

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

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576  
Ident. Number A74-10267/90  
Date Received 12-11-90  
Receipt Number E015527

*No late fees required*

NOTICE OF CLAIM  
TO A  
WATER RIGHT  
ACQUIRED UNDER STATE LAW

RECEIVED

DEC 11 1990

Department of Water Resources  
Eastern District Office

Please type or print clearly

1. Name of Claimant (s) Lemon S. or Patsy R. or John A. Wallace Phone (208) 768-2729

Mailing Address P.O. Box 83, Lemhi, Idaho Zip 83465

2. Date of Priority (Only one (1) per claim) September 29, 1909

3. Source of water supply (a) Reese Creek  
which is tributary to (b) Lemhi River

4. a. Location of existing point of diversion is: Township 17 N Range 25 E Section 13

NE 1/4 of NE 1/4 of 1/4, Govt. Lot 1, B.M., County of Lemhi

Additional points of diversion if any: NW 1/4 NE 1/4, NE 1/4 NW 1/4, NW 1/4 NW 1/4, SW 1/4 NW 1/4, SE 1/4 NW 1/4

b. If instream flow, beginning point of claimed instream flow is:

Township 17 N Range 25 E Section 13 SE 1/4 of NE 1/4 of NE

Govt. Lot 1 B.M., County of Lemhi

ending point is: Township 17 N Range 25 E Section 13 SW 1/4 of SE 1/4 of

NW 1/4, Govt. Lot 1 B.M., County of Lemhi

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),  
including the dates of any changes or enlargements in use, the dimensions of the diversion works as  
constructed and as enlarged and the depth of each well. Wooden Headgate with Ditches

Pond with Gravity Feed Sprinkler Flood. Livestock water  
directly from creek and specific points made with fence.

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Stockwater purposes from 1-1 to 12-31 amount 0.07 or 2.5  
 For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_  
 For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_  
 For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 0.07 2.5 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is \_\_\_\_\_ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Cattle and or horses - up to 300 head

10. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP  | RNG  | SEC | NE 1/4 |       |       |       | NW 1/4 |       |       |       | SW 1/4 |       |       |       | SE 1/4 |       |       |       | Totals |
|------|------|-----|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|
|      |      |     | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 |        |
| 17 N | 25 E | 13  | 5      | 5     |       |       | X      | X     | X     | 5     |        |       |       |       |        |       |       |       |        |
|      |      |     |        |       |       |       | X      | X     | X     |       |        |       |       |       |        |       |       |       |        |
|      |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|      |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|      |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|      |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|      |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|      |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |

Total number of acres irrigated \_\_\_\_\_

11. In which county (ies) are lands listed above as place of use located? Lemhi

12. Do you own the property listed above as place of use? Yes ☒ No ☐  
 If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.  
74-1832, 74-2057, 74-1577 or None ( )

14. Remarks: This claim is filed for livestock water from Reese Creek that flows through property owned by Lemus. or Patsy R. Wallace. Instream stock use.

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Last Name Wallace Ident No. \_\_\_\_\_

Copies: White State, Yellow Summary

S80  
T17N, R24E  
2

3

1

11

12

15

13

22

Wallace

23

Gulch

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15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree \_\_\_\_\_  
If applicable provide IDWR Water Right Number \_\_\_\_\_  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date \_\_\_\_\_  
Plaintiff vs Defendant \_\_\_\_\_

16. Signature (s)  
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled  
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do \_\_\_\_\_ do not ☒  
wish to receive and pay a small annual fee for monthly copies of the docket sheet.  
Number of attachments \_\_\_\_\_

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true  
and correct.

Signature of Claimant (s) Lemon S. Wallace Date 12/7/90  
\_\_\_\_\_  
Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_ Title \_\_\_\_\_  
of \_\_\_\_\_, that I have signed the foregoing  
Organization  
document in the space below as \_\_\_\_\_ of \_\_\_\_\_  
Title Organization  
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent \_\_\_\_\_  
Title and Organization \_\_\_\_\_ Date \_\_\_\_\_

State of Idaho/or Id )  
County of ada ) SS.

Subscribed and sworn (or affirmed) before me this 7 day of Dec 19 90

SEAL

Notary Public

Residing at

My Commission Expires

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, \_\_\_\_\_ will be acting as attorney at law on behalf  
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above  
should be mailed to me at the address listed below.

Signature \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

Last Name \_\_\_\_\_ Ident. Number \_\_\_\_\_

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DEC 15 1992

Copies White-State, Yellow-Claimant

# WARRANTY DEED

## For Value Received

HOLLIS G. McCLARAN AND OPAL L. McCLARAN, as Co-Trustees of the McClaran Living Trust - 1986, and as individuals

the grantor s, do hereby grant, bargain, sell and convey unto

LEMON S. WALLACE AND PATSY R. WALLACE, husband and wife

whose current address is

the grantee s, the following described premises, in.....LEMHI.....County Idaho, to wit:

T. 17 N. R. 24 E.

Section 12: S $\frac{1}{2}$  S $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , S $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ,  
SE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$

Section 13: S $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ ,  
NE $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$

State of Idaho )  
County of Lemhi )

ss No. 208812

This instrument was filed for record at  
the request of American Land Title  
at 2:25 o'clock p.m. 11-7 1990  
and duly filmed and indexed in the  
records of Lemhi County

Alberta Wiederrick

Ex-Officio Recorder  
By J. Terry J. Norton Deputy  
Fees: 3.00

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees,  
their heirs and assigns forever. And the said Grantors do hereby covenant to and  
with the said Grantees, that they are the owners in fee simple of said premises; that they are free  
from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: NOVEMBER 5th 1990

Hollis G. McClaran  
HOLLIS G. McCLARAN

Opal L. McClaran  
OPAL L. McCLARAN

California

(General)

STATE OF CALIFORNIA

COUNTY OF San Diego } ss.

On November 5, 1990 before me, the undersigned, a Notary Public in and for said  
State, personally appeared Hollis G. McClaran and  
Opal L. McClaran

personally known to me (or proved to me on the basis of satisfactory evidence)

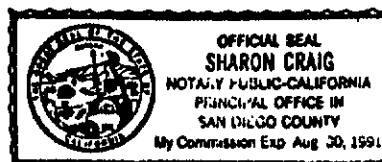
to be the person S whose name s are subscribed  
to the within instrument and acknowledged that they  
executed the same.

WITNESS my hand and official seal.

Signature Sharon Craig

SHARON CRAIG

Name (Typed or Printed)



# WARRANTY DEED

## For Value Received

HOLLIS G. McCLARAN AND OPAL LOUISE McCLARAN, husband and wife

the grantor s, do hereby grant, bargain, sell and convey unto

LEMON S. WALLACE AND PATSY R. WALLACE, husband and wife

whose current address is

GENERAL DELIVERY  
LEMHI, ID 83465

the grantee s, the following described premises, in.....LEMHI.....County Idaho, to wit:

SEE ATTACHED EXHBIT "A"

State of Idaho )  
County of Lemhi )

ss No. **208813**

This instrument was filed for record at  
the request of American Land Title  
at 2:26 o'clock p m 11-7 1990  
and duly filmed and indexed in the  
records of Lemhi County

Alberta Wiederrick

Ex-Officio Recorder

By Larry J. Morton Deputy  
Fee: 6.00

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees,  
their heirs and assigns forever. And the said Grantor s do hereby covenant to and  
with the said Grantee s, that they are the owners in fee simple of said premises; that they are free  
from all incumbrances

and that t he y will warrant and defend the same from all lawful claims whatsoever.

Dated: NOVEMBER 5<sup>th</sup> 1990

Hollis G. McClaran  
HOLLIS G. McCLARAN

Opal Louise McClaran  
OPAL LOUISE McCLARAN

(General)

STATE OF CALIFORNIA

COUNTY OF San Diego } SS.

On November 5, 1990 before me, the undersigned, a Notary Public in and for said  
State, personally appeared Hollis G. McClaran and Opal Louise McClaran

personally known to me (or proved to me on the basis of satisfactory evidence)  
to be the person 5 whose name s are subscribed  
to the within instrument and acknowledged that they  
executed the same.

WITNESS my hand and official seal.

Signature Sharon Craig  
SHARON CRAIG  
Name (Typed or Printed)



EXHIBIT "A"

THE N1/2NE1/4, AND THE E1/2NW1/4, SECTION 13, TOWNSHIP 17 N., RANGE 24 E., BOISE MERIDIAN, LEMHI COUNTY, IDAHO.

EXCEPTING THEREFROM:

A PARCEL OF LAND LOCATED IN THE SE1/4NW1/4, SECTION 13, T. 17 N., R. 24 E., B.M., LEMHI COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 13, FROM WHICH THE NORTHEAST CORNER BEARS N. 0° 04' W., A DISTANCE OF 2639.84 FEET ON A BEARING OF S. 89° 39' 07" W. TO THE CENTER OF SAID SECTION 13 AND BRING THE REAL POINT OF BEGINNING.

FROM THIS REAL POINT OF BEGINNING, A DISTANCE OF 1319.92 FEET ON A BEARING OF S. 89° 39' 07" W., ALONG THE SOUTH BOUNDARY OF THE SE1/4NW1/4;

THENCE N. 0° 13' 46" W., 105.00 FEET ALONG THE WEST BOUNDARY OF THE SE1/4NW1/4 TO THE CENTER LINE OF REESE CREEK;

THENCE THE FOLLOWING COURSES AND DISTANCES ALONG THE CENTERLINE OF REESE CREEK:

N. 54° 24' 55" E., 126.69 FEET;

N. 48° 36' 33" E., 173.05 FEET;

N. 15° 50' 04" W., 51.02 FEET;

N. 38° 46' 48" E., 390.99 FEET;

N. 70° 25' 55" E., 87.96 FEET;

N. 49° 08' 39" E., 277.21 FEET;

N. 70° 45' 59" E., 218.96 FEET;

N. 81° 56' 48" E., 353.28 FEET, TO A POINT ON THE EAST BOUNDARY OF THE SE1/4NW1/4;

THENCE S. 0° 26' 00" E., 971.37 FEET TO THE REAL POINT OF BEGINNING. . .

AND ALSO EXCEPTING A RIGHT OF WAY ON THE EXISTING ROAD ALONG THE WEST SIDE OF THE SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 13. . .

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

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A74-10267  
Date Received: 5/26/1992  
Receipt No: E015527  
Received By: \_\_\_\_\_

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: LEMON S WALLACE 208-768-2729  
Address: PO BOX 83  
LEMHI ID 83465  
OR  
Name: PATSY R WALLACE 208-768-2729  
Address: PO BOX 83  
LEMHI ID 83465  
OR  
Name: JOHN A WALLACE 208-768-2729  
Address: PO BOX 83  
LEMHI ID 83465

2. Date of Priority: SEP 29, 1909

3. Source: REESE CREEK Trib. to: LEMHI RIVER

4. Point of Diversion:

| Township                         | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------------------------------|-------|---------|--------|--------|-----|-----|--------|
| Beginning Point of Instream Flow |       |         |        |        |     |     |        |
| 17N                              | 25E   | 13      | SE     | NE     | NE  |     | LEMHI  |
| Ending Point of Instream Flow    |       |         |        |        |     |     |        |
| 17N                              | 25E   | 13      | SW     | SE     | NW  |     | LEMHI  |

5. Description of diverting works:  
INSTREAM STOCKWATER

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| STOCKWATER | 01/01 | 12/31 | 0.070  |      |        |

7. Total Quantity Appropriated is:  
0.070 C.F.S. (and/or)

A.F.A.

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8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:  
300 HEAD CATTLE AND OR HORSES

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use   | Acres |
|----------|-------|---------|--------|-----|-----|-------|-------|
| 17N      | 25E   | 13      | NE     | NE  |     | STOCK |       |
|          |       |         | NW     | NE  |     | STOCK |       |
|          |       |         | SE     | NW  |     | STOCK |       |

11. Place of use in counties: LEMHI

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:  
74-1832, 2057, 1577

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do \_\_\_\_\_ do not \_\_\_\_\_ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: \_\_\_\_\_

**For Individuals:**

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_

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**State of Idaho**  
**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098  
Phone: (208) 327-7900 FAX: (208) 327-7866

October 19, 1998

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

McNELLIS FAMILY TRUST  
JESSICA & TERRY McNELLIS  
19951 EL FIN FOREST LN  
ESCONDIADO CA 92029

Re: Snake River Basin Adjudication (SRBA)  
Water Right No. 74-10267

Dear Claimant(s):

We have been advised you may be the new owner(s) of the property with the water right referenced above.

Before we can modify our records to reflect your new ownership of the water right referenced above, we need Form 42-248/42-1409(6) completed. This form is enclosed for your use. Please return the form, documentation and proof of domestic use to me attention at this office no later than November 2, 1998.

Please call this office toll-free at 1/800-451-4129 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Judy Givens'.

Judy Givens  
Clerical Specialist  
Adjudication Bureau

/jg

Encl: Form 42-248/42-1409(6)  
Water Right Profile Report

AJ5856NP

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

DATE: FEB-12-1998

PAGE: A-36

RIGHT NUMBER: 74-10267

NAME & ADDRESS: LEMON S WALLACE  
PATSY R WALLACE  
JOHN A WALLACE  
PO BOX 83  
LEMHI ID 83465*McNeill Family Trust  
Jessica + Terry McNeill  
19951 Elfyn Forest Lane  
Escondido CA. 92029*

SOURCE: REESE CREEK

TRIBUTARY: LEMHI RIVER

QUANTITY: 0.07 CFS

PRIORITY DATE: 09/29/1909

POINT OF DIVERSION: T17N R25E S13

SENENE (INSTREAM BEGINNING POINT) Within LEMHI County  
SWSENW (INSTREAM ENDING POINT)

## PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

STOCKWATER 300 HEAD CATTLE AND OR

PERIOD OF USE

01-01 12-31

QUANTITY

0.07 CFS

PLACE OF USE:

STOCKWATER

Within LEMHI County

T17N R25E S13

NENE

NWNE

SENW

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

Verified by

*Robert E. Jant*Date: *9/25/98*

Verification Source:

*Lemhi Co. Assessor*

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

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

1. Water Right or Adjudication Claim No(s): 74-10267

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

A. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**

**AND**

B. **PLAT OF PROPERTY** or **SURVEY MAP** for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)

**OR**

C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency **AERIAL PHOTO** with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant

Lemon Wallace

P.O. Box 83, Lemhi, Id 83465

4. New Owner/Claimant(s)

Terry A. McNellis & Jessica K McNellis

Name Connector (Check one): ☒ and, ☐ or, ☐ and/or

New Mailing Address

19951 ELFIM Forest Lane

City, State and ZIP Code

Escondido, Ca 92029

New Telephone Number

(760) 591-4181

5. Date you acquired the property

10/01/96

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres you irrigate 100 Number and type of stock 300 Head cattle + or horses

Diversion rate in CFS 0.07 Number of homes 2 Other uses 300 Head cattle + or horses

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner or Claimant(s)

Terry A. McNellis

Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign this form.

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

## **BUY-SELL MEMORANDUM AGREEMENT**

**PARTIES:** LEMON S. WALLACE and PATSY R. WALLACE  
Husband and Wife,  
HCR1 Box 61  
Lincoln, Kansas 67455  
hereinafter referred to as "SELLERS"

and

TERRY A. McNELLIS and JESSICA K. McNELLIS, CO Trustees  
UAD 6/18/89 For the Terry and Jessica McNellis Family Trust  
19951 Elfin Forest Lane  
Escondido, California 92029  
hereinafter referred to as "BUYERS"

**DATED:** This 11th day of October, 1996.

Sellers herein are selling to Buyers and Buyers are purchasing from Sellers the following described real property, improvements and appurtenances thereon, located in the County of Lemhi, State of Idaho, commonly known as the Reese Creek Ranch containing approximately 188 acres located in Section 12 & 13, T17N, R24E, more particularly described as follows, to-wit:

SEE EXHIBIT "A", ATTACHED HERETO.

TOGETHER WITH United States Department of the Interior Bureau of Land Management Grazing Permit under Operator Number 112696, Term 03/01/92 to 02/28/2002.

ALSO TOGETHER WITH a gravity flow irrigation system, including hand line, wheel line and main line.

ALSO TOGETHER WITH all water and water rights, ditch and ditch rights appurtenant thereto.

SUBJECT TO easement to Idaho Power Company, a corporation for power lines and incidental purposes, recorded October 19, 1979, under Instrument No. 149206, Records of Lemhi County, Idaho.

SUBJECT TO record of survey, recorded November 30, 1990, under instrument No. 208982; records of Lemhi County, Idaho.

### 1. PURCHASE PRICE:

The purchase price of the above described real property is THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS AND 00/100 (\$375,000.00) in lawful money of the United States of America, to be paid as follows:

- a) The sum of TEN THOUSAND DOLLARS (\$10,000.00) earnest money has been paid by buyers to sellers, currently being held by Lemhi Title and Abstract and is hereby acknowledged.
- b) The balance of THREE HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$365,000.00) shall be paid by the Buyers to Sellers no later than the date of closing, scheduled for October 11, 1996.

FINAL PAYMENT shall be due on or before the day of closing, scheduled for October 11, 1996.

### 2. CLOSING AGENT:

The closing agent shall be LEMHI TITLE AND ABSTRACT COMPANY, whose office is located at 531 Main Street, Salmon, Idaho. Sellers and Buyers agree that Buyers and Sellers will share equally the cost of title insurance, closing costs and recording fees. Buyers agree to reimburse Sellers one-half of the cost of the attorney fees, for document preparation. Sellers agree to execute all transfer documents including, but not limited to water rights and grazing rights, for the above described property.

### 3. TAXES AND ASSESSMENTS:

Taxes and assessments against said real property for the year 1995 and all prior years shall be paid by Sellers. Taxes and assessments against the real property for the year 1996 shall be prorated as of the date of closing. Taxes and assessments for the year 1997 and all subsequent years shall be paid by the Buyers before they become delinquent.

**4. LIENS AND ENCUMBRANCES:**

Sellers covenant that at the time of this Agreement there are no liens or encumbrances on the property described herein save and except those referred to herein, and/or the title commitment and except all conditions, restrictions, reservations, easements, rights-of-way, zoning ordinances and governmental regulations of record and that they will not permit any other liens or encumbrances upon said property during the terms of this Agreement.

**5. WARRANTIES:**

Buyers have fully examined the real property and improvements, as to the amount of land, its condition and the condition of the improvements and accepts all "AS IS, "WHERE IS". Sellers make no warranties other than title. There are no other warranties other than those contained herein.

**6. SNAKE RIVER ADJUDICATION:**

The parties hereto acknowledge and understand that there is presently pending an adjudication procedure for all water and water rights appurtenant to the properties in Lemhi County, from the Snake River Basin Water System. Buyers agree to be responsible for all costs and fees and to file the documents necessary to protect any water and water rights, ditch or ditch rights appurtenant to the properties herein.

**7. POSSESSION:**

Buyers agree that the transfer of possession of the property shall take place on or before date of closing scheduled for October 11, 1996.

**8. TITLE INSURANCE:**

Sellers shall obtain, and Buyers shall reimburse one-half the cost of an Owner's Title Insurance Policy in the amount of THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$375,000.00) insuring Buyers that marketable title is vested in Sellers, subject to current taxes and assessments, existing easements and Right-of-Way recorded or visible upon said real property and the usual printed exceptions. Buyers shall have ten (10) days after receipt of the preliminary title report to object to said report and if the Buyers have made no objection in writing within the ten (10) days, it shall be agreed that the Buyers have accepted Seller's title. If there are valid written objections, not excepted herein, Sellers shall have thirty (30) days after receipt of the objections to cure said defects.

**9. RISK OF LOSS:**

Buyers shall bear the risk of loss of the real property and improvements described in this Memorandum Agreement, except any loss caused prior to closing.

**10. NON-MERGER:**

This Agreement shall not merge in the deed but shall survive and be binding on the parties.

**11. HEIRS AND ASSIGNS:**

It is understood and agreed that the stipulations aforesaid are to apply to and bind the heirs, executors, administrators and assigns of the respective parties. Time of the essence of this Agreement.



STATE OF IDAHO

)  
: ss.  
)

County of Lemhi

On this \_\_\_\_\_ day of October, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared **LEMON S. WALLACE**, known to me to be the, the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

(NOTARIAL SEAL)

Notary Public for State of Idaho

Residing at \_\_\_\_\_

My Commission expires: \_\_\_\_\_

ID

STATE OF ~~IDAHO~~ CALIFORNIA )

: ss.  
)

County of ~~Lemhi~~ SAN DIEGO )

On this 9TH day of October, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared **TERRY A. McNELLIS** and **JESSICA K. McNELLIS**, known to me to be the Co-Trustees of the **TERRY AND JESSICA McNELLIS FAMILY TRUST**, and the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

(NOTARIAL SEAL)

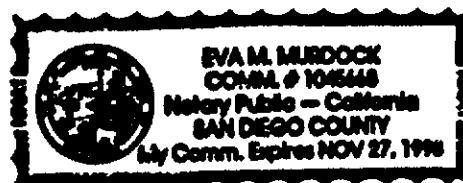
Notary Public for State of ~~Idaho~~ CALIFORNIA

Residing at 401 B ST STE 2300 SAN DIEGO ~~IDAHO~~

My Commission expires: 11-27-98

re:WALLACE\moa\1082-96

MEMORANDUM AGREEMENT



STATE OF IDAHO )

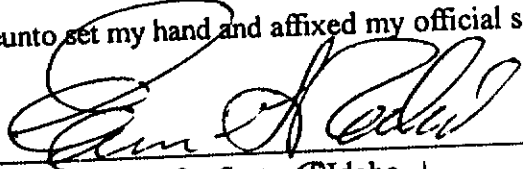
: ss.

County of Lemhi )

On this 11th day of October, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared **LEMON S. WALLACE**, known to me to be the attorney in fact for **PATSY R. WALLACE** and acknowledged to me that he subscribed the name of Patsy R Wallace thereto as principal, and his own name as attorney in fact.

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

(NOTARIAL SEAL)

  
Notary Public for State of Idaho

Residing at Salmon

My Commission expires: 1/10/98

ID

re\WALLACE\moa\1082-96

MEMORANDUM AGREEMENT

PAG

AJ0749NP  
No. R74-10267

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM PROFILE REPORT  
(REGIONAL)

DATE: 10/29/98  
PAGE: 1

| OWNER<br>CODE | NAME & ADDRESS                                                                                                                                     | PRIORITY<br>DATE | WATER USE  | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------|-----------------------|-------------------|---------------------|
| C             | MCNELLIS FAMILY TRUST<br>TERRY A MCNELLIS TRUSTEE<br>JESSICA K MCNELLIS TRUSTEE<br>19951 EL FIN FOREST LN<br>ESCONDIADO CA 92029<br>(760) 591-4181 | 09/29/1909       | STOCKWATER | 01-01 12-31           | 0.07 CFS          |                     |
|               |                                                                                                                                                    |                  |            | TOTAL DIVERSION:      | 0.07 CFS          |                     |

Water Source: REESE CREEK

Tributary to: LEMHI RIVER

Stage: BENEFICIAL USE

Point(s) of Beginning Stream Reach: T17N R25E S13  
Point(s) of Ending Stream Reach: T17N R25E S13

SENE  
SWSENE

LEMHI County  
LEMHI County

Place of use Legal Description for: STOCKWATER

|     |     |     |   | NE   |      |      |      | NW  |     |     |     | SW   |      |      |      | SE  |     |     |     |      |      |      |      |     |     |     |     |      |      |      |      |
|-----|-----|-----|---|------|------|------|------|-----|-----|-----|-----|------|------|------|------|-----|-----|-----|-----|------|------|------|------|-----|-----|-----|-----|------|------|------|------|
|     |     |     |   | NENE | NWNE | SWNE | SENE |     |     |     |     | NENW | NWNW | SWNW | SENE |     |     |     |     | NESW | NWSW | SWSW | SESW |     |     |     |     | NESE | NWSE | SWSE | SESE |
| T   | R   | S   | : | Lt   | Ac   | Lt   | Ac   | Lt  | Ac  | Lt  | Ac  | Lt   | Ac   | Lt   | Ac   | Lt  | Ac  | Lt  | Ac  | Lt   | Ac   | Lt   | Ac   | Lt  | Ac  | Lt  | Ac  | Lt   | Ac   | Lt   | Ac   |
| --- | --- | --- | : | ---  | ---  | ---  | ---  | --- | --- | --- | --- | ---  | ---  | ---  | ---  | --- | --- | --- | --- | ---  | ---  | ---  | ---  | --- | --- | --- | --- | ---  | ---  | ---  | ---  |
| 17N | 25E | 13  | : | S    |      | S    |      |     |     |     |     |      |      | S    |      |     |     |     |     |      |      |      |      |     |     |     |     |      |      |      |      |

POU County: LEMHI

Non-Irrigation Uses: 300 HEAD CATTLE AND/OR HORSES

Other Rights: 74-1832, 2057, 1577

Conditions of Approval:

- N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Dates: Exam Made Date: Verified Date: 10/29/1998 Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:  
Presumption Flag: