

# Schwabe

JUNE 26, 2023

VIA E-MAIL (ARLA.L.DAVIS@WATER.OREGON.GOV)  
AND FIRST CLASS MAIL

Arla Davis  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

**Lindsay Thane**

Admitted in Oregon, Washington and  
Montana  
D: 503-796-2059  
C: 406-214-1918  
lthane@schwabe.com

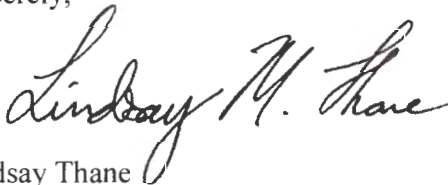
RE: Affidavit of Partial Voluntary Cancellation - Certificate 13593  
Our File No.: 129629-213607

Dear Arla:

Please find enclosed with this letter an affidavit of partial voluntary cancellation of water right Certificate 13593 submitted on behalf of Bridge Creek Ranch LLC. As explained in the affidavit, Bridge Creek Ranch LLC is voluntarily cancelling 12.0 acres under water right Certificate 13593.

Please let me know if you have any questions.

Sincerely,



Lindsay Thane

LTH:lmt

cc: Ann Reece (*via email only*)  
Mike Pati (*via email only*)  
Elizabeth Howard (*via email only*)

**SUPERSEDED**

Received by OWRD

JUN 26 2023

Salem, OR



## Affidavit of Voluntary Cancellation or Diminution of a Water Right Certificate

**VOLUNTARY CANCELLATION** is how the legal holder(s) of a water right certificate may cancel an abandoned water right or an abandoned portion of a water right. Abandonment means water use has or will have ceased under the cancellation. A cancellation can apply to an entire certificate or to a specific place of use and acreage. The rate of water must be proportionately cancelled to match the portion of the right being cancelled. If a certificate is partially cancelled, a remaining water right certificate will be issued describing the uncanceled portion.

[see also Oregon Revised Statute (ORS) 540.621 and Administrative Rule (OAR) 690-017-0100.]

**VOLUNTARY DIMINUTION** is how the legal holder(s) of a water right certificate may diminish an entire water right or a portion of it from a primary purpose to a supplemental purpose. The overall authorized rate of water on the certificate will remain the same, but the proportions between primary use and supplemental use will change. In the diminution process, the originating water right will be cancelled, and a new water right will be issued describing the diminution. [see also Oregon Administrative Rule (OAR) 690-330-0040.]

Describe in your own words what you want to accomplish with this affidavit: Voluntarily cancel 12.0 acres of water rights under Certificate 13593.

### Certificate of Water Right Information:

Certificate Number: 13593

Issued for use within the State of Oregon, County of Wheeler.

Issued in the name of: Ben Taylor.

Date of priority: 1868

Rate or Volume on entire certificate: 1/40 cfs per acre before June 15, and 1/80 cfs per acre after June 15, during the irrigation season from March 1 to October 1 of each year. (cubic foot per second *or* gallons per minute *or* acre-feet).

Source(s) of water on certificate: Bridge Creek.

Use(s) of water listed on certificate: irrigation and domestic (purposes),

If for irrigation (IR), total number of acres on certificate for primary IR 159.4, supplemental IR 0.0.

### Statements of Oath:

I/We (or authorized agent), Bridge Creek Ranch LLC,

residing at 355 Goodpasture Island Road, Eugene, OR 97401,

with a mailing address of (if different) \_\_\_\_\_,

and a telephone number of 541-681-5332, being first duly sworn depose and say:

1. I/We are the legal owners of property appurtenant to all  *or*  a portion (*check one box*) of the water right described above. My/Our property is described on a recorded property deed in my/our/an entity name(s). The property is located within the following legal description [*must include at a*



**Affidavit for the VOLUNTARY CANCELLATION or DIMINUTION of a Water Right Certificate**

minimum, township(s), range(s), section number(s), quarter- quarter(s) and tax lot number(s)].

Examples:

- Township 3 South, Range 5 East, Section 12, NW¼, NW¼ SW¼ & SW¼ SW¼; Section 13 NWNW, SWNW, all within Tax Lot 700.
- T16S, R18E, Sec18, SWSE & SESE, TL 1700
- T6N, R35E, Sec 27, S¼, TL 1100

Enter legal description here:

- Township 10 S, Range 20 East, Section 24: That portion of the S1/2 SW1/4, lying Westerly of Bridge Creek County Road No. 14, all within tax lot 1700.
- Township 10 S, Range 20 East, Section 25: All that portion lying Westerly of Bridge Creek County Road No. 14 (being the NW1/4, SW1/4, SE1/4, W1/2 NE1/4 lying West of the County Road, and SE1/4 NE1/4 lying West of the County Road), all within tax lot 1700.
- Township 10 S, Range 20 East, Section 36: NE1/4 NE1/4 NE1/4; also, two tracts of land more particularly described in that certain Bargain and Sale Deed Recorded May 9, 1980, in Wheeler County Deed Records as Microfilm No. M-35-736. The portion of the POU under Certificate 13593 that is located in Section 36 is located in the NE1/4, NE1/4, and is all within tax lot 1703.
- Township 10 S, Range 21 East, Section 30: That portion of the SW1/4 SW1/4 lying Westerly of Bridge Creek County Road No. 14, all within tax lot 3600.
- Township 10 S, Range 21 East, Section 31: All that portion lying Easterly of Bridge Creek and Westerly of Bridge Creek County Road No. 14. The portion of the POU under Certificate 13593 that is located in Section 31 is located in the N1/2 NW1/4, and is all within tax lot 3600.

2. I/We are requesting a [**check one box - the affidavit will be returned if more than one box is checked**]:

voluntary cancellation of and have abandoned any and all interest in the ENTIRE water right Certificate # \_\_\_\_.

voluntary cancellation of and have abandoned any and all interest a PORTION of water right Certificate # 13593.

voluntary diminution of the ENTIRE water right Certificate # \_\_\_\_.

voluntary diminution of a PORTION of water right Certificate # \_\_\_\_.

3. The appurtenant water right  is or  is not (**check one box**) located within the boundaries of an irrigation, drainage, water improvement, or water control district, or federal reclamation project (district). If the right is located within a district or reclamation project, name it here: N/A.

a. The water right, or portion thereof, being  cancelled or  diminished (**check one box**) is in the name of or served by a district. The signature of district manager on the line below documents the concurrence of the district to the changes to the water right specified in this affidavit, for the portion of the water right in the name of or served by the district.

\_\_\_\_\_  
Signature of district manager

\_\_\_\_\_  
Printed Name

JUN 26 2023



**Affidavit for the VOLUNTARY CANCELLATION or DIMINUTION of a Water Right Certificate**

Date \_\_\_\_\_

**4. Complete this item (#4) only if this is a CANCELLATION for a PORTION of the water right.**

I/We have abandoned any and all interest in and wish to cancel the following portion(s) of the water right certificate number listed in Item #2, above:

A place of use, or use.

- For the use of (specify irrigation, domestic, etc.) irrigation and domestic
- IF FOR IRRIGATION OR NURSERY USE: Total number of acres to be cancelled 12.0
- In the amount of 1/40 cfs per acre from March 1 to June 15 (0.30 cfs), and 1/80 cfs per acre from June 16 to October 1 (0.15 cfs) cubic foot per second
- From the water source (s) Bridge Creek
- At the following location(s) (attach a larger table if needed):

ABANDONED PORTION TO BE CANCELLED										
Township	N or S	Range	E or W	Mer	Section #	DLC #	G-LOT #	Quarter-Quarter	Acres	Tax Lot #
<u>10</u>	<u>S</u>	<u>20</u>	<u>E</u>	<u>WM</u>	<u>25</u>	_____	_____	<u>SE NE</u>	<u>0.9</u>	<u>1700</u>
<u>10</u>	<u>S</u>	<u>20</u>	<u>E</u>	<u>WM</u>	<u>25</u>	_____	_____	<u>NE SW</u>	<u>1.9</u>	<u>1700</u>
<u>10</u>	<u>S</u>	<u>20</u>	<u>E</u>	<u>WM</u>	<u>25</u>	_____	_____	<u>NW SE</u>	<u>2.0</u>	<u>1700</u>
<u>10</u>	<u>S</u>	<u>20</u>	<u>E</u>	<u>WM</u>	<u>25</u>	_____	_____	<u>SW SE</u>	<u>1.3</u>	<u>1700</u>
<u>10</u>	<u>S</u>	<u>20</u>	<u>E</u>	<u>WM</u>	<u>25</u>	_____	_____	<u>SE SE</u>	<u>0.7</u>	<u>1700</u>
<u>10</u>	<u>S</u>	<u>20</u>	<u>E</u>	<u>WM</u>	<u>25</u>	_____	_____	<u>NE NW</u>	<u>0.2</u>	<u>1700</u>
<u>10</u>	<u>S</u>	<u>21</u>	<u>E</u>	<u>WM</u>	<u>30</u>	_____	_____	<u>SW SW</u>	<u>4.9</u>	<u>3600</u>
<u>10</u>	<u>S</u>	<u>21</u>	<u>E</u>	<u>WM</u>	<u>31</u>	_____	_____	<u>NE NW</u>	<u>0.1</u>	<u>3600</u>

- Locations of the place of use or acres being cancelled are clearly identified on a copy of the certificate map of record (decree map, final proof map, or claim of beneficial use map); or, if there is no certificate map of record, then an alternate map is being submitted with information sufficient to determine the lands on which the right is to be cancelled)
- Locations of the place of use or acres NOT being cancelled are clearly identified on a copy of the certificate map of record; or if there is no certificate map of record, then an alternate map is being submitted with information sufficient to determine the lands on which the right is NOT to be cancelled.

**AND/OR (less common)**

One or more of the authorized points of diversion (surface water) or points of appropriation (groundwater) authorized under the certificate.

- For the use of (specify irrigation, domestic, etc.) \_\_\_\_\_
- From the water source (s) \_\_\_\_\_
- Located within the \_\_\_\_\_<sup>th</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_ (N  or S ), Range \_\_\_\_\_ (E  or W , W.M.
- Location Description (if given on the certificate) \_\_\_\_\_

**5. Complete this section (Item #5a-c) for a DIMINUTION of ALL or a PORTION of the water right.**

a. I/We have found a more dependable source of primary water, and therefore request the water right certificate  in its entirety, or  as described in Item #6, below, (check one box) be diminished from a right for primary use to a right for supplemental use.

**Affidavit for the VOLUNTARY CANCELLATION or DIMINUTION of a Water Right Certificate**

- b. I/We agree that if this change is approved, it is permanent and the right to the use of water from \_\_\_\_\_ (source) cannot be changed back to the primary use unless otherwise provided by law.
- c. I/We also agree that so long as there is sufficient water available from the new primary source, I am/we are not entitled to use any water from \_\_\_\_\_ (source of water) for primary use on these lands.

**6. Complete this item (#6) for a DIMINUTION of a PORTION of the water right.**

I/We, being the legal owners of the property described below are requesting a partial diminution of the water right certificate (identified in Item #2 above in the amount of \_\_\_\_\_ (cfs) from \_\_\_\_\_ (sources) for irrigation (if applicable) of \_\_\_\_\_ acres at the following location(s) as listed on the certificate (attach a larger table if needed):

PORTION TO BE DIMINISHED FROM PRIMARY TO SUPPLEMENTAL IRRIGATION											
Township	N or S	Range	E or W	Mer	Section #	DLC #	G-LOT #	Quarter-Quarter	Acres	Tax Lot #	
_____	_____	_____	_____	WM	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	WM	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	WM	_____	_____	_____	_____	_____	_____	_____

**Signatures and Notary:**

*Mike Pati*

Signature of legal owner as listed on deed, or authorized agent

Printed Name: Mike Pati, President Pape Properties, Inc., sole member of Bridge Creek Ranch LLC,

Date 6/26/23

N/A

Signature of legal co-owner as listed on deed (if applicable)

Printed Name \_\_\_\_\_

Date \_\_\_\_\_

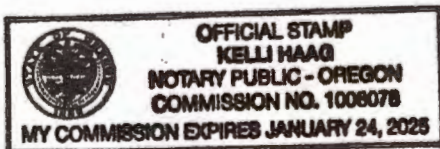
Subscribed and Sworn to Before Me this 26 day of June, 2023.

**SUPERSEDED**

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My Commission Expires 1/24/25

*Kelli Haag*  
Signature of Notary Public for Oregon

**REQUIRED ATTACHMENTS (LEGIBLE COPIES):**

- 1) A recorded property deed which lists landowner(s) and includes a legal description of lands affected by this affidavit of cancellation or diminution.

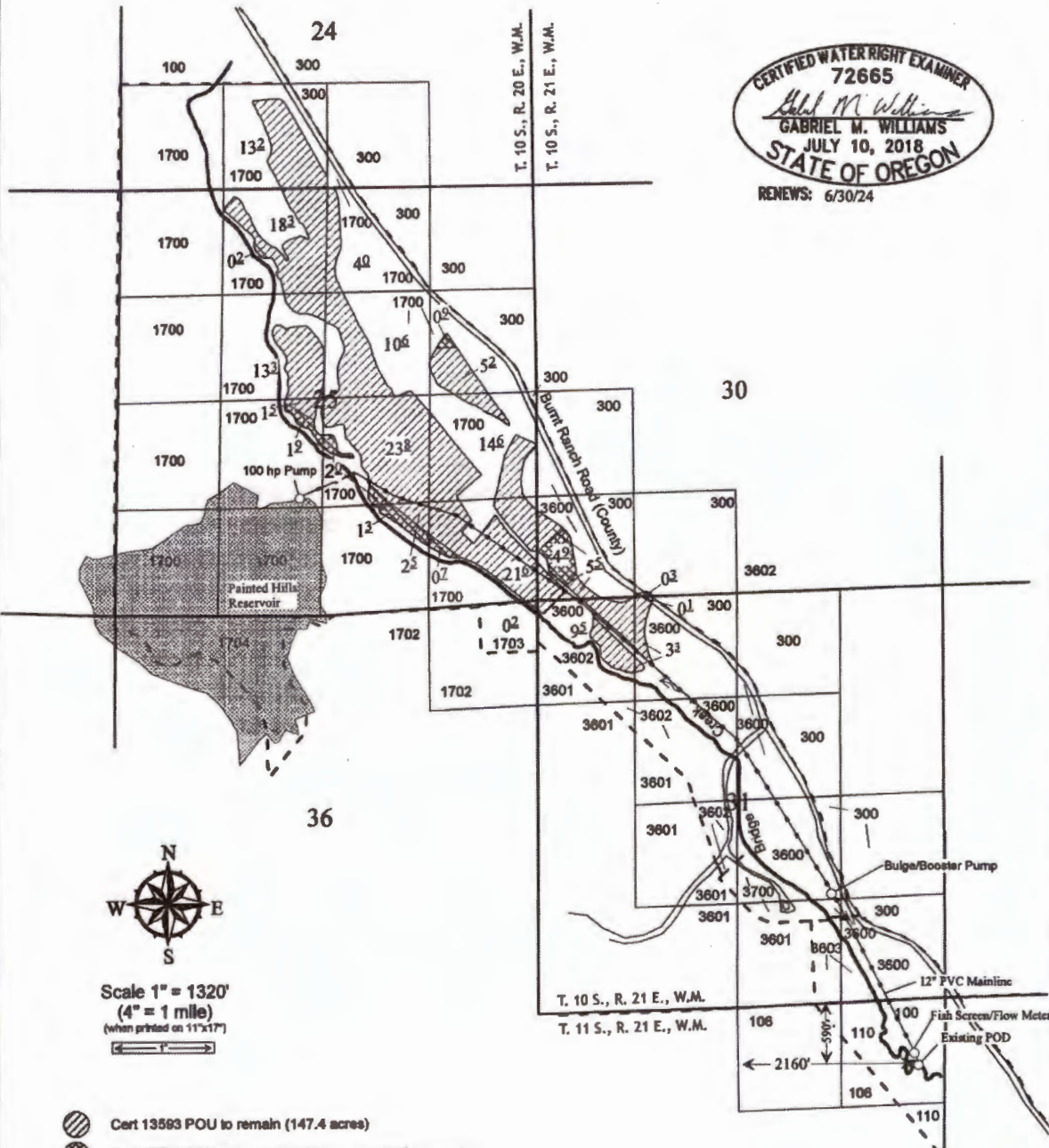
**Affidavit for the VOLUNTARY CANCELLATION or DIMINUTION of a Water Right Certificate**

- 2) An adjudication map, water right final proof map, or a tax lot map that clearly shows:
  - a. Location and acreages within each township, range and quarter-quarter of the lands described on the water right being cancelled or diminished, and
  - b. the remaining locations and acreages within each township, range and quarter-quarter of the lands described on entire water right NOT being cancelled or diminished, if any.
- 3) A list of names and addresses of other property owners with lands appurtenant to portions of the water right certificate not legally owned by the person(s) signing the affidavit.
- 4) If acting as an authorized agent, include a copy of the Power of Attorney or other documents granting authority to act on behalf of legal owner(s) as listed on the deed.

**MISSING ATTACHMENTS WILL RESULT IN THE AFFIDAVIT BEING RETURNED, AND NO ACTION TAKEN ON THE AFFIDAVIT.**



# Certificate 13593 - Partial Voluntary Cancellation Map



CERTIFIED WATER RIGHT EXAMINER  
 72665  
*Gabriel M. Williams*  
 GABRIEL M. WILLIAMS  
 JULY 10, 2018  
 STATE OF OREGON  
 RENEWS: 6/30/24



Scale 1" = 1320'  
 (4" = 1 mile)  
 (when printed on 11"x17")

- Cert 13593 POU to remain (147.4 acres)
- Cert 13593 POU to be voluntarily cancelled (12.0 acres)
- Key Elements (pumps, meters, etc)
- Approximate Ownership Boundary
- Pipeline

This map is for the purpose of locating a water right only and is not intended to provide legal dimensions or locations of property ownership lines.

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Federal Land Ownership Taxlots: 100, 106, 110, 300, 1702, 3601, 3602, 3603, 3700

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BCRA - 1.1	DRAWING:	PROJECT:
	DRAWN BY: GAW	13593 Adjudication
	SHEET TITLE:	PROJECT LOCATION:
	Adjudication Map	MITCHELL, OREGON
		CLIENT:
		Bridge Creek Ranch, LLC

**RSI Resource Specialists INC.**

20340 Emplre Ave., Ste. E8  
 BEND, OR 97703

(541) 771-6911  
 gabe@RSIengr.com

DRAWING STATUS	DATE	No.	REVISION	DATE
DRAFT	6/8/23			
FINAL	6/16/23			

STATE OF OREGON

County of Wheeler

SS

AFTER RECORDING RETURN TO:

Myles Conway  
Schwabe Williamson & Wyatt  
549 SW Mill View Way, Suite 100  
Bend, Oregon 97702

UNTIL A CHANGE IS REQUESTED,  
ALL TAX STATEMENTS SHALL BE  
SENT TO:

Robert J. Riecke  
Bridge Creek Ranch LLC  
355 Goodpasture Island Road  
Eugene, OR 97440

I certify that this instrument was  
received and recorded in the book of  
records of said county.

Barbara S. Sitton  
Wheeler County Clerk

**DEED**

by: J. Greenfield Deputy.

DOC#: 20080444 PAGES: 5  
RCPT: 951 46.00  
12/22/2008 2:06 PM  
REFUND: .00

**SPECIAL WARRANTY DEED**

DERBY SMITH PARTNERS LLC ("Grantor") conveys and specially warrants to BRIDGE CREEK RANCH LLC, an Oregon limited liability company ("Grantee"), the real property described on Exhibit A attached hereto, free of encumbrances created or suffered by Grantor except as set forth on Exhibit B attached hereto.

The true consideration for this conveyance is \$1,750,000.00.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

[Signature appears on the following page]



Dated this 22 day of December, 2008.

GRANTOR:

DERBY SMITH PARTNERS LLC

William L Smith  
By William L Smith  
Its Managing member

ACKNOWLEDGMENT

STATE OF OREGON     )  
                                  ) ss.  
County of Deschutes    )

This instrument was acknowledged before me on the 22<sup>nd</sup> day of December, 2008, by William L Smith as Managing member of DERBY SMITH PARTNERS LLC.



Sharon A. Mitchell  
Notary in and for the State of Oregon  
My Commission Expires: Aug. 24/2010

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20080444 pg 2 of 5

**EXHIBIT A  
LEGAL DESCRIPTION**

Located in WHEELER COUNTY, OREGON:

In Township 10 South, Range 20 East of the Willamette Meridian, Wheeler County, Oregon:

Section 24: That portion of the S $\frac{1}{2}$ S $\frac{1}{2}$ W $\frac{1}{2}$  lying Westerly of Bridge Creek County Road No. 14.

Section 25: All that portion lying Westerly of Bridge Creek County Road No. 14.

Section 36: NE $\frac{1}{4}$ N $\frac{1}{2}$ W $\frac{1}{2}$ ; Also, two tracts of land more particularly described in that certain Bargain and Sale Deed Recorded May 9, 1980, in Wheeler County Deed Records as Microfilm No. M-35-736.

In Township 10 South, Range 21 East of the Willamette Meridian, Wheeler County, Oregon:

Section 30: That portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  lying Westerly of Bridge Creek County Road No. 14.

Section 31: All that portion lying Easterly of Bridge Creek and Westerly of Bridge Creek County Road No. 14.

EXHIBIT A

FDX/120068/166587/MCO/3223050.1

20080444 pg. 3 of 5



**EXHIBIT B  
TITLE EXCEPTIONS**

7. As disclosed by the tax roll, the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use, the property will be subject to additional taxes or penalties and interest.
8. As disclosed by the tax roll, the premises herein described are classified as forest lands. In the event of declassification, said premises will be subject to additional taxes and interest pursuant to the provisions of ORS Chapter 321.
9. Existing rights of way for roads, highways, irrigation ditches, canals and pole lines.
10. Reservations contained in Patents from the United States of America and in Deeds from the State of Oregon, if any.
11. Any adverse claim based upon the assertion that:  
Rights of the public and governmental bodies in and to any portion of the premises herein described lying below the high water mark of the Bridge Creek or Bear Creek, including any ownership rights which may be claimed by the State of Oregon below the high water line.
12. Right of the public to enter, view, examine and study the subject property, including the terms and provisions thereof:  
Recorded: August 25, 1947  
Book/Page: 25/596 (Records of Wheeler County, Oregon)
13. An Easement created by instrument, subject to the terms and provisions thereof:  
Dated: December 3, 1963  
Recorded: December 11, 1963  
Book/Page: 30/566 (Records of Wheeler County, Oregon)  
Grantor: John Hudspeth, Floraine Hudspeth, Fred Hudspeth and Margaret Hudspeth, co-partners, doing business as Hudspeth Sawmill Company and Hudspeth Lane & Livestock Company, Roger Hudspeth, doing business as Paulina Cattle Company, and Jamie Hudspeth, his wife; Ron Hudspeth and Jane Hudspeth, husband and wife  
In Favor of: Hudspeth Pine, Inc.  
Purpose: Road access
14. Easements, Conditions and Restrictions created by final judgment:  
Filed: February 24, 1971  
Case No. 2250  
Court: Wheeler County Circuit Court  
Between: State of Oregon, by and through its State Highway commission, composed of Glenn L. Jackson, Fred W. Hill and Thaddeus B. Bruno, and CBC Company, an Oregon corporation; The Connecticut Mutual Life Insurance Company, a Connecticut corporation; Eastern Oregon Land Company, a California corporation; and First National Bank of Oregon, a national banking association.
15. Restrictions, Covenants and Conditions, including the terms and provisions thereof, as contained in deed:  
From: United States of America  
To: Brooks Resources Corporation, an Oregon corporation  
Recorded: May 9, 1980  
Book/Page: 35/736 (Records of Wheeler County, Oregon)

**SUPERSEDED**

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EXHIBIT B  
PDX/120068/166587/MCO/3223050.1

20080444 pg 4 of 5

14158 -

16. **Scenic Easement, Restrictions and Covenants** created by instrument, subject to the terms and provisions thereof:

Dated: February 6, 1980  
Recorded: May 9, 1980  
Microfilm No.: M-35-737 (Records of Wheeler County, Oregon)  
Grantor: Brooks Resources Corporation, an Oregon corporation  
In Favor of: United States of America

17. **A Telephone Line Right-of-way Easement** created by instrument, subject to the terms and provisions thereof:

Dated: March 21, 1985  
Recorded: April 3, 1985  
Microfilm No.: M-37-221 (Records of Wheeler County, Oregon)  
Grantor: Brooks Resources Investment Corporation, an Oregon corporation  
In Favor of: Telephone Utilities of Eastern Oregon, Inc., an Oregon corporation  
Purpose: Telephone line access

18. **An Easement** created by instrument, subject to the terms and provisions thereof:

Dated: November 15, 2000  
Recorded: November 27, 2000  
Microfilm No.: 000393 (Records of Wheeler County, Oregon)  
Grantor: Derby Smith Partners, LLC, an Oregon limited liability company  
In Favor of: Thomas F. Norton and Mary T. Norton, husband and wife  
Purpose: Road purposes

Re-Recorded: December 15, 2000  
Microfilm No.: 000405 (Records of Wheeler County, Oregon)



**Attachment to Affidavit for the Partial Voluntary Cancellation of Certificate 13593**

Below is a list of the names and addresses of other property owners with lands appurtenant to portions of water right Certificate 13593 not legally owned by Bridge Creek Ranch LLC, which is the entity signing the affidavit.

- United States Bureau of Land Management – Owner of tax lot 300 in a portion of Township 10S, Range 21E, Section 30. Address: 3050 NE 3rd Street, Prineville, Oregon 97754

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**14158 -**