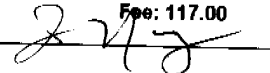


**Instrument # 315129**  
VALLEY COUNTY, CASCADE, IDAHO  
2006-11-03 02:35:38 No. of Pages: 39  
Recorded for : JOHN HUCKS  
LELAND G. HEINRICH Fee: 117.00  
Ex-Officio Recorder Deputy  
Index to: RESTRICTIVE COVENANT



**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**for**  
**BOULDER LAKE ESTATES**

THIS DECLARATION is made this 28th day of SEPTEMBER 2006, by Boulder Creek Construction LLC, an Idaho limited liability company (hereinafter the "Declarant"), the owner of all right, title and interest in and to that certain parcel of land located in Valley County, Idaho, and more particularly described on Exhibit "A" attached hereto and incorporated herein (hereinafter the "Existing Property").

WHEREAS Declarant desires to create on the Existing Property a rural single family residential community (hereinafter the "Community") and desires to provide for the preservation of the values and aesthetic qualities offered by the natural surroundings in said Community; and to this end, desires to subject the real property described on Exhibit "A" to the covenants, conditions and restrictions hereinafter set forth, each and all of which is and are intended for the mutual benefit of said Community and each owner of a portion thereof;

NOW THEREFORE, the Declarant declares that the Existing Property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions and restrictions hereinafter set forth, together with easements of record or contained within the plat of Boulder Lake Estates. When the Boulder Lake Estates plat (the "Plat") is recorded, these covenants, conditions, and restrictions shall be incorporated by reference, assuring that all real property contained within the Plat shall be developed according to the common scheme of this Declaration. Declarant hereby declares that all of the real property described herein and each part thereof and any properties subsequently annexed hereto in accordance with the provisions of this Declaration, shall be held, sold, and conveyed subject to the following easements, covenants, conditions, and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above described property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I - DEFINITIONS**

**1.01 COMMUNITY:** The term "Community" as used herein shall refer to the Existing Properties considered as a whole, as the same are shown on the final plat for Boulder Lake Estates recorded in the Official Records of Valley County, Idaho, as the same shall be amended from time to time.

**1.02 DECLARATION:** The term "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

**1.03 DECLARANT:** The term "Declarant" shall mean and refer to Boulder Creek Construction, LLC, or its successors and assigns if such successor or assign acquires the rights, title, and interest of Declarant in and to this Declaration.

**1.04 DEVELOPER:** The term "Developer" shall mean and refer to Boulder Creek Construction, LLC, its successors and assigns.

**1.05 ASSOCIATION:** The term Association shall mean the Boulder Lake Estates Homeowners Association, Inc., which shall be an Idaho not-for-profit corporation responsible for management of the Community and enforcement of the covenants and restrictions contained in this Declaration, together with its successors and assigns, All Lot owners within the Community shall be members of the Association. The organizational structure of the Association, together with the powers and rules for operation thereof shall be set forth in separate Articles of Incorporation, Bylaws and Architectural Rules for the Association, copies of which are respectively attached hereto as Exhibits "B", "C" and "D".

**1.06 BOARD OF DIRECTORS:** The term "Board of Directors" shall mean and refer to the Board of Directors of Boulder Lake Estates Homeowners Association, Inc.

**1.07 EXISTING PROPERTY:** The term "Existing Property" shall mean that real property described in this instrument, which comprises the Community, and which shall be subject to the terms and conditions of this Declaration.

**1.08 FUTURE PROPERTY:** The term "Future Property" shall mean any additional lands or property added to the Community or reflected on a future or amended Plat of the Community as recorded from time to time. Any Future Property added to the Community shall be subject to the terms, conditions and restrictions set forth in this Declaration to the same extent as the Existing Property described herein.

**1.09 IMPROVEMENTS:** The term "Improvements" shall include buildings, outbuildings, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, hedges, windbreak plantings, planted trees and shrubs, poles, signs and all other obstructions or landscaping improvements of every type and kind located within or upon any Lot in the Community.

**1.10 LOT:** The term "Lot" shall mean any parcel of real property designated for single family residential use, together with the associated acreage therein contained, as shown within the recorded final Plat or for the Existing Property known as Boulder Lake Estates in the records of the County Recorder for Valley County, Idaho, with the exception of land designated as Common Area, shown on the recorded Plat referred to above.

**1.11 COMMON AREA:** The term "Common Area" shall mean all real and/or personal property, including but not limited to Penne Lane, which the Association and or the Declarant owns for the nonexclusive common use and enjoyment of the owners of all Lots, as defined herein, together with nonexclusive, easements of ingress and egress over the private road (Penne Lane) indicated on the Plat servicing Lots within the Community.

**1.12 OWNER:** The term "Owner" shall refer to that person or entity or those persons or entities who hold the ownership interest in any Lot within the Community, together with their successors, heirs and assigns, and such term shall also include any person, persons, entity or entities who succeed to such recorded interest by any means, but not including contract purchasers or those persons or entities having such interest merely as security for the performance of an obligation.

**1.13 RECORD, RECORDED:** The term "Record" and "Recorded" shall mean, with respect to any documents, the recordation of said document in the Office of the County Recorder for Valley County, Idaho.

**1.14 RESIDENCE:** The term "Residence" shall mean any building or buildings, including any garage, carport or similar outbuilding, located on or within any Lot, and used for residential purposes, pursuant to the conditions and restrictions contained within this Declaration.

**1.15 SINGLE FAMILY RESIDENTIAL USE:** The term "Single Family Residential Use" shall mean the occupation and use of a single family dwelling in conformity with this Declaration and any requirements imposed by applicable zoning laws or other state or municipal agencies, statutes or regulations.

**1.16 STRUCTURE:** The term "Structure" shall include, but not be limited to buildings, outbuildings, roads, driveways, parking areas, fences, walls, stairs, decks and poles, or any similar items located on Lots or within the Common Areas of the Community.

**1.17 PLAT:** The term "Plat" shall refer to the recorded final Plat for Boulder Lake Estates, as approved and recorded in the Official Records of Valley County, Idaho.

**1.18 COMMON ROAD:** The term "Common Road" means the private roadway known as Penne Lane, as shown on the Plat of the Community, and which provides access to and from the individual Lots within the Community.

**1.19 COMMON SERVICES:** The term "Common Services" means roadway maintenance, utility line maintenance and other common services provided to the Community by and through the Association.

**1.20 ARCHITECTURAL REVIEW COMMITTEE:** The term "Architectural Review Committee" a/k/a the "ARC", shall refer to that committee formed by the Board of Directors of

the Association for the purpose of promulgating and enforcing construction and building rules and guidelines applicable to all Lots within the Community, whether included in this Declaration or within the rules and guidelines developed by the ARC.

## ARTICLE II - PROTECTIVE COVENANTS

**2.01 LAND USE AND DWELLING UNITS:** All of the Existing Property and the Lots contained therein shall be used and occupied solely for single family residential purposes. None of the Lots shall be split, divided or sub-divided into smaller Lots than as are shown on the recorded Plat for Boulder Lake Estates in the Office of the County Recorder for Valley County, Idaho. All single family residences within the Community shall be subject to the following restrictions, conditions and limitations:

**A. Permitted Structures:** No buildings other than one detached residence, together with a private garage for the exclusive use of the occupants of such residence, and such other usual and appropriate outbuildings strictly incidental and appurtenant to a private residence, shall be erected or maintained on any Lot. No use whatsoever shall be made of any Lot herein other than as the site and grounds of a private single family residence. The term 'private single family residence' as used herein is intended to exclude every form of multi-family dwelling, boarding or lodging house of any kind, but is not intended to exclude a guest house for the entertainment of social guests, or servants quarters for servants or employees employed upon the Lot. Only one additional residential structure (guest house) other than the primary residence will be allowed on any Lot, and the construction of a guest house on any Lot shall be expressly subject to the prior approval of Valley County, and the issuance of a Conditional Use Permit (CUP) by Valley County allowing for construction of such guest house.

**B. Prohibited Structures:** No structure of a temporary character, to specifically include mobile homes, modular homes, recreational vehicles, shacks, garages, barns or other outbuildings shall be used on any Lot at any time as a residence, either temporarily, permanently or during construction. Pre-fabricated, manufactured or modular construction shall not be allowed at any time. Exterior construction shall be completed within eighteen (18) months from start. Any uses and activities as described herein shall comply with and be permitted by the appropriate state and county agencies having jurisdiction with respect to health and safety codes and regulations.

**C. Drainage:** Site drainage for Boulder Lake Estates will be necessary for the building sites, road and driveway construction. Site drainage shall drain to defined wetlands areas as shown on the Plat, and shall be constructed in conformance with all applicable federal, state, county and local laws and regulations.

**D. Wetlands:** The wetlands within Boulder Lake Estates shall be treated and managed in accordance with regulations of the United States Army Corp of Engineers, and any other applicable state or county agency having appropriate jurisdiction. No construction of any

kind of fences will be allowed within wetland areas except as designated on the Plat of Boulder Lake Estates. The wetlands are to be left in their natural state as a wildlife preserve, and no improvements of any kind shall be constructed within such areas.

**E. Landscaping:** All Lots shall be properly cared for at all times so as to maintain a good appearance to the public view. All disturbed areas resulting from construction activities shall be re-established with native or compatible vegetation.

**F. Weed Control and Dust Abatement:** All Lot owners shall conform to the county ordinances and state laws relating to noxious weed control. If any owner fails to properly control weeds on their Lot, the Architectural Review Committee, or their agents shall have the right to come on the subject Lot and take such measures as are necessary to make the Lot conform to such laws and ordinances at the Lot owner's expense. In addition, all Lot owners are responsible for their pro-rata share of expenses incurred for dust abatement on the gravel road(s) within the Community. If a dust palliative is used, it will be Environmental Protection Agency (EPA) approved and the cost shall be borne equally by the Lot owners. Dust abatement is not the responsibility of the Valley County Road Department.

## **2.02 DWELLING SIZE, FEATURES AND LOCATION:**

**A. Size and Location Restrictions:** No residence or dwelling shall be erected or permitted to remain on any Lot having a total floor area, exclusive of open porches, garages or other outbuildings of less than 2000 square feet, of which 1200 square feet shall be on the first floor. No manufactured or modular homes will be allowed. All residences shall be placed on a permanent concrete foundation. All residences shall be connected to a septic system approved by the Central District Health Department.

**B. Height Restrictions:** No residence, dwelling or other structure on a Lot shall be permitted to exceed thirty (30) feet in height as measured from the highest natural lay of the land immediately adjacent to such structure.

**C. Materials and Colors:** Roofs shall be pitched and covered with wood, tile, or asphalt/composite shingles. All primary roofs shall have a minimum overhang of 2 feet. All other exterior surfaces shall be covered with natural or pre-colored materials or painted materials, all with earth tone colors. Exterior materials shall be new materials except for architectural detailing that may utilize used materials (e.g., weathered logs or other aesthetically pleasing materials). Except as expressly permitted by the Architectural Review Committee or as set out in this section, all buildings and structures shall be constructed with log or wood siding materials. Exterior finishes shall be semi-transparent or heavy bodied stains or paints, or pigmented or clear non-glossy preservatives. Glossy painted finishes shall not be permitted. All exposed metals shall have a dull colored finish, or shall be flat anodized or painted. Exterior colors shall be subdued. All exterior materials and colors shall be subject to prior approval by the Architectural Control Committee.

**D. Driveways:** Driveways and parking areas shall be gravel or hard surface. No driveway or parking area shall be constructed which would alter any existing watercourses or drainages.

**E. Accessory Buildings:** Accessory buildings may be constructed without foundations, however all exterior features shall conform to the residence in roof design and color.

**F. Fencing:** Decorative fencing shall be confined to enclosure of an area immediately around the residence and shall not be wire, cyclone or wire mesh. No cross fencing or perimeter fencing of the Lot shall be permitted. No fencing or gates shall be constructed across the Common Road. Cattle guards may be installed across the Common Road with the approval of the Architectural Control Committee. No fencing shall encompass more than 2 acres on any Lot.

**G. Lighting:** All outdoor lighting shall be unobtrusive and shall be located so as to eliminate any horizontal glare visible from surrounding Lots..

**H. Utilities:** All utility lines shall be installed underground. Fuel storage tanks shall be buried, screened or otherwise concealed to the satisfaction of the Architectural Review Committee.

**I. Additional Restrictions for Lot 3.** Due to its location and the heightened effect that construction of improvements would have on the views from adjacent or nearby Lots, construction of improvements and dwelling structures on Lot 3 shall be expressly limited to a single one story, ranch style residence and accessory buildings of like style and height.

### **2.03 ARCHITECTURAL REVIEW:**

**A. Architectural Review Committee:** A committee (the Architectural Review Committee) consisting of three members shall be designated to review and approve plans and specifications of proposed improvements. Up to the time the Declarant, Boulder Creek Construction, LLC, no longer owns any of the Lots within the Community, Declarant shall have the right to appoint all members of the committee. When the Declarant no longer owns any of the Lots, then the existing Lot owners, acting through the Board of Directors, may remove and appoint members of the Architectural Review Committee.

**B. Authority of Committee:** The Architectural Review Committee shall have sole authority to determine proper use, appearance, design and quality of any proposed improvement, in conformance with this Declaration. Neither the committee nor any member shall be liable to any Lot owner for any loss, damage, or injury connected with the performance of the committee's duties.

**C. Building Envelopes:** All residences and accessory improvements shall be built within the designated building envelope as shown on the recorded Plat. In the event of hardship caused by unique topographical features on any Lot, a Lot owner may request a variance from the designated building envelope from the Declarant or Architectural Review Committee, which variance may be granted or denied based upon good cause and the sound discretion of such parties.

**D. Approval of Construction Plans:** Prior to commencing any construction or improvements on any Lot, an Owner shall submit plans and specifications to the Architectural Review Committee for its review. The Architectural Review Committee shall review the plans and specifications within thirty (30) days from the submission and determine if the proposed construction, improvements or development conforms to the requirements of this Declaration and any other rules promulgated by the Architectural Review Committee. Approval, if appropriate, will be issued by a written statement from the Architectural Review Committee that shall constitute the required building approval and conditions thereof.

**E. Variances:** For good cause, the Architectural Review Committee may grant a variance from the provisions of these conditions, covenants and restrictions relating to the improvements, the location of improvements, landscaping and other features of Lots, but the committee shall not in any event be empowered to change the use thereof for other than exclusive residential use.

## **2.04 GARBAGE, REFUSE DISPOSAL AND STORAGE**

**A. Garbage and Rubbish:** No Lot shall be used or maintained as a dumping ground for garbage, rubbish, trash, junk or other waste materials. All such waste of this nature must be kept in sanitary containers out of sight of the street and must be removed from the Lot at least once each week. All equipment for the storage or disposal of such waste material shall be maintained in a clean and sanitary condition at all times.

**B. Building Materials:** No building materials of any kind shall be placed or stored upon any Lot until the owner thereof is ready and able to commence construction, and thereafter such materials shall be placed and kept neatly within the property lines of such Lot while construction is underway. Said building materials shall either be promptly removed from the Lot or stored indoors and out of view once construction is completed.

**C. Burning:** No burning of any garbage, trash or other refuse shall be permitted on any Lot without the proper notification and approval of the Southern Idaho Timber Protection Association in McCall, Idaho.

**D. Vehicles:** Recreational vehicles, travel trailers, motor homes, boats, garden or maintenance equipment shall be stored in such a manner as to be screened from public view. No

inoperative or disabled vehicles shall be stored on any Lot, except within garages or barns. No recreational vehicle or trailer shall remain on any Lot for more than 14 days unless fully enclosed in a garage or barn, except during construction activities.

## **2.05 NUISANCES:**

**A. Dangerous Activities:** No one shall perform within the Community any activity which is dangerous, noxious, offensive or an annoyance or nuisance to the owner of any Lot, or which involves the pollution of the ground, water or air of any part of the Community. Noises, or visual or tactile conditions or activities, which create or leave a residue of non-biodegradable substances in offensive quantities anywhere within the Community are expressly prohibited. Nothing shall be done or kept on any Lot by any person which will increase the rate of insurance on any other Lot or which will result in the cancellation of any insurance or which constitutes a violation of any law.

**2.06 Signs:** No signs shall be placed on any Lot or in the subdivision except signs advertising the sale of such Lot. A contractor may place a sign on the Lot during the course of construction and shall remove it upon completion of construction.

## **2.07 PROHIBITED USES:**

**A. Mining:** There shall be no mining, smelting or milling of ores or similar mineral operations within the Community.

**B. Excavation:** No excavation shall be made on any Lot except as is necessary for the erection of approved structures or improvements and the same shall be properly filled within thirty days of the completion of the underground procedures. Small ponds may be constructed only with Architectural Review Committee approval and state and local permits.

**C. Outhouses:** No outdoor privy, outhouse or any common cesspool shall be installed on any Lot at any time.

**D. Clotheslines:** No clothesline or outside laundry facility shall be maintained on the front portion of any Lot.

**E. Trespassing:** Trespassing upon private property is forbidden in the Community. In particular, adjacent Lots may not be used for access to any construction site under any circumstances other than with the express permission of the owner of the adjacent Lot. Adjacent Lots may also not be used as a parking area by any contractor or subcontractor working on a Lot. Damage to adjacent Lots shall be the responsibility of the Lot owner and the general contractor causing said damage.



**F. Hunting:** No hunting is allowed on any Lot or elsewhere within the Community at any time.

**G. Fireplaces:** Only one wood burning device (fireplace, wood burning stove, etc.) shall be allowed per Lot.

## **2.08 ANIMALS**

**A. Domestic Pets:** All animals shall be confined to the Lot of their owner and shall not be permitted to run loose within the Community. No more than 2 dogs, nor a total of more than four (4) household pets (including any dogs) may be kept by any Lot owner. Any household pets which clearly become a menace or nuisance shall not be allowed to remain on any Lot. **NO HORSES, GOATS, SHEEP, CATTLE, CHICKENS OR OTHER LIVESTOCK ANIMALS SHALL BE PERMITTED ANYWHERE WITHIN THE COMMUNITY.**

**B. Wildlife:** The Idaho Fish and Game Department is not responsible for any damage caused by wildlife in the Community. Lot owners are not to feed the wildlife at any time or leave domestic feed available for the wildlife.

**2.09 UTILITIES:** The Declarant has made electrical power service available to the Community as a whole. The purchaser and owner of each Lot agree to use the services so provided. All lateral electrical services must be buried underground from the transformer to the residence. Private electrical generating systems shall not be permitted for domestic electrical service, except as a backup system in case of primary service failure.

**2.10 SNOW REMOVAL AND ROAD MAINTENANCE:** Snow removal from individual Lots and private roads and driveways, and maintenance of such private roads and driveways will be the responsibility of each Lot owner or combination of Lot owners and not the responsibility of the Declarant or Valley County Road Department. Coordination of snow removal and maintenance on common roadways within the Community shall be carried out by the community as a group, through the operation of the Association, and the costs thereof shared by all property owners through assessments established and enforced by the Association. Please refer to the easement and private road maintenance agreement for Boulder Lake Estates which is attached hereto as Exhibit "E" for additional information and disclosures regarding use and maintenance of the common roadway.

**2.11 TREE REMOVAL:** The commercial harvesting of trees on any Lot is prohibited. Limited tree removal or trimming will be allowed to facilitate construction of improvements or to provide a view corridor. Tree thinning or removal associated with prudent "forest management" practices and procedures to enhance growth and control disease and insects is allowed, provided such activity has been approved by governing agencies.

## **ARTICLE III - ENFORCEMENT**

**3.01 PERSONS ENTITLED TO ENFORCE:** The provisions of this Declaration may be enforced by any of the following persons or entities in accordance with the procedures outlined herein:

- A. The Declarant, its successors or assigns;
- B. The Boulder Lake Estates Homeowners Association, Inc., acting through its duly appointed Board of Directors.
- C. The owner or owners of any Lot adversely affected, but only after demand is made upon the aforementioned entities for enforcement, and their subsequent failure to act.

**3.02 METHODS OF ENFORCEMENT:** Any Lot owner or other persons found or alleged to be in violation of any of the provisions of the Declaration shall be given fifteen (15) days written notice of the nature of the violation and an opportunity to correct same. Upon failure of such owner to correct the violation within said fifteen (15) day period, or such further time as may be granted by the entity giving such notice of violation, these covenants may be enforced by any or all of the following means.

- A. Legal or equitable action for lien, damages, injunction, abatement, specific performance, foreclosure, rescission or cancellation of any contracts of any executory nature;
- B. Eviction for trespass by police action;
- C. Action for the Lot owners, their agents or employees, to restore the portion of the affected property to the condition in which it is required to be kept by this Declaration.

**3.03 FEES AND COSTS:** Any person or entity entitled to enforce any of the terms of this Declaration by any of the means contained herein, who obtains a decree from any court or arbitrator enforcing any of the provisions hereof, shall be entitled to recovery of reasonable attorney's fee and all costs incurred or any anticipated to be incurred in remedying or abating the offensive condition as a part of the judgment or decree against the party in violation hereof.

## **ARTICLE IV - BOULDER LAKE ESTATES HOMEOWNERS ASSOCIATION, INC.**

**4.01 ASSOCIATION:** The Association shall be an Idaho not-for-profit corporation, charged with the duties and vested with the powers prescribed by law and as set forth in its Articles, Bylaws and this Declaration. Neither the Articles nor the Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

**4.02 MEMBERSHIP:** Each Lot owner (including Declarant), by virtue of being such an owner, and for so long as he is such an owner, shall be deemed a member of the Association. The Association membership of each owner (including Declarant) shall be appurtenant to said Lot and shall not be transferred, pledged, or alienated in anyway except upon the transfer of legal and equitable title to said Lot, and then only to the transferee of such title. Any other attempt to transfer membership shall be void.

**4.03 POWERS:** The Association shall have all of the powers of a not-for-profit Corporation organized under the general not-for-profit corporation laws of the state of Idaho, and subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Declaration. These powers shall include but not be limited to:

**A. Assessments:** the power to levy assessments on the Lot owners and to enforce payment of such assessments, all in accordance with the provisions of this Declaration.

**B. Association Rules:** the power to adopt, amend and repeal by majority vote of the Board of Directors such rules and regulations as the Association deems reasonable and necessary (the Association Rules) for orderly operation of the Community, and to enforce the provisions of the Declaration as contained herein.

**C. Architectural Review Committee:** the power to appoint and remove members of the Architectural Review Committee and to enforce the architectural, design and building restrictions set forth in this Declaration, or otherwise promulgated by the committee.

**D. Roads:** the power to provide for the maintenance of all roads and other common areas, if any, contained within the Community.

**E. Budgets:** to develop budgets for operation of the Community and to determine assessments necessary for orderly operation of the Community.

**4.04 ASSESSMENTS:** Each Lot owner hereby and by acceptance of the deed to a Lot, covenants and agrees to pay when due all regular and special assessments or charges made by the Association for operation and maintenance of the Community. Such assessments, together with interest, costs and reasonable attorney's fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each assessment shall also be the personal obligation of the Lot owner at the time when the assessment came due. Unless otherwise specifically provided herein, all assessments shall be fixed at a uniform rate for all Lot owners.

**4.05 ENFORCEMENT OF ASSESSMENTS:** There is hereby created a claim and right of lien with power of sale on each and every Lot to secure payment of any and all assessments levied against Lots in the Community pursuant to this Declaration, together with interest thereon at the maximum rate permitted by law and all costs of collection which may be

paid or incurred by the Association. Said lien shall be prior and superior to all other liens or claims created subsequent to the recording of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Lot and assessments for any Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto. Such lien may be enforced or foreclosed by appropriate action in court or by sale by the Association, its attorney or other person authorized to make the sale, such sale to be conducted in accordance with the provisions of Idaho Code applicable to the exercise of powers of sale permitted by law.

**4.06 SUBORDINATION TO CERTAIN DEEDS OF TRUST:** The lien for assessments provided for herein in connection with a given the Lot shall not be subordinate to the lien of any deed of trust or mortgage except the lien of a first deed of trust or first mortgage given and made in good faith and for value that is of record as an encumbrance against such Lot prior to the recordation of any claim of lien for the assessments.

## **ARTICLE V - MISCELLANEOUS PROVISIONS**

**5.01 TERM:** The terms, covenants, conditions, and restrictions of this Declaration shall run until the year 2026 unless amended as provided herein. After such date, such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or a distinguished by a written instrument executed by at least 80% of the Lot owners, and such written instrument is recorded with the Valley County Recorder.

**5.02 AMENDMENT:** Up to the time that Declarant no longer has ownership of any of the Lots within the Community, the provisions of this Declaration, other than this article, may be amended only by Declarant. At such time as the Declarant no longer has an ownership interest in any Lots within the Community, then this Declaration may be amended by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying that such amendment has been approved by the vote or written consent of at least 80% of the Lot owners, and such an amendment shall be effective upon its recordation with the Valley County Recorder.

**5.03 RIGHTS OF MORTGAGEES:** Notwithstanding any other provision of this Declaration, no amendment to this Declaration shall operate to defeat and render invalid the rights of the beneficiary under any deed of trust or mortgage upon a Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such deed of trust or mortgage, such Lot shall remains subject to this Declaration as amended.

**5.04 INTERPRETATION:** The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform plan for the development and preservation of the Community in a manner designed to protect and enhance the aesthetic and economic value of the Community. This Declaration shall be construed and governed under the laws of the State of Idaho.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

**DECLARANT:**

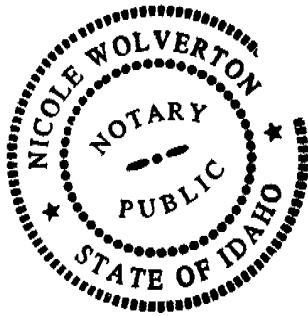
**BOULDER CREEK CONSTRUCTION, LLC,  
an Idaho limited liability company**

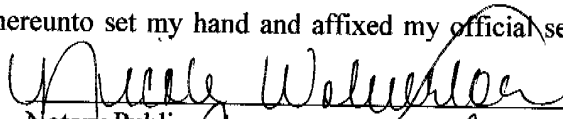
By:   
**RICHARD G. POSTON, Managing Member**

State of Idaho }  
County of Valley }

On this 28<sup>th</sup> day of September, 2006, before me, a Notary Public in and for said state, personally appeared, Richard G. Poston, known as and identified to me as the Managing Member of Boulder Creek Construction, LLC, an Idaho limited liability company, and who executed the foregoing instrument on behalf of said LLC, and who acknowledged to me that he executed the same for the purposes set forth therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year of this certificate first above written.



  
Notary Public  
Residing at: Cascade, Idaho  
My commission expires: 9/19/07

THOMAS W. KERR  
PLS 998

KERR SURVEYING  
PO BOX 853-404 E. PARK  
McCALL, IDAHO 83638  
208-634-2686 / FAX 208-634-4042  
December 14, 1999

JOEL W. DROULARD  
PLS 5357

SW $\frac{1}{4}$  NE $\frac{1}{4}$  SEC. 25, T. 18 N., R. 3 E., VALLEY COUNTY, IDAHO  
29.777 ACRES

A parcel of land situate in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 25, T. 18 N., R. 3 E., B.M., Valley County, Idaho, more particularly described as follows:

Commencing at a brass cap marking the 1/4 Corner on the south boundary of Section 25, T. 18 N., R. 3 E., B.M., Valley County, Idaho; thence, N. 00° 07' 52" E., 2,641.75 feet to a 5/8 inch rebar marking the Center 1/4 Corner of said Section 25, the REAL POINT OF BEGINNING:

Thence, N. 00° 03' 26" E., 1,259.02 feet along the west boundary of said SW $\frac{1}{4}$  NE $\frac{1}{4}$  to a 5/8 inch rebar on the south right-of-way of Boulder Lake Road,  
Thence, N. 89° 51' 04" E., 838.72 feet along said south right-of-way to a 5/8 inch rebar,  
Thence, 127.59 feet along a curve to the right whose radius is 105.00 feet, and delta angle is 69° 37' 27" along said right-of-way to a 5/8 inch rebar,  
Thence, S. 20° 31' 29" E., 156.74 feet along said right-of-way to a 5/8 inch rebar,  
Thence, 32.64 feet along a curve to the left whose radius is 561.00 feet, and delta angle is 03° 20' 00" along said right-of-way to a 1/2 inch rebar,  
Thence, S. 66° 08' 31" W., 175.15 feet to a 1/2 inch rebar,  
Thence, S. 00° 09' 55" W., 527.54 feet to a 1/2 inch rebar,  
Thence, S. 89° 50' 05" E., 484.00 feet to a 1/2 inch rebar,  
Thence, S. 00° 09' 54" W., 415.03 feet to a 1/2 inch rebar marking the C-E 1/16 Corner of said Section 25,  
Thence, S. 89° 56' 53" W., 1,326.96 feet to the Point of Beginning, containing 29.777 acres, more or less.

Bearings based on Record of Survey Inst. No. 214722.

Exhibit "A"

**ARTICLES OF INCORPORATION  
FOR  
BOULDER LAKE ESTATES  
HOMEOWNERS ASSOCIATION, INC.**

In compliance with the requirements of Title 30, Chapter 3, Idaho Code, the undersigned, who is a resident of Idaho and is of full age, has this day formed a nonprofit corporation and does hereby certify:

**ARTICLE I  
NAME OF CORPORATION**

The name of the corporation is Boulder Lake Estates Homeowners Association Inc., hereafter called the "Association."

**ARTICLE II  
REGISTERED OFFICE**

The initial registered office of the Association is located at 14172 ADAMS CIRCLE, McCall, Idaho 83638.

**ARTICLE III  
REGISTERED AGENT**

Richard G. Poston, whose address is 14172 ADAMS CIRCLE, McCall, Idaho 83638, and whose mailing address is P.O. Box 1558, McCall, Idaho 83638 is hereby appointed the initial registered agent of this Association.

**ARTICLE IV  
PURPOSE AND POWERS OF THE ASSOCIATION**

This Association is a nonprofit corporation. The specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the residential lots and common area, if any, within that certain subdivision development known as Boulder Lake Estates, located in Valley County, Idaho, and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this association and for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions for Boulder Lake Estates , hereinafter called the "Declaration," applicable to the property described therein and as recorded in the County of Valley, Idaho, on

November 3, 2006, as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) dedicate, sell or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by eighty percent (80%) of each class of members, agreeing to such dedication, sale or transfer;

(e) participate in mergers and conditions with other nonprofit corporations organized for the same purposes or annex additional residential property and common area;

(f) have and to exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Corporation Law of the State of Idaho by law may now or hereafter have or exercise.

## **ARTICLE V MEMBERSHIP**

Every person or entity who is a recorded owner of a fee or undivided fee interest in any Lot which is subject to assessment by the Association shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

## **ARTICLE VI VOTING RIGHTS**

The association shall have two (2) classes of voting membership.

Class A: Class A members shall be all owners of Lots within the property described herein, with the exception of Declarant, as that term is defined in the Declaration, and shall be entitled to one vote for each Lot owned.



Class B: Class B members shall be the Declarant, as that term is defined in the Declaration, and shall be entitled to five (5) votes for each Lot owned within the property described in the Declaration. Class B membership shall cease when the entire property described herein is sold to third parties, and Declarant no longer retains fee title to any Lot. Cumulative voting is not permitted.

## **ARTICLE VII BOARD OF DIRECTORS**

The affairs of this Association shall be managed by a board of three (3) directors, who need not be members of the Association. The number of directors may be changed by amendment of the Association's bylaws. The names and addresses of the persons who are to act in the capacity of the directors until the selection of successors are:

<u><b>NAME:</b></u>	<u><b>ADDRESS:</b></u>
<b>Richard G. Poston</b>	<b>P.O. Box 1558 McCall, ID 83638</b>
<b>Kathleen L. Poston</b>	<b>P.O. Box 1558 McCall, ID 83638</b>
<b>Penne Riggio</b>	<b>135 New Britian Avenue, #6 Plainville, CT 06062</b>

At the first annual meeting, and at each annual meeting thereafter, the members shall elect a new board of directors. Nothing contained herein shall preclude a board member from serving successive terms, or shall limit the number of terms a board member may serve.

## **ARTICLE VIII DISSOLUTION**

The Association may be dissolved by unanimous written consent or vote of all members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted exclusively to such similar purposes. No part of the monies, properties or assets of the Association, upon dissolution or otherwise, shall inure to the benefit of any private person or individual or member of the Association. Notwithstanding any other provisions of these Articles, the Association shall not

carry on any other activities not permitted by any organization exempt from federal income tax under Section 528 of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States internal revenue law).

**ARTICLE IX  
DURATION**

The corporation shall exist perpetually, unless otherwise dissolved pursuant to law.

**ARTICLE X  
AMENDMENTS**

Amendment of these Articles shall require the assent of eighty percent (80%) of the entire membership.

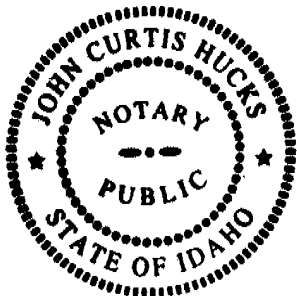
IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the state of Idaho, I, the undersigned, the incorporator of this Association, have executed these Articles of Incorporation this 2ND day of NOVEMBER, 2006.

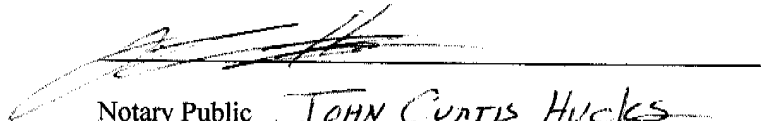
  
Richard G. Poston – Incorporator

State of Idaho     }  
County of Valley   }

On this 2ND day of Nov, 2006, before me, a Notary Public in and for said state, personally appeared, Richard G. Poston, personally known to me, and who executed the foregoing instrument, and who acknowledged to me that he executed the same for the purposes set forth therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year of this certificate first above written.



  
Notary Public JOHN CURTIS HUCKES  
Residing at: New Meadows, ID  
My commission expires: 6-13-09

**BYLAWS OF  
BOULDER LAKE ESTATES  
HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I  
NAME AND LOCATION**

The name of the corporation is Boulder Lake Estates Homeowners' Association, Inc., hereinafter referred to as the "Association." The principal office of the corporation shall be located at 14172 Adams Circle, McCall, Idaho 83638, but meetings of members and directors may be held at such places within the State of Idaho as may be designed by the Board of Directors.

**ARTICLE II  
DEFINITIONS**

Section 1.     **"Association"** shall mean and refer to Boulder Lake Estates Homeowners Association, Inc., its successors and assigns.

Section 2.     **"Board"** shall mean and refer to the Board of Directors of the Association.

Section 3.     **"Declarant"** shall mean and refer to Boulder Creek Construction, LLC, together with its successors and assigns.

Section 4.     **"Declaration"** shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Boulder Lake Estates applicable to the Property described therein, as recorded in the Office of the Recorder for Valley County, Idaho, as amended from time to time.

Section 5.     **"Residence"** shall mean and refer to the residential improvements to be constructed on each Lot by an Owner.

Section 6.     **"Lot"** shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Property.

Section 7.     **"Member"** shall mean and refer to those persons entitled to membership as provided in the Declaration or Articles of Incorporation of the Association.

Section 8.     **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Exhibit "C"**

Section 9. **“Property”** shall mean and refer to that certain real property described in the Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

### **ARTICLE III MEETING OF MEMBERS**

Section 1. **Annual Meetings.** The first meeting of the Members shall be held within one (1) year from the date of incorporation of the Association and each subsequent regular annual meeting of the Members shall be held in the same month of each year thereafter, at a date and time to be determined by the Board of Directors.

Section 2. **Special Meetings.** Special meetings of the Members may be called at any time by the President or by the Board, or upon written request of the Members who are entitled to vote one-fifth (1/5) of all of the votes of the Class A membership.

Section 3. **Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting. By mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the Member’s address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. **Quorum.** The presence, either in person or by proxy, at the meeting of Members entitled to cast, or proxies entitled to cast, sixty percent (60%) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at a meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. **Proxies.** At all meetings of Members, each Member may vote in person or by proxy, but in no event shall more than one (1) vote be cast with respect to any Lot owned by more than one (1) Class A member. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

### **ARTICLE IV BOARD OF DIRECTORS SELECTION**

Section 1. **Election.** Election to the Board shall be by written ballot. At such election the Member or their proxies may cast, in respect to each vacancy, as many votes as they are

entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

## **ARTICLE V MEETING THE DIRECTORS**

Section 1. **Regular Meetings.** Regular meetings of the Board shall be held upon at least three (3) days notice to all directors, at such place and hour as may be determined by the Board. All Board meetings shall be open to all Members of the Association.

Section 2. **Special Meetings.** Special meetings of the Board shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

## **ARTICLE VI POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. **Powers.** The Board shall have power to:

(a) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(b) declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board; and

(c) employ a property manager, an independent contractor, legal counsel or certified public accountant, or such other employees as they deem necessary, and to prescribe their duties.

(d) procure and maintain adequate errors and omissions insurance covering the officers and directors of the Association.

Section 2. **Duties.** It shall be the duty of the Board to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fifth (1/5) of the class A members who are entitled to vote;

(b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) as more fully set forth in the Declaration:

1. fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

2. send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

3. foreclosure the lien against any Lot for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person or entity, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association and, if the Board deems it to be appropriate, adequate directors and officers liability insurance or errors and omissions insurance covering the officers and directors of the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) maintain all areas the Association is responsible for maintaining as described in the Declaration.

(h) act and serve as the Architectural Review Committee, and promulgate and enforce rules pertaining to construction activities on Lots, as provided for by the Declaration or the rules of the Architectural Review Committee.

## **ARTICLE VII OFFICERS AND THEIR DUTIES**

Section 1. **Enumeration of Officers.** The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. **Election of Officers.** The election of officers shall take place at the first meeting of the Board following each annual meeting of the members.

Section 3. **Term.** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 4. **Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. **Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. **Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Section 7. **Duties.** The duties of the officers are as follows:

#### **PRESIDENT**

The President shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all written instruments and shall co-sign all checks.

#### **VICE-PRESIDENT**

The Vice-President shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.

#### **SECRETARY**

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board.

#### **TREASURER**

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all

checks of the Association; keep proper books of account; cause an annual review, compilation or audit of the Association books to be made by a certified public accountant at the completion of each fiscal year; and shall prepare and annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

## **ARTICLE VIII BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

## **ARTICLE IX ASSESSMENTS**

As more fully provided in the Declaration each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at a rate equal to four percent (4%) over the highest rate published as prime, fully floating, by the Wall Street Journal, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interests, costs, and reasonable attorney's fees or any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein.

## **ARTICLE X CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: Boulder Lake Estates Homeowners Association, Inc.

## **ARTICLE XI AMENDMENTS**

Section 1. **Procedure for Amendment.** These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy.



Section 2. **Conflicting Provisions.** In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

**ARTICLE XII  
MISCELLANEOUS**

The fiscal year of the association shall begin on the first day of January and end on the 31st day of December every year, except that the first fiscal year shall begin on the date of incorporation.

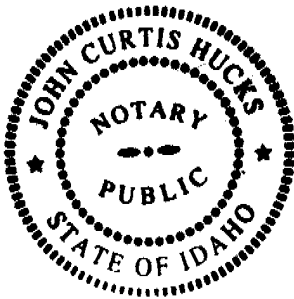
IN WITNESS WHEREOF, the undersigned, being the Incorporator of Boulder Lake Estates Homeowners Association, Inc. has hereunto set my hand this 2ND day of NOVEMBER, 2006.

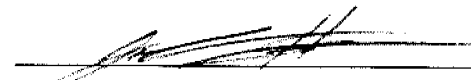
  
**Richard G. Poston, Incorporator**

State of Idaho     }  
County of Valley  }

On this 2ND day of November, 2006, before me, a Notary Public in and for said state, personally appeared, Richard G. Poston, personally known to me, and who executed the foregoing instrument, and who acknowledged to me that he executed the same for the purposes set forth therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year of this certificate first above written.



  
Notary Public JOHN CURTIS HUCKES  
Residing at: New Meadows, ID  
My commission expires: 6-13-09

**ARCHITECTURAL REVIEW COMMITTEE**  
**RULES AND GUIDELINES FOR BOULDER LAKE ESTATES**

THESE ARCHITECTURAL REVIEW COMMITTEE RULES AND GUIDELINES ("RULES") are effective the 28<sup>th</sup> day of September 2006, and are promulgated in accordance with the Declaration of Covenants, Conditions and Restrictions for Boulder Lake Estates Subdivision in Valley County, Idaho.

1. **Purpose.** The following rules shall apply to construction of residences and other improvements on Lots within Boulder Lake Estates subject to such further restrictions contained in the Declaration of Covenants, Conditions and Restrictions, or any amendments thereto. These rules are established for the purpose of defining certain aesthetic guidelines, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features designed to maintain harmony with surrounding structures and prevent the construction of improvements which may be detrimental to Boulder Lake Estates and the surrounding area. These rules may not be amended except by the direction of the Board and are meant to insure overall compatibility within the Community for the benefit of all Lot owners.

2. **Ranch Architecture and Building Types.** All buildings on a particular Lot must have a common theme and style of architecture. Acceptable styles of architecture and building type include: log homes, ranch style, and farm/Victorian. Unacceptable building types include: mobile homes, prefabricated homes, domes, metal structures, and plastic greenhouses. Particular attention must be given to the architectural character proposed and the relationship of the main residence with other structures planned within the approved building envelope.

3. **Preservation of Significant Views.** All views are important at Boulder Lake Estates, including views from a Lot to the mountains and watercourses and to significant features beyond. To the full extent possible, views shall be preserved. The objective is to create as many opportunities for views as possible, within the constraints posed by the site.

4. **Antennas and Utilities.** No exterior antenna towers shall be placed upon or erected on any Lot, or elsewhere within the Community. Satellite dishes or similar electronic reception transmission must be located on the side or rear of buildings and to the extent practical shielded from view. All power, gas, electric, service access lines, telephone and cable TV and similar lines shall be located underground and shall follow designated driveways to the building site. Disturbed areas shall be restored immediately after installation. Septic, drainfield and domestic wells located outside the building envelope must receive prior approval by the Declarant or Board.

5. **Exterior Lighting.** In general, light sources should be shielded and directional (source of light should not be visible). No "mercury vapor lights" or similar lighting shall be allowed. All exterior lights shall be down lighting and incandescent.

6. **Roofs.** Roof slopes should be between 5:12 and 8:12. Fake mansard roofs, curvilinear roofs, domed roofs and conical roofs are not permitted. Roofs should overhang walls a minimum of 24 inches.
7. **Roofing Materials.** In general roofing materials must be constructed of authentic materials. Only the following roof surfacing materials shall be allowed: wood shingles, wood shakes, slate, non-reflective tiles or asphalt composition shingles. All roof flashing must be of a color harmonious with roof and upper wall surfacing.
8. **Appurtenances.** Skylights higher than one (1) foot above the roof plane or placed at an angle to the roof plane, are not permitted. Skylights should not extend to the eave line. Only wood, stone, stucco, concrete and masonry-finished flues and chimneys are permitted. Solar panels, collectors, and windmills shall be approved or disapproved on a case by case basis by the Declarant and Board.
9. **Building Exteriors.** The color of exteriors shall be earth tones. Bright and dramatic colors are prohibited. Windows may be constructed of wood or of wood covered with color-fast vinyl or anodized aluminum. Metal or metal covered windows must be color coated. All exterior material shall be authentic and artificial materials shall not be permitted. Materials permitted as siding shall be wood siding, board and batten, stone, log, log siding and stucco. Prohibited siding materials include brick, vinyl siding, metal siding, concrete block, and texture 1-11 siding.
10. **Foundation Walls.** All foundation walls or retaining walls with more than 6 inches visible above grade shall have a surface treatment on the surface above finish grade.
11. **Fencing.** All fencing shall be wood post and rail. Fence height may not exceed 42 inches. No barbed wire fencing shall be allowed. Fencing shall be located in accordance with the Declaration.
12. **Landscaping.** Landscaping on individual Lots should blend with the natural character of the Community. The use of native trees is required and native shrubs and grasses are preferred.
13. **Driveways.** All driveways shall be shall be constructed of an appropriate surface material, such as decomposed granite, asphalt, concrete, bricks, masonry pavers or maintained gravel, if maintained..
14. **Dog Runs.** All dog runs must be within the building envelope.
15. **Signs.** Except as provided herein, no signs of any kind except for address monuments shall be displayed to the public view on any Lot. For Sale signs no larger than 18" by 24", shall be permitted while a Lot or residence is for sale. Declarant shall not be subject to any sign restrictions while marketing Lots within the Community.

16. **Temporary Construction Facilities and Site Maintenance.** Temporary construction items required to be on-site within the approved building envelope prior to or during construction activities on Lots shall include: water, electric, toilet, and dumpster. The general contractor shall maintain the construction site in an orderly condition and all construction materials shall be located within the building envelope during the construction process.

17. **Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of these Rules is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of these Rules.

18. **Nonwaiver.** Consent by the Declarant or Board of Directors to any variance to the provisions of these Rules, or failure by the Declarant or Board of Directors to enforce any violation of these Rules, shall not be deemed to constitute a precedent or waiver impairing the Declarant's or Board's right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent or to enforce any subsequent or similar violation of these Rules.

19. **Amendment.** These Rules may be amended at any time by Declarant so long as Declarant has any Lots for sale within the Community. Thereafter, these rules may be amended by the Board of Directors of Boulder Lake Estates Homeowners Association, Inc.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

**DECLARANT:**

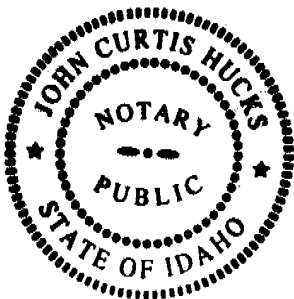
**BOULDER CREEK CONSTRUCTION, LLC,  
an Idaho limited liability company**

By: *Richard G. Poston*  
**RICHARD G. POSTON, Managing Member**

State of Idaho }  
County of Valley }

On this 2nd day of NOVEMBER, 2006, before me, a Notary Public in and for said state, personally appeared, Richard G. Poston, known as and identified to me as the Managing Member of Boulder Creek Construction, LLC, an Idaho limited liability company, and who executed the foregoing instrument on behalf of said LLC, and who acknowledged to me that he executed the same for the purposes set forth therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year of this certificate first above written.



*John Curtis Hucks*  
Notary Public - JOHN CURTIS HUCKS  
Residing at: NEW MEADOWS, ID  
My commission expires: 6-13-09

## EASEMENT RELOCATION AND MODIFICATION AGREEMENT

This Easement Relocation and Modification Agreement (hereinafter "Agreement") is made and entered into effective this 14~~th~~ day of April, 2005, by and between **BOULDER CREEK CONSTRUCTION, LLC**, an Idaho limited liability company, whose mailing address is P.O. Box 1558, McCall, Idaho 83638 (hereinafter "BCC" or "Grantor"); and **JOHN J. KINEVICH and JUDY A. THORNE**, whose mailing address is 1603 North 19th Street, Boise, Idaho 83702 (hereinafter collectively "Kinevich/Thorne" or "Grantees").

### RECITALS:

BCC is the owner of certain real property located in Valley County, Idaho, and more particularly described on Exhibit "A" hereto (hereinafter the "BCC Parcel").

The BCC Parcel was purchased by Richard G. Poston from Mike O'Neal, then conveyed by quitclaim deed to BBC, which became successor-in-interest to that certain Easement Agreement (hereinafter the "Original Easement") between Lyle A. Shaw and Lois J. Shaw, husband and wife (hereinafter "Shaw") as Grantor, and Kinevich/Thorne as Grantees, said Original Easement having been recorded on December 28th, 1999 as Instrument No. 244922 in the Official Records of Valley County, Idaho.

Kinevich/Thorne is the owner of a certain parcel of land located in Valley County, Idaho and more particularly described on Exhibit "B" ( hereinafter the "K/T Parcel"), and is also the Grantee and beneficiary under the terms of the Original Easement, which served to provide ingress and egress to the K/T Parcel.

BCC is the proposed developer of a five (5) single-family parcel subdivision to be located on the BCC Parcel, subject to approval by the Valley County Board of Commissioners, and other applicable governmental agencies. Development of such subdivision will require relocation of the Original Easement and modification of the scope and limitations contained in said Original Easement as relates to both the K/T Parcel and the BCC Parcel.

Accordingly, BCC and Kinevich/Thorne wish to relocate and modify the Original Easement as set forth herein for their mutual benefit and for the benefit of their respective parcels.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, and for other good and valuable consideration, the parties hereto agree for themselves, their heirs, successors, and assigns, to the following relocation and other modifications to the Original Easement:

**Exhibit "E"**

*DT JK*  
*OR*

1. The Original Easement presently consists of a seventy (70) foot wide strip of ground running generally north/south across the easterly one-quarter (1/4) of the BCC Parcel, from Boulder Lake Road to the northerly boundary line of the K/T Parcel. The Original Easement is more particularly described on Exhibit "C" attached hereto. Pursuant to this Agreement, the Original Easement shall be relocated to a seventy (70) foot wide strip of ground running generally north/south across the westerly one-quarter (1/4) of the BCC parcel, from Boulder Lake Road to the northerly boundary of the K/T Parcel (hereinafter the "Relocated Easement"). The Relocated Easement is more particularly described on Exhibit "D" attached hereto. The exact location of the Relocated Easement shall be subject to final survey and variations in location dictated by topographical features and wetlands. At such time as the exact location is determined by survey, a revised Exhibit "D" will be prepared and provided to Grantee for review and approval, such approval not to be unreasonably withheld. The revised Exhibit "D" will be attached to this Agreement prior to recording.

2. The Conditions of Easement contained in Section 3 of the Original Easement are hereby modified and replaced by the following conditions:

a. This Relocated Easement granted herein is described as a "non-exclusive" easement, because the Relocated Easement may also be used by Grantor and Grantor's guests, invitees, successor and assigns, as follows:

i) The Relocated Easement may not be used to access more than five (5) single family home parcels to be included within the proposed Boulder Creek Subdivision, without Grantee's prior written consent;

ii) The use of the Relocated Easement by Grantor and Grantees, together with their successors in interest, shall not interfere with the others' use of such easement.

iii) Grantor shall bear all initial costs of relocating the Original Easement and constructing the Relocated Easement up to the boundary line of the K/T Parcel. Such Relocated Easement shall be improved as a private access road providing ingress and egress for up to five (5) single family home parcels located within the Boulder Creek Subdivision, as well as to the northerly boundary line of the K/T Parcel. The Relocated Easement shall be an all-season road constructed in accordance with all Valley County standard local road specifications, to be inspected and documented as such by County personnel, and shall be capable of immediate dedication as a public roadway, if such dedication is requested or required by Valley County.

iv) Grantor shall bear all initial costs of installing underground utilities within in Relocated Easement sufficient to serve the single family parcels within the Boulder Creek Subdivision, and will extend those utilities to the northerly boundary line of the K/T Parcel. The power line and conduit installed within the Relocated Easement shall be of a size sufficient to accommodate the "primary voltage" requirement of both the five (5) single family home parcels to be located within the Boulder Creek

Subdivision, and the eight (8) single family home parcels contemplated for the K/T Parcel. Grantor shall provide Grantee with written confirmation from Idaho Power that the installed service line meets this specification. To the extent that the costs incurred by Grantor in installing such upgraded service line exceeds the costs that would otherwise be incurred by Grantor providing power to the Boulder Creek Subdivision (and up to the boundary line of the K/T Parcel), then Grantee agrees to reimburse Grantor for the additional costs of the upgraded service. Grantor will provide Grantee with information regarding the proposed costs as soon as they are available from Idaho Power, or the applicable utility contractor. Grantee shall be responsible for all further costs related to establishing utility services within the K/T Parcel, provided however that Grantor agrees to sign a Waiver of Vested Interest, or similar instrument relieving Grantee from the obligation of reimbursing Grantor for the initial costs of installing electrical service, phone service, cable television or similar utilities within the Relocated Easement, in the event Grantee later extends such services onto the K/T Parcel.

v) Until such time as the K/T parcel is developed in accordance with the provisions of this Relocated Easement, Grantor, or its successors, shall bear all costs of maintaining and repairing the Relocated Easement. To the best knowledge of Grantor, future maintenance of the power line located within the Relocated Easement, once installed and approved by Idaho Power, will be the responsibility of Idaho Power. At such time as the K/T parcel is developed with a single family home, or divided into more than one single family home parcel, then the costs of maintenance and repair of the Relocated Easement shall thereafter be divided proportionately between the total number of single family home parcels located on both the BCC Parcel and the K/T Parcel utilizing said easement, and paid in accordance with such apportionment, as the same shall change from time to time.

vi) The proposed subdivision of the BCC Parcel into five (5) single family home parcels will be subject to a formal, recorded subdivision plat, together with recorded covenants, conditions and restrictions (CCRs). The plat and CCRs will specifically prohibit the further subdivision of any single family home parcels within the Boulder Creek Subdivision.

b. There shall be no gates, fences or obstructions of any kind placed across any portion of the Relocated Easement between Boulder Creek Road and the K/T Parcel, without Grantee's prior written consent. However, this restriction shall not preclude the construction of entry features or fences at the intersection of Boulder Lake Road and Penne Lane, provided that such entry features or fences do not interfere with Grantee's use of the Relocated Easement.

c. The Relocated Easement granted to Grantee herein may not be used to access more than eight (8) single family residential parcels on the K/T Parcel. In the event Grantee elects to subdivide the K/T Parcel, then any subdivision shall be expressly subject to the terms of this Agreement. Further, all deeds to subsequent owners within both the BCC Parcel and the K/T Parcel shall specifically reference and give notice of this Agreement and the Relocated Easement contained herein, including the

obligation of subsequent parcel owners to share pro-rata in the costs of maintenance and repair of the Relocated Easement.

d. The rights granted herein shall include the right of either Grantor or Grantee to dedicate the Relocated Easement to Valley County, if required by Valley County in conjunction with the subdividing of either the BCC Parcel or the K/T Parcel. In such case, both Grantor and Grantee, together with their respective successors and assigns, agree to execute any documents required to effectuate such dedication. Any such dedication shall be expressly subject to the provisions of this Agreement, and the rights and benefits contained herein.

e. Grantee shall not be restricted from utilizing the Relocated Easement for the purpose of bringing livestock into and out of the K/T Parcel. However, any transporting of livestock across the Relocated Easement shall be supervised by Grantee, or an agent of Grantee, so as to minimize the impact of such livestock movement on the owners of other lots using the Relocated Easement. Further, to prevent the migration of livestock onto the BCC Parcel, Grantor shall have the right, at Grantor's sole expense, to fence the entire perimeter of the BCC Parcel. In the event Grantor elects to fence the BCC Parcel, then Grantee agrees, at Grantee's sole expense, to place a gate across the Relocated Easement at the north boundary of the K/T Parcel, to prevent livestock from entering the BCC Parcel or the Relocated Easement. Grantor agrees that the fencing along the north boundary of the K/T Parcel shall extend far enough so that the existing gate presently in place within the Original Easement can be relocated by Grantee without the need for further fencing. Further, in the event of future development of the K/T Parcel, Grantee shall have the right to remove a portion of the fencing in order to create up to a seventy (70) foot wide entrance into the K/T Parcel, for purposes of complying with the requirements of Valley County for a public road, provided that Grantee shall at such time, at Grantee's sole option, either (1) discontinue grazing or movement of livestock on the K/T Parcel, or (2) have the obligation and expense of employing other effective means of preventing the movement of livestock on the BCC Parcel or the Relocated Easement. This provision shall not be construed or interpreted as requiring Grantee to place any fence, gate, cattle guard or other obstruction across the seventy (70) foot wide entrance into the K/T Parcel.

4. In consideration for Grantee's cooperation in connection with this relocation and modification of the Original Easement and the establishment of the Relocated Easement as set forth herein, Grantor and Grantee have agreed to the payment of good and valuable consideration, which shall be paid as provided for herein and in a separate writing between the parties.

a. Payment shall be made immediately prior to the earlier of (a) the recording of this Agreement by Grantor, or (b) the recording by Grantor of the final plat of the Boulder Creek Subdivision in the Official Records of Valley County.

b. Upon execution by the parties, the original of this Agreement shall be placed in escrow with Amerititle in Cascade, Idaho, together with an escrow





instruction letter, signed by both parties, and setting forth the conditions under which this Agreement may be recorded, and the procedure for payment of the consideration agreed to by the parties.

c. Grantor shall pay for the attorney's fees necessary to prepare and record this Agreement. Grantee shall bear their own attorney's fees for review of this Agreement.

d. Until such time as this Agreement is recorded and the Relocated Easement is constructed as set forth herein, Grantee may continue to use the Original Easement according to its terms.

5. The Relocated Easement granted and created herein shall constitute a covenant appurtenant to, benefiting and running with Grantee's property and burdening and running with Grantor's property, in perpetuity. The provisions of this Agreement shall bind and inure to the benefit of the heirs, assigns and successors in interest of the parties.

6. In the event that any dispute arises regarding the legal consequence, interpretation, application or enforcement of this Agreement, then the prevailing party in such dispute shall be entitled to recover his/her attorney's fees and costs incurred, including attorney fees and costs incurred on appeal.


7. Grantor warrants that Grantor has authority to execute this Agreement and to grant the easement contained herein; and that the BCC Parcel is not pledged as security or collateral for any debt or obligation. Grantee likewise warrants that Grantee has authority to execute this Agreement and accept the easement contained herein; that Grantee owns the K/T Parcel; and that the K/T Parcel is not pledged as security or collateral for any debt or obligation. Grantor and Grantee mutually indemnify and agree to hold the other harmless for any breach of this covenant.

8. Except as specifically modified herein, the terms and conditions of the Original Easement shall remain in full force and effect.

//

Balance of page left intentionally blank

//

*JH*  
*GT*  


IN WITNESS WHEREOF, the parties hereto have executed this instrument effective on the day and year first above written.

**GRANTOR:**

**BOULDER CREEK CONSTRUCTION, LLC,**  
an Idaho limited liability company

By: *Richard G. Poston*  
Richard G. Poston, Managing Member

**GRANTEES:**

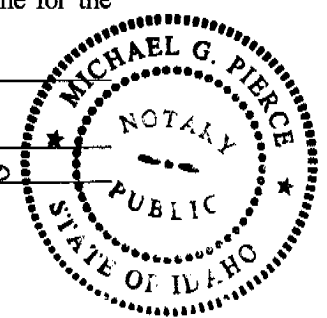
*John J. Kinevich*  
JOHN J. KINEVICH

*Judy A. Thorne*  
JUDY A. THORNE

STATE OF Idaho  
COUNTY OF Valley

On this 14 day of April, 2005, before me, a Notary Public in and for said State, personally appeared RICHARD G. POSTON, as managing member of BOULDER CREEK CONSTRUCTION, LLC, known or identified to me to be the person whose name is subscribed to the within instrument, and who acknowledged to me that he executed the same for the purposes and on behalf of the organization set forth above.

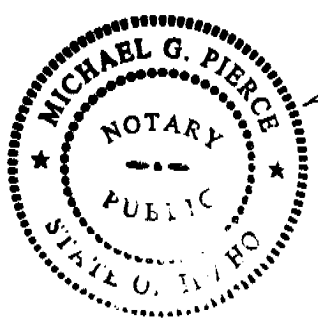
*Michael G. Pierce*  
Notary Public  
Residing at: Cascade  
Commission Expires: 10-15-2010



STATE OF Idaho  
COUNTY OF Valley

On this 14 day of April, 2005, before me, a Notary Public in and for said State, personally appeared JOHN J. KIVEVICH, known or identified to me to be the person whose name is subscribed to the within instrument, and who acknowledged to me that he executed the same for the purposes set forth herein.

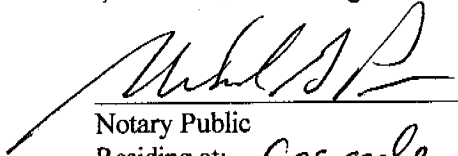
*Michael G. Pierce*  
Notary Public  
Residing at: Cascade  
Commission Expires: 10-15-2010



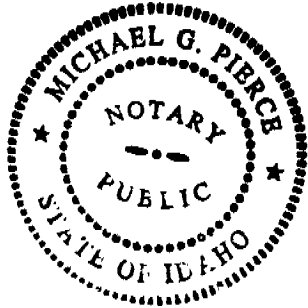
*JP*  
*AK*  
*BP*

STATE OF Idaho )  
COUNTY OF Valley )

On this 14 day of April, 2005, before me, a Notary Public in and for said State, personally appeared JUDY A. THORNE, known or identified to me to be the person whose name is subscribed to the within instrument, and who acknowledged to me that she executed the same for the purposes set forth herein.



Notary Public  
Residing at: Cascade  
Commission Expires: 10-15-2010



91 JK

THOMAS W. KERR  
PLS 998

KERR SURVEYING  
PO BOX 853-404 E. PARK  
McCALL, IDAHO 83638  
208-634-2686 / FAX 208-634-4042  
December 14, 1999

JOEL W. DROULARD  
PLS 5357

SW¼ NE¼, SEC. 25, T18N, R3E, VALLEY COUNTY, IDAHO  
29.777 ACRES

A parcel of land situate in the SW¼ of the NE¼ of Section 25, T. 18 N., R. 3 E., B.M., Valley County, Idaho, more particularly described as follows:

Commencing at a brass cap marking the 1/4 Corner on the south boundary of Section 25, T. 18 N., R. 3 E., B.M., Valley County, Idaho; thence, N. 00° 07' 52" E., 2,641.75 feet to a 5/8 inch rebar marking the Center 1/4 Corner of said Section 25, the REAL POINT OF BEGINNING:

Thence, N. 00° 03' 26" E., 1,259.02 feet along the west boundary of said SW¼ NE¼ to a 5/8 inch rebar on the south right-of-way of Boulder Lake Road,  
Thence, N. 89° 51' 04" E., 838.72 feet along said south right-of-way to a 5/8 inch rebar,  
Thence, 127.59 feet along a curve to the right whose radius is 105.00 feet, and delta angle is 69° 37' 27" along said right-of-way to a 5/8 inch rebar,  
Thence, S. 20° 31' 29" E., 156.74 feet along said right-of-way to a 5/8 inch rebar,  
Thence, 32.64 feet along a curve to the left whose radius is 561.00 feet, and delta angle is 03° 20' 00" along said right-of-way to a ½ inch rebar,  
Thence, S. 66° 08' 31" W., 175.15 feet to a ½ inch rebar,  
Thence, S. 00° 09' 55" W., 527.54 feet to a ½ inch rebar,  
Thence, S. 89° 50' 05" E., 484.00 feet to a ½ inch rebar,  
Thence, S. 00° 09' 54" W., 415.03 feet to a ½ inch rebar marking the C-E 1/16 Corner of said Section 25,  
Thence, S. 89° 56' 53" W., 1,326.96 feet to the Point of Beginning, containing 29.777 acres, more or less.

Bearings based on Record of Survey Inst. No. 214722.

Exhibit "A"



THOMAS W. KERR  
PLS 998

KERR SURVEYING  
PO BOX 853-404 E. PARK  
McCALL, IDAHO 83638  
208-634-2686 / FAX 208-634-4042  
December 14, 1999

JOEL W. DROULARD  
PLS 5357

NW¼, SE¼, SEC. 25, T18N, R3E, VALLEY COUNTY, IDAHO  
40.257 ACRES

A parcel of land being the NW¼ of the SE¼ of Section 25 , T. 18 N., R. 3 E., B.M., Valley County, Idaho, more particularly described as follows:

Commencing at a brass cap marking the 1/4 Corner on the south boundary of Section 25, T. 18 N., R. 3 E., B.M., Valley County, Idaho; thence, N. 00° 07' 52" E., 1,320.86 feet to a 5/8 inch rebar marking the C-S 1/16 Corner of said Section 25, the REAL POINT OF BEGINNING:

- Thence, continuing N. 00° 07' 52" E., 1,320.89 feet to a 5/8 inch rebar marking the Center 1/4 Corner of said Section 25,
- Thence, N. 89° 56' 53" E., 1,326.96 feet to a 5/8 inch rebar marking the C-E 1/16 Corner of said Section 25,
- Thence, S. 00° 09' 54" W., 1,322.92 feet to a 1/2 inch rebar marking the SE 1/16 Corner of said Section 25,
- Thence, N. 89° 57' 51" W., 1,326.18 feet to the Point of Beginning, containing 40.257 acres, more or less.

Bearings based on Record of Survey Inst. No. 214722.

TYPE: map  
LELAND HEINRICH  
VALLEY COUNTY RECORDER  
BY: J. W. Droulard  
FEE: 30.00  
'99 DEC 28 AM 11 13  
MOUNTAIN TITLE & RECORDS  
REQUESTED BY \_\_\_\_\_  
RECORDED

244922

Exhibit "B"

*[Handwritten signature]*

THOMAS W. KERR  
P.L.S 998

KERR SURVEYING  
PO BOX 853-404 E. PARK  
McCALL, IDAHO 83638  
208-634-2686 / FAX 208-634-4042  
December 22, 1999

JOEL W. DROULARD  
P.L.S 5357

**SHAW TO KENEVICH**  
**70 FOOT WIDE INGRESS, EGRESS AND UTILITY EASEMENT**  
**SW¼ NE¼ Section 25, T. 18 N., R. 3 E., B.M.**  
**Valley County, Idaho**

A 70.00 foot wide ingress, egress and utility easement situate in the SW¼ of the NE¼ of Section 25, T. 18 N., R. 3 E., B.M., Valley County, Idaho, lying 35.00 feet on each side of the following described center line:

Commencing at a brass cap marking the 1/4 Corner common to Sections 25 and 36, T. 18 N., R. 3 E., B.M., Valley County, Idaho; thence, N. 00° 07' 52" E, 2,641.75 feet to a 5/8 inch rebar marking the Center 1/4 Corner of said Section 25; thence, N. 89° 56' 53" E., 913.68 feet along the south boundary of said SW¼ NE¼, to the REAL POINT OF BEGINNING:

Thence, 97.03 feet along a non-tangent curve to the left whose long chord bears N. 34° 33' 04" W., 91.28 feet, whose radius is 80.58 feet and delta angle is 68° 59' 53".

Thence, N. 69° 03' 00" W., 78.24 feet,

Thence, 118.36 feet along a curve to the right whose radius is 100.00 feet, and delta angle is 67° 49' 00".

Thence, N. 01° 14' 00" W., 296.73 feet,

Thence, 53.52 feet along a curve to the right whose radius is 500.00 feet, and delta angle is 06° 08' 00".

Thence, N. 04° 54' 00" E., 753.46 feet to the south right-of-way of Boulder Lake Road, the Point of Ending.

Bearings based on Record of Survey Inst. No. 214722.

JJK JT

Exhibit "C"

JJK  
JT