

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: A22-00674B
Date Received: 6/22/1999
Receipt No: X777777
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JEFF CARTER 208-787-2858
Address: 173 W 550 S
VICTOR ID 83455
AND/OR
Name: JOSEPHINE WARDEN 208-787-2858
Address: 173 W 550 S
VICTOR ID 83455

2. Date of Priority: JUN 1, 1890

3. Source: FOX CREEK Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	45E	26	NE	NW	SE		TETON

5. Description of diverting works:
HEADGATE & DITCHES TO FLOOD IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/31	0.400		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	45E	27	NE	SW		IRR	20.0



10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	20.0
					Total Acres	20.0

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 5/ 9/1985

STEVEN M. CROW, ET AL
Decree Plaintiff

RONALD CARLSON & RAY GORDON,
vs Decree 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/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
KARL R. DECKER
THEL W. CASPER
SHAN B. PERRY
AMELIA A. SHEETS

U.S. BANK BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

RECEIVED

JUN 20 2001

Department of Water Resources
Eastern Region

June 12, 2001

IDAHO DEPARTMENT
OF WATER RESOURCES
900 N. Skyline
Idaho Falls, ID 83402-1718

RE: 22-674B.

Dear ladies and gentlemen:

We were recently contacted and our advice was requested by Kristine Ciesinski, Norman Bailey and Katherine Ciesinski of Victor, Idaho, with respect to a possible dispute over portions of a decreed water right on Fox Creek with Mr. D. Ray Gordon, also of Victor, Idaho. The right in question was decreed to one Michael Byrne in the Rexburg Decree (in one place in that Decree, he is referred to as Michael "Bayne"). The Decree awarded Byrne 120 inches of the waters of Fox Creek with a priority of June 1, 1890, for the irrigation of the Southwest Quarter of Section 27 and the South Half of the Southwest Quarter of Section 26 in Township 4 North, Range 45 East, some 240 total acres. This water right also became the subject of a lawsuit between Gordons and Crows in the early 1980's, which resulted in the Idaho Court confirming the provisions of the Rexburg Decree in a 1984 decision in the case of *Crow v. Carlson*, 107 Idaho 461, 690 P.2d 1916 (1984).

At the time of the Idaho Supreme Court decision, the Southwest Quarter of Section 27 was owned by Crows and the South Half of the Southwest Quarter of Section 26 was owned by Gordons. The Court made it clear that eighty (80) inches of the right went with the Crow 160 acres and forty (40) inches with the Gordon 80 acres. By 1987, the south half of the Crow 160 had been sold and the north half of that 160 acres (actually said 80 acres plus a 20 acre parcel to the east described as the W ½ NW NE of the same Section for a total of 100 acres) was sold to Lloyd and Valerie Willdens. In 1991, the Willdens entered into a contract to sell 80 of their 100 acres (described as the SW NW NE, NW SW, W ½ NE SW and SE NE SW of said Section) to D. Ray and Mary Jean Gordon. The contract recites that sixty (60) inches of the Byrne decreed right was included with this right. However, the sale was never completed and no deed to Gordons was ever recorded. In 1994, a Quitclaim Deed from Gordons back to Willdens for the same eighty (80) acres and appurtenances was recorded.

At the present time, the S $\frac{1}{2}$ SW, Section 26 is still owned by the Gordons. But the 100 acres formerly owned by Willdens is owned by four new owners. The western most twenty (20) acres (W $\frac{1}{2}$ NW SW) is owned by Katherine Ciesinski; the next twenty (20) acres to the east (E $\frac{1}{2}$ NW SW) is owned by Kristine Ciesinski and Norman Bailey; the next twenty (20) acres, continuing east, (W $\frac{1}{2}$ NE SW) is owned by Jeff Carter and Josephine Warden; and the next forty (40) acres (E $\frac{1}{2}$ NE SW and W $\frac{1}{2}$ NW SE) is owned by Bruce and Valerie Zohner.

There seems to be agreement among all affected parties that prior to Willdens' acquisition of the N $\frac{1}{2}$ SW Section 27 in 1987, all of the water rights formerly decreed for use on the entire SW $\frac{1}{4}$ of said Section had been transferred in fact and used exclusively upon the N $\frac{1}{2}$ of that quarter section. This accomplished transfer is consistent with the SRBA claims as presently filed.

Originally, the Byrne decreed right appears to have been numbered 22-192. That number appears to have been superceded by numbers 22-674 and 22-675. Our review of the records indicates that 22-675 is the Gordons' SRBA claim for forty (40) inches (.8 cfs) for the S $\frac{1}{2}$ SW Section 26 and S $\frac{1}{2}$ SE Section 27 (we assume this includes a claim of an accomplished transfer or an enlargement to the land in Section 27). 22-674 appears to cover the eighty (80) inches (1.6 cfs) awarded to the SW $\frac{1}{4}$ of Section 27, now only claimed on the N $\frac{1}{2}$ of that SW $\frac{1}{4}$ as follows:

22-674B	Jeff Carter and Josephine Warden	20 inches (.4 cfs) for 20 acres in NE SW Section 27
22-674C	Bruce and Valerie Zohner	20 inches (.4 cfs) for 20 acres in NE SW Section 27
22-674D	Katherine Ciesinski	20 inches (.4 cfs) for 20 acres in NW SW Section 27
22-674E	Kristine Ciesinski and Norman Bailey	20 inches (.4 cfs) for 20 acres in NW SW Section 27.

To our knowledge, there are no other SRBA claims pending which claim any portion of the Michael Byrne decreed right. But there has been some assertion by Mr. Ray Gordon to the effect that during the period between 1991 and 1994, when he was purchasing some eighty (80) acres of the Willden land on contract, he changed the place of use of some of the decreed water right formerly appurtenant to the Willden land. There is an ongoing dialogue regarding this assertion, but, at this time we would point out the following facts which have been disclosed by our research.

1. We have found no adjudication claim filed by Gordons to more than forty (40) inches of the Byrne right, only claim number 22-675.

2. We have been able to find no Application for Transfer of any of the eighty (80) inches claimed under 22-674 as would have been required by Idaho Code Sections 42-108 and 42-222.

3. The period during which any such change would have been made by Gordons, 1991-1994 is too late for an accomplished transfer to have taken place under the requirements of Idaho Code Section 42-1425.

4. Adverse possession could not have occurred after 1991 because of the provisions of Idaho Code Section 42-607.

5. Our view of the farming operation of Gordons in the S ½ SW Section 26 and S ½ SE Section 27, and our review of the aerial and satellite photos suggests that Gordons do not irrigate more than forty (40) acres within this 160 acre total anyway.

Our conclusion from all we have heard and seen regarding the Byrne decreed right is that eighty (80) inches is still appurtenant to the N ½ SW Section 27, and on behalf of Katherine Ciesinski, Kristine Ciesinski and Norman Bailey, we hereby call for delivery of water pursuant to said rights (22-674D and 22-674E) so long as water is available to fill or partially fill the June 1, 1890 priority.

Thank you for your kind attention to this matter.

Very truly yours,



Kent W. Foster

cc. Ronald D. Carlson, District 01 Watermaster
Clay Fullmer, Deputy Watermaster for Teton Basin
Katherine Ciesinski
Kristine Ciesinski & Norman Bailey
Ray Rigby



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

January 18, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JEFF CARTER
JOSEPHINE WARDEN
173 W 550 S
VICTOR ID 83455

RE: CHANGE IN OWNERSHIP FOR A22-00674

Dear Mr. Carter & Ms. Warden:

The request for Change in Ownership for a portion of the above-referenced Notice(s) of Claim has been processed with the new Notice(s) reflecting you as one of the claimants.

Since the Change in Ownership involved just a portion of the Notice(s) of Claim, the right was split as follows:

A22-00674A, 1.2 CFS ON 60 ACRES, WILLDEN
A22-00674B, 0.4 CFS ON 20 ACRES, CARTER & WARDEN

Enclosed for your records is a typed Notice(s) reflecting your portion of the right. Review the Notice(s) and if you have other corrections or questions, please contact this office.

Respectfully submitted,

Jennifer Crabtree
Technical Records Specialist

Enclosure

RECEIVED

JAN 07 2000

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

Department of Water Resources
 Eastern Region

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

1. Water Right No(s): _____

Adjudication Claim No(s): A22-00674

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** showing the location of the place of use of the water right(s) or claim(s). (These are usually attached to your deed or on file with the county.)

OR

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

3. Name and Address of Former
 Owner/Claimant

Thomas and Robin Mansanarez
9045 S. 25 W. Idaho Falls, Id. 83402

4. New Owner/Claimant(s)

JEFF CARTER and/or Josephine Warden

New Mailing Address

Name Connector (Check one): ☐ and, ☐ or, ☒ and/or
173 W 550 S

City, State and ZIP Code

VICTOR, ID 83455

New Telephone Number

(208) 787-2858

5. Date you acquired the property

3/3/99

6. Did you acquire all of the former owner's property? If you did, skip this item and go to item 7. If you acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). Describe in detail your portion of each water right or adjudication claim in the spaces in the box below only if the water right(s) or claim(s) need to be split between owners. If necessary, attach additional pages. 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.

Number of acres you irrigate with this water right 20 Number and type of stock

Diversion rate in CFS _____ Number of homes you acquired _____ Other uses _____

7. Signature of New Owner(s)
 or Claimant(s)

[Signature]
[Signature]

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

INSTRUCTIONS

This form has been prepared to assist new owners of property to comply with the requirements of Sections 42-248 and 42-1409(6), Idaho Code. Section 42-248 requires certain property holders to notify the Department of Water Resources (IDWR) of any change in mailing address or ownership of all or part of a water right record on file with IDWR. Section 42-1409(6) provides that new property owners must notify IDWR of any change in ownership of a water right during an adjudication of water rights. Required claims may be filed by a new owner.

Separate brochures are available from IDWR describing the adjudication of water rights and the requirement to notify IDWR of changes in ownership. Please contact your nearest IDWR office, or call 1-800-451-4129, if you would like more information or need help completing this form. Please attach additional sheets to the form if you require additional space to describe or explain any of the items on the form.

- ~~1. If there are water rights associated with the property, the seller should be able to provide you with the water right or adjudication claim number(s). Please enter these number(s) at Item 1. If you or the seller believes there are water rights for the property but the numbers are unknown, you may wish to contact IDWR for assistance in identifying the water rights for the property in question. If claims for the rights are required, and have not been filed, IDWR will so advise you.~~
2. The information described at Item 2 is required, since IDWR cannot process the requested change without documentation of ownership. The preferred types of documentation are shown; contact IDWR if you have difficulty obtaining this information. Do not obtain a new survey for purposes of this form before contacting IDWR.
3. Please provide the name and address of the former owner of the water right and/or adjudication claim at Item 3.
4. The name, mailing address, and telephone number of the new owner(s) is entered at Item 4. Please indicate the relationship between multiple owners by using the connector 'and', 'or', or 'and/or'. If an 'and' is used, all parties must sign this form. If an 'and/or' or 'or' is used, all parties may sign. However, only one of the named parties is required to sign.
5. At Item 5, please provide the date the property in question was acquired. This may be the date of "closing" in the case of a real estate transaction or the date of court order for other types of ownership changes.
6. You may be purchasing only a portion of the total water right held by the seller. This means the water right held by the seller may be "split" to provide your share of the right in question. Be sure to include a description of the portion of the water right you have purchased at Item 6.

Please provide as much detail as possible concerning your portion of the water right: include the number of homes you acquired, number of acres irrigated with your portion of the right, if it is more than 1/2 acre, type and number of stock if your portion of the right includes stockwater, etc. In the absence of information to the contrary, IDWR will assume the intent is to split the rights proportionately.

7. The new owner(s) must sign the form in the space(s) provided at Item 7. Corporations and other organizations must submit a list of directors or officers demonstrating the authority of the director or officer to sign the form.
8. There is no filing fee. When complete, you should retain a copy and return the original of the form to the IDWR office nearest you:

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

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

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

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

RECEIVED

116699

35-8321-H

American Land Title Co.
P.O. Box 644
Driggs, ID 83422

JUN 24 1994

WARRANTY DEED

TETON Co. Id.
Clerk Recorder
For Value Received

RECEIVED

JAN 07 2000

Department of Water Resources
Eastern Region

Lloyd J. Willden and Valerie L. Willden, HUSBAND AND WIFE.

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

Thomas T. Mansanarez and Robin L. Mansanarez, HUSBAND AND WIFE.

whose current address is

P.O. Box 109, Victor, Id 83455

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

W1/2NE1/4SW1/4, Section 27, Township 4 North, Range 45 East,
Boise Meridian, Teton County, Idaho.

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 except: Subject to all existing patent reservations, easements, rights of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations.

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

Dated: June 23, 1994

Lloyd J. Willden
Lloyd J. Willden

Valerie L. Willden
Valerie L. Willden

STATE OF IDAHO, COUNTY OF Teton
On this 23rd day of JUNE, 19 94
before me, a notary public in and for said State, personally appeared

Lloyd J. Willden
Valerie L. Willden
HUSBAND AND WIFE

known to me to be the persons whose name s are
subscribed to the within instrument, and acknowledged to
me that they executed the same.

Gayle A. Dressler
Residing at Teton, Idaho
Comm. Expires 6-28-97
Notary Public

Filed _____
Indexed _____
Plotted _____

116699

FILED

AT THE REQUEST OF

American Land
AT MINUTES PAST 4 P M

DATE June 24 1994

Gayle A. Dressler
CLERK OF RECORDER

BY *Gayle Dressler*
DEPUTY

116699

RECEIVED
MAR 05 1999
TETON CO., ID
CLERK RECORDER

133199
QUITCLAIM DEED

For Value Received, I Jeff L Carter, a single man

do hereby convey, release, remise and forever quit claim unto

Jeff L. Carter a single man, and Josephine Warden a single woman
as Joint Tennants with Rights of Survivorship

whose address is: 173 W 550 S, Victor, ID 83455

RECEIVED

JAN 07 2000

Department of Water Resources
Eastern Region

the following described premises situated in Teton County, Idaho, to-wit:

Section 27: W1/2NE1/4SW1/4 Township 4 North, Range 45 East, Boise Meridian
Teton County, Idaho

133199

FILED

AT THE REQUEST OF

Jeff L. Carter
AT 25 MINUTES PAST 12 PM

DATE Mar. 5, 1999

Nolan G. Boyle
CLERK OF RECORD

BY Nora Ridgely
DEPUTY

together with their appurtenances.

Dated: 3/5/99

[Signature]

STATE OF Idaho)
COUNTY OF Teton)

On this 5th day of March in the year 1999, before me, a Notary Public in and for said State, personally appeared Jeff L. Carter, known or identified to me to be the person(s) whose name(s) is subscribed to the within Instrument, and acknowledged to me that he executed the same.



[Signature]
Notary Public of Idaho
Residing at Victor, ID
Commission Expires 7-1-2000

133199

T-7213



WARRANTY DEED

For Value Received THOMAS T. MANSANAREZ and ROBIN L. MANSANAREZ, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

JEFF L. CARTER, a single man
whose address is: P.O. BOX 453, VICTOR, ID, 83455

RECEIVED

JAN 07 2000

Department of Water Resources
Eastern Region

Hereinafter called the Grantee, the following described premises situated in Teton County, Idaho, to-wit:

Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

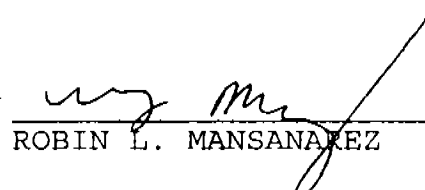
Section 27: W1/2NE1/4SW1/4

Subject to reservations in United States and State Patents; existing and recorded Right-of-ways, Easements, Zoning, Building and Subdivision ordinances; Taxes and Assessments as prorated between the parties hereto.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated:


THOMAS T. MANSANAREZ

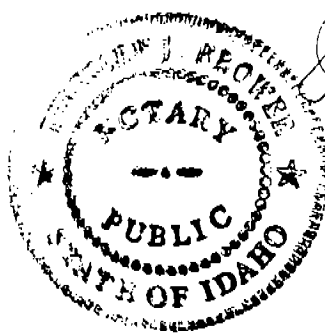

ROBIN L. MANSANAREZ

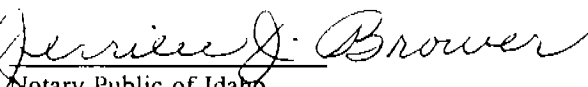
STATE OF IDAHO)

: ss

COUNTY OF TETON)

On this 3rd day of March, in the year 1999, before me, a Notary Public in and for said State, personally appeared THOMAS T. MANSANAREZ and ROBIN L. MANSANAREZ, known or identified to me to be the person(s) whose name(s) are subscribed to the within Instrument, and acknowledged to me that they executed the same.



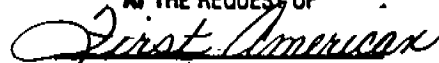

Notary Public of Idaho

Residing at Tetonia, ID
Commission Expires 2.27.04

133197

FILED

AT THE REQUEST OF



AT 21 MINUTES PAST 12 P. M.

DATE March 5, 1999

By Delon H. Bode

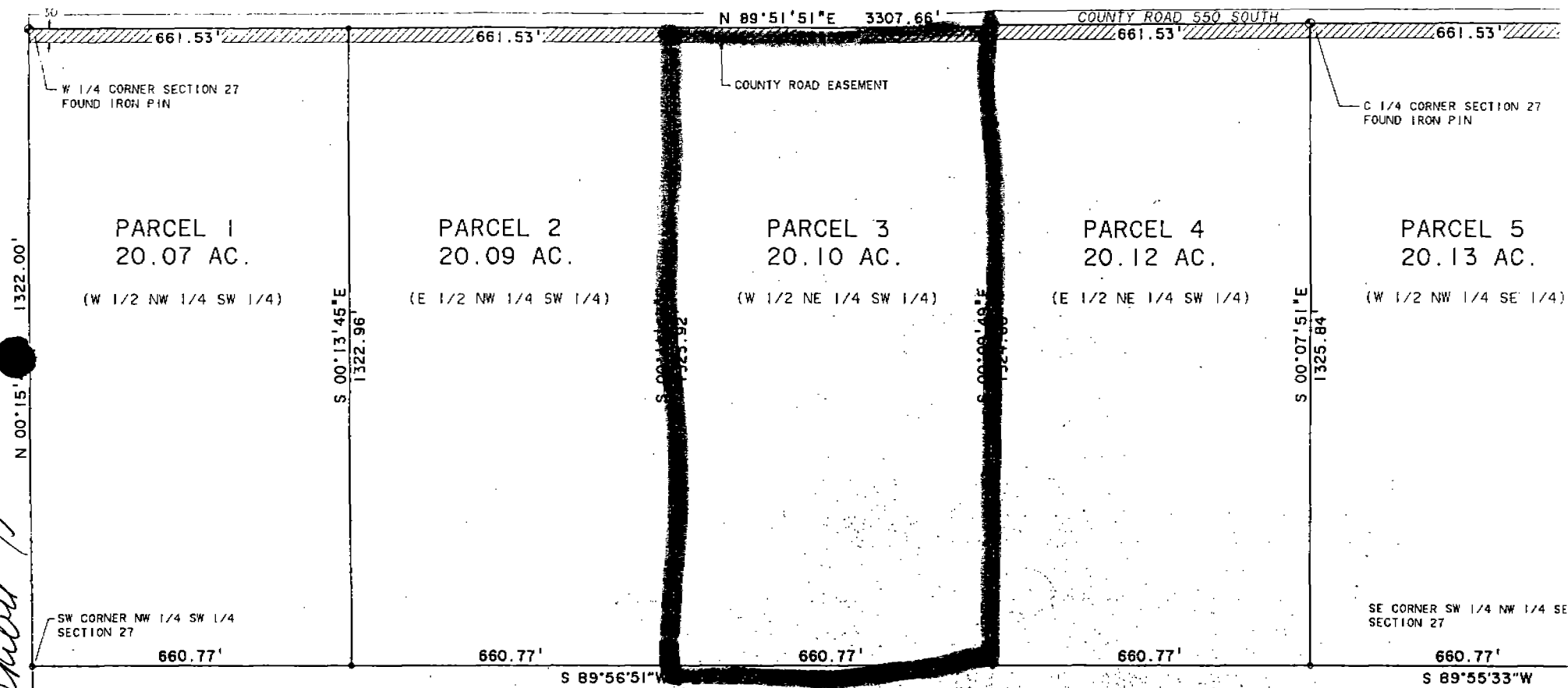
CLERK OF RECORD

BY James Smith

DEPUTY

133197

First American Title Company



PROPERTY DESCRIPTIONS

PARCEL 1
THE W 1/2 NW 1/4 SW 1/4 SECTION 27, TWP. 4N., RNG. 45E., B.M. TETON
COUNTY, IDAHO.
CONTAINS 20.07 ACRES, MORE OR LESS.
SUBJECT TO A COUNTY ROAD EASEMENT ACROSS THE NORTHERN PROPERTY LINE.

PARCEL 2
THE E 1/2 NW 1/4 SW 1/4 SECTION 27, TWP. 4N., RNG. 45E., B.M. TETON
COUNTY, IDAHO.
CONTAINS 20.09 ACRES, MORE OR LESS.
SUBJECT TO A COUNTY ROAD EASEMENT ACROSS THE NORTHERN PROPERTY LINE.

PARCEL 3
THE W 1/2 NE 1/4 SW 1/4 SECTION 27, TWP. 4N., RNG. 45E., B.M. TETON
COUNTY, IDAHO.
CONTAINS 20.10 ACRES, MORE OR LESS.
SUBJECT TO A COUNTY ROAD EASEMENT ACROSS THE NORTHERN PROPERTY LINE.

RECEIVED

JAN 07 2000

Department of Water Resources
Eastern Region

FILED
AT THE REQUEST OF

AT _____ MINUTES PAST _____ M.

SURVEYOR

I, ARNOLD W.
LAND SURVEYOR,
No. 2860, D.
TRACT OF LAND
ACCORDING TO