASPEN AIRPORT BUSINESS CENTER	ASPEN, CO	81611	

5. Organized Under the Laws of:
IDAHO
W 31822

6. Signature William K. Foster Date OCT. 9, 2007
Name WILLIAM K. FOSTER Title MANAGING MEMBER

Issued 10/09/2007 by KAH

Do Not Tape or Staple
Fold, seal and mail this portion.

200707008052

Detach at this perforation and discard this lower portion.

INSTRUCTIONS FOR THE IDAHO ANNUAL REPORT FORM

24448