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State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

September 7, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

JRG PARTNERS II
C/O GREGORY YOUNG
22050 REGNART RD
CUPERTINO CA 95014

**RE: APPLICATION TO LEASE WATER RIGHT NO. 31-2327B TO THE
WATER SUPPLY BANK**

Dear Lessor:

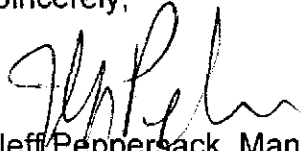
The Department of Water Resources ("department") has completed its review of the Application to Sell or Lease a Water Right to the Water Supply Bank ("bank"). Please consider that the offered water right is accepted as a lease into the bank under the conditions listed below.

1. The right will be held in the bank solely as mitigation for water right permit 22-13220. Water right 31-2327B cannot be rented from the bank and water cannot be diverted under the right for any purpose.
2. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease.
3. While a water right is in the bank, forfeiture provisions are stayed.
4. The diversion and use of water for irrigation under right 31-11844 is limited to 50 acres within the authorized place of use described under water rights 31-2327B and 31-11844.
5. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
6. Upon acceptance of a water right into the Board's water supply bank, the owner of the right may withdraw the right within thirty (30) days of acceptance into the bank if the owner does not agree with the conditions of acceptance.

The right will remain in the bank indefinitely unless the right is released earlier by the Board, or upon request by the lessor. To change the term of the lease or to release the right from the bank, the lessor must submit a request in writing to the department.

If you have questions, please feel free to contact the department.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Peppersack', written over the printed name.

Jeff Peppersack, Manager
Water Right Permits Section

c: Ron Carlson – IDWR Eastern Regional Office
John Marshall – Givens Pursley LLP

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

RECEIVED
FEB 12 2004
Department of Water Resources

Name of Seller/Lessor JRG Partners II Phone 408-366-0581

Post Office address Attn: Mr. Gregory S. Young, 22050 Regnart Road, Cupertino, CA 95014

Copy to John M. Marshall, Givens Pursley LLP, P.O. Box 2720, Boise, Idaho 83701

1. DESCRIPTION OF WATER RIGHT

Right evidenced by:

- a. Decree No. 31-2327B Decreed to Kirk and Katherine Egbert
in case of In Re SRBA, Case No. 39576 vs. _____
dated February 02, 2002 in The District Court of the Fifth Judicial District county of Twin Falls
- b. License No. 31-2327B issued by the Idaho Department of
Water Resources.
- c. Permit No. _____ 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: All cubic feet per second &/or
All acre-feet per annum
- b. Point of diversion: _____ of _____ of Section _____ Township _____ Range
_____, B.M. in _____ County.
Additional points _____

c. Place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE1	NW	SE	SW	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

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

Total number of acres _____

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OF 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 the change of ownership for as required by Section 43-248 or 42-1409(6), Idaho Code, together with required documentation.

The Applicant acquired the right through a warranty deed from Kirk and Katherine Egbert, a copy of which is attached as Exhibit 1. 2003.

- b. Describe the frequency of water use under the right, or portion thereof, during the past 5 years. 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).

This right was partially decreed on February 2, 2002.

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

This right is a ground water right

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

This right allows for the Irrigation of 70 acres within a 283-acre permissible place of use.

Two other rights are associated with this same 283-acre place of use: 31-7080 and

31-11671. After right 31-2327B is accepted into the Water Bank, the place of use

associated with these rights will be reduced by 70 acres to 213 acres as the 70 acres
associated with right 31-2327B will no longer be irrigated.

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

Not applicable

- 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 of lease must be attached.

Not applicable

4. Remarks See Exhibit 2

5. SALE/LEASE AGREEMENT

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

_____ For sale;

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

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

 X As a gift to the state of Idaho. (with conditions on its rental and use (see Exhibit 2))

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".

Not applicable.

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 the sale of lease of this right to the Idaho Water Resources Board.

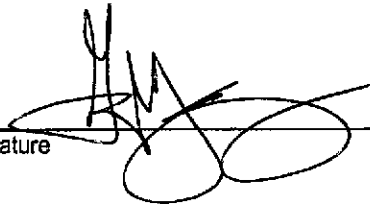
The owner/lessor acknowledges the following:

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.

Date

2-04-2004

Signature



FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary Check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

WARRANTY DEED

FOR VALUE RECEIVED, Kirk Egbert and Kathryn Egbert, whose address is P.O. Box 87, Terreton, ID 83450, husband and wife ("Grantor"), hereby grant, bargain, sell and convey to JRG PARTNERS II, an Idaho general partnership whose address is 22050 Regnart Road, Cupertino, California 95014 ("Grantee"), its successors and assigns, in fee simple, the following real estate, water rights and associated fixtures and equipment:

See attached Exhibit "A".

hereinafter referred to as the "Property," together with all appurtenances, hereditaments, and fixtures, specifically including, but not limited to, the following:

- A. The entirety of water right no. 31-02327B, which is licensed for the irrigation of 70 of the above-described 135 acres under a 1953 priority at a maximum diversion rate of 1.2 cubic feet per second ("cfs") and an annual diversion volume of 245 acre-feet ("af"). A copy of the original license for water right no. 31-02327, the approved transfers for water right no. 31-02327B and the recommendation of the Idaho Department of Water Resources ("IDWR") in the Snake River Basin Adjudication ("SRBA") are attached to this Warranty Deed as Attachments 2, 3 and 4, respectively, and incorporated herein.
- B. A 0.585 cfs; 175 af portion of water right no. 31-07080, which amount is calculated as sufficient to irrigate 50 of the above-described 135 acres within the Property under a 1973 priority. A copy of the original license, an approved transfer and IDWR's SRBA recommendation for this right (recommending 200 acres of irrigation at a diversion rate of 2.34 cfs) are attached to this Warranty Deed as Attachments 5, 6 and 7, respectively, and incorporated herein.
- C. The water well located in or close to the SENWNE of Section 26, T. 6 N., R. 35 E., E.M., together with the pump in such well and the sprinkler pivot, with a center point currently located at or near the center point of the NE quarter Section 26, T. 6 N., R. 35 E., E.M., and associated pipes, pumps, electrical equipment and facilities associated therewith.

TO HAVE AND TO HOLD the Property, together with its appurtenances, hereditaments, and fixtures unto Grantees, Grantees' heirs, successors and assigns forever. And Grantor does hereby covenant to and with Grantee that Grantor is the owner in fee simple of the Property; that the Property is free from all liens, claims and encumbrances, and that Grantor will warrant and defend the same from all other lawful claims whatsoever.

Grantor further hereby assigns to Grantee all of Grantee's interests in water right license no. 31-02327B and the above-described portion of Grantor's interest in water right license no. 31-07080.

Instrument # 312/44

RIGBY, JEFFERSON, IDAHO
03-50-00 No. of Pages: 15
2002-02-12
Recorded for: FIRST AMERICAN TITLE
COURTIE M. KELLER Fee: 40.00
Es-Office Recorder Deputy
Ref: 14-01-00000001-0000

EXHIBIT

tabler

7

RECEIVED BY
ASSESSOR

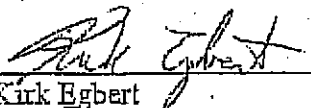
Grantor hereby reserves to itself, and excludes from this grant:

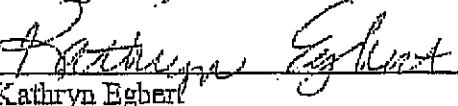
- a. Grantor's remaining 1.755 cfs and 570.5 acre-feet of permissible diversions under water right no. 31-07080; and
- b. the entirety of water right 31-11671, a 1981 water right for an enlargement which allows the irrigation of an additional 13 acres within the same diversion rate allowed for water right no. 31-07080;

which reserved interests together authorize Grantor to irrigate no more than 163 acres.

Dated this 18 day of January, 2002.

GRANTOR:


Kirk Egbert


Kathryn Egbert

1-18-02
Date Signed

1-18-02
Date Signed

State of Idaho)

County of JEFFERSON) ss.

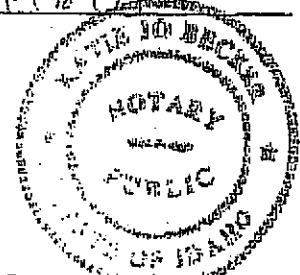
On this 18th day of January, in the year of 2002, before me, a Notary Public in and for said State, personally appeared Kirk Egbert, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Kathleen J. Becker

Notary Public for Idaho

Residing at RAVENS

My Commission expires 11-18-05



State of Idaho)

County of JEFFERSON) ss.

On this 18th day of January, in the year of 2002, before me, a Notary Public in and for said State, personally appeared Kathryn Egbert, 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.

Kathleen J. Becker

Notary Public for Idaho

Residing at RAVENS

My Commission expires 11-18-05

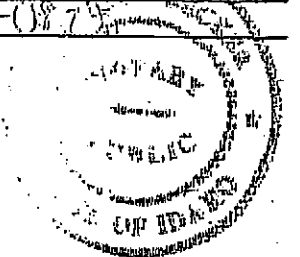


EXHIBIT "A"

LEGAL DESCRIPTION

A Parcel of Land Situated in Jefferson County, State of Idaho, Township 6 North, Range 35 East of the Boise Meridian, Section 26, More Particularly Described as Follows: Beginning at the Northeast Corner of Section 26, Township 6 North, Range 35 East E.M.

Thence S00°03'18"W along the East line of Section 26 for a Distance of 865.43 feet to the True Point of Beginning.

Thence S00°03'18"W along the East line of Section 26 for a Distance of 1784.86 feet to a 3" Aluminum Cap, said Point being the East Quarter Corner (E1/4) of said Section 26;

Thence N89°36'32"W along the South line of the Northeast Quarter (NE1/4) of Section 26 for a Distance of 2652.11 feet to the Southwest Corner of the Northeast Quarter (NE1/4) of Section 26;

Thence N00°01'01"E along the West line of the Northeast Quarter (NE1/4) of Section 26 for a Distance of 2044.39 feet to the Beginning of a Curve to the Left, Delta = 51°34'35" Radius = 566.00 feet and an Arc Length of 509.50 feet; Thence N64°34'53"E along the Chord for a Distance of 492.47 feet to the end of said curve;

Thence S89°38'49"E for a Distance of 1912.53 feet to the Beginning of a Curve to the Right, Delta = 23°31'56" Radius = 1400.00 feet and an Arc Length of 575.00 feet; Thence S31°12'18"E along the Chord for a Distance of 570.97 feet to the end of said curve, said Point being the True Point of Beginning, containing 135.00 acres more or less.

• Aliphatic 3, 4, 5, 6

Positive July 3, 1953

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of Sub 1, Idaho ; made application for a permit to appropriate the public waters of the State of Idaho, dated July 3, 1953 ; Fast Permit No. 6-21276 was issued under said application; that Certificate of Completion of work, with a carrying capacity of 5.2. second feet, was issued thereunder on September 17, 1959, showing that said work was completed on the 14 day of February, 1959 ; and that on the 14 day of February, 1959.

ESU 4703

of Subd , State of Idaho , made need to the satisfaction of the
 District Reclamation Engineer of Idaho, of the right to use the water of at 1967

1. A statement of substance flows 2. The statement of responsibility is answered

use, under the Serial No. C-4876 of the Department of Regulation and that sold right to the use of said water has been provided in accordance with the laws of Idaho and is hereby confirmed by the State Registration Engineer of Idaho and entered of record in Valpoise

11 of LAMONZA AC page 7750, on the 17 day of September, 1956.

The flight hereby confirmed duration: 10 53

The Point of Elvaston is located

In the SW 1/4 NW 1/4 Sec. 25 , T. 6 N , R. 35 E., E. 12th Meridian

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and lawfully used for said purposes, and shall not exceed 5.3 cubic feet per second.

Directions and Method of Use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Disseminated in Permit	No. Acres Actually Irrigated
6 N.	18 E.	26	62 ¹ / ₂ 36 ¹ / ₂	40	40
			60 ¹ / ₂ 34 ¹ / ₂	40	30
			58 ¹ / ₂ 32 ¹ / ₂	40	40
			56 ¹ / ₂ 30 ¹ / ₂	40	40
			54 ¹ / ₂ 28 ¹ / ₂	40	40
			52 ¹ / ₂ 26 ¹ / ₂	40	40
			50 ¹ / ₂ 24 ¹ / ₂	40	30
			Total number of acres to be irrigated:		260

The right to the use of the water shown on the map is restricted to the lands or place of use herein described, as amended by the laws of Idaho.

ATTENTION: The goal and purposes of the State Implementation Agreement, as well as the various provisions

17 day of September 19 59.

GEU. M. BARTEN

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1. 5. 2. 2. 2.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT

TRANSFER NO. 5210
WATER RIGHT NO(S). 31-023275/31-07080

This is to certify that: KEITH BARZEN
JEFFERSON ID 83450

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 31-023275 :			
IRRIGATION	04/15 to 10/15	1.20 CFS	345.0 AF
Priority: 07/03/1953			
Right No. 31-07080 :			
IRRIGATION	04/15 to 10/15	2.34 CFS	700.0 AF
Priority: 05/12/1973			
TOTAL:		* 3.54 CFS	* 945.0 AF

SOURCE
GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION: SESE, Sec. 23, Township 05N, Range 35E
NWNE, Sec. 26, Township 05N, Range 36E
JEFFERSON County

PLACE OF USE, IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N	35E	23	NESE 33	NWSE 33	SWSE 33	126
		26	SESE 27	NWNE 39	SWNE 35	144
			NESE 33			144

Total number of acres irrigated: ** 270

CONDITIONS OF APPROVAL AND REMARKS

1. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afu per acre at the field headgate for irrigation of the lands above.

MICROFILMED

SEP 18 1992

TRANSFER NO. 5210
WATER RIGHT NO(S). 31-02327B/31-07080

CONDITIONS OF APPROVAL AND REMARKS

1. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- ** 6.. Right 31-02327B is limited to the irrigation of 70.0 acres in the place of use described above in a single irrigation season.
- * 7. Right 31-02327B when combined with Rights 31-02327A and 31-02371 shall not exceed a total combined diversion rate of 5.51 cfs.
- ** 8. Right 31-07080 is limited to the irrigation of 200.0 acres in the place of use described above in a single irrigation season.
- * 9. The total instantaneous diversion of water from all points of diversion under Transfer 5210 shall not exceed 3.54 cfs, nor a total combined annual volume of 945.0 af, for the irrigation of 270.0 acres.

Dated this 24th day of

August, 1978



Chief, Water Allocation Bureau

EXHIBIT 3
PAGE 2 OF 4

MICROFILMED

SEP 18 1998

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT

TRANSFER NO. 4837
WATER RIGHT NO. 31-023273

This is to certify that: **KEITH BARBER**
LOUISE BARBER
1455 N 2000 E
JEFFERSON ID 83450

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-232, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	1.20 CFS	345.0 AF

SOURCE

GROUNDWATER

Priority: 07/03/1953

LOCATION OF POINT(S) OF DIVERSION:

SEEN, Sec. 23, Township 08N, Range 18E
JEFFERSON County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RSE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
08N	18E	26	SWNE 30	ENE 40		70

Total number of acres irrigated:

70

CONDITIONS OF APPROVAL AND REMARKS

1. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 acs per acre for the lands above.
2. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
3. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.

EXHIBIT 3

PAGE 3

OF 4

SEP 17 1998

PAGE 2

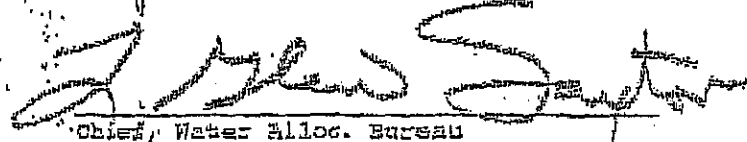
TRANSFER NO. 4837
WATER RIGHT NO. 31-02327B

CONDITIONS OF APPROVAL AND REMARKS

4. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
5. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- * 6. Right No. 31-02327B when combined with Right Nos. 31-02327A and 31-02371 shall not exceed a total combined diversion rate of 5.51 cfs.

Dated this 27th day of

August, 1996


Chief, Water Alloc. Bureau

EXHIBIT

3

PAGE

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OF

4

RECEIVED

SEP 11 1996

ATTACHMENT 4

05/05/2001

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 31-12373
 NAME AND ADDRESS: KIRK ROBERT
 PO BOX 57
 TERRETON ID 83450

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 1.200 CFS
 245.00 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.54 CFS. COMBINED RIGHT NOS.: 31-033273, 31-070800, AND 31-11571.

PRIORITY DATE: 07/03/1953

POINT OF DIVERSION:

TOWN RESE S23 SESESE Within JEFFERSON County
 TOWN RESE S26 SESESE Within JEFFERSON County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/15	1.200 CFS 245.00 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER OCTOBER 15 UNDER THIS RIGHT IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: IRRIGATION Within JEFFERSON County

TOWN RESE S23	SESE	33.0	TOWN RESE S23	SESE	35.0
TOWN RESE S23	SESE	40.0	TOWN RESE S23	SESE	33.0
TOWN RESE S26	SESE	34.0	TOWN RESE S26	SESE	40.0
TOWN RESE S26	SESE	34.0	TOWN RESE S26	SESE	34.0

103 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 70 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
 USE OF THIS RIGHT WITH RIGHT NO. 31-7000 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 370 ACRES IN A SINGLE IRRIGATION SEASON.
 USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 313 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-033273, 31-070800, 31-11571.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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. SECTION 42-1412 (5), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 31-7080 Priority March 12, 1973 Amount 2.34 cfs

THIS IS TO CERTIFY, that Everett T. Acor
of Territon, Idaho, has complied with the terms and conditions of Permit
No. 31-7080 issued pursuant to Application for Permit dated March 12, 1973
and has submitted proof to the Department of Water Resources on September 14, 1979
that he has applied water to a beneficial use, an examination by the Department indicates that the works have a
capacity for the diversion of 2.34 cfs of water from a groundwater source
tributary to the land and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from <u>April 1</u> to <u>November 1</u>	at <u>2.34</u> cfs and	<u>858,120</u> acre feet
from	to	at	cfs and
from	to	at	cfs and

(both dates inclusive)

Subject, however, to the condition that no more than 2.34 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled, and confirmed, for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
600,000 acre feet per year, said water to be diverted within the SE-SE4 Section 23,

Twp 6N, Rge 35E in the County of Jefferson

Description and location of place of use:

Twp.	Range	Sec.	Section																Totals
			NE1/4	N1/2	SE1/4	SW1/4	NE1/4	N1/2	SE1/4	SW1/4	NE1/4	N1/2	SE1/4	SW1/4	NE1/4	N1/2	SE1/4	SW1/4	
6N	35E	23													33	33	33	27	126
		26	35	39															74

EXHIBIT 5

Total number of acres irrigated 200

PAGE 1 OF 2

CONDITIONS OF APPROVAL

a. Modifications to or variances from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

b. The right to the use of the water hereby confirmed is restricted and appurtenant to lands or place of use herein described, and is subject to all prior water rights, as provided by the laws of Idaho.

c. Any water right confirmed in this license for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this license and shall not give rise to any right or claim against any future rights to the use of water other than hydropower, within the State of Idaho initiated later in time than the priority of this license.

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 5.5 afa per acre for the lands above.

EXHIBIT

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PAGE

2

OF

2

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 17th day of

September, 1986

Acting for the

[Signature]
Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5210
WATER RIGHT NO(S). 31-023273/31-07080

This is to certify that: KEITH BARENE
JEFFERSON ID 83450

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL VOLUME
Right No. 31-023273 :			
IRRIGATION	04/15 to 10/15	1.20 CFS	245.0 AF
Priority: 07/03/1953			
Right No. 31-07080 :			
IRRIGATION	04/15 to 10/15	1.34 CFS	700.0 AF
Priority: 03/12/1973			
TOTAL:		* 3.54 CFS	* 945.0 AF

SOURCE
GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

SESE, Sec. 23, Township 06N, Range 35E
NWNE, Sec. 26, Township 06N, Range 35E
JEFFERSON County

PLACE OF USE: IRRIGATION

TWP	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
06N	35E	23	NESE 32	NWSE 33	SWSE 33	
		25	ESE 27	NWNE 39	SWNE 35	126
			SENE 35			144
			SENE 35			

Total number of acres irrigated: ** 270

CONDITIONS OF APPROVAL AND REMARKS

1. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.6 afa per acre at the field headgate for irrigation of the lands above.

EXHIBIT

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PAGE 2

TRANSFER NO. 5210
WATER RIGHT NO(S), 31-02327B/31-07080

CONDITIONS OF APPROVAL AND REMARKS

3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- ** 6. Right 31-02327B is limited to the irrigation of 70.0 acres in the place of use described above in a single irrigation season.
- * 7. Right 31-02327B when combined with Rights 31-02327A and 31-02371 shall not exceed a total combined diversion rate of 5.51 cfs.
- ** 8. Right 31-07080 is limited to the irrigation of 200.0 acres in the place of use described above in a single irrigation season.
- * 9. The total instantaneous diversion of water from all points of diversion under Transfer 5210 shall not exceed 3.54 cfs, nor a total combined annual volume of 845.0 af, for the irrigation of 270.0 acres.

Dated this 24th day ofAugust, 1998

Chief, Water Allocation Bureau

EXHIBIT

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2 of 2

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SEP 16 1998

ATTACHMENT 7

05/04/2003

**IDaho DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW**

RIGHT NUMBER: 31-7080

NAME AND ADDRESS: KIRK ECHERT
PO BOX 87
TERRITON ID 83450

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 3.340 CFS
700.00 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.54 CFS. COMBINED RIGHT NOS.: 31-023373, 31-07080, AND 31-11571.

PRIORITY DATE: 03/12/1973

**POINT OF
DIVERSION:**

TOWN RESE 223 SESESE WITHIN JEFFERSON County
TOWN RESE 226 SENWEE WITHIN JEFFERSON County

**PURPOSE AND
PERIOD OF USE:**

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/15	3.340 CFS 700.00 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER OCTOBER 15 UNDER THIS RIGHT IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: IRRIGATION WITHIN JEFFERSON County

TOWN RESE 223	RESE	33.0	TOWN RESE 223	RESE	35.0
TOWN RESE 223	RESE	40.0	TOWN RESE 223	RESE	32.0
TOWN RESE 226	RESE	34.0	TOWN RESE 226	RESE	40.0
TOWN RESE 226	RESE	34.0	TOWN RESE 226	RESE	34.0

303 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 303 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 31-23373 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 370 ACRES IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 303 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-023373, 31-07080, AND 31-11571.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHT OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE IMMEDIATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-2412 (4), IDAHO CODE.

EXPLANATORY MATERIAL: STATE OF IDAHO - LICENSE

1100

EXHIBIT

7

05/04/2001

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
SECTION 42-1425, IDAHO CODE.

RIGHT NO. 31-11671 IS AN ENLARGEMENT OF THIS RIGHT PURSUANT TO SECTION
42-1426, IDAHO CODE.

1.009

EXHIBIT

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2 of 2

EXHIBIT 2

NARRATIVE IN SUPPORT OF WATER BANK APPLICATION

Water Right Number 31-2327B

Applicant: JRG Partners II ("JRG")

On August 9, 2002, the Idaho Department of Water Resources approved JRG's Application for Permit No. 22-13220 (the "Permit"). Condition No. 7 of the Permit precludes diversions under new water right 22-13220 "until the applicants provide mitigation by formally placing ground water right no. 31-2327B into the Water Supply Bank or notifying the department that they have permanently abandoned Right 31-2327B." This Water Bank Application (the "Application") is meant to comply with Condition No. 7.

JRG acquired Right 31-2327B (the "Mitigation Water Right") specifically to cease pumping and using it to mitigate for JRG's new ground water right 22-13220. With this Application, JRG proposes to mitigate, and comply with Condition No. 7, by placing the Mitigation Water Right in the Idaho Water Resource Board's Water Supply Bank (the "Water Bank") in lieu of retiring or permanently abandoning it. While JRG also is willing to retire and abandon the Mitigation Water Right, Department Officials have suggested that placing it in the Water Bank avoids forfeiture and also may allow the State to use it to mitigate for injury to other water rights, potentially those unrelated to JRG's water uses, in times of water shortage. For example, Department officials have suggested that, once the Mitigation Water Right is in the Water Bank, the Water Resource Board could seek departmental approval to pump water under the Mitigation Water Right from an aquifer where sufficient stored water exists if doing so is effective in enhancing water supplies in areas in deficit and does not injure any other water rights.

By selecting the Water Bank option, JRG's Application is intended to assist in achieving maximum State flexibility in water administration. However, the reason for doing so, as required by the Permit, is solely to mitigate the effects of pumping and using water pursuant to JRG's new ground water right 22-13220. Any use of the Mitigation Water Right after it is placed in the Water Bank must be consistent and not interfere with this specific mitigation purpose. Thus, while JRG agrees that the State may use the Mitigation Water Right to achieve mitigation in ways that are not limited to simply holding the right, JRG requires that its placement in the Water Bank be expressly conditioned to assure that any future use of the Mitigation Water Right will not impair the right to divert ground water and place it to beneficial use under Right 22-13220 pursuant to the terms of the Permit. If the Water Board and the Department cannot assure that the Mitigation Water Right will be diverted and used only in ways that guarantee it will fulfill this primary mitigation purpose, then the Mitigation Water Right must be held in the Bank solely as mitigation for Right 22-13220 without further diversion or use.

MAR 12 2003

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change of ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
<u>31-02327B</u>	<u>31-02327B</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>31-07080</u>	<u>31-07080</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	<u>31-11843 - EGBERT</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	<u>31-11844 - JRG</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question. **WITH ATTACHED LEGAL DESCRIPTION.**
- The Deed is attached as Exhibit A.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions): **PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

Attached as Exhibit B.

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

Attached as Exhibit C.

3. Name and Address of former Owner/Claimant(s) Kirk and Kathryn Egbert
P.O. Box 87, Terreton, ID 83450
4. New Owner/Claimant(s) JRG Partners II
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
 New Mailing Address 22050 Regnart Road
 City, State and ZIP code Cupertino, CA 95014
 New Telephone Number (408) 366-0581
5. Date you acquired the property January 18, 2002

SUPPORT DATA

IN FILE # 31-11844

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6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a large amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number	_____	
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	0.585 cfs, 175 AF	50 acres
Stock	_____	_____
Domestic	_____	_____
Other	_____	_____
Total	_____	

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number	_____	
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other	_____	_____
Total	_____	

7. Signature of New Owner(s) or Claimant(s) _____
(include title if applicable)

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by J. Masi
Received by J. Masi
Processed by J. Masi AJ

Date 4.10.03
Date 4.10.03
Date _____

Fee \$125.00
Receipt No 2068534
WR _____

Date _____

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NOV 14 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 31-2327B

WATER RIGHT NUMBER: 31-2327B

<u>Owner Type</u>	<u>Name and Address</u>
Previous Owner	KIRK S EGBERT 1410 E 1300 N PO BOX 87 TERRETON, ID 83450 (208) 663-4505
Current Owner	JRG PARTNERS II C/O GREGORY YOUNG 22050 REGNART RD CUPERTINO, CA 95014 (408) 366-0581
Attorney	GIVENS PURSLEY LLP ATTN JOHN MARSHALL PO BOX 2720 BOISE, ID 83701-2720 (208) 388-1200

Priority Date: 07/03/1953

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/15 to 10/15	1.200 CFS	245.00 AF
	<u>Total Diversion:</u>	1.200 CFS	245.00 AF

Location of Point(s) of Diversion

GROUND WATER	SE1/4NW1/4NE1/4	Sec. 26, Twp 06N, Rge 35E, B.M.
JEFFERSON County		

Place of UseIRRIGATION Within JEFFERSON County

T06N R35E S26	NENE	26.0	T06N R35E S26	NWNE	26.0
T06N R35E S26	SWNE	34.0	T06N R35E S26	SENE	34.0
Total Acres: 120					

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NOV 14 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 31-2327B

Conditions of Approval:

1. C18 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. SECTION 42-1412(6), IDAHO CODE.
2. E11 USE OF THIS RIGHT WITH RIGHT NO. 31-11844 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 120 ACRES IN A SINGLE IRRIGATION SEASON.
3. K06 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 70 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
4. S02 THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER OCTOBER 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

Dates and Other Information:

Decreed Date: 2/22/2002

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NOV 14 2003

MEMORANDUM

To: File 31-2327B

From: Jeff Peppersack

Date: September 2, 2004

Re: Lease of Water Right to the State Water Supply Bank

<u>Water Right</u>	<u>SRBA Claim</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
31-2327B	decreed	1.20 cfs	245.0 af	70 ac

The applicant, JRG Partners II, has offered the right for lease to the bank. Right 31-2327B has been decreed in the SRBA on 2/22/02. The right is being placed into the bank as mitigation for permit 22-13220. The lease application offers the right as a gift to the state under the condition that use of the right must not interfere with the primary use as mitigation for permit 22-13220. Since the mitigation is dependent on non-use of the right, the right should only be accepted as a lease to the bank and remain in the name of JRG Partners II. A condition should be applied to the lease that the right will be held in the bank solely as mitigation for right 22-13220 and cannot be diverted.

GIVENS PURSLEY LLP

LAW OFFICES

601 W. Bannock Street
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Gary G. Allen
Christopher J. Beeson
Jessica M. Borup
William C. Cole
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Timothy P. Feamside
Jeffrey C. Fereday
Steven J. Hippler
Karl T. Klein
Debora K. Kristensen
Anne C. Kunkel
Franklin G. Lea

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FEB 12 2004
Department of Water Resources
David R. Lombardi
D. David Lofello, Jr.
Emily A. MacMaster
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John M. Marshall
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Kelly Greene McConnell
Cynthia A. Mellillo
Christopher H. Meyer
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Judson B. Montgomery
Angela K. Nelson
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W. Hugh O'Riordan, LLM
Michael C. Orr
Kenneth L. Pursley
Bradley V. Sneed
H. Barton Thomas, LLM
Conley E. Ward
Robert B. White
Michael V. Woodhouse
James A. McClure
OF COUNSEL
Raymond D. Givens
RETIRED

February 10, 2004

Cynthia Bridge Clark
Idaho Department of Water Resources
1301 N. Orchard Street
P.O. Box 83720
Boise, ID 83720-0098

Re: Gregory Young Well Application
GP File No. 4989-7

Dear Ms. Bridge Clark:

Enclosed is an original Application to Sell or Lease a Water Right to the Water Supply Bank, plus one copy. Please file the original and returned the conformed copy to our office. A self-addressed, stamped envelope is enclosed for your convenience.

Thank you for your assistance. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,



Heidi C. Meier
Assistant to John M. Marshall

Enclosures

S:\CLIENTS\4989\7\HCM to IDWR enc app.DOC



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 7, 2003

JRG PARTNERS II
C/O GREGORY YOUNG
22050 REGNART RD
CUPERTINO CA 95014

RE: Change of Ownership for Water Rights 31-11844 (Split from 31-7080) & 31-2327B

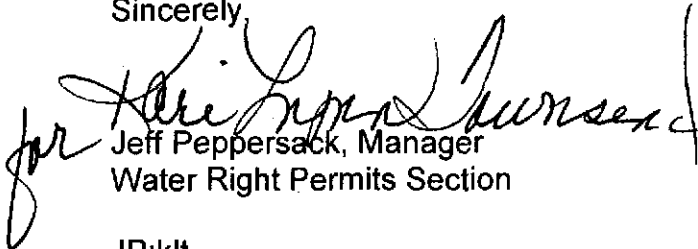
Dear Water Right Holder(s):

The department acknowledges receipt of correspondence changing ownership of the above referenced water rights to you. The department has modified its records to reflect the changes in ownership and has enclosed computer-generated reports for your records.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

Please feel free to contact this office if you have any questions regarding this matter.

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

cc: GIVENS PURSLEY LLP
ATTN JOHN MARSHALL
PO BOX 2720
BOISE ID 83701-2720

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NOV 14 2003