

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 63-32023
Date Received: 12/30/2004
Receipt No: W032491
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DAVID R ORCUTT Phone: (208)459-4080
16755 DEERFLAT RD
CALDWELL ID USA 83605

GAYLE ORCUTT Phone: (208)459-4080
16755 DEERFLAT RD
CALDWELL ID USA 83605

2. Date of Priority: 03/01/1959

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
02N	03W	19	NE NE NE	CANYON	
02N	03W	19	SE NE NE	CANYON	

5. Description of diverting works:

Well (12 inch diameter steel casing 60 to 70 feet deep), pump, mainline and sprinklers.

6. Water is used for the following purposes:

Purpose	From To	C.F.S.	(or) A.F.A
IRRIGATION	03/01 11/15	0.92	

7. Total Quantity Appropriated is:
0.92 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
02N	03W	20	NW	NE	IRRIGATION	15
			SW	NE	IRRIGATION	11
			NE	NW	IRRIGATION	15
			SE	NW	IRRIGATION	5
					Section Acres	46
					Total Acres	46

11. Place of use in counties: CANYON

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

13. Other Water Rights Used:

14. Remarks:

Water is commingled in a single pressurized sprinkler system irrigating 225 acres using groundwater and Wilder Irrigation District water (159.09 acres entitlement). Installation of the single, farmwide sprinkler system began in late 1976.

Prior to 1977 groundwater from this well was applied to land near the well within Wilder Irrigation District in exchange for canal water pumped onto the lands claimed herein. The pump applying water from the irrigation district to the lands listed herein was located in the NENW Sec. 20, T2N, R3W.

15. Basis of Claim: Beneficial Use

Should questions arise during the processing of this application please contact:
Norm Young - ERO Resources Corp. (208) 373-7983

RECEIVED
DEC 30 2004
WATER RESOURCES
WESTERN REGION

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

A163-32023

Date Received

12-30-04

Receipt Number

W032491

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant(s) David R. and/or Gayle Orcutt Phone (208) 459-4080
Mailing Address 16755 Deer Flat Rd. Caldwell, ID Zip 83607
2. Date of Priority (Only one (1) per claim) March 1, 1959
3. Source of water supply (a) Ground water
Which is tributary to (b) _____
4. a. Location of point of diversion is: Township 2N Range 3W Section 19,
NE ¼ of NE ¼ of NE ¼, Govt. Lot _____, B.M., County of Canyon
Additional points of diversion if any: SE NE NE, Sec. 19, T2N, R3W, (one well located near the line separating these 10 acre parcels).
b. If instream flow, beginning point of claimed instream flow is: N/A
Township _____ Range _____ Section _____, _____ ¼ of _____ ¼ of
_____ ¼, Govt. Lot _____ B.M., County of _____
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. Well (12 inch diameter steel casing 60 to 70 feet deep), pump,
mainline and sprinklers.

6. Water is claimed for the following purposes:

For Irrigation purposes from 3/1 to 11/15 amount 0.92 (cfs) or _____ (acre feet)
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.92 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 161 acre feet per annum.

9. Non-irrigation uses; describe fully. (Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) N/A

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. 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 ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	
2N	3W	20		15	11		15			5									46

Total number of acres irrigated 46

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

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

See remark 1

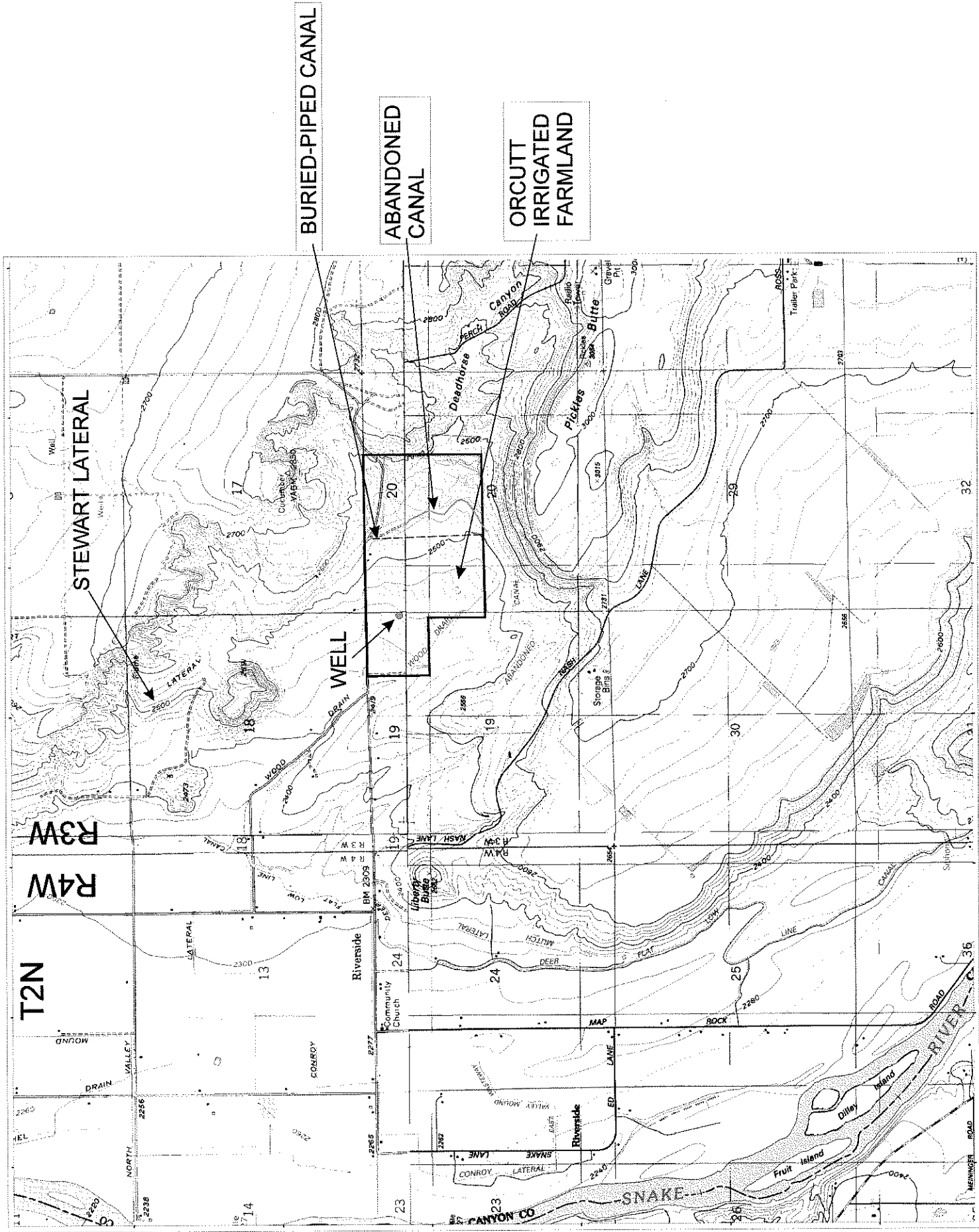
14. Remarks:

- 1) Water is commingled in a single pressurized sprinkler system irrigating 225 acres using ground water and Wilder Irrigation District water (159.09 acres entitlement). Installation of the single, farmwide sprinkler system began in late 1976.
- 2) Prior to 1977 ground water from this well was applied to land near the well within Wilder Irrigation District in exchange for canal water pumped on to the lands claimed herein. The pump applying water from the irrigation district to the lands listed herein was located in the NE NW Sec. 20 T2N R3W.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile.

Last Name David and/or Gayle Orcutt Ident. Number _____



STEWART LATERAL

BURIED-PIPED CANAL

ABANDONED CANAL

ORCUTT IRRIGATED FARMLAND

R3W
R4W

T2N

WELL

Riverside

MAP

Riverside

Snake

Fruit Island

Dillay Island

Snake River

Menninger Road

Rock

Flat

Deer

Match

Storage Bins

Radio Tower

Gravel Pit

Trailer Park

ACSS

Gravel Pit

Gravel Pit

Gravel Pit

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Gravel Pit

FSA Photograph May 9, 1969
DHV - 1KK -282

Township 2 North
Range 3 West

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September 15, 2004
Determination of irrigated acres for Orcutt claims

Assumptions:

1. New development occurred only outside of irrigation district boundaries.
2. The new development is the present development less the irrigation district entitlement for those 40-acre parcels within which new development occurred.
3. Present total irrigation on the farm is 225 acres. (This assumes that the presently irrigated acres for the three 40-acre parcels entirely within the District Boundary equals the District entitlement. This assumption checks out if the acreage is about 115 acres, which it appears to be.)
4. New development is $225 \text{ less } 159 = 66 \text{ acres}$

	NWNE 20	SWNE 20	NENW 20	SENE 20	Total
1987 and present	15	23	32	40	-----
Irrig Dist. Entitlement	0	0	17.4	26.7	-----
Added 1959 Priority	15	11	15	5	46
Added 1977 Priority	0	12	0	8	20

15. Basis of Claim Beneficial Use XX 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." I/We do _____ do not XX wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments 41

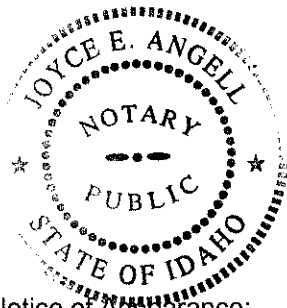
For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) *David R. Orcutt* Date: December 30, 2004

Gayle Orcutt Date: December 30, 2004

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 30th day of December 2004.



Notary Public *Joyce E. Angell*
Residing at Boise, Idaho
My Commission Expires 7-29-2008

17. Notice of Appearance:

Notice is hereby given that I, **Josephine P. Beeman**, 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

Josephine P. Beeman

Address: Beeman & Associates, P. C.
409 West Jefferson Street
Boise, ID 83702
(208) 331-0950

Date: December 30, 2004

Z:\3041\6524

Last Name David and/or Gayle Orcutt Ident. Number _____

Timeline To Accompany SRBA Claims

1. July 4, 1957: Aerial photograph from Farm Services Administration in Salt Lake City, Utah. (DHV-2T-180) – shows no farming or irrigation on the 66 acres above the Stewart Lateral.
2. December 3, 1958: Marchbanks bought the property. (deed attached)
3. 1959-1960: Bob Gibbens, John Conroy, and Tom Conroy saw well in use during the Marchbanks ownership. Norman Svaty knew the Marchbanks son because of business ties. The son told him about the well and irrigation on the property. David Orcutt's affidavit establishes the exchange between Wilder Irrigation District water and the ground water use initiated by the Marchbanks. A pump was used to irrigate 46 acres above the canal in the W1/2NE1/4 and the E1/2NW1/4 Sec 20, T2N, R3W. The well was used to irrigate 46 acres located within the NE1/4NE1/4 Sec 19 and the NW1/4NW1/4 Sec 20, both in T2N, R3W. In effect, this increased the irrigation by 46 acres due to ground water use. By virtue of the availability of ground water to irrigate land near the well that had previously been irrigated from the canal, Wilder ID canal water under entitlement for the Marchbanks farm was freed up to be used on the 46 acres above the canal.
4. February 8, 1961: Marchbanks sold the property. (deed attached) The well was constructed while the Marchbanks owned the property as established in affidavits of Gibbens, Conroys, and Svaty. This deed showing that Marchbanks' ownership ended prior to 1963, affirms that the well was constructed and in use prior to the March 25, 1963 mandatory permit date for obtaining a ground water right.
5. July 6, 1964: Aerial photograph from Farm Services Administration in Salt Lake City, Utah. (DHV-1DD-138) - the photo shows the 46 acres above the canal to be actively cultivated or cropped.
6. May 9, 1969: Aerial photograph from Farm Services Administration in Salt Lake City, Utah. (DHV-1KK-282) Undated Farm Services Administration information (attached) shows additional irrigated land (46 acres) which is confirmed by the aerial photograph. This is the timeframe when Norman Svaty knew the Marchbanks son because of business ties.
7. April 2, 1973: The 1973 agreement mentions propane pump. Bob Gibbens' affidavit establishes that a propane pump was used for the well.
8. June 2, 1976: Norman Svaty and his business partner bought the property June 2, 1976. The 1976 agreement shows a pump and tractor for power which confirms a PTO pump for the well.

9. December 1976 to August 1994: The land was sold to Miles Thomas in December 1976 and was owned by the Miles Thomas Trust at the time Dave and Gayle Orcutt bought the property in August 1994.
10. November 1976 to present: David R. Orcutt affidavit emphasizes the burying of the canal, the leveling and squaring up of the fields, and the addition of 20 more acres of irrigation above the canal beginning in 1977. This activity over a period of years, culminated in the farm being served as it now is from a single turnout from the Stewart Lateral, into a reregulation pond, for pumping into a pressurized mainline that provides water in a single system to the entire 225 acres. This links the 20 acres added above the canal, beginning in 1977, to an exchange between ground water and the canal water.
11. 1987: IDWR Aerial photograph for SRBA shows the farm essentially as it is today.

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DAVE-21-180

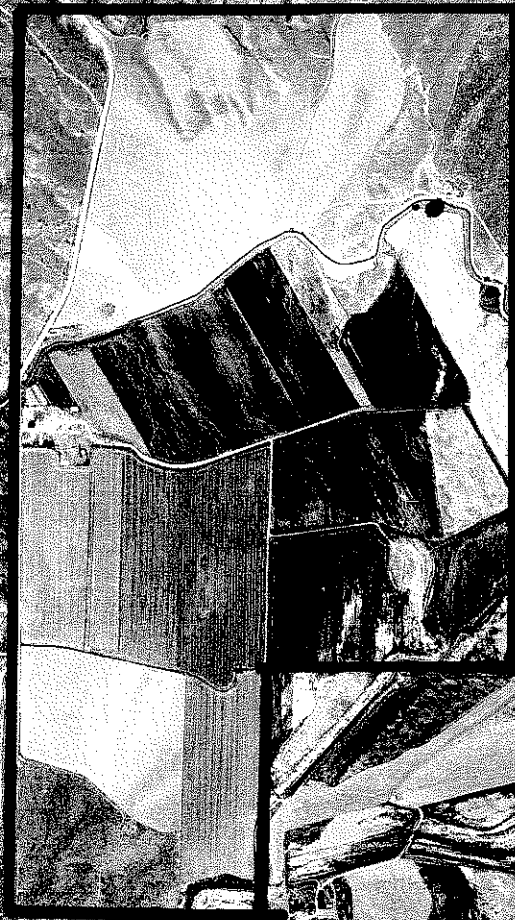
— General Location of
Dave & Gayle Orcutt Farm



Page 2
from July 4, 1957
FSA Photo

PHV-100-138

General Location of
Dave & Gayle Orcutt Farm

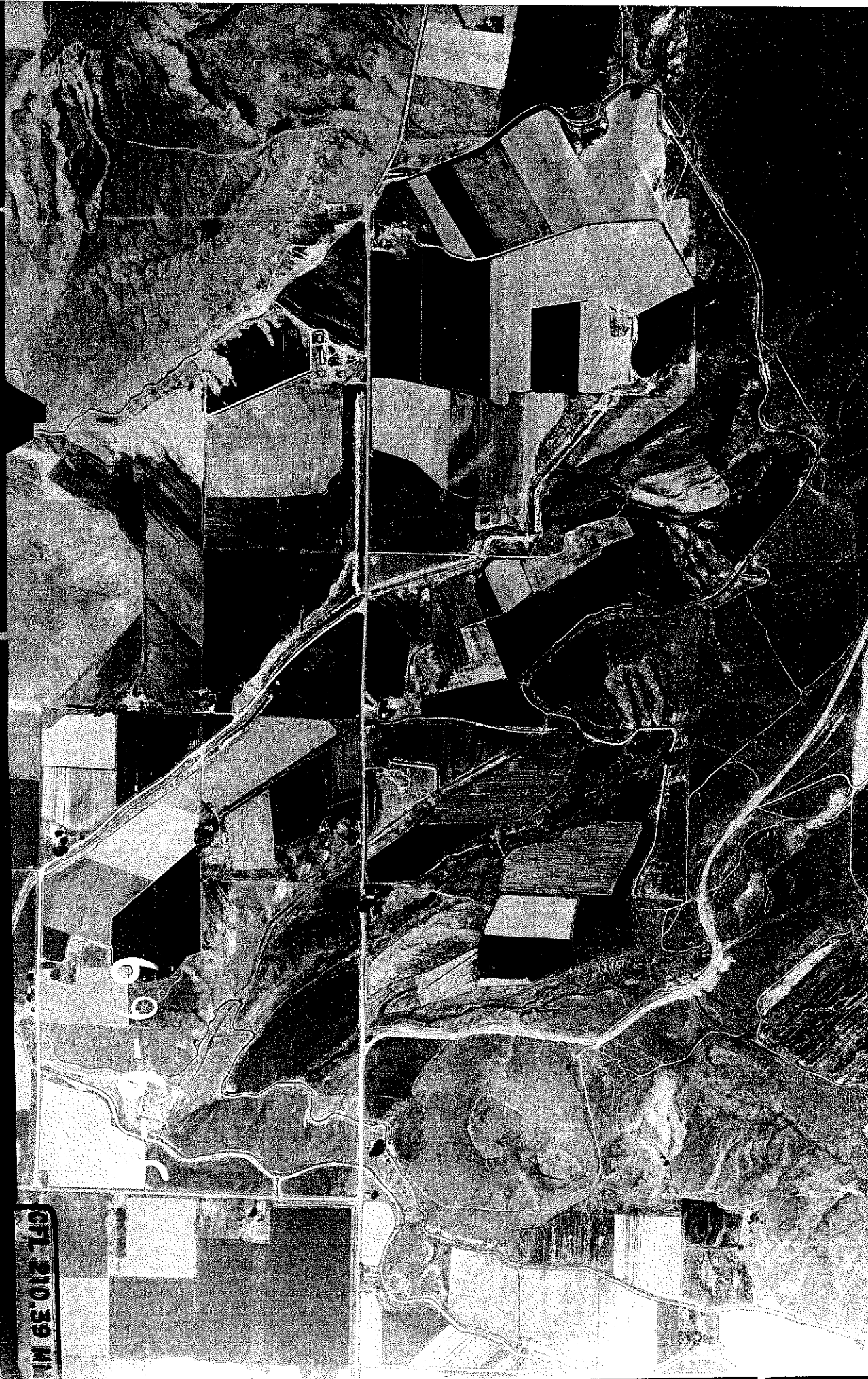


7-6-64

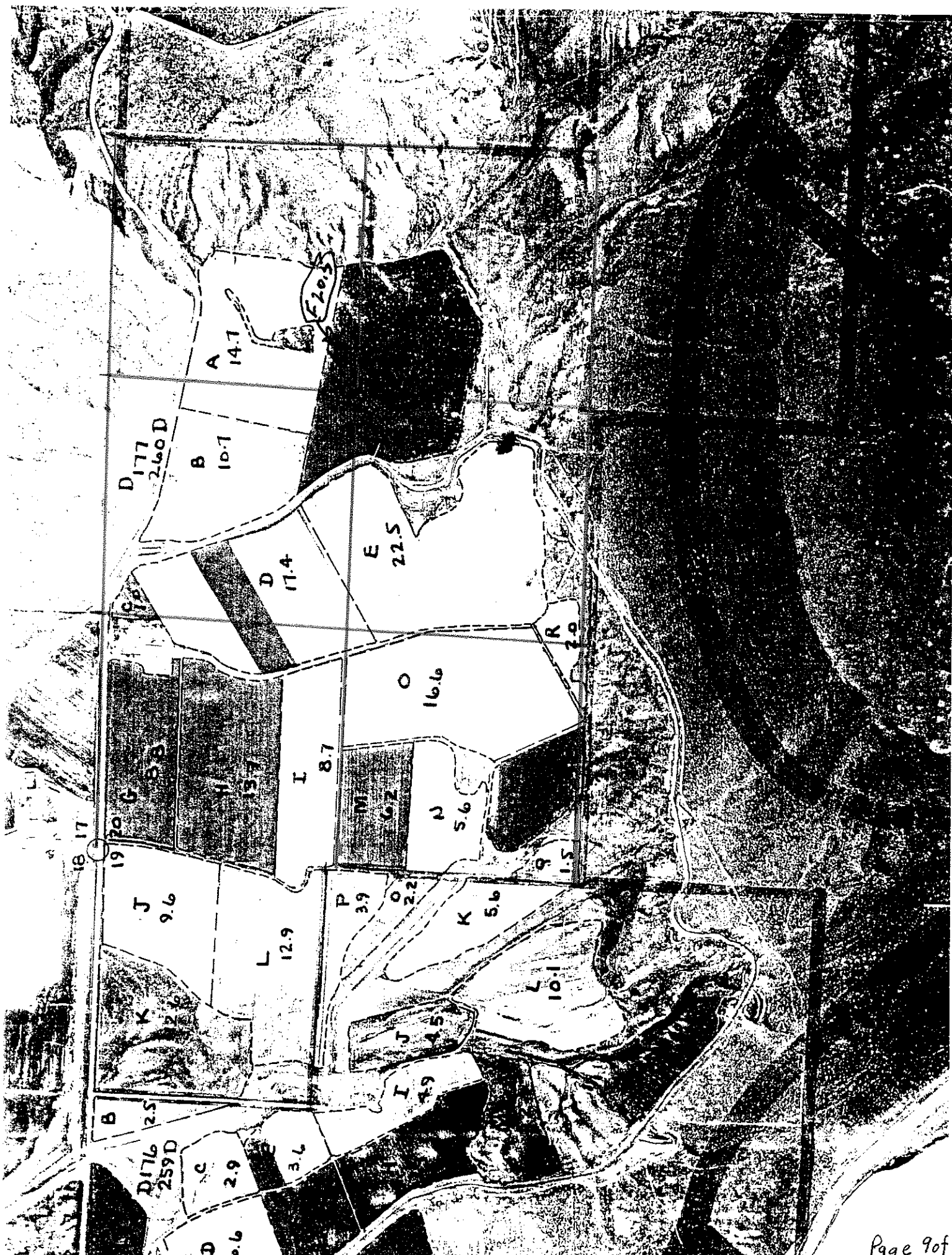
DWA-1KK-282

— General Location of
Dave & Gayle Orcutt Farm

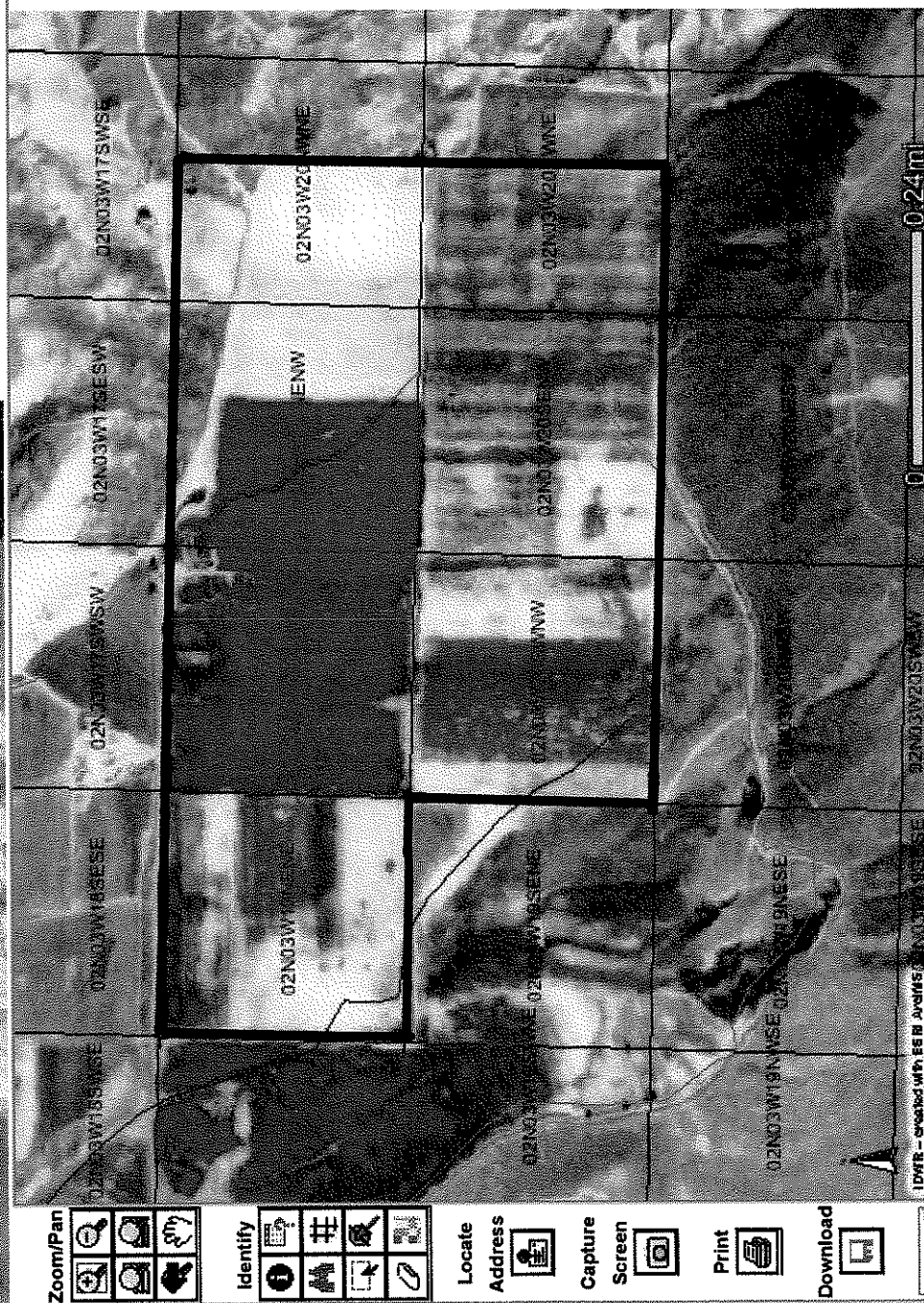




Page 2
from May 9, 1969
FSA Photo



Idaho Department of Water Resources
Internet Map Server



**General Location of
Dave & Gayle Orcutt Farm**

Zoom In

Active Layer

Counties

Refresh Map

<http://maps.idwr.state.id.us/mapall2/viewer.htm>

INSTRUMENT NO 798978

THIS INDENTURE, Made this 3rd day of December

in the year of our Lord one thousand nine hundred and fifty-eight, between

H. B. GIESE and ETHEL V. GIESE, husband and wife

of Nampa, County of Canyon, State of Idaho

the parties of the first part, and

MARION MARCHBANKS and VELMA MARCHBANKS, husband and wife

of Nampa, County of Canyon, State of Idaho

the parties of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of

TEN & NO/100- - - - - DOLLARS,

lawful money of the United States of America,

and other valuable considerations to them in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said parties of the second part, and to their heirs and assigns forever, all of the following described real estate, situated in _____, County of Canyon, State of Idaho, to-wit:

NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 19, Township 2 North, Range 3 West of the Boise Meridian, Canyon County, Idaho. EXCEPTING THEREFROM an easement for a private road in the width of 20 feet along the entire West side thereof;

ALSO the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ and all of the NW $\frac{1}{4}$, and the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 20, Township 2 North, Range 3 West of the Boise Meridian, Canyon County, Idaho.

Together with all appurtenant water and ditch rights, and subject to all rights of way for roads, ditches and canals along or upon said lands, and easements of record appertaining thereto.

Subject to all taxes, dues and assessments, including irrigation charges and assessments, levied and assessed from and after January 1, 1959.

798978

FILED

APR 25 8 32 AM '77

WARRANTY DEED

C. Lail

RECORDED

AT THE REQUEST OF

Ray Mc Kay

OF Deed

FEE 2.00

GRANTOR

Giese, H B et al

GRANTEE

Marchbanks, Marion et al

RETURN TO

Deed

Recorded

Pt #1 Box 121

Jerome, Id 83338

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the parties of the second part, and to their heirs and assigns forever and the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

No. 13. *Seal* [Seal]
 One *Seal* [Seal]
 [Seal]
 [Seal]

County of Canyon

SS.

in and for said State; personally appeared H. B. GIESE and ETHEL V. GIESE,
husband and wife

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 for the State of Idaho,
Residing at Nampa, Idaho

No. _____

WARRANTY DEED

—TO—

Dated _____, 19____

STATE OF IDAHO

County of _____ ss. _____

I hereby certify that this instrument was filed
for record at request of _____

at _____ minutes past _____
o'clock _____ M., this _____ day _____
of _____, A. D. 19____

on my office, and duly recorded in Book _____
of _____ at page _____

Ex-Officio Recorder.
By _____ Deputy.
Fees, \$ _____
Mail to _____

INSTRUMENT NO 798979

THIS INDENTURE, made this 5th day of February, 1961,
 between MARION MARCHBANKS and VELMA M. ROHBANKS, husband and wife,
 of Nampa, County of Canyon, State of Idaho,
 the parties of the first part and ELMANETS H. TARP and ELSIE C. TARP, husband
 and wife,
 of Nampa, County of Canyon, State of Idaho, the parties of the second part,
 WITNESSETH, that the said parties of the first part, for and in consideration of the sum of
 lawful money, of the United States of America, Dollars
 to them in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged,
 have granted, bargained, sold, and by these presents, do grant, bargain, sell and convey and confirm unto
 the said parties of the second part, and to their heirs and assigns, forever, all the following described
 real estate, situated in Nampa, County of Canyon,
 State of Idaho, to-wit:

NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 19, Twp. 2 N, R. 3W, BM,
 Canyon County, Idaho, EXCEPTING therefrom, an
 easement for a private road in the width of 20
 feet along the entire west side thereof; Also
 the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ and all of the NW $\frac{1}{4}$ and the N $\frac{1}{2}$
 of SE $\frac{1}{4}$ of Sec. 20, Twp. 2N, R. 3W, BM, Canyon
 County, Idaho.

Together with all appurtenant water and ditch rights
 and subject to all rights of way for roads, ditches
 and canals along or upon said lands, and easement of
 record appertaining thereto.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belong-
 ing or in anywise appertaining, and the reversion and reversions, remainder and remainders, and rents, issues
 and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity
 of the said parties of the first part.

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises together
 with the appurtenances unto the parties of the second part, and to their heirs and assigns forever.
 And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable
 possession of the said parties of the second part, their heirs and assigns, against the said parties
 of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully
 claiming or to claim the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands
 and seals the day and year first above written.

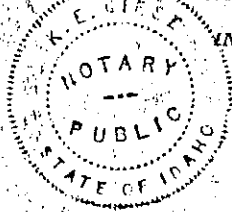
Executed and Delivered in the Presence of

_____ [SEAL]
 _____ [SEAL]
 _____ [SEAL]
 _____ [SEAL]

STATE OF IDAHO,
County of Canyon } ss.

On this 8th day of February in the year 1967, before me
the undersigned a Notary Public in and for said State, personally appeared
MARION MARCHBANKS and VELMA MARCHBANKS, husband and wife,

known to me to be the person.s whose names. and 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.

K.E. Giese
Notary Public for the State of Idaho,
Residing at Nampa, Idaho.

No. _____
WARRANTY DEED
(FORM No. 300)

TO

Dated _____, 19____, ss.
STATE OF IDAHO,
County of _____

I hereby certify that this instrument
was filed for record at request of _____

at _____ minutes past _____
o'clock M., this _____ day of _____, 19____, in my
office, and duly entered in Book _____
of _____ at page _____.

By _____
Ex-Officio Recorder.

Fees, \$ _____ Deputy.

Mail to _____

STEVENS-BENESS LAW PUB. CO., PORTLAND, ORE.

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WALTER FRY
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RECORDED
AT THE REQUEST OF
Gay McCray

OF
Danish

FEES *2.00*

GRANTOR

Marchbanks, Marion and

GRANTEE

Casper Clements, H and

RETURN TO

Deed

Received

Rt 41 Box 121

Jerome, ID 85338

AGREEMENT

THIS AGREEMENT Made this 2nd day of April, 1973, by and between LEON McKAY and GAY McKAY, husband and wife, parties of the first part, hereinafter called the vendors, and FLOYD M. BLEDSOE and LOUISE BLEDSOE, husband and wife, parties of the second part, hereinafter called the purchasers, WITNESSETH:

1. The vendors, in consideration of \$150,000.00 to be paid as hereinafter provided, hereby agree to sell and convey, and the purchasers agree to purchase that certain tract of land situate in the County of Canyon, State of Idaho, to-wit:

The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 19, Twp. 2 North, Range 3 West, B.M., Canyon County, Idaho; EXCEPTING therefrom an easement for a private road in the width of 20 feet along the entire West Side thereof. And the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ and all of the NW $\frac{1}{4}$, and the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 20; Excepting therefrom all that portion lying North of the County road, Twp. 2 North, Range 3 West, B.M., Canyon County, Idaho. RESERVING unto vendors one-half of all mineral rights.

Together with all irrigation equipment including pump, pipe and sprinkler heads, also together with ~~grinder~~ and ~~mixer~~, metal granary, all now located on the above described property.

2. The purchasers, in consideration of the mutual promises and agreements of the vendors hereinafter set forth, agree as follows:

a. To pay the sum of \$150,000.00 to the vendors,

which sum is to be paid as follows:

\$1,900.00 has been paid, receipt whereof is hereby acknowledged by vendors;

\$37,520.00, being \$37,143.00 principal balance and \$377.00 interest accrued to March 24, 1973 upon an agreement for the sale of real estate, by assigning and transferring to vendors all of their sellers right, title and interest in a certain agreement for the sale of real estate to Willie M. Hoagland and E. Vendera Hoagland, Erin Keith Hoagland and Donna B. Hoagland and Henry L. Hughes and Shirley D. Hughes dated September 5th, 1961, subsequently and on April 25, 1971 assigned by the buyers therein to Albert P. Helmick and Frieda K. Helmick, and

Robert L. Helmick and Shirley M. Helmick, together with all of their right, title and interest in the real estate described in a good and valid assignment to vendors herein, said assignment being executed contemporaneously herewith. In connection with said assignment, purchasers agree to furnish a policy of title insurance upon the execution of this agreement, showing good and marketable title to said real estate to be vested in purchasers herein, subject only to liens for taxes and assessments required to be paid by the purchasers in said agreement, and the regular printed exceptions of the title insurance company, and subject to the terms of said contract of sale.

\$4,000.00 by executing a promissory note payable to Glase Realty, Nampa, Idaho;

And the balance of \$106,580.00, together with interest thereon at the rate of 6½% per annum computed from March 28, 1973, payable as follows:

\$1,000.00 or more, plus interest accrued to date of payment on or before March 1, 1974, and \$1,000.00 or more plus interest accrued to date of payment on or before March 1, 1975;

\$11,000.00 or more on or before March 1, 1976, and \$11,000.00 or more on or before March 1st of each year thereafter until the entire amount of principal and interest has been paid in full; said \$11,000.00 payments to be credited first upon interest accrued to date of payment and the balance applied upon the principal.

It being mutually understood and agreed that purchasers shall have the privilege of paying additional amounts at any time, and interest shall accrue only upon the unpaid principal balance remaining from time to time.

b. To not permit any liens or encumbrances to attach against said premises, and to not permit waste upon said premises or suffer any to be done.

c. To pay all taxes and assessments of every kind and nature levied against said premises for the year 1973 and all subsequent years during the life of this agreement, and to pay the same when due and not to permit the same to become delinquent.

d. To insure said premises against loss by fire or hazard in an amount and with a company satisfactory with the vendors, and to keep said premises insured during the life of this agreement; said fire or hazard insurance policy or policies to have a loss payable clause attached thereto providing for payment in the event of loss as the interests of the parties may appear. It is understood that there is an existing fire or hazard insurance policy in effect upon said premises, and purchasers agree to reimburse vendors for the unearned premium thereon pro rated as of March 28, 1973. Said fire insurance policy to be placed in escrow as hereinafter provided and delivered to purchasers upon payment in full of the purchase price.

3. The vendors, in consideration of the aforesaid promises and agreements of the purchasers, agree as follows:

a. To deliver to purchasers a warranty deed conveying good and marketable title to the premises, free and clear of all encumbrances, including all taxes and assessments for the year 1972 and all prior years, and excepting such liens and encumbrances as may have been assumed by purchasers or caused by their acts or neglect; said deed to be executed contemporaneously herewith to be placed in escrow as hereinafter set forth and delivered to purchasers upon payment in full of the purchase price.

b. At the time final payment is made hereunder to furnish to purchasers a policy of title insurance insuring the title to said premises to be good and marketable and vested in the vendors, free and clear of all encumbrances, including taxes and assessments assessed against said property for the year 1972 and all prior years, and excepting such liens and encumbrances as may have been assumed by the purchasers or caused by their acts or neglect, and excepting the regular printed exceptions of the title insurance company.

4. It is mutually agreed and understood by and between the parties hereto as follows:

a. The title to any and all improvements placed upon said property shall immediately vest in the vendors, and in the event of a forfeiture of this agreement, any and all improvements which may have been made upon the premises shall inure to the benefit of the vendors, and such improvements shall be deemed a part of the real estate.

b. That time is strictly the essence of this agreement.

c. That possession of said premises shall be delivered to purchasers upon the execution of this agreement, and possession of said premises shall be in purchasers during the life of this agreement.

d. That the warranty deed, fire insurance policy, and an executed copy of this agreement shall be placed in escrow with the Idaho First National Bank, Nampa Branch, Nampa, Idaho, who is hereby constituted agent of the vendors to receive and receipt for all payments made hereunder, and upon payment in full of the amounts to be paid to the vendors, said escrow holder is hereby instructed to deliver said deed and all other papers held in escrow by them to the purchasers.

e. That all escrow fees shall be divided equally between vendors and purchasers.

f. In case the purchasers shall fail to make the payments aforesaid, or any of them, punctually and upon the strict terms and at the times limited, and likewise to conform and to complete all and each of the agreements and stipulations aforesaid

strictly and literally, without any failure or default, TIME BEING
OF THE ESSENCE OF THIS AGREEMENT, and vendors shall give to purchasers
~~thirty~~ ^{sixty} days notice in writing of their intention to declare a
forfeiture of this agreement, during which period purchasers shall
have the privilege of curing the matter in default; and in the event
said matter in default has not been cured within said ~~thirty~~ ^{sixty} day ^{period}
period, then this agreement shall, upon the expiration of said
~~thirty~~ ^{sixty} day period, be null and void, and all rights and interest
hereby created or existing in favor of the purchasers, their
heirs or assigns, or derived under this agreement shall utterly
cease and determine, and the premises hereby contracted shall
revert to and revest in vendors, their heirs or assigns, without
any right of purchasers of reclamation of compensation for moneys
paid or improvements made. Purchasers agree that in the event
of default and the necessity of vendors to send a notice of
forfeiture, that they will pay the necessary cost of preparing
and mailing said notice. It is further understood and agreed that
the foregoing remedy provided for vendors in the event of
default herein is not mandatory nor exclusive, but is merely an
additional optional remedy with vendors, and the vendors shall,
at all times, have the right to enforce this agreement by any
other method provided by law, in the event they do not elect to
use the remedy herein provided for.

g. All covenants and agreements herein contained
shall extend to and be binding upon the heirs, executors, admin-
istrators and assigns of the respective parties hereto.

h. It is expressly understood and agreed that purchasers herein are presently in possession of the premises hereby sold by virtue of a lease, and that upon the execution of this agreement, said lease is hereby terminated and null and void as to the parties hereto, and that purchasers' possession is by virtue of this agreement.

i. Purchasers herein understand that vendors are purchasing the property hereby sold to purchasers, and that vendors herein covenant and warrant to make all payments upon said contract of sale, and not to permit the same to become delinquent, and that in the event vendors fail to make said payments, purchasers shall have the right and privilege to make them and to receive credit for any payment so made upon the purchase price set forth in this agreement. It being expressly understood, however, that purchasers are not assuming said contract of sale and said contract of sale and obligations thereof are entirely that of vendors herein.

IN WITNESS WHEREOF, The parties hereto have hereunto set their hands.

Leon M. Kay

John D. K.
Vendors

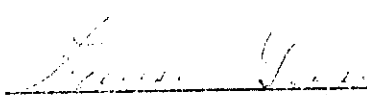
Walter M. P. Butler

James B. Baker
Purchasers

STATE OF IDAHO,)
) ss.
County of Canyon,)

On this 20th day of April, 1973, before me, the undersigned, a Notary Public in and for said State, personally appeared Leon McKay and Gay McKay, husband and wife, and Floyd M. Bledsoe and Louise Bledsoe, husband and wife, known to me to be the persons whose names are subscribed to the foregoing 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.



Notary Public for Idaho,
Residing at Nampa, Idaho.

AGREEMENT

THIS AGREEMENT, Made and entered into this 2nd day of June, 1976, by and between HAROLD BLEDSOE and ANITA BLEDSOE, husband and wife, parties of the first part, hereinafter called the vendors, and NORMAN G. FULLER and NORMAN SVATY, a partnership, parties of the second part, hereinafter called the purchasers, WITNESSETH:

1. The vendors, in consideration of \$200,000.00 to be paid as hereinafter provided, hereby agree to sell and convey, and the purchasers agree to purchase that certain tract of land situate in the County of Canyon, State of Idaho, to-wit:

The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 19, Twp. 2 North, Range 3 West, B.M., Canyon County, Idaho; EXCEPTING therefrom an easement for a private road in the width of 20 feet along the entire West side thereof. And the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ and all of the NW $\frac{1}{4}$, and the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 20; Excepting therefrom all that portion lying North of the County road, Twp. 2 North, Range 3 West, B.M., Canyon County, Idaho. RESERVING unto vendors one-half of all mineral rights.

Together with all irrigation equipment, including pump, pipe and sprinkler heads, excepting the tractor presently used for power, which is reserved to the vendors, and including the metal granary, all situated upon the above described property.

2. The purchasers, in consideration of the mutual promises and agreements of the vendors hereinafter set forth, agree as follows:

a. To pay the sum of \$200,000.00 to the vendors, which sum is to be paid as follows:

\$10,000.00 cash which has been paid, receipt of which is hereby acknowledged by vendors;
\$40,000.00 on or before November 1st, 1976;

\$100,396.78 by assuming and paying according to the terms thereof the balance due upon a contract to purchase the above described premises in which contract Leon McKay and Gay McKay, husband and wife, are sellers, and Floyd M. Bledsoe and Louise Bledsoe, husband and wife, are purchasers

dated April 2nd, 1973, which contract was subsequently on the 3rd day of June, 1974 assigned to vendors herein by the purchasers therein.

And the balance of \$49,603.22, together with interest thereon at the rate of 7½% per annum computed from November 1st, 1976, shall be payable as follows:

\$5,000.00 on or before December 1st, 1977, and \$5,000.00 on or before December 1st of each year thereafter to and including December 1st, 1986, said payments to be applied first upon interest accrued to date of payment, and the balance applied upon the principal, the entire balance of principal and interest remaining unpaid shall be due and payable on or before December 1st, 1987.

It is mutually understood and agreed that purchasers shall be given the privilege of paying additional amounts at any time, and interest shall accrue only upon the unpaid principal balance remaining from time to time.

b. To not permit any liens or encumbrances to attach against said premises, and to not permit waste upon said premises or suffer any to be done.

c. To pay their pro-rata share of taxes and assessments levied against said premises for the year 1976, pro-rated as of November 1st, 1976, and to pay all taxes and assessments of every kind and nature levied against said premises for the year 1977 and all subsequent years during the life of this agreement, and to pay the same when due and not to permit the same to become delinquent.

d. To insure said premises against loss by fire or hazard in an amount and with a company satisfactory with the vendors, and to keep said premises insured during the life of this agreement; said fire or hazard insurance policy or policies to have a loss payable clause attached thereto providing for payment in the event of loss as the interests of the parties may appear. It is understood that there is an existing fire or hazard insurance policy in effect upon said premises, and purchasers agree to reimburse vendors for the unearned

premium thereon pro-rated as of November 1st, 1976. It is further understood and agreed that said fire insurance policy or policies shall be held in escrow as provided in the McKay - Bledsoe escrow hereinbefore mentioned, to be delivered to purchasers upon payment in full of the amounts due under this agreement.

3. The vendors, in consideration of the aforesaid promises and agreements of the purchasers, agree as follows:

a. To pay their pro-rata share of taxes and assessments for 1976, pro-rated as of November 1st, 1976, and to pay all irrigation charges for 1976 and prior years.

b. To deliver to purchasers a warranty deed conveying good and marketable title to the premises, free and clear of all encumbrances, including all taxes and assessments for the year 1975 and all prior years, and excepting such liens and encumbrances as may have been assumed by purchasers or caused by their acts or neglect; said deed to be executed contemporaneously herewith to be placed in escrow as hereinafter provided and delivered to purchasers upon payment in full of the purchase price, including the balance due upon the McKay contract herein assumed by purchasers. That by executing this agreement, the vendors herein do hereby ASSIGN and TRANSFER, subject to payments as provided herein, to the purchasers herein all of their right, title and interest in that certain agreement whereby Leon McKay and Gay McKay sold to Floyd M. Bledsoe and Louise Bledsoe, and which was assigned by the said Floyd M. Bledsoe and Louise Bledsoe to the vendors herein, and The Idaho First National Bank, Nampa Branch, Nampa, Idaho is hereby instructed to receive the payments of the purchasers herein upon said contract assumed by them, and in the event the money due vendors herein is paid in full prior to payment in full of said McKay - Bledsoe contract, to place this agreement, which shall constitute the assignment thereof, and the warranty deed, with said McKay - Bledsoe escrow

and to deliver to the purchasers herein upon payment in full of all sums due thereunder all papers and deeds held by them in connection with said escrow.

c. At the time final payment is made hereunder, to furnish to purchasers a policy of title insurance insuring the title to said premises to be good and marketable and vested in the vendors, free and clear of all encumbrances, including taxes and assessments assessed against said property for the year 1975 and all prior years, and excepting such liens and encumbrances as may have been assumed by the purchasers or caused by their acts or neglect, and excepting the regular printed exceptions of the title insurance company. It being understood and agreed that by the provisions of the McKay - Bledsoe agreement hereinbefore mentioned, that said title insurance policy is to be furnished upon payment in full of the amounts due thereunder, which by subsequent assignments shall be furnished to purchasers herein, and shall constitute the furnishing of title insurance as provided herein.

4. It is mutually agreed and understood by and between the parties hereto as follows:

a. The title to any and all improvements placed upon said property shall immediately vest in the vendors, and in the event of a forfeiture of this agreement, any and all improvements which may have been made upon the premises shall inure to the benefit of the vendors, and such improvements shall be deemed a part of the real estate.

b. That time is strictly the essence of this agreement.

c. That possession of said premises shall be delivered to purchasers on or before November 1st, 1976, and possession of said premises shall be in purchasers during the life of this agreement; provided, however, that in the event it is impossible for vendors to

complete harvest of their 1976 corn crop upon said premises by November 1st, 1976, that vendors shall have a reasonable time after possession date to complete the harvest of said corn.

d. That the warranty deed, and an executed copy of this agreement shall be placed in escrow with The Idaho First National Bank, Nampa Branch, Nampa, Idaho, who is hereby constituted agent of the vendors to receive and receipt for all payments made hereunder, and upon payment in full of the amounts to be paid to the vendors herein, said escrow holder is hereby instructed to place said papers with the McKay - Bledsoe agreement, in the event the same has not been paid in full, to be delivered to purchasers herein, together with all papers held in said McKay escrow, upon payment in full by purchasers herein of the amounts due thereunder.

e. That all escrow fees shall be divided equally between vendors and purchasers.

f. Purchasers herein understand that the vendors in the contract hereby assigned, by virtue of which vendors herein are acquiring title, is being purchased by Leon McKay and Gay McKay, vendors in the contract hereby assigned, by virtue of a certain contract held in escrow by The Idaho First National Bank, Nampa Branch, Nampa, Idaho, in which agreement H. B. Giese and Ethel V. Giese are the vendors, and by virtue of sundry assignments by the purchasers in said agreement, was ultimately assigned to the said Leon McKay and Gay McKay, and presently has a principal balance thereon of \$9,771.90 payable \$5,000.00 on January 1st, 1977 and \$5,000.00 on January 1st, 1978, but that the purchasers herein are expressly not assuming the obligations under said contract, but are given the right and privilege in the event default is made in said agreement, to make the payments required to be made thereon

and receive credit upon proof of payment therefor upon the payments required to be made by them by this agreement.

g. In case the purchasers shall fail to make the payments aforesaid, or any of them, punctually and upon the strict terms and at the times limited, and likewise to conform and to complete all and each of the agreements and stipulations aforesaid, strictly and literally, without any failure or default, TIME BEING OF THE ESSENCE OF THIS AGREEMENT, said vendors shall give to purchasers 30 days' notice, in writing, of their intention to declare a forfeiture of this agreement, during which period purchasers shall have the privilege of curing the matter in default; and in the event said matter in default has not been cured within said 30 day period, then this agreement shall, upon the expiration of said 30 day period, be null and void, and whereupon purchasers shall immediately re-deliver possession of said premises to vendors, and all rights and interest hereby created or existing in favor of the purchasers, their heirs or assigns, or derived under this agreement shall utterly cease and determine, and the premises hereby contracted shall revert to and re-vest in the vendors, their heirs or assigns, without any right of purchasers of reclamation or compensation for moneys paid or improvements made. It is further understood and agreed that the foregoing remedy provided for vendors in the event of default herein is not mandatory nor exclusive, but is merely an additional optional remedy with vendors, and vendors shall, at any and all times, have the right to enforce this agreement by any other method provided by law, in the event they do not elect to use the remedy herein provided for. It is further mutually understood and agreed that in the event it becomes necessary for the vendors to declare a forfeiture of this agreement, the purchasers shall be liable to the vendors for all costs incurred by vendors in preparing and delivering said notice of default to purchasers.

h. It is mutually understood and agreed that all covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands.

Harold R. Bledsoe

Anita R. Bledsoe
Vendors

Norman G. Fuller

Norman Svaty
Purchasers

STATE OF IDAHO,)
County of Canyon,) ss.

On this _____ day of June, 1976, before me, the undersigned, a Notary Public in and for said State, personally appeared Harold Bledsoe and Anita Bledsoe, and Norman G. Fuller and Norman Svaty, known to me to be the persons whose names are subscribed to the foregoing 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.

Notary Public for Idaho,
Residing at Nampa, Idaho.

Josephine P. Beeman #1806
BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, ID 83702
Phone: (208) 331-0950
Fax: (208) 331-0954
jo.beeman@beemanlaw.com

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

In Re SRBA	)	
	)	
Case No. 39576	)	AFFIDAVIT OF DAVID R. ORCUTT
	)	IN SUPPORT OF SRBA CLAIMS
	)	63-_____ AND 63-_____

STATE OF IDAHO	)	
	) ss:	
COUNTY OF <u>OWYHEE</u>	)	

I, David R. Orcutt, after first being duly sworn upon oath, depose and state that:

(1) My name is Dave Orcutt. From November 1976 through the present, my wife Gayle S. Orcutt and I have lived on and farmed the property described as the place of use for SRBA Claims 63-_____ and 63-_____.

(2) On June 2, 1976, my father-in-law, Norman Svaty, and a business partner, Norman Fuller, purchased the property from Harold Bledsoe. At that time, Norman Svaty owned and operated Canyon Farms, Inc. The property was leased for farming to Canyon Farms, Inc. I was an employee of Canyon Farms, Inc. until it was sold in 1981. When Canyon Farms, Inc. was sold in 1981, I took over the farm lease and ultimately purchased the property from the Miles Thomas Trust in August 1994. Miles Thomas had purchased the property in December 1976, and the property was owned by the Miles Thomas Trust at the time of Dr. Thomas's death, until

my purchase in August 1994.

(3) At the time of the 1976 purchase, the well was visible on the property in the NE1/4NE1/4 Sec 19, T2N, R3W. It had a 12" diameter steel casing protruding about 14" above the ground. A pump was apparent in the well. There was a ditch used to carry the water from the well to irrigate the surrounding ground. By the looks of this ditch it easily irrigated 46 acres.

(4) The 46 acres that received water from the well are indicated on the map attached to this affidavit. The 46 acres are within the NE1/4NE1/4 Sec 19 and the NW1/4NW1/4 Sec 20, T2N, R3W.

(5) My wife and I moved to the property in November 1976, at which time the Stewart Lateral of the Wilder Irrigation District was an open ditch on the property. My recollection is that during the first winter I lived on the property, I helped Norman Svaty, my father-in-law, and the Wilder Irrigation District to tile (place underground) the Stewart Lateral through the property.

(6) The location of that buried tile is indicated on the map attached to this affidavit.

(7) When the Stewart Lateral was buried, it saved the Wilder Irrigation District time and money because it eliminated annual ditch cleaning, weeds, and gopher problems.

(8) Beginning in 1977, the property was leveled and a buried mainline was installed to serve 13 wheel lines. This increased the land we could irrigate and farm by 20 acres. Since that time to the present, we have farmed and irrigated 225 acres.

(9) Prior to the place being leveled, there was more than one tap from which water was delivered to the farm from the Stewart Lateral. I remember a tractor with a PTO pump above (to the east) of the Lateral near the center (north and south) of the place. From this pump, mainline laid eastward with several hand lines (maybe four (4)) extending out from the mainline.

These were used to water the acres above the Lateral. I remember picking up the pipe and moving it to the far southeast corner of the property so the ground could be leveled.

(10) Before the Stewart Lateral was tiled and the property was leveled and a buried mainline installed, there were 46 acres of irrigated property above the Stewart Lateral that could only have been irrigated by a pump from the Stewart Lateral. The location of the land for which water was pumped from the canal is in the W1/2NE/14 and the E1/2NW1/4 Sec 20, T2N, R3W.

(11) As a result of tiling the Stewart Lateral, leveling the property, and installing a buried mainline, it was and has been possible to deliver water to the 225 acres by one headgate and a 75hp pump used to charge the 13-wheel line. The quantity of water available from the shares of the Wilder I.D. did not change as the number of acres irrigated increased.

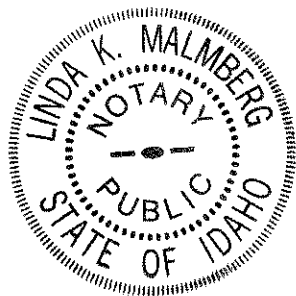
FURTHER YOUR AFFIANT SAYETH NAUGHT.

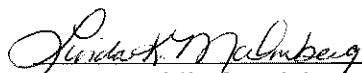
Dated this 27th day of December 2004.



DAVID R. ORCUTT

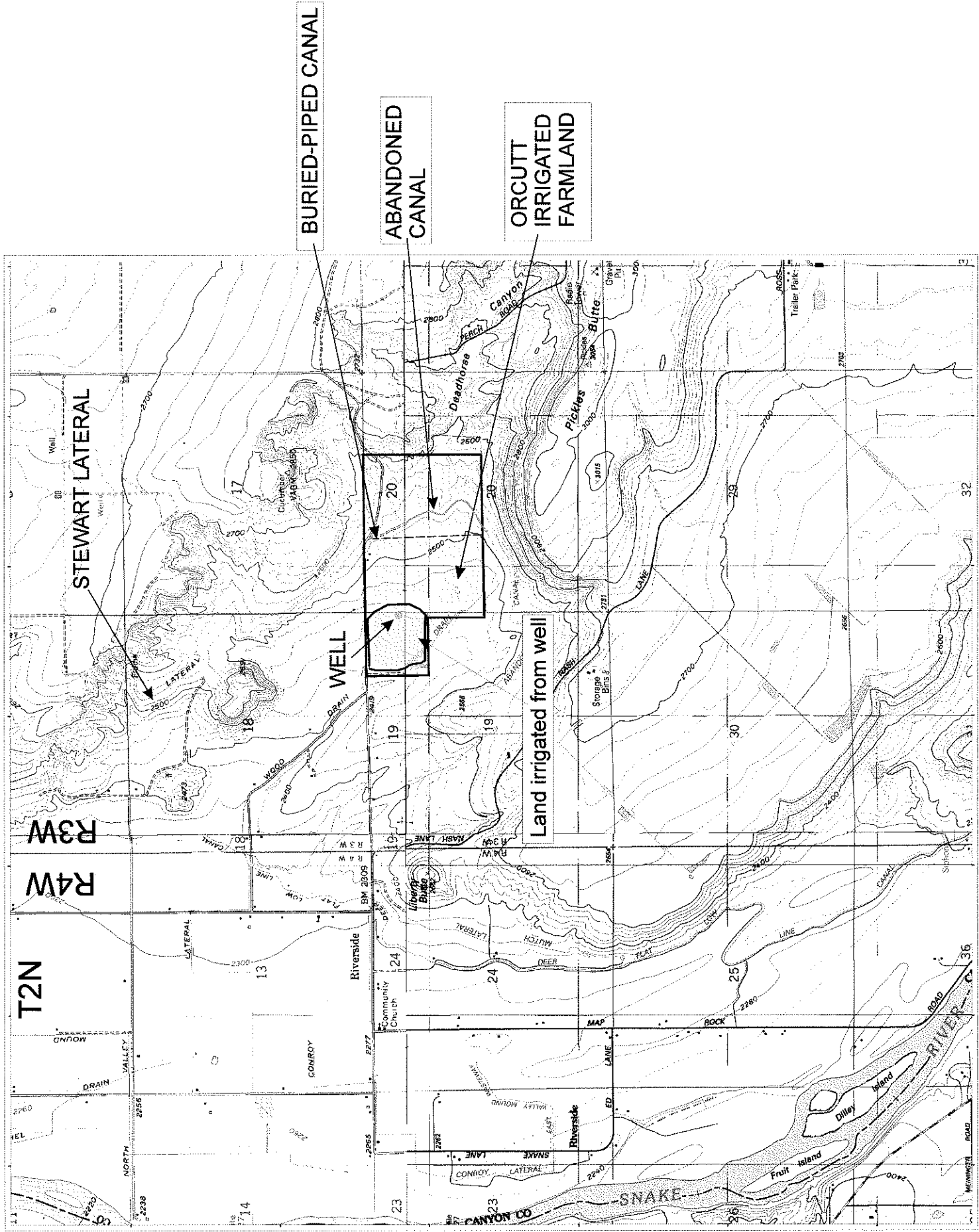
SUBSCRIBED AND SWORN before me on this 27 day of December 2004.





Notary Public for Idaho
Residing at Marsing, Idaho
Commission Expires: 9-28-05

Z:\3041\6483B



BURIED-PIPED CANAL

ABANDONED CANAL

ORCUTT IRRIGATED FARMLAND

STEWART LATERAL

WELL

Land irrigated from well

R3W

R4W

T2N

Josephine P. Beeman #1806
BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, ID 83702
Phone: (208) 331-0950
Fax: (208) 331-0954
jo.beeman@beemanlaw.com

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

In Re SRBA)
Case No. 39576) **AFFIDAVIT OF NORMAN SVATY**
) **IN SUPPORT OF SRBA CLAIMS**
) **63-_____ AND 63-_____**

STATE OF OREGON)
) ss:
COUNTY OF LANE)

I, Norman Svaty, after first being duly sworn upon oath, depose and state that:

- (1) My name is Norman Svaty.
- (2) From 1973 through 1981, I farmed in the Dry Lake area in Canyon County, Idaho.
- (3) On June 2, 1976, a business partner and I purchased the property that is now owned and farmed by my son in law and daughter, David R. Orcutt and Gayle S. Orcutt. In 1976, I also owned and operated Canyon Farms, Inc. and the property was leased for farming to Canyon Farms, Inc. until I sold Canyon Farms, Inc. in 1981.
- (4) In 1976, the well was visible on the property and had a 12" diameter and was located in the NENE of Section 19. As owner of the property, I researched the well and spoke with Norman Marchbanks who had lived on and farmed the property in 1959 and 1960 when the

well was installed. I was already acquainted with Mr. Marchbanks because we met as business associates in the early 1970s.

(5) When I bought the property in 1976, 46 acres of land near the well were being irrigated from the well. There was a Parma Water Lifter Pump in the well, and when used it pumped into an irrigation ditch to water this land. The land irrigated from the well was in the NE1/4NE1/4 Sec 19 and the NW1/4NW1/4 Sec 20, T2N, R3W.

(6) In exchange, another 46 acres of irrigated land on the east end of the property above the Stewart Lateral were being irrigated with water from the Wilder Irrigation District. I remember the pump, mainline, and hand lines used on this land above the Stewart Lateral. In 1976, it was planted to barley. The location of the 46 acres above the canal is the W1/2NE1/4 and the E1/2NW1/4 Sec 20.

(7) My daughter and son-in-law moved to the property in November 1976 while Dave Orcutt was an employee of Canyon Farms, Inc. and continued the irrigated farming of the property for Canyon Farms, Inc. They have lived there ever since, ultimately taking over the farm lease in 1981, and purchasing the property in 1994.

(8) In 1981, when Canyon Farms, Inc, was sold, I was involved in the lease of the property to David and Gayle Orcutt.

(9) The first crop on the property, under the lease to Canyon Farms, Inc., was in 1977.

(10) When I bought the property I could see the farm needed much improvement. During the winter of 1976-1977, Dave Orcutt, the Wilder Irrigation District, and I put in an underground tile which allowed the Stewart Lateral to be buried. The Wilder Irrigation District

was very happy someone wanted to help fix the Lateral going through the farm. It was hard to maintain and a waste of water for them. It has worked out very well for both parties.

(11) After the Lateral was tiled, we did a lot of leveling, put in a mainline for a wheel line sprinkler system, built a pond to pump out of, and improved the land. This increased by 20 acres the land farmed and irrigated above the original location of the Stewart Lateral. We grew wheat, beets, mint, and hay during these past years.

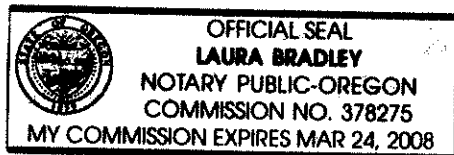
FURTHER YOUR AFFIANT SAYETH NAUGHT.

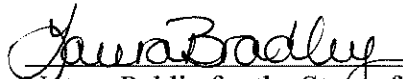
Dated this 27 day of December 2004.



NORMAN SVATY

SUBSCRIBED AND SWORN before me on this 27 day of December 2004.





Notary Public for the State of OREGON
Residing at EUGENE, OR
Commission Expires: 24 MARCH 2004

Z:\3041\6482B

Josephine P. Beeman #1806
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Phone: (208) 331-0950
Fax: (208) 331-0954
jo.beeman@beemanlaw.com

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

In Re SRBA	)	
	)	
Case No. 39576	)	AFFIDAVIT OF BOB GIBBENS
_____	)	IN SUPPORT OF SRBA CLAIMS
		63-_____ AND 63-_____

STATE OF IDAHO)
) ss:
COUNTY OF OWYHEE)

I, Bob Gibbens, after first being duly sworn upon oath, depose and state that:

(1) My name is Bob Gibbens. My address is 17916 Elbow Lane, Caldwell, Idaho 83607, Phone No. 459-7373.

(2) From my birth in 1923 through the present, I have lived within one mile of the property currently owned and farmed by David R. Orcutt and Gayle S. Orcutt. As a result, I have been familiar with the Orcutt property and the general area for nearly eighty years.

(3) I knew Norm Marchbanks personally when he lived on and farmed the property now owned by the Orcutts. Norm Marchbanks' parents owned the property, but they did not live there or farm the property. I knew that Norm Marchbanks had a well drilled on the property, and

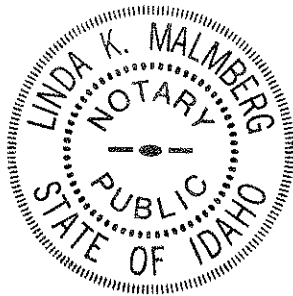
I saw the well in use for irrigation on the Marchbanks' property. In fact, I was aware that the well used a propane engine.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 27 day of December 2004.

Bob Gibbens
BOB GIBBENS

SUBSCRIBED AND SWORN before me on this 27 day of December 2004.



Linda K. Malmberg
Notary Public for Idaho
Residing at Massing, Idaho
Commission Expires: 9-28-05

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Josephine P. Beeman #1806
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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	
	)	
Case No. 39576	)	AFFIDAVIT OF JOHN CONROY
_____	)	IN SUPPORT OF SRBA CLAIMS
		63-_____ AND 63-_____

STATE OF IDAHO)
) ss:
COUNTY OF OWYHEE)

I, John Conroy, after first being duly sworn upon oath, depose and state that:

(1) My name is John Conroy. My address is 9537 Riverside Road, Caldwell, Idaho 83607, Phone No. 459-4808. My brother Tom Conroy lives next to me on Riverside Road.

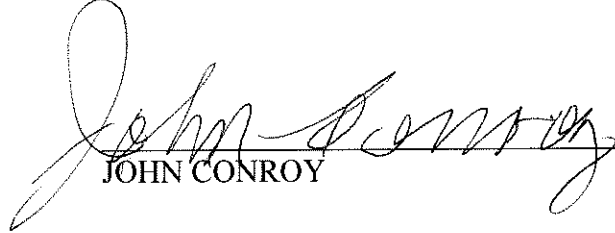
(2) My home is one mile from the property owned and farmed by David R. Orcutt and Gayle S. Orcutt. I was born and raised in the area where the Orcutts farm and have been acquainted with this property since the 1950s.

(3) I regularly use the road adjacent to the Orcutts' property.

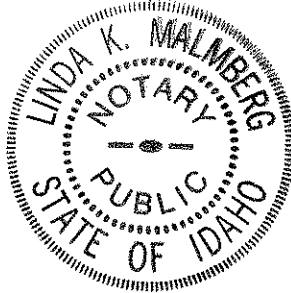
(4) In the early 1960s, I saw the well on what is now the Orcutts' property.

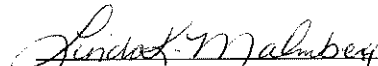
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 27 day of December 2004.


JOHN CONROY

SUBSCRIBED AND SWORN before me on this 27 day of December 2004.




Notary Public for Idaho
Residing at Marsing, Idaho
Commission Expires: 9-28-05

Z:\3041\6480A

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

In Re SRBA	)	
	)	
Case No. 39576	)	AFFIDAVIT OF TOM CONROY
_____	)	IN SUPPORT OF SRBA CLAIMS
		63-_____ AND 63-_____

STATE OF IDAHO)
) ss:
COUNTY OF OWYHEE)

I, Tom Conroy, after first being duly sworn upon oath, depose and state that:

(1) My name is Tom Conroy. My address is 9369 Riverside Road, Caldwell, Idaho 83607, Phone No. 459-7105. My brother John Conroy lives next to me on Riverside Road.

(2) My home is one mile from the property owned and farmed by David R. Orcutt and Gayle S. Orcutt. I was born and raised in the area where the Orcutts farm and have been acquainted with this property since the 1950s.

(3) I regularly use the road adjacent to the Orcutts' property.

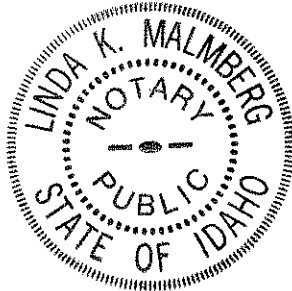
(4) In the early 1960s, I saw the well on what is now the Orcutts' property.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 27 day of December 2004.

Tom Conroy
TOM CONROY

SUBSCRIBED AND SWORN before me on this 27 day of December 2004.



Linda K. Malmborg
Notary Public for Idaho
Residing at *Marsing*, Idaho
Commission Expires: *9-28-05*

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