RECEIVED
APR 11 2023
Department of Water Resour
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Security Interest in a Water Right

And Request for Notification of a Change in Ownership or Any Proposed Or Final Action to Amend, Transfer, or Otherwise Modify a Water Right

Please print or type. Attach pages with additional information. Instructions are on the back of this page
Incomplete forms with be returned

1. Water Right No(s).: 11-4033B and 11-4033A

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

   A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION**.

   B) A **FEE** of $25.00 per water right or adjudication claim.

3. Name and Mailing Address of Person or Company holding Security Interest:

   Western AgCredit, FLCA
   10980 South Jordan Gateway
   P.O. Box 95850
   South Jordan, UT 84095-0850.

4. Name of Water Right Owner/Claimant(s):

   SMITH LEGACY RANCH, LLC, a Utah Limited Liability Company

5. Expiration Date of Notification Period: December 1, 2037

6. Is this a Renewal of Request for Notification ( ) YES (X) NO

7. Signature(s) (and title if applicable): Western AgCredit, FLCA
   By: _____
   Ryan Howell
   Chief Operating Officer

For Office Use Only

Received by _____ Date 4/11/23 Fee $50.-
Receipted by _____ Date 4/13/23 Receipt No. E048890
Processed by _____ Date _____ WR JB Date 4/13/2023

Refund Requested 4/13/2023
Return unprocessed, keep 2022
Security Interest with an
expiration date of 12/1/2046

SUPPORT DATA
IN FILE # 11-4033A

APR 13 2023

Instrument # 240259
BEAR LAKE COUNTY
01-26-2023 12:31:36 No. of Pages: 13
Recorded for: FLYING S TITLE AND ESCROW - MONTPELIER
Amy Bishop Fee: $45.00
Ex-Officio Recorder Deputy: AB
Index to: MORTGAGE

Recording Requested by:

WHEN RECORDED MAIL TO:

Western AgCredit, FLCA
10980 South Jordan Gateway
P.O. Box 95850
South Jordan, Utah 84095-0850

Space Above This Line For Recorder's Use

Loan Number: 6001926502

REAL ESTATE MORTGAGE

THIS MORTGAGE is made this **19th day of January, 2023**, between **SMITH LEGACY RANCH, LLC, a Utah Limited Liability Company** hereinafter called "**Mortgagor**", and **Western AgCredit, FLCA** hereinafter called "**Mortgagee**", a corporation, existing and operating under the Farm Credit Act of 1971, as amended, having its principal place of business in **South Jordan, Utah.**

WITNESSETH: That Mortgagor IRREVOCABLY GRANTS, BARGAINS, SELLS, CONVEYS AND ASSIGNS unto Mortgagee together with right of entry and possession the following described real property situated in the County of **Bear Lake**, State of **Idaho**, described in **Exhibit "A"**.

TOGETHER WITH: all buildings, structures, equipment, fixtures (including trees, vines and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the above-described property, all of which rights are hereby made appurtenant to the property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, now or hereafter used in connection with the property, all of which are hereby declared to be fixtures; all existing and future grazing rights, leases, permits and licenses; all oil, gas, and mineral leases, permits and rights used with the property; all tenements, hereditaments, easements, rights-of-way and appurtenances to the property; and all right, title, and interest at any time of Mortgagor (or any of its bailees, agents, or instrumentalities), whether now existing or hereafter arising or acquired, whether direct or indirect, whether owned legally, of record, equitably or beneficially, whether constituting real or personal property (or subject to any other characterizations), whether created or authorized under existing or future laws or regulations, and however arising in, including without limitation, the water, water rights and other assets and items described below in subparagraphs (a) through (h) which shall collectively be called "**Water Assets**" (hereafter collectively referred to as the "**Property**"). References to "**Water**" and "**Water Rights**" are used herein in the broadest and most comprehensive sense of the term(s). The term "**Water**" includes water rights and right to water or whatever rights to money, proceeds, property or other benefits are exchanged or received for or on account of any Water Assets or any conservation or other nonuse of water, including whatever rights are achieved by depositing one's shares of any Water Assets in any water bank or with any water authority, or any other water reallocation rights:

a. All water (including any water inventory in storage), water rights and entitlements, other rights to water and other rights to receive water or water rights of every kind or nature whatsoever including (i) the groundwater on, under, pumped from or otherwise available to the Property, whether as the result of groundwater rights, contractual

This document has been recorded electronically. Please see the attached copy to view the County Recorder's stamp as it now appears in the public record.

Date 1-26-2023 Instrument No 240259
Submitted by: Elving S Title & Escrow

Recording Requested by:

WHEN RECORDED MAIL TO:

Western AgCredit, FLCA
10980 South Jordan Gateway
P.O. Box 95850
South Jordan, Utah 84095-0850

Space Above This Line For Recorder's Use

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a. All water (including any water inventory in storage), water rights and entitlements, other rights to water and other rights to receive water or water rights of every kind or nature whatsoever including (i) the groundwater on, under, pumped from or otherwise available to the Property, whether as the result of groundwater rights, contractual

APR 13 2023

rights or otherwise, (ii) Mortgagor's right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency or any rights granted or created by any use, easements, covenant, agreement or contract with any person or entity, (iii) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive, decreed or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water, (iv) any water, water right, water allocation, distribution right, delivery right, water storage right, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity;

b. All stock, interest or rights (including any water allocations, voting or decision rights) in any entity, together with any and all rights from any entity or other person to acquire, receive, exchange, sell, lease, or otherwise transfer any water or other Water Assets, to store, deposit or otherwise create water credits in a water bank or similar or other arrangement for allocating water, to transport or deliver water, or otherwise to deal with any Water Asset;

c. All licenses, permits, approvals, contracts decrees, rights and interest to acquire or appropriate any water or other Water Assets, water bank or other credits evidencing any right to water or other Water Assets, to store, carry, transport or deliver water or other Water Assets, to sell, lease, exchange, or otherwise transfer any water or other Water Asset, or to change the point for diversion of water, the location of any water or Water Asset, the place of use of any water or Water Asset, or the purpose of the use of any water or Water Asset;

d. All rights, claims, causes of action, judgments, awards, and other judicial, arbiter or administrative relief in any way relating to any water or Water Asset;

e. All storage and treatment rights for any water or any other Water Asset, whether on or off the Property or other property of Mortgagor, together with all storage tanks, and other equipment used or usable in connection with such storage and any water bank deposit credits, deposit accounts or other rights arising on account of the storage or nonuse of any water or any water or any other Water Asset;

f. All rights to transport, carry, allocate or otherwise deliver water or other Water Assets by any means wherever located;

g. All guaranties, warranties, marketing, management or service contracts, indemnity agreements, and water right agreements, other water related contracts and water reallocation rights, all insurance policies regarding or relating to any Water Asset;

h. All rents, issues, profits, proceeds and other accounts, instruments, chattel paper, contract rights, general intangibles, deposit accounts, and other rights to payment arising from or on account of any use, nonuse, sale, lease, transfer or other disposition of any Water Asset.

Absolute Assignment of All Revenue From Water Assets - Mortgagor hereby absolutely and unconditionally assigns to Mortgagee all proceeds, rents, issues and profits from any use (apart from watering plants on the Property or other ordinary use on the Property), nonuse, sale, lease, transfer or disposition of any kind of any water or any other Water Asset subject to a lien in favor of Mortgagee. That assignment shall be perfected automatically without appointment of a receiver or Mortgagee becoming a mortgagee in possession and Mortgagee shall have the right, before or after the occurrence of any default or event of default, to notify any account debtor to pay all amounts owing with respect to those proceeds, rents, issues and profits directly to Mortgagee. Except as otherwise agreed in writing by Mortgagee, Mortgagee may apply any such collection (and any rents, issues, profits and proceeds) to any indebtedness owed to Mortgagee in any order, priority or manner desired by Mortgagee.

MORTGAGOR ABSOLUTELY AND UNCONDITIONALLY ASSIGNS, transfers, conveys and sets over to Mortgagee all the rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof or from any lease, mineral lease, or agreement pertaining thereto (collectively the "**Rents**"); SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Mortgagor by Paragraph B.3 hereof.

APR 13 2021

PERSONAL PROPERTY SECURITY AGREEMENT: All of the Property will be considered to the fullest extent of the law to be real property for purposes of this Mortgage. To the extent that any of the Property, (including without limitation any Water Assets or fixtures), is deemed to constitute, is adjudicated to be, or declared to be personal property, this Mortgage shall also be deemed to be a security agreement. Mortgagor does hereby create and grant to Mortgagee a security interest in all such personal property described herein; and further, grants to Mortgagee all of the rights and remedies of a secured party under the Uniform Commercial Code and other applicable state law, which rights are cumulative.

FIXTURE FILING: This Mortgage shall also be deemed to be a fixture filing under the Uniform Commercial Code and is to be recorded in the county real estate records.

FOR THE PURPOSE OF SECURING: (1) payment of the indebtedness or obligations evidenced by the following promissory note(s) and/or guaranties executed by Mortgagor and/or others to the Mortgagee at the times, in the manner and with interest as therein set forth (**notes may contain variable or adjustable rate provisions**):

[X] a Promissory Note or a Supplement to Master Loan Agreement dated as of **January 19, 2023**, in the stated principal amount of **$683,000.00**.

(2) The payment of such additional loans or advances, including advances under a revolving line of credit, with interest thereon, as hereafter may be made to Mortgagor, or Mortgagor's successors or assigns, and/or to parties whose obligation Mortgagor is guaranteeing, evidenced by a promissory note or otherwise and any obligations evidenced by any guaranties executed by Mortgagor in favor of Mortgagee; PROVIDED HOWEVER, THAT, such additional loans advances guaranty obligations shall be secured by this Mortgage only if the promissory note, guaranty, or other document evidencing such loans or advances shall recite that it is to be secured by this Mortgage; (3) the payment of any substitute notes, renewals, reamortizations, and extensions of all indebtedness secured by this Mortgage; (4) the performance of every obligation and agreement of Mortgagor whether contained or incorporated by reference in this Mortgage, or contained in any loan document or guaranty executed by Mortgagor in favor of Mortgagee, with respect to any loan, advance, or guaranty secured by this Mortgage; and (5) the payment of all sums expended or advanced by Mortgagee under or pursuant to the terms of this Mortgage, together with interest thereon as herein provided. The continuing validity and priority of this Mortgage as security for future loans, advances, or guaranties shall not be impaired by the fact that at certain times hereafter there may exist no outstanding indebtedness from Mortgagor to Mortgagee or no commitment to make loans or advances.

A. **TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR AGREES**:

1. To use loan proceeds solely for the purposes set forth in the loan application(s) or agreements to comply with the Farm Credit Act of 1971, as amended, and/or the regulations of the Farm Credit Administration, now existing or as hereafter amended.

2. To keep the Property in good condition, working order and repair; care for the Property in accordance with standards of good husbandry and to keep all trees, vines and crops on said land properly cultivated, irrigated, fertilized, sprayed, and fumigated; not to remove, destroy or suffer the removal or destruction of any building, fence, canal, well or other improvements or fixtures thereon; not to remove, replace or alter any horticultural or viticultural tree, vine or shrub planted thereon without the prior written consent of Mortgagee, except in the ordinary course of business; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting the Property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general; to observe and perform all obligations of Mortgagor under any lease of the Property.

3. To provide, maintain and deliver to Mortgagee fire and all other types of insurance of the type and in amounts as Mortgagee may require, with loss payable clauses solely in favor of Mortgagee. In the event of loss, the insurance proceeds, or any part thereof, may be applied by Mortgagee, at its

option, to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. In the event that the Mortgagor shall fail to provide satisfactory hazard insurance, Mortgagee may procure, on Mortgagor's behalf, insurance in favor of Mortgagee alone. If insurance cannot be secured by Mortgagor to provide the required coverage, such inability shall constitute an event of default hereunder.

4. To appear in and litigate any action or proceeding purporting to affect the security hereof, the title to the Property, or the rights or powers of Mortgagee; Mortgagee may appear in and litigate any such action or proceedings, including any bankruptcy, partition or condemnation proceeding, affecting the Property, or Mortgagee's interest therein, in which event Mortgagor agrees to pay all costs and expenses thereof, including attorney's fees and costs of securing evidence of title.

5. To pay on or before the due date all taxes and assessments affecting the Property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with the Property; to pay, when due, all encumbrances, charges, and liens, on the Property or any part thereof, which at any time appear to be prior or superior hereto.

6. In case of any suit to foreclose this Mortgage or to collect any charge arising out of the debt hereby secured, or of any suit which the Mortgagee may deem necessary to prosecute or defend to effect or protect the lien herein, including any proceeding in bankruptcy, or if Mortgagee retains an attorney to advise Mortgagee in connection with this Mortgage or any other agreement related to the indebtedness secured by this Mortgage, Mortgagor agrees to pay a reasonable sum as attorney's fees and all costs and legal expenses in connection with said suit, and further agrees to pay the reasonable costs of searching the records and abstracting or insuring the title, and such sums, costs and expenses shall be secured hereby and shall be included in any decree of foreclosure. The fees and costs described herein and elsewhere in this Mortgage shall be in addition to those set forth in the loan agreement or any other written agreement between Mortgagor and Mortgagee.

7. Should Mortgagor fail to make any payment or to do any act as provided for in this Mortgage, then Mortgagee, but without obligation to do so and without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the Property, Mortgagee being authorized to enter upon the Property for such purposes; commence, appear in and litigate any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee, including any bankruptcy proceeding affecting the Property; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefore, including attorney's, accountant's, and appraisal fees, environmental fees, and costs of securing evidence of title, and all amounts so expended shall be obligations of Mortgagor secured by this Mortgage. Nothing contained herein shall prohibit Mortgagee from entering the Property, at a reasonable time and upon reasonable notice to Mortgagor, without incurring or assuming any obligations or liabilities whatsoever, for the sole purpose of inspecting the Property.

8. To pay immediately and without demand all sums expended by Mortgagee pursuant to the provisions hereof, with interest from date of expenditure at the same rate as is provided for in the note or notes secured by this Mortgage. In the event that such sums are not immediately paid, they shall be added to the principal balance of the indebtedness secured hereby and shall accrue interest as herein set forth. All such sums shall be secured hereby.

9. Environmental Representations, Warranties and Covenants.

(a) Except as disclosed in writing to Mortgagee, or except as otherwise provided in any loan agreement between Mortgagee and Mortgagor which specifically refers to the Property, to the best

knowledge of Mortgagor after due inquiry, Mortgagor hereby further represents, warrants and covenants as follows:

(i) No pollutants, contaminants (including oil or other petroleum products), toxic or hazardous substances, or solid or hazardous wastes, as such terms are defined under any federal, state or local Environmental Law, regulation or ordinance (hereinafter "**Contaminants**") have been, are being or will be generated, manufactured, produced, stored, disposed of, discharged, released threatened to be released, or otherwise allowed to migrate or escape on, under or from the Property in such quantities or concentrations as would violate any federal, state or local Environmental Law, regulation or ordinance or as would require Mortgagor to report such condition to any governmental authority or to undertake removal or remedial action to clean up such contaminants;

(ii) No Contaminants are located on, in or under any property located adjacent to the Property in such quantities or concentrations as would constitute a violation of any Environmental Law or as would require the owner of the adjacent property to report such condition to any governmental authority or to undertake removal or remedial action to clean up such Contaminants;

(iii) Neither the Property, nor any portion thereof, nor any adjacent property or portion thereof, has been or is proposed to be listed under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.), or any analogous state law. Mortgagor shall immediately notify Mortgagee if Mortgagor acquires any information concerning the listing or proposed listing of the Property or any adjacent property and shall provide Mortgagee with any documents in Mortgagor's possession relative thereto;

(iv) No hazardous wastes, as defined under the Federal Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.), or any analogous state law ("**Hazardous Wastes**"), have been, are being or will be stored or treated in surface impoundments or other structures or facilities located on the Property that are partially or entirely below the ground surface;

(v) No litigation, investigation, administrative "**Action**") has previously been brought, is now pending, or to the best knowledge of Mortgagor threatened against or anticipated by Mortgagor, with respect to Mortgagor's use or management of Hazardous Materials or Hazardous Wastes or the environmental condition of the Property, including any underlying groundwater. Upon learning thereof, Mortgagor shall immediately notify Mortgagee of any such Action or threatened Action and provide Mortgagee with copies of all documentation relative thereto; and

(vi) Except as disclosed in writing to Mortgagee, no underground tanks, wells (except domestic water wells), septic tanks, ponds, pits or any other storage tanks ("**Tanks**") (whether currently in use or abandoned) are or were located on or under the Property and no Tanks are or were serving the Property described herein. With respect to any Tanks disclosed in writing to Mortgagee, Mortgagor shall comply with all federal, state and local laws, regulations and ordinances and any requirements of city or county fire departments, applicable to the maintenance and use of such Tanks, including, without limitation, Title 40 of the Code of Federal Regulations Part 112.

(b) Nothing herein shall be deemed to prohibit Mortgagor from (i) using, handling or storing hazardous materials or substances, as defined under any federal, state or local law, regulation or ordinance ("**Hazardous Materials**") or (ii) storing or treating non-hazardous wastes, so long as such activities are carried out (a) in a good and husbandlike manner in the ordinary course of business, and (b) in compliance with all applicable environmental laws, regulations, permits, orders or other requirements.

APR 13 2021

(c) In the event that Mortgagor is in breach of any of its representations, warranties or covenants as set forth above, Mortgagor, at its sole expense, shall take all action required, including environmental cleanup of the Property, to comply with the representations, warranties and covenants herein or applicable legal requirements and, in any event, shall take all action deemed necessary by appropriate governmental authorities. Mortgagee shall have the right, but not the obligation, to advise appropriate governmental authorities of any environmental condition on or affecting the Property that constitutes or may constitute a breach of Mortgagor's obligations hereunder.

(d) Mortgagor and its successors and assigns shall indemnify, defend, protect, and hold harmless Mortgagee, its directors, officers, employees, agents, shareholders, successors and assigns and their officers, employees or agents, from and against any and all claims, suits, damages, liens, losses, liabilities, interest, judgments, response and cleanup costs, demands, actions, causes of action, injuries, administrative proceedings and orders, consent agreements and orders, penalties, costs and expenses (including any fees and expenses incurred in enforcing this indemnity, any out-of-pocket litigation costs and the reasonable fees and expenses of counsel) of any kind whatsoever ("**Claims**") paid, incurred or suffered by, or asserted against Mortgagee, including but not limited to Claims arising out of loss of life, injury to persons, trespass or damages to or contamination of property or natural resources, or injury to business, in connection with or arising out of the activities of Mortgagor on the Property, Mortgagor's predecessors in interest, third parties who have been invited, permitted or trespassed on the Property, or parties in a contractual relationship with Mortgagor, or any of them, or which directly or indirectly arise out of or result from or in any way connected with the Property, whether or not caused by Mortgagor or within the control of Mortgagor, including without limitation: (i) the presence, use, generation, treatment, storage, disposal, release, threatened release, or discharge of any Hazardous Material or Contaminant at or from the Property and/or the cleanup of Hazardous Materials or Contaminants within, on or under the Property; (ii) Mortgagor's breach of any of the representations, warranties and covenants contained herein; and (iii) Mortgagor's violation or alleged violation of any applicable Environmental Law, regulation or ordinance.

(e) Mortgagor's representations, warranties, covenants and indemnities contained herein shall survive the occurrence of any event whatsoever, including without limitation the payoff of any promissory note(s) secured hereby, the release or foreclosure of this Mortgage, the acceptance by Mortgagee of a deed in lieu of foreclosure, or any transfer or abandonment of the Property.

(f) The term "**Environmental Law**" shall mean any federal, state or local law, statute, ordinance, or regulation, now in effect or hereinafter enacted, pertaining to health, industrial hygiene, or the environmental conditions on, under or about the Property, including but not limited to enactments requiring the removal or containment of asbestos-containing materials in private buildings.

(g) Mortgagor shall permit, or cause any tenant of Mortgagor to permit, Mortgagee or its agents, or independent contractors to enter and inspect the Property at any reasonable time for purposes of determining, as Mortgagee deems necessary or desirable: (i) the existence, location and nature of any Hazardous Materials or Hazardous Wastes on, under or about the Property, (ii) the existence, location, nature, magnitude and spread of any Hazardous Materials or Hazardous Waste that has been spilled, disposed of, discharged or released on, under or about the Property, or (iii) whether or not Mortgagor and any tenant of Mortgagor is in compliance with applicable Environmental Law. If Mortgagor or its tenants fail to comply fully with the terms of this subdivision (g), Mortgagee may obtain affirmative injunctive relief to compel such compliance.

10. Grazing Rights. If any portion of the Property described in this Mortgage is used by Mortgagor as the basis for obtaining grazing permits or other grazing rights issued by any governmental agency, including without limitations the Forest Service, U.S. Department of Agriculture or the Bureau of Land Management, U.S. Department of Interior, Mortgagor covenants and agrees as follows:

(a) Said grazing permits or other rights are in good standing and have not been modified, reduced or limited in any other respect, except as fully disclosed in writing to Mortgagee;

(b) Mortgagor will perform all obligations imposed as a requirement of exercise of said grazing permits or other rights and will comply with all laws, rules and regulations applicable thereto;

(c) Mortgagor will take such timely action as may be required to cause the renewal or reissuance of said grazing permits or other rights from time to time as they expire during the term thereof. Mortgagor agrees and acknowledges that the failure to renew or cause the reissuance of any said permits for any reason, whether the result of an act or omission of Mortgagor or for reasons beyond Mortgagor's control, is an event of default hereunder and Mortgagee shall have the right to exercise the rights hereinafter set forth in this Mortgage; and

(d) Mortgagor agrees to pay all fees, charges, rents or other payments accruing under said permits or any renewals thereof prior to delinquency. In the event Mortgagor fails to pay any such payment, the amount unpaid shall become a part of the indebtedness secured by this Mortgage and shall be immediately due and payable.

B. **IT IS MUTUALLY AGREED THAT:**

1. Any award of damages in connection with any taking or condemnation or injury to the Property by reason of public use, or for damages resulting from private trespass or injury to the Property, is absolutely and unconditionally assigned and shall be paid to Mortgagee, under the terms and conditions of this Mortgage pertaining to Rents. Upon receipt of such money Mortgagee may apply the same on the indebtedness secured hereby. Mortgagor agrees to execute such further documents as may be required to effect the assignments herein made as Mortgagee may require.

2. At any time, without affecting the liability of any person for the payment of the indebtedness secured hereby, and without otherwise affecting the security hereof, Mortgagee may (a) consent to or join in the making of any map or plat of the Property; (b) grant any easement or create any restriction thereof; (c) subordinate this Mortgage; (d) extend or modify the term of the loan or loans secured hereby; and (e) release without warranty, all or any part of the Property.

3. Prior to any default by Mortgagor in the payment, observance, performance and discharge of any condition, obligation, covenant, or agreement of Mortgagor contained herein, Mortgagor may, for collection and distribution purposes only, collect and receive the Rents as they come due and payable; the Rents are to be applied by Mortgagor to the payment of the principal and interest and all other sums due or payable on any promissory note or guaranty secured by this Mortgage and to the payment of all other sums payable under this Mortgage and, thereafter, so long as the aforesaid has occurred, the balance shall be distributed to the account of Mortgagor. Upon any such default, Mortgagee may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, in his own name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Mortgagee may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary or proper to conserve the value of the Property; also lease the same or any part thereof for such rental, term, and upon such conditions as its judgment may dictate; also prepare for harvest, remove, and sell any crops that may be growing upon the Property, and apply the proceeds thereof upon the indebtedness secured hereby.

4. The entering upon and taking possession of the Property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking of or damage to the Property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. Upon default by Mortgagor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the Mortgagee and in accordance with applicable state law. In the event of default, Mortgagee may employ counsel to enforce payment of the obligations secured hereby, may foreclose and, if applicable, sell the Property by advertisement and sale, and in accordance with other applicable state law, and may exercise such other rights and remedies granted by law and equity, which rights and remedies shall be cumulative and not exclusive. Mortgagee may resort to and realize upon the security hereunder and any other real or personal property security now or hereafter held by Mortgagee for the obligations secured hereby in such order and manner as Mortgagee may, in its sole discretion, determine. Resort to any or all such security may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawful nonjudicial proceedings, or both. If the obligation secured by this Mortgage is also secured by personal property, fixtures or crops, Mortgagee may enforce its security interest in the personal property, fixtures and crops and its lien under this Mortgage in any manner and in any order or sequence permitted by applicable law. All remedies are cumulative and none are exclusive; no election by Mortgagee to pursue one remedy or item of collateral shall be deemed to be a release or waiver of any other item of collateral or a release or modification of the liability of Mortgagor or any guarantor to pay and perform in full all obligations to Mortgagee. The procedures governing the enforcement by Mortgagee of its foreclosure and provisional remedies against Mortgagor shall be governed by the laws of the state in which the Property is located. Nothing contained herein shall be construed to provide that the substantive law of the state in which the Property is located shall apply to Mortgagee's rights and Mortgagor's obligations hereunder or under the promissory note(s) or guaranties described herein, which are and shall continue to be governed by the substantive law of the state in which the promissory note(s) or guaranties were executed.

6. The failure on the part of the Mortgagee to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Mortgagee of any default shall not constitute a waiver of any other subsequent defaults. Subsequent acceptance of any payment by the holder hereof shall not be deemed a waiver of any default by Mortgagor, or of Mortgagee's rights hereunder as the result of any sale, agreement to sell, conveyance, or alienation, regardless of holder's knowledge of such default, sale, agreement to sell, conveyance, or alienation at the time of acceptance of such payment.

7. This Mortgage applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Mortgagee shall mean the holder and owner of any note secured hereby; or, if the note has been pledged, the pledgee thereof. In this Mortgage, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Mortgagor hereunder are joint and several.

8. In the event the herein-described Property, or any part thereof, or any interest therein, is sold, agreed to be sold, conveyed, alienated or transferred, including any water transfer as defined in subsection (a) below, by Mortgagor, or by operation of law or otherwise, except by inheritance, without Mortgagee's prior written consent, all obligations secured hereby, irrespective of the maturity dates, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable. Failure to exercise such option shall not constitute a waiver of the right to exercise this option in the event of subsequent sale, agreement to sell, conveyance or alienation.

    a. A water transfer is any transfer, assignment, sale, exchange, gift, encumbrance, pledge, hypothecation, alienation, grant of option to purchase, or other disposition of, directly, indirectly or in trust, voluntarily or involuntarily, by operation of law or otherwise, or the entry into a binding agreement to do any of the foregoing with respect to all or any part of (i) the groundwater on, under, pumped from or otherwise available to the Property, (ii) Mortgagor's right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency and any rights granted or created by any easement, covenant, agreement or contract with any person or entity, (iii) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water, (iv) any water, water right, water allocation, distribution right, delivery

right, water storage right, water allocation, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property's being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity, or (v) any shares (or any rights under such shares) of any private water company, mutual water company, or other non-governmental entity pursuant to which Mortgagor or the Property may receive any rights.

9. In the event any one or more of the provisions contained in this Mortgage or in any promissory note(s) hereby secured shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage or said promissory note(s), but this Mortgage and said promissory note(s) shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

Signature(s):

SMITH LEGACY RANCH, LLC, a Utah Limited Liability Company

By: _____
MATTHEW SMITH, Manager

By: _____
MICHAEL SMITH, Manager

By: _____
DENNIS H. SMITH, Manager

Notary Acknowledgment(s):

STATE OF)
ss.
COUNTY OF)

On this 25 day of January, 2023, before me, the undersigned Notary Public in and for said County and State, personally appeared MATTHEW SMITH [( ) personally known to me] [( ) proved to me on the basis of satisfactory evidence] to be the person who executed the within instrument as MANAGER, or on behalf of the Limited Liability Company therein named, and acknowledged to me that the Limited Liability Company executed the within instrument pursuant to its articles of organization and operating agreement.

WITNESS my hand and official seal

_____
Notary Public in and for said County and State

DAVID R HEYWOOD
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 716411
COMM. EXP. 01-30-2025

STATE OF)
ss.
COUNTY OF)

On this 25 day of January, 2023, before me, the undersigned Notary Public in and for said County and State, personally appeared MICHAEL SMITH [( ) personally known to me] [( ) proved to me on the basis of satisfactory evidence] to be the person who executed the within instrument as MANAGER, or on behalf of the Limited Liability Company therein named, and acknowledged to me that the Limited Liability Company executed the within instrument pursuant to its articles of organization and operating agreement.

DAVID R HEYWOOD
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 716411
COMM. EXP. 01-30-2025

WITNESS my hand and official seal

Notary Public in and for said County and State

STATE OF)
ss.
COUNTY OF)

On this 25 day of January, 2023, before me, the undersigned Notary Public in and for said County and State, personally appeared DENNIS H. SMITH [( ) personally known to me] [( ) proved to me on the basis of satisfactory evidence] to be the person who executed the within instrument as MANAGER, or on behalf of the Limited Liability Company therein named, and acknowledged to me that the Limited Liability Company executed the within instrument pursuant to its articles of organization and operating agreement.

DAVID R HEYWOOD
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 716411
COMM. EXP. 01-30-2025

WITNESS my hand and official seal

Notary Public in and for said County and State

EXHIBIT "A"

Bear Lake, ID
Parcel No.: 03163, 03224, 03231.02, 03232.01, 03253, 03238.01, 03234 and 03239

PARCEL NO. 1:
TOWNSHIP 12 SOUTH, RANGE 44 EAST OF THE BOISE MERIDIAN, Bear Lake County, Idaho:
Section 29: SE¼NW¼; NE¼NW¼; SW¼NW¼; & W½NE¼.
EXCEPT: All that portion of the W½NE¼ lying East of the Railroad Right of Way.
ALSO: Commencing at the Southeast Corner of the Southwest Quarter of Section 20, Township 12 South, Range 44 East of the Boise Meridian, Idaho; thence West 80 rods; thence North 80 rods; thence East 80 rods, more or less, to the right of way of the Oregon Short Line Railroad; thence Southeasterly along the right of way 85 rods, more or less, to the South boundary line of Section 20; thence West 25 rods, more or less, to the Place of Beginning.

PARCEL NO. 2:
TOWNSHIP 12 SOUTH, RANGE 44 EAST OF THE BOISE MERIDIAN, Bear Lake County, Idaho:
Section 29: S½. EXCEPT: That portion lying East of the Railroad.
ALSO EXCEPT: All that portion of the W½SW¼ of said Section 29, Township and Range aforesaid, lying westerly of the Bear River.

PARCEL NO. 3:
TOWNSHIP 12 SOUTH, RANGE 44 EAST, BOISE MERIDIAN, Bear Lake County, Idaho:
Section 30: The NE¼SE¼ lying Northerly and Easterly of the Bear River.
Section 30: All that portion of the SE¼SE¼ lying Southeasterly of the Bear River as said river now exists.
Section 31: All that portion of the E½NE¼ lying North and Easterly of the Bear River.

PARCEL NO. 4:
Two parcels of land situate in the W½NW¼ of Section 33, and in the NE¼ of Section 32, all in Township 12 South, Range 44 East, Boise Meridian, Bear Lake County, Idaho, more particularly described as follows:
1. All that portion of the said W½NW¼ of Section 33 situate Southwesterly of the 200 foot wide railroad corridor granted to the Oregon Short Line Railroad by United States Act of Congress dated March 3, 1875, as per map approved October 9, 1882, being the same as the first-described of the 2 tracts described in that certain Warranty Deed dated May 31, 1905 from Jacob A. Jones and Lavern M. Jones, husband and wife, to Oregon Short Line Railroad Company, filed for record in the said County on June 24, 1905 and recorded in Book 11 of Deeds at page 317.
EXCEPTING THEREFROM that portion described in Deed dated February 22, 1999 from the Union Pacific Railroad to Glen Bartschi and LaRae Bartschi; recorded in the said County on February 24, 1999 as Instrument No. 171958, described as follows:
That part of the W½ of Section 33 and the E½ of Section 32, Township 12 South, Range 44 East, Bear Lake County, Idaho, described as follows:
Beginning at a point at a fence corner, North 54°53'14 East 38.33 feet of the Southwest Corner of said Section 33 as established this survey; thence along the Easterly Right of Way fence of a roadway as follows: North 00°26'58 West 1871.69 feet to a point; North 05°56'49 West 196.01 feet to a point; North 16°43'31 West 1408.48 feet to a point at the intersection with the Southerly Right of Way fence of a roadway, and leave said Easterly fence; thence North 67°47'54 East 809.31 feet along an existing fence, more or less, to a point at the intersection with the Westerly Right of Way fence of the Oregon Short Line Railroad; thence along said Westerly Right of Way fence as follows: South 28°55'39 East 169.3 feet to a point

on the line parallel with and offset Westerly 50.00 of the centerline of the Oregon Short Line Railroad Main Line as it is depicted and identified on the railroad maps; South 21°31'00 East 699.03 feet along said parallel line to a point; South 20°59'39 East 480.77 feet to a point; South 20°59'06 East 875.48 feet to a point; South 21°46'15 East 1297.95 feet to a point; South 25°55'20 East 87.92 feet to a point on said parallel line; South 21°31'00 East 396.02 feet along said parallel line, to a point at the intersection with the Northerly Right of Way fence of the Old Bern Road; and leave said Westerly fence; thence South 89°53'42 West 1798.30 feet along said Northerly fence to the Point of Beginning.

2. All that portion of the said NE¼NE¼ and the SE¼NE¼ of Section 32 situate Southwesterly of the said 200 foot wide railroad corridor granted to the Oregon Short Line Railroad Company by United States Act of Congress dated March 3, 1875, as per map approved October 9, 1882, being the same tract described in the Quit Claim Deed dated January 11, 1909 from William E. Critzer and L. May Critzer, husband and wife, to Oregon Short Line Railroad Company, filed for record in the said County on February 10, 1909 and recorded in Book 14 of Deeds at page 181.
EXCEPTING THEREFROM that portion described in Deed dated February 22, 1999 from the Union Pacific Railroad to Glen Bartschi and LaRae Bartschi; recorded in the said County on February 24, 1999 as Instrument No. 171958, described as follows:
That part of the W½ of Section 33 and the E½ of Section 32, Township 12 South, Range 44 East, Bear Lake County, Idaho, described as follows:
Beginning at a point at a fence corner, North 54°53'14 East 38.33 feet of the Southwest Corner of said Section 33 as established this survey; thence along the Easterly Right of Way fence of a roadway as follows: North 00°26'58 West 1871.69 feet to a point; North 05°56'49 West 196.01 feet to a point; North 16°43'31 West 1408.48 feet to a point at the intersection with the Southerly Right of Way fence of a roadway, and leave said Easterly fence; thence North 67°47'54 East 809.31 feet along an existing fence, more or less, to a point at the intersection with the Westerly Right of Way fence of the Oregon Short Line Railroad; thence along said Westerly Right of Way fence as follows: South 28°55'39 East 169.3 feet to a point on the line parallel with and offset Westerly 50.00 of the centerline of the Oregon Short Line Railroad Main Line as it is depicted and identified on the railroad maps; South 21°31'00 East 699.03 feet along said parallel line to a point; South 20°59'39 East 480.77 feet to a point; South 20°59'06 East 875.48 feet to a point; South 21°46'15 East 1297.95 feet to a point; South 25°55'20 East 87.92 feet to a point on said parallel line; South 21°31'00 East 396.02 feet along said parallel line, to a point at the intersection with the Northerly Right of Way fence of the Old Bern Road; and leave said Westerly fence; thence South 89°53'42 West 1798.30 feet along said Northerly fence to the Point of Beginning.
ALSO EXCEPTING THEREFROM that portion described in Warranty Deed dated February 28, 1980 from Donald D. Hennings and Marie A. Hennings, husband and wife, to Rodney H. Boehme and Jeneane C. Boehme, husband and wife, recorded in the said County on February 29, 1980 as Instrument No. 121204, described as follows:
Section 32: Commencing at the Southeast corner of Section 32, Township 12 South, Range 44 East of the Boise Meridian and running thence West to the SW corner of Section 32, thence North to the NW corner of Section 32; thence East 4288 feet; thence South 16°48'40 East 3430.10 feet; thence South 1996.5 feet to the Place of Beginning.

PARCEL NO. 5:
TOWNSHIP 12 SOUTH, RANGE 44 EAST OF THE BOISE MERIDIAN, Bear Lake County, Idaho:
Section 31: Commencing at the Northeast corner of the SE¼ of Section 31, and running thence South on the Section line 1020 feet, thence West 450 feet; thence North 25°30' East 330 feet; thence North 17°35' East 380 feet; thence North 360 feet; thence East 193 feet to

the Place of Beginning.
Section 32: Commencing at the Southeast corner of Section 32, and running thence West to the SW corner of Section 32, thence North to the NW corner of Section 32; thence East 4288 feet; thence South 16°48'40 East 3430.10 feet; thence South 1996.5 feet to the Place of Beginning.

TOGETHER WITH 15 SHARES of water stock in the Montpelier Irrigation Company.

ALSO TOGETHER with the following water rights registered with the State of Idaho Department of Water Resources: Water Right Number(s): 11-4033B and 11-4033A.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Security Interest in a Water Right

And Request for Notification of a Change in Ownership or Any Proposed Or Final Action to Amend, Transfer, or Otherwise Modify a Water Right

RECEIVED
FEB 09 2023
Department of Water Resources
Eastern Region

Please print or type. Attach pages with additional information. Instructions are on the back of this page
Incomplete forms with be returned

1. Water Right No(s).: 11-4033B and 11-4033A

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

   A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION**.

   B) A **FEE** of $25.00 per water right or adjudication claim.

3. Name and Mailing Address of Person or Company holding Security Interest:

   Western AgCredit, FLCA
   10980 South Jordan Gateway
   P.O. Box 95850
   South Jordan, UT 84095-0850.

4. Name of Water Right Owner/Claimant(s):

   SMITH LEGACY RANCH, LLC, a Utah Limited Liability Company

5. Expiration Date of Notification Period: December 1, 2037

6. Is this a Renewal of Request for Notification ( ) YES (X) NO

7. Signature(s) (and title if applicable): By: Western AgCredit, FLCA
   Ryan Howell
   Chief Operating Officer

For Office Use Only
Received by M Pettis Date 2/9/2023 Fee $0.-
Receipted by M. Pettis Date 2-9-23 Receipt No. E048890
Processed by _____ Date _____ WR _____ Date _____

SUPPORT DATA
IN FILE # 11-4033A

SCANNED
MAR 21 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
AUG 03 2022
Department of Water Resources
Eastern Region

Notice of Security Interest in a Water Right

And Request for Notification of a Change in Ownership or Any Proposed Or Final Action to Amend, Transfer, or Otherwise Modify a Water Right

Completed 9/16/22

Please print or type. Attach pages with additional information. Instructions are on the back of this page
Incomplete forms with be returned

1. Water Right No(s).: 11-4033B and 11-4033A

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

   A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question. **WITH ATTACHED LEGAL DESCRIPTION**.

   B) A **FEE** of $25.00 per water right or adjudication claim.

3. Name and Mailing Address of Person or Company holding Security Interest:

   Western AgCredit, FLCA
   10980 South Jordan Gateway
   P.O. Box 95850
   South Jordan, UT 84095-0850.

SUPPORT DATA
IN FILE # 11-4033A

4. Name of Water Right Owner/Claimant(s):

   SMITH LEGACY RANCH, LLC, a Utah Limited Liability Company

5. Expiration Date of Notification Period: December 1, 2046

6. Is this a Renewal of Request for Notification ( ) YES (X) NO

7. Signature(s) (and title if applicable): Western AgCredit, FLCA
   By:_____
   Ryan Howell
   Chief Operating Officer

For Office Use Only

Received by_____ Date_____ Fee 50.00
Receipted by M. Pettis Date 8-3-22 Receipt No. E048374
Processed by_____ Date_____ WR_____ Date_____

SCANNED
NOV 14 2022

INSTRUCTIONS

This for has been prepared to assist persons having a security interest in a water right to request notification from the Department of Water Resources (IDWR) regarding any change in ownership of the water rights or of any proposed or final action to amend, transfer or otherwise modify the water as provided in Section 42-248(6), **Idaho Code.** The filing of a request for notification is a voluntary action by the holder of the security interest and is not required by law.

1. Please enter the water right or adjudication claim number(s) at **Item 1**. If you believe there are water rights for the property but the numbers are unknown, you may wish to contact IDWR for assistance in identifying the water rights for the property in question. If claims for the rights are required, and have not been filed, IDWR will so advise you.

2. The information described at **Item 2** is required, since IDWR can not process the request without documentation of a security interest. Common types of documentation are shown.

3. The name, mailing address, and telephone number of the person or company desiring notification is entered at **Item 3**.

4. At **Item 4**, please provide the name of the owner/claimant of the water right(s) listed.

5. At **Item 5**, please enter expiration date of the security interest or other date defining the end of the period for which notification is requested. The notification period can be renewed by completing a new form with the appropriate fees as shown below. If the security interest is terminated prior to the expiration date requested, the holder must notify IDWR within 60 days of termination.

6. At **Item 6**, please indicate if this is a renewal of a prior notice.

7. The person(s) desiring notification must sign the form in the space(s) provided at Item 7. For corporations or other organizations, the person signing must be an officer of the corporation or otherwise have authority to sign for the organization and must include their title with the signature.

8. Include the appropriate filing fee. There is a fee of $25.00 per water right or adjudication claim. Renewals, if necessary, are also $25.00 per water right or adjudication claim.

9. When complete you should retain a copy and return the completed original form to the IDWR office nearest you:

IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190

IDWR Northern Region
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814-2615
(208)769-1450

IDWR Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380
(208) 736-3033

IDWR Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718
(208) 525-7161

Instrument # 237598
BEAR LAKE COUNTY
01-21-2022 02:03:10 No. of Pages: 16
Recorded for: FIRST AMERICAN TITLE - MONTPELIER
Cindy Garner Fee: $45.00
Ex-Officio Recorder Deputy: JH
Index to: MORTGAGE

Recording Requested by:

WHEN RECORDED MAIL TO:

Western AgCredit, PCA
10980 South Jordan Gateway
P.O. Box 95850
South Jordan, Utah 84095-0850

Space Above This Line For Recorder's Use

Customer Number: 7006110

REAL ESTATE MORTGAGE

THIS MORTGAGE is made this **18th day of January, 2022**, between **SMITH LEGACY RANCH, LLC, a Utah Limited Liability Company** hereinafter called "**Mortgagor**", and **Western AgCredit, PCA** hereinafter called "**Mortgagee**", a corporation, existing and operating under the Farm Credit Act of 1971, as amended, having its principal place of business in **South Jordan, Utah**.

WITNESSETH: That Mortgagor IRREVOCABLY GRANTS, BARGAINS, SELLS, CONVEYS AND ASSIGNS unto Mortgagee together with right of entry and possession the following described real property situated in the County of **Bear Lake**, State of **Idaho**, described in **Exhibit "A"**.

TOGETHER WITH: all buildings, structures, equipment, fixtures (including trees, vines and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the above-described property, all of which rights are hereby made appurtenant to the property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, now or hereafter used in connection with the property, all of which are hereby declared to be fixtures; all existing and future grazing rights, leases, permits and licenses; all oil, gas, and mineral leases, permits and rights used with the property; all tenements, hereditaments, easements, rights-of-way and appurtenances to the property; and all right, title, and interest at any time of Mortgagor (or any of its bailees, agents, or instrumentalities), whether now existing or hereafter arising or acquired, whether direct or indirect, whether owned legally, of record, equitably or beneficially, whether constituting real or personal property (or subject to any other characterizations), whether created or authorized under existing or future laws or regulations, and however arising in, including without limitation, the water, water rights and other assets and items described below in subparagraphs (a) through (h) which shall collectively be called "**Water Assets**" (hereafter collectively referred to as the "**Property**"). References to "**Water**" and "**Water Rights**" are used herein in the broadest and most comprehensive sense of the term(s). The term "**Water**" includes water rights and right to water or whatever rights to money, proceeds, property or other benefits are exchanged or received for or on account of any Water Assets or any conservation or other nonuse of water, including whatever rights are achieved by depositing one's shares of any Water Assets in any water bank or with any water authority, or any other water reallocation rights:

a. All water (including any water inventory in storage), water rights and entitlements, other rights to water and other rights to receive water or water rights of every kind or nature whatsoever including (i) the groundwater on, under, pumped from or otherwise available to the Property, whether as the result of groundwater rights, contractual

SCANNED
NOV 14 2022

Recording Requested by:

WHEN RECORDED MAIL TO:

Western AgCredit, PCA
10980 South Jordan Gateway
P.O. Box 95850
South Jordan, Utah 84095-0850

This document has been recorded electronically. Please see the attached copy to view the County Recorder's stamp as it now appears in the public record.

Date: 1-21-2022 Instrument No.: 237598
Submitted by: First American Title Company

Space Above This Line For Recorder's Use

Customer Number: 7006110

REAL ESTATE MORTGAGE

THIS MORTGAGE is made this **18th day of January, 2022**, between **SMITH LEGACY RANCH, LLC, a Utah Limited Liability Company** hereinafter called "**Mortgagor**", and **Western AgCredit, PCA** hereinafter called "**Mortgagee**", a corporation, existing and operating under the Farm Credit Act of 1971, as amended, having its principal place of business in **South Jordan, Utah**.

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TOGETHER WITH: all buildings, structures, equipment, fixtures (including trees, vines and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the above-described property, all of which rights are hereby made appurtenant to the property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, now or hereafter used in connection with the property, all of which are hereby declared to be fixtures; all existing and future grazing rights, leases, permits and licenses; all oil, gas, and mineral leases, permits and rights used with the property; all tenements, hereditaments, easements, rights-of-way and appurtenances to the property; and all right, title, and interest at any time of Mortgagor (or any of its bailees, agents, or instrumentalities), whether now existing or hereafter arising or acquired, whether direct or indirect, whether owned legally, of record, equitably or beneficially, whether constituting real or personal property (or subject to any other characterizations), whether created or authorized under existing or future laws or regulations, and however arising in, including without limitation, the water, water rights and other assets and items described below in subparagraphs (a) through (h) which shall collectively be called "**Water Assets**" (hereafter collectively referred to as the "**Property**"). References to "**Water**" and "**Water Rights**" are used herein in the broadest and most comprehensive sense of the term(s). The term "**Water**" includes water rights and right to water or whatever rights to money, proceeds, property or other benefits are exchanged or received for or on account of any Water Assets or any conservation or other nonuse of water, including whatever rights are achieved by depositing one's shares of any Water Assets in any water bank or with any water authority, or any other water reallocation rights:

a. All water (including any water inventory in storage), water rights and entitlements, other rights to water and other rights to receive water or water rights of every kind or nature whatsoever including (i) the groundwater on, under, pumped from or otherwise available to the Property, whether as the result of groundwater rights, contractual

rights or otherwise, (ii) Mortgagor's right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency or any rights granted or created by any use, easements, covenant, agreement or contract with any person or entity, (iii) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive, decreed or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water, (iv) any water, water right, water allocation, distribution right, delivery right, water storage right, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity;

b. All stock, interest or rights (including any water allocations, voting or decision rights) in any entity, together with any and all rights from any entity or other person to acquire, receive, exchange, sell, lease, or otherwise transfer any water or other Water Assets, to store, deposit or otherwise create water credits in a water bank or similar or other arrangement for allocating water, to transport or deliver water, or otherwise to deal with any Water Asset;

c. All licenses, permits, approvals, contracts decrees, rights and interest to acquire or appropriate any water or other Water Assets, water bank or other credits evidencing any right to water or other Water Assets, to store, carry, transport or deliver water or other Water Assets, to sell, lease, exchange, or otherwise transfer any water or other Water Asset, or to change the point for diversion of water, the location of any water or Water Asset, the place of use of any water or Water Asset, or the purpose of the use of any water or Water Asset;

d. All rights, claims, causes of action, judgments, awards, and other judicial, arbiter or administrative relief in any way relating to any water or Water Asset;

e. All storage and treatment rights for any water or any other Water Asset, whether on or off the Property or other property of Mortgagor, together with all storage tanks, and other equipment used or usable in connection with such storage and any water bank deposit credits, deposit accounts or other rights arising on account of the storage or nonuse of any water or any water or any other Water Asset;

f. All rights to transport, carry, allocate or otherwise deliver water or other Water Assets by any means wherever located;

g. All guaranties, warranties, marketing, management or service contracts, indemnity agreements, and water right agreements, other water related contracts and water reallocation rights, all insurance policies regarding or relating to any Water Asset;

h. All rents, issues, profits, proceeds and other accounts, instruments, chattel paper, contract rights, general intangibles, deposit accounts, and other rights to payment arising from or on account of any use, nonuse, sale, lease, transfer or other disposition of any Water Asset.

Absolute Assignment of All Revenue From Water Assets - Mortgagor hereby absolutely and unconditionally assigns to Mortgagee all proceeds, rents, issues and profits from any use (apart from watering plants on the Property or other ordinary use on the Property), nonuse, sale, lease, transfer or disposition of any kind of any water or any other Water Asset subject to a lien in favor of Mortgagee. That assignment shall be perfected automatically without appointment of a receiver or Mortgagee becoming a mortgagee in possession and Mortgagee shall have the right, before or after the occurrence of any default or event of default, to notify any account debtor to pay all amounts owing with respect to those proceeds, rents, issues and profits directly to Mortgagee. Except as otherwise agreed in writing by Mortgagee, Mortgagee may apply any such collection (and any rents, issues, profits and proceeds) to any indebtedness owed to Mortgagee in any order, priority or manner desired by Mortgagee.

MORTGAGOR ABSOLUTELY AND UNCONDITIONALLY ASSIGNS, transfers, conveys and sets over to Mortgagee all the rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof or from any lease, mineral lease, or agreement pertaining thereto (collectively the "**Rents**"); SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Mortgagor by Paragraph B.3 hereof.

SCANNED
NOV 1 4 2022

PERSONAL PROPERTY SECURITY AGREEMENT: All of the Property will be considered to the fullest extent of the law to be real property for purposes of this Mortgage. To the extent that any of the Property, (including without limitation any Water Assets or fixtures), is deemed to constitute, is adjudicated to be, or declared to be personal property, this Mortgage shall also be deemed to be a security agreement. Mortgagor does hereby create and grant to Mortgagee a security interest in all such personal property described herein; and further, grants to Mortgagee all of the rights and remedies of a secured party under the Uniform Commercial Code and other applicable state law, which rights are cumulative.

FIXTURE FILING: This Mortgage shall also be deemed to be a fixture filing under the Uniform Commercial Code and is to be recorded in the county real estate records.

FOR THE PURPOSE OF SECURING: (1) payment of the indebtedness or obligations evidenced by the following promissory note(s) and/or guaranties executed by Mortgagor and/or others to the Mortgagee at the times, in the manner and with interest as therein set forth (**notes may contain variable or adjustable rate provisions**):

[**X**] a Promissory Note or a Supplement to Master Loan Agreement dated as of **January 18, 2022**, in the stated principal amount of **$2,602,000.00**.

(2) The payment of such additional loans or advances, including advances under a revolving line of credit, with interest thereon, as hereafter may be made to Mortgagor, or Mortgagor's successors or assigns, and/or to parties whose obligation Mortgagor is guaranteeing, evidenced by a promissory note or otherwise and any obligations evidenced by any guaranties executed by Mortgagor in favor of Mortgagee; PROVIDED HOWEVER, THAT, such additional loans advances guaranty obligations shall be secured by this Mortgage only if the promissory note, guaranty, or other document evidencing such loans or advances shall recite that it is to be secured by this Mortgage; (3) the payment of any substitute notes, renewals, reamortizations, and extensions of all indebtedness secured by this Mortgage; (4) the performance of every obligation and agreement of Mortgagor whether contained or incorporated by reference in this Mortgage, or contained in any loan document or guaranty executed by Mortgagor in favor of Mortgagee, with respect to any loan, advance, or guaranty secured by this Mortgage; and (5) the payment of all sums expended or advanced by Mortgagee under or pursuant to the terms of this Mortgage, together with interest thereon as herein provided. The continuing validity and priority of this Mortgage as security for future loans, advances, or guaranties shall not be impaired by the fact that at certain times hereafter there may exist no outstanding indebtedness from Mortgagor to Mortgagee or no commitment to make loans or advances.

A. **TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR AGREES**:

1. To use loan proceeds solely for the purposes set forth in the loan application(s) or agreements to comply with the Farm Credit Act of 1971, as amended, and/or the regulations of the Farm Credit Administration, now existing or as hereafter amended.

2. To keep the Property in good condition, working order and repair; care for the Property in accordance with standards of good husbandry and to keep all trees, vines and crops on said land properly cultivated, irrigated, fertilized, sprayed, and fumigated; not to remove, destroy or suffer the removal or destruction of any building, fence, canal, well or other improvements or fixtures thereon; not to remove, replace or alter any horticultural or viticultural tree, vine or shrub planted thereon without the prior written consent of Mortgagee, except in the ordinary course of business; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting the Property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general; to observe and perform all obligations of Mortgagor under any lease of the Property.

3. To provide, maintain and deliver to Mortgagee fire and all other types of insurance of the type and in amounts as Mortgagee may require, with loss payable clauses solely in favor of Mortgagee. In the event of loss, the insurance proceeds, or any part thereof, may be applied by Mortgagee, at its

option, to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. In the event that the Mortgagor shall fail to provide satisfactory hazard insurance, Mortgagee may procure, on Mortgagor's behalf, insurance in favor of Mortgagee alone. If insurance cannot be secured by Mortgagor to provide the required coverage, such inability shall constitute an event of default hereunder.

4. To appear in and litigate any action or proceeding purporting to affect the security hereof, the title to the Property, or the rights or powers of Mortgagee; Mortgagee may appear in and litigate any such action or proceedings, including any bankruptcy, partition or condemnation proceeding, affecting the Property, or Mortgagee's interest therein, in which event Mortgagor agrees to pay all costs and expenses thereof, including attorney's fees and costs of securing evidence of title.

5. To pay on or before the due date all taxes and assessments affecting the Property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with the Property; to pay, when due, all encumbrances, charges, and liens, on the Property or any part thereof, which at any time appear to be prior or superior hereto.

6. In case of any suit to foreclose this Mortgage or to collect any charge arising out of the debt hereby secured, or of any suit which the Mortgagee may deem necessary to prosecute or defend to effect or protect the lien herein, including any proceeding in bankruptcy, or if Mortgagee retains an attorney to advise Mortgagee in connection with this Mortgage or any other agreement related to the indebtedness secured by this Mortgage, Mortgagor agrees to pay a reasonable sum as attorney's fees and all costs and legal expenses in connection with said suit, and further agrees to pay the reasonable costs of searching the records and abstracting or insuring the title, and such sums, costs and expenses shall be secured hereby and shall be included in any decree of foreclosure. The fees and costs described herein and elsewhere in this Mortgage shall be in addition to those set forth in the loan agreement or any other written agreement between Mortgagor and Mortgagee.

7. Should Mortgagor fail to make any payment or to do any act as provided for in this Mortgage, then Mortgagee, but without obligation to do so and without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the Property, Mortgagee being authorized to enter upon the Property for such purposes; commence, appear in and litigate any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee, including any bankruptcy proceeding affecting the Property; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefore, including attorney's, accountant's, and appraisal fees, environmental fees, and costs of securing evidence of title, and all amounts so expended shall be obligations of Mortgagor secured by this Mortgage. Nothing contained herein shall prohibit Mortgagee from entering the Property, at a reasonable time and upon reasonable notice to Mortgagor, without incurring or assuming any obligations or liabilities whatsoever, for the sole purpose of inspecting the Property.

8. To pay immediately and without demand all sums expended by Mortgagee pursuant to the provisions hereof, with interest from date of expenditure at the same rate as is provided for in the note or notes secured by this Mortgage. In the event that such sums are not immediately paid, they shall be added to the principal balance of the indebtedness secured hereby and shall accrue interest as herein set forth. All such sums shall be secured hereby.

9. Environmental Representations, Warranties and Covenants.

(a) Except as disclosed in writing to Mortgagee, or except as otherwise provided in any loan agreement between Mortgagee and Mortgagor which specifically refers to the Property, to the best

SCANNED
NOV 14 2022

knowledge of Mortgagor after due inquiry, Mortgagor hereby further represents, warrants and covenants as follows:

(i) No pollutants, contaminants (including oil or other petroleum products), toxic or hazardous substances, or solid or hazardous wastes, as such terms are defined under any federal, state or local Environmental Law, regulation or ordinance (hereinafter "**Contaminants**") have been, are being or will be generated, manufactured, produced, stored, disposed of, discharged, released threatened to be released, or otherwise allowed to migrate or escape on, under or from the Property in such quantities or concentrations as would violate any federal, state or local Environmental Law, regulation or ordinance or as would require Mortgagor to report such condition to any governmental authority or to undertake removal or remedial action to clean up such contaminants;

(ii) No Contaminants are located on, in or under any property located adjacent to the Property in such quantities or concentrations as would constitute a violation of any Environmental Law or as would require the owner of the adjacent property to report such condition to any governmental authority or to undertake removal or remedial action to clean up such Contaminants;

(iii) Neither the Property, nor any portion thereof, nor any adjacent property or portion thereof, has been or is proposed to be listed under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.), or any analogous state law. Mortgagor shall immediately notify Mortgagee if Mortgagor acquires any information concerning the listing or proposed listing of the Property or any adjacent property and shall provide Mortgagee with any documents in Mortgagor's possession relative thereto;

(iv) No hazardous wastes, as defined under the Federal Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.), or any analogous state law ("**Hazardous Wastes**"), have been, are being or will be stored or treated in surface impoundments or other structures or facilities located on the Property that are partially or entirely below the ground surface;

(v) No litigation, investigation, administrative "**Action**") has previously been brought, is now pending, or to the best knowledge of Mortgagor threatened against or anticipated by Mortgagor, with respect to Mortgagor's use or management of Hazardous Materials or Hazardous Wastes or the environmental condition of the Property, including any underlying groundwater. Upon learning thereof, Mortgagor shall immediately notify Mortgagee of any such Action or threatened Action and provide Mortgagee with copies of all documentation relative thereto; and

(vi) Except as disclosed in writing to Mortgagee, no underground tanks, wells (except domestic water wells), septic tanks, ponds, pits or any other storage tanks ("**Tanks**") (whether currently in use or abandoned) are or were located on or under the Property and no Tanks are or were serving the Property described herein. With respect to any Tanks disclosed in writing to Mortgagee, Mortgagor shall comply with all federal, state and local laws, regulations and ordinances and any requirements of city or county fire departments, applicable to the maintenance and use of such Tanks, including, without limitation, Title 40 of the Code of Federal Regulations Part 112.

(b) Nothing herein shall be deemed to prohibit Mortgagor from (i) using, handling or storing hazardous materials or substances, as defined under any federal, state or local law, regulation or ordinance ("**Hazardous Materials**") or (ii) storing or treating non-hazardous wastes, so long as such activities are carried out (a) in a good and husbandlike manner in the ordinary course of business, and (b) in compliance with all applicable environmental laws, regulations, permits, orders or other requirements.

(c) In the event that Mortgagor is in breach of any of its representations, warranties or covenants as set forth above, Mortgagor, at its sole expense, shall take all action required, including environmental cleanup of the Property, to comply with the representations, warranties and covenants herein or applicable legal requirements and, in any event, shall take all action deemed necessary by appropriate governmental authorities. Mortgagee shall have the right, but not the obligation, to advise appropriate governmental authorities of any environmental condition on or affecting the Property that constitutes or may constitute a breach of Mortgagor's obligations hereunder.

(d) Mortgagor and its successors and assigns shall indemnify, defend, protect, and hold harmless Mortgagee, its directors, officers, employees, agents, shareholders, successors and assigns and their officers, employees or agents, from and against any and all claims, suits, damages, liens, losses, liabilities, interest, judgments, response and cleanup costs, demands, actions, causes of action, injuries, administrative proceedings and orders, consent agreements and orders, penalties, costs and expenses (including any fees and expenses incurred in enforcing this indemnity, any out-of-pocket litigation costs and the reasonable fees and expenses of counsel) of any kind whatsoever ("**Claims**") paid, incurred or suffered by, or asserted against Mortgagee, including but not limited to Claims arising out of loss of life, injury to persons, trespass or damages to or contamination of property or natural resources, or injury to business, in connection with or arising out of the activities of Mortgagor on the Property, Mortgagor's predecessors in interest, third parties who have been invited, permitted or trespassed on the Property, or parties in a contractual relationship with Mortgagor, or any of them, or which directly or indirectly arise out of or result from or in any way connected with the Property, whether or not caused by Mortgagor or within the control of Mortgagor, including without limitation: (i) the presence, use, generation, treatment, storage, disposal, release, threatened release, or discharge of any Hazardous Material or Contaminant at or from the Property and/or the cleanup of Hazardous Materials or Contaminants within, on or under the Property; (ii) Mortgagor's breach of any of the representations, warranties and covenants contained herein; and (iii) Mortgagor's violation or alleged violation of any applicable Environmental Law, regulation or ordinance.

(e) Mortgagor's representations, warranties, covenants and indemnities contained herein shall survive the occurrence of any event whatsoever, including without limitation the payoff of any promissory note(s) secured hereby, the release or foreclosure of this Mortgage, the acceptance by Mortgagee of a deed in lieu of foreclosure, or any transfer or abandonment of the Property.

(f) The term "**Environmental Law**" shall mean any federal, state or local law, statute, ordinance, or regulation, now in effect or hereinafter enacted, pertaining to health, industrial hygiene, or the environmental conditions on, under or about the Property, including but not limited to enactments requiring the removal or containment of asbestos-containing materials in private buildings.

(g) Mortgagor shall permit, or cause any tenant of Mortgagor to permit, Mortgagee or its agents, or independent contractors to enter and inspect the Property at any reasonable time for purposes of determining, as Mortgagee deems necessary or desirable: (i) the existence, location and nature of any Hazardous Materials or Hazardous Wastes on, under or about the Property, (ii) the existence, location, nature, magnitude and spread of any Hazardous Materials or Hazardous Waste that has been spilled, disposed of, discharged or released on, under or about the Property, or (iii) whether or not Mortgagor and any tenant of Mortgagor is in compliance with applicable Environmental Law. If Mortgagor or its tenants fail to comply fully with the terms of this subdivision (g), Mortgagee may obtain affirmative injunctive relief to compel such compliance.

10. Grazing Rights. If any portion of the Property described in this Mortgage is used by Mortgagor as the basis for obtaining grazing permits or other grazing rights issued by any governmental agency, including without limitations the Forest Service, U.S. Department of Agriculture or the Bureau of Land Management, U.S. Department of Interior, Mortgagor covenants and agrees as follows:

SCANNED
NOV 14 2022

(a) Said grazing permits or other rights are in good standing and have not been modified, reduced or limited in any other respect, except as fully disclosed in writing to Mortgagee;

(b) Mortgagor will perform all obligations imposed as a requirement of exercise of said grazing permits or other rights and will comply with all laws, rules and regulations applicable thereto;

(c) Mortgagor will take such timely action as may be required to cause the renewal or reissuance of said grazing permits or other rights from time to time as they expire during the term thereof. Mortgagor agrees and acknowledges that the failure to renew or cause the reissuance of any said permits for any reason, whether the result of an act or omission of Mortgagor or for reasons beyond Mortgagor's control, is an event of default hereunder and Mortgagee shall have the right to exercise the rights hereinafter set forth in this Mortgage; and

(d) Mortgagor agrees to pay all fees, charges, rents or other payments accruing under said permits or any renewals thereof prior to delinquency. In the event Mortgagor fails to pay any such payment, the amount unpaid shall become a part of the indebtedness secured by this Mortgage and shall be immediately due and payable.

B. **IT IS MUTUALLY AGREED THAT:**

1. Any award of damages in connection with any taking or condemnation or injury to the Property by reason of public use, or for damages resulting from private trespass or injury to the Property, is absolutely and unconditionally assigned and shall be paid to Mortgagee, under the terms and conditions of this Mortgage pertaining to Rents. Upon receipt of such money Mortgagee may apply the same on the indebtedness secured hereby. Mortgagor agrees to execute such further documents as may be required to effect the assignments herein made as Mortgagee may require.

2. At any time, without affecting the liability of any person for the payment of the indebtedness secured hereby, and without otherwise affecting the security hereof, Mortgagee may (a) consent to or join in the making of any map or plat of the Property; (b) grant any easement or create any restriction thereof; (c) subordinate this Mortgage; (d) extend or modify the term of the loan or loans secured hereby; and (e) release without warranty, all or any part of the Property.

3. Prior to any default by Mortgagor in the payment, observance, performance and discharge of any condition, obligation, covenant, or agreement of Mortgagor contained herein, Mortgagor may, for collection and distribution purposes only, collect and receive the Rents as they come due and payable; the Rents are to be applied by Mortgagor to the payment of the principal and interest and all other sums due or payable on any promissory note or guaranty secured by this Mortgage and to the payment of all other sums payable under this Mortgage and, thereafter, so long as the aforesaid has occurred, the balance shall be distributed to the account of Mortgagor. Upon any such default, Mortgagee may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, in his own name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Mortgagee may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary or proper to conserve the value of the Property; also lease the same or any part thereof for such rental, term, and upon such conditions as its judgment may dictate; also prepare for harvest, remove, and sell any crops that may be growing upon the Property, and apply the proceeds thereof upon the indebtedness secured hereby.

4. The entering upon and taking possession of the Property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking of or damage to the Property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. Upon default by Mortgagor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the Mortgagee and in accordance with applicable state law. In the event of default, Mortgagee may employ counsel to enforce payment of the obligations secured hereby, may foreclose and, if applicable, sell the Property by advertisement and sale, and in accordance with other applicable state law, and may exercise such other rights and remedies granted by law and equity, which rights and remedies shall be cumulative and not exclusive. Mortgagee may resort to and realize upon the security hereunder and any other real or personal property security now or hereafter held by Mortgagee for the obligations secured hereby in such order and manner as Mortgagee may, in its sole discretion, determine. Resort to any or all such security may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawful nonjudicial proceedings, or both. If the obligation secured by this Mortgage is also secured by personal property, fixtures or crops, Mortgagee may enforce its security interest in the personal property, fixtures and crops and its lien under this Mortgage in any manner and in any order or sequence permitted by applicable law. All remedies are cumulative and none are exclusive; no election by Mortgagee to pursue one remedy or item of collateral shall be deemed to be a release or waiver of any other item of collateral or a release or modification of the liability of Mortgagor or any guarantor to pay and perform in full all obligations to Mortgagee. The procedures governing the enforcement by Mortgagee of its foreclosure and provisional remedies against Mortgagor shall be governed by the laws of the state in which the Property is located. Nothing contained herein shall be construed to provide that the substantive law of the state in which the Property is located shall apply to Mortgagee's rights and Mortgagor's obligations hereunder or under the promissory note(s) or guaranties described herein, which are and shall continue to be governed by the substantive law of the state in which the promissory note(s) or guaranties were executed.

6. The failure on the part of the Mortgagee to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Mortgagee of any default shall not constitute a waiver of any other subsequent defaults. Subsequent acceptance of any payment by the holder hereof shall not be deemed a waiver of any default by Mortgagor, or of Mortgagee's rights hereunder as the result of any sale, agreement to sell, conveyance, or alienation, regardless of holder's knowledge of such default, sale, agreement to sell, conveyance, or alienation at the time of acceptance of such payment.

7. This Mortgage applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Mortgagee shall mean the holder and owner of any note secured hereby; or, if the note has been pledged, the pledgee thereof. In this Mortgage, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Mortgagor hereunder are joint and several.

8. In the event the herein-described Property, or any part thereof, or any interest therein, is sold, agreed to be sold, conveyed, alienated or transferred, including any water transfer as defined in subsection (a) below, by Mortgagor, or by operation of law or otherwise, except by inheritance, without Mortgagee's prior written consent, all obligations secured hereby, irrespective of the maturity dates, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable. Failure to exercise such option shall not constitute a waiver of the right to exercise this option in the event of subsequent sale, agreement to sell, conveyance or alienation.

    a. A water transfer is any transfer, assignment, sale, exchange, gift, encumbrance, pledge, hypothecation, alienation, grant of option to purchase, or other disposition of, directly, indirectly or in trust, voluntarily or involuntarily, by operation of law or otherwise, or the entry into a binding agreement to do any of the foregoing with respect to all or any part of (i) the groundwater on, under, pumped from or otherwise available to the Property, (ii) Mortgagor's right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency and any rights granted or created by any easement, covenant, agreement or contract with any person or entity, (iii) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water, (iv) any water, water right, water allocation, distribution right, delivery

SCANNED
NOV 14 2022

right, water storage right, water allocation, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property's being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity, or (v) any shares (or any rights under such shares) of any private water company, mutual water company, or other non-governmental entity pursuant to which Mortgagor or the Property may receive any rights.

9. In the event any one or more of the provisions contained in this Mortgage or in any promissory note(s) hereby secured shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage or said promissory note(s), but this Mortgage and said promissory note(s) shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

Signature(s):

SMITH LEGACY RANCH, LLC, a Utah Limited Liability Company

By: Matthew Smith
MATTHEW SMITH, Member/Manager

By: Michael Smith
MICHAEL SMITH, Member/Manager

By: _____
DENNIS H. SMITH, Member/Manager

Notary Acknowledgment(s):

STATE OF Idaho)
ss.
COUNTY OF Bear Lake)

On this 20th day of January, 20 22, before me, the undersigned Notary Public in and for said County and State, personally appeared MATTHEW SMITH [( ) personally known to me] [(X) proved to me on the basis of satisfactory evidence] to be the person who executed the within instrument as MEMBER/MANAGER, or on behalf of the Limited Liability Company therein named, and acknowledged to me that the Limited Liability Company executed the within instrument pursuant to its articles of organization and operating agreement.

WITNESS my hand and official seal

Andrea Beck
Notary Public in and for said County and State

NOTARY PUBLIC
ANDREA BECK
My Commission Number is 61837
Commission Expires: 06/17/2025
STATE OF IDAHO

right, water storage right, water allocation, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property's being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity, or (v) any shares (or any rights under such shares) of any private water company, mutual water company, or other non-governmental entity pursuant to which Mortgagor or the Property may receive any rights.

9. In the event any one or more of the provisions contained in this Mortgage or in any promissory note(s) hereby secured shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage or said promissory note(s), but this Mortgage and said promissory note(s) shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

Signature(s):

SMITH LEGACY RANCH, LLC, a Utah Limited Liability Company

By: _____
MATTHEW SMITH, Member/Manager

By: _____
MICHAEL SMITH, Member/Manager

By: _____
DENNIS H. SMITH, Member/Manager

Notary Acknowledgment(s):

STATE OF)
ss.
COUNTY OF)

On this _____ day of _____, 20 _____, before me, the undersigned Notary Public in and for said County and State, personally appeared MATTHEW SMITH [( ) personally known to me] [( ) proved to me on the basis of satisfactory evidence] to be the person who executed the within instrument as MEMBER/MANAGER, or on behalf of the Limited Liability Company therein named, and acknowledged to me that the Limited Liability Company executed the within instrument pursuant to its articles of organization and operating agreement.

WITNESS my hand and official seal

_____
Notary Public in and for said County and State

SCANNED
NOV 14 2022

STATE OF)
ss.
COUNTY OF)

On this _____ day of _____, 20____, before me, the undersigned Notary Public in and for said County and State, personally appeared MICHAEL SMITH [( ) personally known to me] [( ) proved to me on the basis of satisfactory evidence] to be the person who executed the within instrument as MEMBER/MANAGER, or on behalf of the Limited Liability Company therein named, and acknowledged to me that the Limited Liability Company executed the within instrument pursuant to its articles of organization and operating agreement.

WITNESS my hand and official seal

_____
Notary Public in and for said County and State

STATE OF Utah)
ss.
COUNTY OF Iron)

On this 20th day of January, 2022, before me, the undersigned Notary Public in and for said County and State, personally appeared DENNIS H. SMITH [(X) personally known to me] [( ) proved to me on the basis of satisfactory evidence] to be the person who executed the within instrument as MEMBER/MANAGER, or on behalf of the Limited Liability Company therein named, and acknowledged to me that the Limited Liability Company executed the within instrument pursuant to its articles of organization and operating agreement.

WITNESS my hand and official seal

Robbie Clark Masterson
Notary Public in and for said County and State

ROBBIE CLARK MASTERSON
NOTARY PUBLIC
STATE OF UTAH
COMM. # 702336
COMM. EXP. 09-17-2022

STATE OF Idaho)
ss.
COUNTY OF Bear Lake)

On this 20th day of January, 2022, before me, the undersigned Notary Public in and for said County and State, personally appeared MICHAEL SMITH [( ) personally known to me] [(X) proved to me on the basis of satisfactory evidence] to be the person who executed the within instrument as MEMBER/MANAGER, or on behalf of the Limited Liability Company therein named, and acknowledged to me that the Limited Liability Company executed the within instrument pursuant to its articles of organization and operating agreement.

NOTARY PUBLIC
ANDREA DECK
My Commission Number is 61837
Commission Expires: 06/17/2025
STATE OF IDAHO

WITNESS my hand and official seal

Andrea Deck
Notary Public in and for said County and State

STATE OF)
ss.
COUNTY OF)

On this _____ day of _____, 20_____, before me, the undersigned Notary Public in and for said County and State, personally appeared DENNIS H. SMITH [( ) personally known to me] [( ) proved to me on the basis of satisfactory evidence] to be the person who executed the within instrument as MEMBER/MANAGER, or on behalf of the Limited Liability Company therein named, and acknowledged to me that the Limited Liability Company executed the within instrument pursuant to its articles of organization and operating agreement.

WITNESS my hand and official seal

_____
Notary Public in and for said County and State

SCANNED
NOV 14 2022

EXHIBIT "A"

Bear Lake, ID
Parcel No.: 03163, 03224, 03231.02, 03232.01, 03253, 03238.01, 03234 and 03239

PARCEL NO. 1:
TOWNSHIP 12 SOUTH, RANGE 44 EAST OF THE BOISE MERIDIAN, Bear Lake County, Idaho:
Section 29: SE¼NW¼; NE¼NW¼; SW¼NW¼; & W½NE¼.
EXCEPT: All that portion of the W½NE¼ lying East of the Railroad Right of Way.
ALSO: Commencing at the Southeast Corner of the Southwest Quarter of Section 20, Township 12 South, Range 44 East of the Boise Meridian, Idaho; thence West 80 rods; thence North 80 rods; thence East 80 rods, more or less, to the right of way of the Oregon Short Line Railroad; thence Southeasterly along the right of way 85 rods, more or less, to the South boundary line of Section 20; thence West 25 rods, more or less, to the Place of Beginning.

PARCEL NO. 2:
TOWNSHIP 12 SOUTH, RANGE 44 EAST OF THE BOISE MERIDIAN, Bear Lake County, Idaho:
Section 29: S½. EXCEPT: That portion lying East of the Railroad.
ALSO EXCEPT: All that portion of the W½SW¼ of said Section 29, Township and Range aforesaid, lying westerly of the Bear River.
TOGETHER WITH any and all oil, gas and mineral rights.

PARCEL NO. 3:
TOWNSHIP 12 SOUTH, RANGE 44 EAST, BOISE MERIDIAN, Bear Lake County, Idaho:
Section 30: The NE¼SE¼ lying Northerly and Easterly of the Bear River.
Section 30: All that portion of the SE¼SE¼ lying Southeasterly of the Bear River as said river now exists.
Section 31: All that portion of the E½NE¼ lying North and Easterly of the Bear River.

PARCEL NO. 4:
Two parcels of land situate in the W½NW¼ of Section 33, and in the NE¼ of Section 32, all in Township 12 South, Range 44 East, Boise Meridian, Bear Lake County, Idaho, more particularly described as follows:
1. All that portion of the said W½NW¼ of Section 33 situate Southwesterly of the 200 foot wide railroad corridor granted to the Oregon Short Line Railroad by United States Act of Congress dated March 3, 1875, as per map approved October 9, 1882, being the same as the first-described of the 2 tracts described in that certain Warranty Deed dated May 31, 1905 from Jacob A. Jones and Lavern M. Jones, husband and wife, to Oregon Short Line Railroad Company, filed for record in the said County on June 24, 1905 and recorded in Book 11 of Deeds at page 317.
EXCEPTING THEREFROM that portion described in Deed dated February 22, 1999 from the Union Pacific Railroad to Glen Bartschi and LaRae Bartschi; recorded in the said County on February 24, 1999 as Instrument No. 171958, described as follows:
That part of the W½ of Section 33 and the E½ of Section 32, Township 12 South, Range 44 East, Bear Lake County, Idaho, described as follows:
Beginning at a point at a fence corner, North 54°53'14 East 38.33 feet of the Southwest Corner of said Section 33 as established this survey; thence along the Easterly Right of Way fence of a roadway as follows: North 00°26'58 West 1871.69 feet to a point; North 05°56'49 West 196.01 feet to a point; North 16°43'31 West 1408.48 feet to a point at the intersection with the Southerly Right of Way fence of a roadway, and leave said Easterly fence; thence North 67°47'54 East 809.31 feet along an existing fence, more or less, to a point at the intersection with the Westerly Right of Way fence of the Oregon Short Line Railroad; thence

along said Westerly Right of Way fence as follows: South 28°55'39 East 169.3 feet to a point on the line parallel with and offset Westerly 50.00 of the centerline of the Oregon Short Line Railroad Main Line as it is depicted and identified on the railroad maps; South 21°31'00 East 699.03 feet along said parallel line to a point; South 20°59'39 East 480.77 feet to a point; South 20°59'06 East 875.48 feet to a point; South 21°46'15 East 1297.95 feet to a point; South 25°55'20 East 87.92 feet to a point on said parallel line; South 21°31'00 East 396.02 feet along said parallel line, to a point at the intersection with the Northerly Right of Way fence of the Old Bern Road; and leave said Westerly fence; thence South 89°53'42 West 1798.30 feet along said Northerly fence to the Point of Beginning.

2. All that portion of the said NE¼NE¼ and the SE¼NE¼ of Section 32 situate Southwesterly of the said 200 foot wide railroad corridor granted to the Oregon Short Line Railroad Company by United States Act of Congress dated March 3, 1875, as per map approved October 9, 1882, being the same tract described in the Quit Claim Deed dated January 11, 1909 from William E. Critzer and L. May Critzer, husband and wife, to Oregon Short Line Railroad Company, filed for record in the said County on February 10, 1909 and recorded in Book 14 of Deeds at page 181.
EXCEPTING THEREFROM that portion described in Deed dated February 22, 1999 from the Union Pacific Railroad to Glen Bartschi and LaRae Bartschi; recorded in the said County on February 24, 1999 as Instrument No. 171958, described as follows:
That part of the W½ of Section 33 and the E½ of Section 32, Township 12 South, Range 44 East, Bear Lake County, Idaho, described as follows:
Beginning at a point at a fence corner, North 54°53'14 East 38.33 feet of the Southwest Corner of said Section 33 as established this survey; thence along the Easterly Right of Way fence of a roadway as follows: North 00°26'58 West 1871.69 feet to a point; North 05°56'49 West 196.01 feet to a point; North 16°43'31 West 1408.48 feet to a point at the intersection with the Southerly Right of Way fence of a roadway, and leave said Easterly fence; thence North 67°47'54 East 809.31 feet along an existing fence, more or less, to a point at the intersection with the Westerly Right of Way fence of the Oregon Short Line Railroad; thence along said Westerly Right of Way fence as follows: South 28°55'39 East 169.3 feet to a point on the line parallel with and offset Westerly 50.00 of the centerline of the Oregon Short Line Railroad Main Line as it is depicted and identified on the railroad maps; South 21°31'00 East 699.03 feet along said parallel line to a point; South 20°59'39 East 480.77 feet to a point; South 20°59'06 East 875.48 feet to a point; South 21°46'15 East 1297.95 feet to a point; South 25°55'20 East 87.92 feet to a point on said parallel line; South 21°31'00 East 396.02 feet along said parallel line, to a point at the intersection with the Northerly Right of Way fence of the Old Bern Road; and leave said Westerly fence; thence South 89°53'42 West 1798.30 feet along said Northerly fence to the Point of Beginning.
ALSO EXCEPTING THEREFROM that portion described in Warranty Deed dated February 28, 1980 from Donald D. Hennings and Marie A. Hennings, husband and wife, to Rodney H. Boehme and Jeneane C. Boehme, husband and wife, recorded in the said County on February 29, 1980 as Instrument No. 121204, described as follows:
Section 32: Commencing at the Southeast corner of Section 32, Township 12 South, Range 44 East of the Boise Meridian and running thence West to the SW corner of Section 32, thence North to the NW corner of Section 32; thence East 4288 feet; thence South 16°48'40 East 3430.10 feet; thence South 1996.5 feet to the Place of Beginning.

PARCEL NO. 5:
TOWNSHIP 12 SOUTH, RANGE 44 EAST OF THE BOISE MERIDIAN, Bear Lake County, Idaho:
Section 31: Commencing at the Northeast corner of the SE¼ of Section 31, and running thence South on the Section line 1020 feet, thence West 450 feet; thence North 25°30' East

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330 feet; thence North 17°35' East 380 feet; thence North 360 feet; thence East 193 feet to the Place of Beginning.
Section 32: Commencing at the Southeast corner of Section 32, and running thence West to the SW corner of Section 32, thence North to the NW corner of Section 32; thence East 4288 feet; thence South 16°48'40 East 3430.10 feet; thence South 1996.5 feet to the Place of Beginning.

TOGETHER WITH 15 SHARES of water stock in the Montpelier Irrigation Company.

ALSO TOGETHER with the following water rights registered with the State of Idaho Department of Water Resources: Water Right Number(s): 11-4033A and 11-4033B.

IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little Director Mathew Weaver

July 22, 2024

SECURITY INTEREST

Western AgCredit, FLCA
10980South Jordan Gateway
P.O Box 95850
South Jordan, UT 84095

RE: Notice of Security Interest for Water Right/Permit No(s): 11-4033B, 11-4033A

Dear Security Interest Holder:

The Department of Water Resources (Department) acknowledges receipt of correspondence adding security interest of the above-referenced water right(s) to you. The Department has modified its records to reflect the change in security interest and has enclosed a computer-generated report for you. The security interest was completed in September 16 2022 and this letter is to confirm the completion.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing a Notice of Security Interest, the Department does not review the history of water use to determine if the right has been forfeited or deliberately abandoned through five years or more of non-use. To read more about water right forfeiture, including how to protect a water right from forfeiture, please see Idaho Code §§ 42-222 and 42-223.

If you have any questions concerning the enclosed information, please contact me at (208)287-4921.

Sincerely,

Catalina Beck

Catalina Beck
Technical Records Specialist 1

Enclosure(s)

Baily, Jonie

From: Baily, Jonie
Sent: Thursday, April 13, 2023 3:23 PM
To: IdwrPayable
Subject: Refund Request
Attachments: Receipt(1).PDF

Good afternoon!

I have a refund request as follows:

Receipt number: E048890
Amount: $50.00
Payable to WESTERN AGCREDIT FLCA
10980 S JORDAN GATEWAY
PO BOX 95850
SOUTH JORDAN UT 94095-0850

Reason: Security interest filed for 2 water rights. The applicant requested we return the application unprocessed, therefore the applicant is entitled to a full refund.

Let me know if you have any questions or need additional information. Have a great day!!!

IDAHO DEPARTMENT OF WATER RESOURCES
Jonie Baily | Technical Records Specialist
900 N Skyline Drive Ste. A, Idaho Falls, ID 83402
Phone number: (208) 525-7161
Fax number: (208) 525-7177
Email: jonie.barg@idwr.idaho.gov
Website: www.idwr.idaho.gov

IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718
Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little Director Gary Spackman

April 13, 2023

WESTERN AGCREDIT FLCA
10980 S JORDAN GATEWAY
PO BOX 95850
SOUTH JORDAN UT 84095

RE: Security Interest Water Right No. 11-4033B & 11-4033A

Dear Sir/Madam:

The Department of Water Resources acknowledges receipt of your Notice of Security Interest in a water right on April 11, 2023, for the above-mentioned water rights. As per our conversation your notice is being returned unprocessed because you already carry a security interest for these water rights, and it has an expiration date of further out than this one. You are still listed on the water rights as a security interest holder as per your 2022 application. I have attached the proof reports for the water right for your review.

Because the department is returning your application you are entitled to a full refund. The department has initiated the refund and it should arrive from the state office in couple of weeks.

Please note that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office, or at the department's website at: www.idwr.idaho.gov.

Please feel free to contact the Department if you have any questions.

Sincerely,

Jonie Baily
Technical Records Specialist

cc: Smith Legacy Ranch LLC

IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718
Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little Director Gary Spackman

March 21, 2023

WESTERN AGCREDIT PCA
10980 S JORDAN GATEAWAY
PO BOX 95850
SOUTH JORDAN UT 84095

RE: Security Interest
Water Rights: 11-4033B, 11-4033A

Dear Sir/Madam:

On January 30, 2023, you filed a Notice of Security Interest in a Water Right (security interest) with the Idaho Department of Water Resources (IDWR), seeking to update the records for the water rights listed above. After an initial review, we determined that you needed to provide evidence of security interest and/or additional filing fees. On February 10, 2023, we sent a letter requesting the additional information. The additional information was to be provided within 30 days.

IDWR has never received a response to the request. Without the requested documents, we cannot verify your interest in the water rights and cannot complete the security interest. We are therefore returning your original ownership change and have initiated a refund of your filing fee ($50.00). The refund from the state of Idaho will arrive at the address listed above within a couple of weeks.

Please feel free to re-file your security interest any time in the future. Because your filing fee is being refunded, you will need to determine and provide the proper filing fee at the time you re-file the application.

If you have any questions, feel free to contact me at (208) 525-7161.

Respectfully submitted,

Jonie Barg
Technical Records Specialist

Enclosure(s)

SCANNED
MAR 21 2023

IDAHO DEPARTMENT
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718
Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

February 10, 2023

WESTERN AGCREDIT PCA
10980 S JORDAN GATEWAY
PO BOX 95850
SOUTHJORDAN UT 84095-0850

RE: Security Interest in Water Right No. 11-4033B and 11-4033A

Dear Sir/Madam:

The Department of Water Resources acknowledges receipt of your Notice of Security Interest.

Our review of your notice indicates that additional information is required before we can process the change. The information required is indicated below:

**** **Evidence of Security Interest:** Please submit a copy of the 'recorded' mortgage, deed of trust or other document indicating your interest in the water rights listed above.

Because the Department cannot process the security interest without proper documentation/fees, we will hold any action on your notice pending receipt of the necessary information/fees. If we do not receive the necessary information/fees within 30 days we will return your notice and all attachments and your notice will not be processed.

Please note that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office, or at the department's website at: www.idwr.idaho.gov.

Please feel free to contact the Department if you have any questions.

Sincerely,

Jonie Barg
Technical Records Specialist

cc: SMITH LEGACY RANCH LLC

SCANNED FEB 10 2023

MAR 21 2023