

Water Supply Bank No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

RECEIVED
JUL 22 2005
Department of Water Resources
Southern Region

Name of Seller/Lessor CLEAR LAKE RANCH PUD MASTER ASSOC. INC. Phone 731-4860

Post office address CLEAR LAKE RANCH PUD MASTER ASSOCIATION, INC., 307 CLEAR LAKE LANE,
BOULDER, IDAHO 83316.

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by:

- a. Decree No. _____ Decreed to _____ (Name)
in case of _____ vs _____
dated _____ in _____ county of _____ (Name of court)
- b. License No. _____ issued by the Idaho Department of Water
Resources.
- c. Permit No. 36-04148 A issued by the Idaho Department of Water
Resources.

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease,
show "all" on line a. below and skip the remainder of part 2.)

- a. Amount of water under right: 0.16 cubic feet per second &/or
32 acre-feet per annum
- b. Point of diversion: SE 1/4 of SE 1/4 of NE 1/4 of Section 02 Township 09S Range
14E, B.M. in GOODING County
- Additional points _____

c. Place of use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	14E	1									4	4							

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres 8 ACRES

3 ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

- a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

PARTIAL DECREE ATTACHED

- b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years).

PARTIAL DECREE ATTACHED

- c If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

YEAR ROUND SPRING

- d Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

SEE ATTACHED EXCHANGE AGREEMENT.

- e If the water right is a permit, describe the work accomplished toward developing the right.

- f If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

4. REMARKS:

SEE ATTACHED EXCHANGE AGREEMENT. LEASE OF WATER
TO CLEAR SPRINGS FOODS IS TO BE REVENUE
NEUTRAL. CLEAR SPRINGS FOODS WILL PAY FOR
ADMINISTRATIVE EXPENSES ASSOCIATED WITH LEASE.

5 SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale;

☒ For lease for a period from INDEFINITE to _____
(Day, month, year) (Day, month, year)

(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or

_____ As a gift to the state of Idaho

2. Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate"

SEE ATTACHED EXCHANGE AGREEMENT. AGREEMENT STATE EXCHANGE
AND SUBORDINATION BETWEEN PARTIES IS REVENUE NEUTRAL.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

7-21-05
Date


Signature

(RON BROWN, PRES)

FOR DEPARTMENT USE ONLY

Received by CW Date 7-22-05 Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

EXCHANGE OF WATER RIGHTS AGREEMENT

This Exchange Agreement ("Agreement") is made and entered into this 20th day of July, 2005, by CLEAR SPRINGS FOODS, INC ("Clear Springs Foods") that is a party to, beneficiary, or holder of interest in water right 36-02703 and CLEAR LAKE RANCH PUD MASTER ASSOCIATION, INC. ("Clear Lake Ranch") that is a party to, beneficiary, or holder of interest in water right 36-4148 A.

RECITALS:

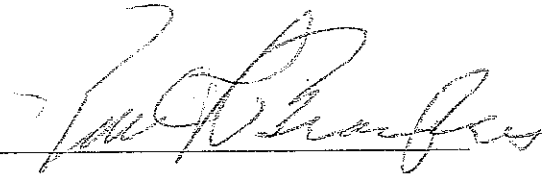
- A. Clear Springs Foods holds fish propagation water right 36-2703 dated Nov. 23, 1933 for 40 cubic feet per second (cfs) diverted from Clear Springs.
- B. Clear Lake Ranch holds an irrigation water right 36-04148 A dated Sept. 9, 1912 for 1.5 cfs diverted from Clear Springs of which 0.6 cfs has been sold to Clear Lake Country Club and for which a transfer application (71435) has been received by the Idaho Department of Water Resources dated Aug. 5, 2004.
- C. Clear Lake Ranch holds water right 36-8329 dated June 2, 1987 for 1.5 cfs diverted from Clear Springs of which 1.5 cfs is for fire protection, 0.7 cfs is for domestic residential use and 0.2 cfs is for commercial use.
- D. Clear Springs Foods made a water delivery call May 2, 2005 in which Clear Lake Ranch water right 36-8329 is junior and potentially subject to curtailment.
- E. Clear Springs Foods holds water right 36-07148 dated Jan. 1, 1971 for 1.67 cfs diverted from Clear Springs of which 0.8 cfs was, prior to adjudication, for commercial use but subsequent to adjudication is for fish propagation and domestic use only. Clear Springs Foods irrigates approximately 8 acres of visitor center grounds and shrubbery but does not have a decreed water right for irrigation.
- F. It is to the mutual benefit of the parties hereto that an exchange agreement be formalized that ensures the right of Clear Lakes Ranch to divert water from Clear Springs to satisfy their 0.7 cfs domestic residential use and 0.2 cfs for commercial use and further that the exchange agreement ensure the right of Clear Springs Foods to divert water from Clear Springs to satisfy their need to irrigate approximately 8 acres of visitor center grounds and shrubbery.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

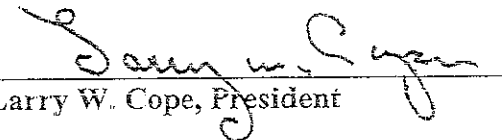
1. Exchange: Clear Springs Foods hereby subordinates 0.9 cfs of their water right 36-2703 to Clear Lake Ranch for domestic residential and commercial use under water right no. 36-8329, in exchange for Clear Lake Ranch's lease of 0.16 cfs of their water right 36-04148 A to Clear Springs Foods for irrigation use. The parties to this Agreement acknowledge that Clear Springs' subordination identified herein constitutes adequate

IN WITNESS WHEREOF the parties hereunto set their hands the day and year first above written pursuant to resolutions of their respective boards of directors authorizing executing of this agreement.

CLEAR LAKE RANCH PUD MASTER ASSOCIATION, INC

By 

CLEAR SPRINGS FOODS, INC.

By 
Larry W. Cope, President

RECEIVED

APR 23 1997

Department of Water Resources
Adjudication Bureau

1997 APR 25 PM 2:09

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED *DL*

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase 36-04074, 36-04148A
	)	and 36-04148B
Case No. 39576	)	PRELIMINARY SPECIAL
	)	MASTER'S REPORT

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A notice of claim was filed for these water rights pursuant to I.C. § 42-1409(1990) by Clear Lake Country Club (Clear Lake Club) (36-04074 and 36-04148B), and Clear Lake Corporation and L&M, Inc. (L&M) (36-04148A). The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for area 1, 2, and 3 and investigated and abstracted the notices of claims for those Reporting Areas. The Director of the Idaho Department of Water Resources then filed a *Director's Report* which asserted how the elements of these water rights should be decreed by the court.

The Director's Report did not recommend water right 36-04148A because IDWR believed that this right had been forfeited. Both L&M and Clear Lake Club filed objections to 36-04148A. Water rights 36-04074 and 36-04148B were recommended in the Director's Report. Clear Lake Club filed objections and L&M filed responses to these two water rights.

On September 13, 1996, *Standard Forms 5* ("SF-5s") were filed between L&M and Clear Lake Club resolving all objections between the two parties. IDWR did not concur with the settlements contained in the SF-5s. IDWR's position relative to each proposed SF-5 was contained in reports filed in each subcase entitled, "*IDWR Report RE: Review of Standard Form 5*" (lodged Sept. 26, 1996). Because of IDWR's failure to concur with the SF-5s, the court set all the claims for trial.

In lieu of trial, the parties and IDWR filed *Stipulation of Facts No. 1* (December 19, 1997), *Stipulation of Facts No. 2* (December 19, 1997) and *Stipulation of Facts No. 1A* (January 10, 1997) (*stipulated facts*) with the court. Pursuant to those *stipulated facts*, the court settled the dispute as a matter of law. The court submitted its *Findings of Fact, Conclusions of Law and Order to Submit Special Master's Recommendations* (February 12, 1997). That decision is incorporated by reference.

Consistent with that decision, IT IS RECOMMENDED that subcases 36-04074, 36-04148A and 36-04148B be decreed as recommended in the *Preliminary Special Master's Report and Recommendation for Partial Decree*.

DATED April 25, 1997.



FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

Case No. 39576)

1997 APR 25 PM 2:09

SPECIAL MASTER'S RECOMMENDATION FOR
DISTRICT COURT - SRBA
PARTIAL DECREE FOR TWIN FALLS CO. IDAHO

Water Right 36-041488

PRELIMINARY

NAME & ADDRESS: CLEAR LAKE COUNTRY CLUB
RT 4 BOX 225
BUHL ID 83316

SOURCE: CLEAR SPRINGS

TRIBUTARY: CLEAR LAKES

QUANTITY: 1.5 CFS

PRIORITY DATE: 09/19/1912

POINT OF DIVERSION: T09S R14E S02 LOT 5 (SESENE)

Within GOODING County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE
IRRIGATION

PERIOD OF USE
Irrigation Season

QUANTITY
1.5 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T09S R14E S01 Lot 6 (SENE) 0.6 Lot 13 (NESW) 23.0 Lot 12 (NWSW) 10.6 Lot 15 (SWSW) 15.6
S02 Lot 8 (NESE) 1.9 Lot 7 (SWSE) 1.8 Lot 9 (SESE) 23.4
S11 Lot 5 (NENE) 8.8 Lot 6 (NWNE) 4.3
90.0 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 133 ACRES. COMBINED RIGHT
NOS.: 36-04148A & 36-04074.

DATED: 4/25/97


FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

SPECIAL MASTER'S RECOMMENDATION
Water Right 36-041488

RECEIVED

DEC - 2 1997

Department of Water Resources
Adjudication Bureau

NOV 24 PM 3:57
DISTRICT COURT
TWIN FALLS

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

) ORDER OF PARTIAL DECREE

) For Water Right 36-04148A

On July 9, 1997, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 36-04148A is hereby decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED November 27, 1997.


DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

ORDER OF PARTIAL DECREE

97-11-0153

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-04148A

NOV 24 PM 3:57

DISTRICT COURT
TWIN FALLS, IDAHO
FILED

NAME & ADDRESS: L & M INC
CLEAR LAKE CORPORATION
307 CLEAR LAKE LANE
BUHL ID 83316

SOURCE: CLEAR SPRINGS TRIBUTARY: CLEAR LAKES

QUANTITY: 1.5 CFS

PRIORITY DATE: 09/19/1912

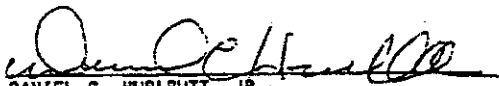
POINT OF DIVERSION: T09S R14E S02 LOT 5 (SESENE) Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	1.5 CFS

PLACE OF USE: IRRIGATION Within GOODING County

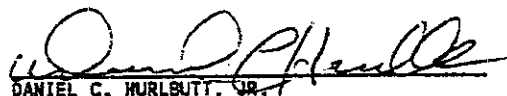
T09S R14E S01	Lot 5 (SWNW) 0.3	Lot 6 (SENE) 0.8	Lot 13 (NESW) 33.6	Lot 12 (NWSW) 21.6
	Lot 15 (SWSW) 21.1			
S02	Lot 8 (NESE) 1.9	Lot 7 (SWSE) 1.8	Lot 9 (SESE) 38.5	
S11	Lot 5 (NENE) 9.1	Lot 6 (NWNE) 4.3		
133 ACRES TOTAL				

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 133 ACRES. COMBINED RIGHT
NOS.: 36-041488 & 36-04074.


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 36-04148A

PAGE 1
NOV-20-1997

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
)
Case No. 39576)
_____)

Water Right 36-04148A

ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT
IN PARTIAL DECREE AND INCORPORATING INTO PARTIAL
DECREE AN EXPRESS STATEMENT REGARDING GENERAL
PROVISIONS, *NUNC PRO TUNC*

A *Partial Decree* was entered for the above-captioned irrigation water right on November 24, 1997. The period of use element was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, IDWR filed a *Supplemental Director's Report, Reporting Area 3, IDWR Basin 36, Regarding Revision of Period of use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation for this water right. No objections were filed to this recommendation and the time period for filing objections has now expired.

THEREFORE, IT IS ORDERED that the period of use for the irrigation element of the above-captioned water right is hereby amended and decreed as:

PERIOD OF USE: 03-15 11-15

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned water right is hereby amended and decreed to contain the following:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

This order is being entered *nunc pro tunc* as of the date the *Partial Decree* was issued and is not intended to modify any subsequent administrative changes for the water right, if any, which occurred following entry of the *Partial Decree*.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Dated August 27, 2001

Roger Burdick
ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

Important Information About Your Water Right

August 27, 2001

CLEAR LAKE CORPORATION
L & M INC
307 CLEAR LAKE LANE
BUHL, ID 83316

Dear Water Right Claimant(s):

The reverse side of this letter contains a copy of an *Order Amending Irrigation Period of Use Element in Partial Decree and Incorporating into Partial Decree An Express Statment Regarding General Provisions, Nunc Pro Tunc* (hereinafter "*Order*") for water right number 36-04148A. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of this water right. If you are not the current owner, please contact IDWR immediately at:

Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706
800-451-4129

The Purpose of the *Order* is to set forth beginning and ending dates for the irrigation period of use for this water right. As stated in the face of the *Order*, this action was necessary following the decision of the Idaho Supreme Court in *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998). This *Order* also incorporates into the *Partial Decree* an express statement that the *Partial Decree* is subject to such general provisions necessary for the definition or for the efficient administration of the water right. This express statement is necessary to comply with the requirements of Idaho Code section 42-1412(6). This *Order* in combination with the *Partial Decree* that was issued for this water right on November 24, 1997, sets forth all of the elements of your water right. The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the *Partial Decree* to show evidence of the water right. The original of this *Order* and the original of the *Partial Decree* for this water right are on file with SRBA Court. If you do not have a copy of the original *Partial Decree*, one can be obtained by contacting the SRBA Court at (208) 736-3011. Please note that the *Order* is entered *Nunc Pro Tunc*, meaning that the *Order* will be treated as if it were issued the same date that the *Partial Decree* was originally issued.

Sincerely,



Diana Delaney
Case Administrator