



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 15, 2005

37-4403
BLISS POINT CATTLE INC
C/O LORNA BARD
345 E SPRING COVE RD
BLISS ID 83314

RECEIVED

MAY 12 2005

Department of Water Resources
Southern Region

RECEIVED
MAY 19 2005
DEPARTMENT OF
WATER RESOURCES

Re: Evidence of Priority

RESPONSE DEADLINE
JUNE 17, 2005

Dear Claimant:

The Notice of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates your water usage is based on "Beneficial Use" or a "Statutory Claim." Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will, in the coming year, conduct reviews and/or field exams for the claims in your area. Since the priority date of a beneficial use water right cannot be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to the Department. If you have received this correspondence from the previous owner of the property it is required that you file a Change of Ownership form with the Department in order to receive future mailings and to continue to be a party in the adjudication.

Enclosed you will find a computer printout of your Notice of Claim and the pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

PLEASE NOTE: The Department will not recommend the court decree the notice **as claimed** if no evidence of a priority date is submitted – it may be disallowed. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement does **not** need to be in the form of a notarized affidavit as described in the brochure, but must relate first hand knowledge of the water right in question and include dates, quantities of water and extent of water use.

Submit the required evidence supporting the priority date by the date shown above, referencing all documents with the corresponding Notice of Claim number (i.e. 37-____). If you have questions not covered by this letter or the enclosed pamphlet, please contact this office.

Sincerely,

Douglas Jones, P.E.
Water Rights Supervisor

37-10130
BLISS POINT CATTLE INC
C/O LORNA BARD
345 E SPRING COVE RD
BLISS ID 83314

Enclosures

May 11, 2005

Department of Water Resources
1341 Filmore St
Twin Falls, Id 83301-3380

RECEIVED
MAY 12 2005
Department of Water Resources
Southern Region

RE water right 37-4403

Per your request to provide proof of beneficial use we are enclosing the attached documentation.

Attachment C shows on the deed transfer on 10-08-1900 the water right in Spring Creek Zaspel Lake, and Malad River.

Attachment D-1 shows a photo of the property which shows the old diversion from Camas Creek and the water being diverted from the Malad and The Zaspel or Williams pond.

Attachment D-2 shows no additional diversions downstream from our property.

Attachment B shows on January 26, 1946 at the time of that deed transfer the use of sufficient water to irrigate 240 Acres.

Attachment E and F show continued use of all of the water from Malad Creek and Zaspel or Williams Pond up to August 1994.

We have continued to use all of the water up until this date, as Bliss Point Cattle Inc and Quarter Circle Lazy H Inc. each owning an undivided ½ interest.

Exhibit A Shows the layout of the property and the irrigated acres.

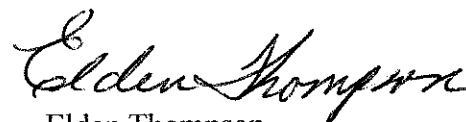
The water right has always shown as a 05-01-1889 priority date, and we believe this is correct but can find no definitive proof of the actual date of first use, but per exhibit C we know it was prior of 10-08-1900 including the construction of the pond by reference. The 10-08-1900 date was when Zaspel sold the property and he had been using the water for some time prior to that.

We hope this provides adequate substantiation to allow us 100% of the water up to 4.0 cfs right from Malad River and the Zaspel or Williams Pond with a 05-01-1889 priority date. If you have any further questions please do not hesitate to contact Tom Faulkner at 539-4347 or by mail

Thank you,



Tom Faulkner
Secretary Bliss Point Cattle, Inc
1636 Clover Creek Rd
Bliss, Id 83314



Elden Thompson
President Quarter Circle Lazy H

TISKIO

TISKIO

24

19

20

E S T

BOUNDARY

25

30

29

Spring

SWENSEN-ANDERSON

NATIONAL

FOREST

DYER CREEK

Malad Spring River

36

31

Malad

BENNETT

IDA

32

15A

40A.

30A.

20A.

40A.

40A.

OLSEN

OLSEN

FRED + AGNES MALCOMSEN

Camas

SWENSEN

Woods Ditch + Existing Dam

original PD

Spring (Johnny Spring) Johnny Behind the Rock June 1, 1881 Filing

OLSON

Source of Camas Creek

FROST VS. ALTURAS WATER C Decree June 1, 1889

Source of Dyer Creek

ANDREW JOHNSON CHARLES MAY 1, 1889 Nelson 5-1-89

WARRANTY DEED

THIS INDENTURE, Made this 25th day of January, 1946, between William Arthur Williams and Esther Williams, husband and wife, both of Twin Falls, County of Twin Falls, State of Idaho, the parties of the first part, and R. L. Wood, of Hammett, County of Elmore, State of Idaho, the party of the second part;

(B)

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of \$10.00, lawful money of the United States of America, and for other good and valuable consideration to them in hand paid by the said party 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 party of the second part, and to his heirs and assigns forever, all of the following described real property, situate in the County of Elmore, State of Idaho, to-wit:

The southeast quarter of the southeast quarter of Section 25, Township 1 south, Range 10 east, Boise Meridian;

11'

The southwest quarter of the southwest quarter of Section 29; the south half of the southeast quarter, the southeast quarter of the southwest quarter and Lot 4 of Section 30; the east half, the east half of the northwest quarter, the east half of the southwest quarter and Lots 1, 2, 3 and 4 of Section 31; the west half of the northwest quarter and the southwest quarter of Section 32, all in township 1 south, range 11 east, Boise Meridian;

Together with all water rights and ditch rights appurtenant thereto, including the primary water right to the entire flow of Dyer Creek, sometimes known as Spring Creek, and a portion of the flow of the Malad River sufficient to irrigate 240 acres of land, and 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 party of the second part and to his 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 party of the second part, his 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 the day and year herein first above written.

\$17.60 documentary stamps attached and cancelled

William Arthur Williams
Esther Williams

STATE OF IDAHO,)
) SS
COUNTY OF Elmore)

On this 25th day of January, in the year 1946, before me, the undersigned, a Notary Public in and for said State, personally appeared William Arthur Williams and Esther Williams, 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 Seal

L. A. Kalbus
Notary Public for Idaho
Residing at Boise, Idaho

STATE OF IDAHO,)
) SS
COUNTY OF ELMORE,)

I hereby certify that this instrument was filed for record at request of Ethel Bennett at 40 minutes past 9 o'clock A.M., this 27th day of March A. D. 1946 in my office, and duly recorded in Book 49 of Warranty Deeds at page 116.

Fees \$1.20

James A. O'Neill
Ex-Officio Recorder
By Charles W. Rowett

10-8-1900

C-1

Form D 302

unlabeled
unlabeled
unlabeled

Oscar P. Zaspel
To
Otto Johnson
Oct 8th 1900

This Indenture, made this eighth day
of October in the year of our Lord one
thousand nine hundred.

Between Oscar P. Zaspel of Mountain
Home, County of Elmore, State of Idaho, the party
of the first part, and Otto Johnson of
Mountain Home, County of Elmore, State of Idaho. the party
of the second part;

Witnesseth, That the said party of the first part,
for and in consideration of the sum of eight hundred
dollars, ^{xxx} of the United States of America, to him in
hand paid by the said party of the second part, the
receipt whereof is hereby acknowledged, has Remised,
Released, and forever Quit Claimed, and by these presents
do Remise, Release, and Forever Quit Claim unto
the said party of the second part, and to his heirs
and assigns forever, all the following described
real estate situate in the County of Elmore and
State of Idaho, and bounded and particularly de-
scribed as follows, to wit;

South West quarter of Section thirty-two, in
Township one South of Range Eleven East of
Boise Meridian in Idaho, containing one hundred
and sixty acres, and all the improvements thereon
including a 2 room dwelling house, Dairy house,
sheds & Corrales, and all my right in the waters from
Spring Creek, the Zaspel Lake and the Malad River. (X)

Together with all and singular the tenements,
hereditaments and appurtenances therunto belonging,
or in any wise appertaining, and the reversion
and reversions, remainder and remainders, rents,
issues and profits thereof;

To have and to hold, All and singular,
the said premises together with the appurtenances

unto the party of the second part, and to his heirs and assigns forever.

In witness whereof, the said part of the first part has hereunto set his hand and seal the day and year first above written.

Signed, sealed & delivered } Oscar T. Zaspel Seal
in the presence of }
Geo Johnson }

C-2

State of Idaho, } ss.
County of Elmore. On this 8th day of October 1900 before me H. G. Smith, a Clerk Dist. Court in and for said County, personally appeared Oscar T. Zaspel known to me to be 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.

State of Idaho, } ss.
County of Elmore. }
I, H. G. Smith, Clerk Dist. Court, do hereby certify that this instrument was filed for record at the request of Otto Johnson at 10:20 o'clock a.m., this 8th day of October 1900 in my office.

Filed \$1.50
H. G. Smith, Clerk Dist. Court
By B. Sniffitt, Deputy.

Form 600
Frank Lee Jackson
N.E. Blackman
June 19th 1900
Deed of Moving Claim
This Indenture, made the 19th day of June in the year of our Lord one thousand nine hundred between Frank Lee Jackson the party of the first part and N.E. Blackman the party of the second part.

Send To Printer

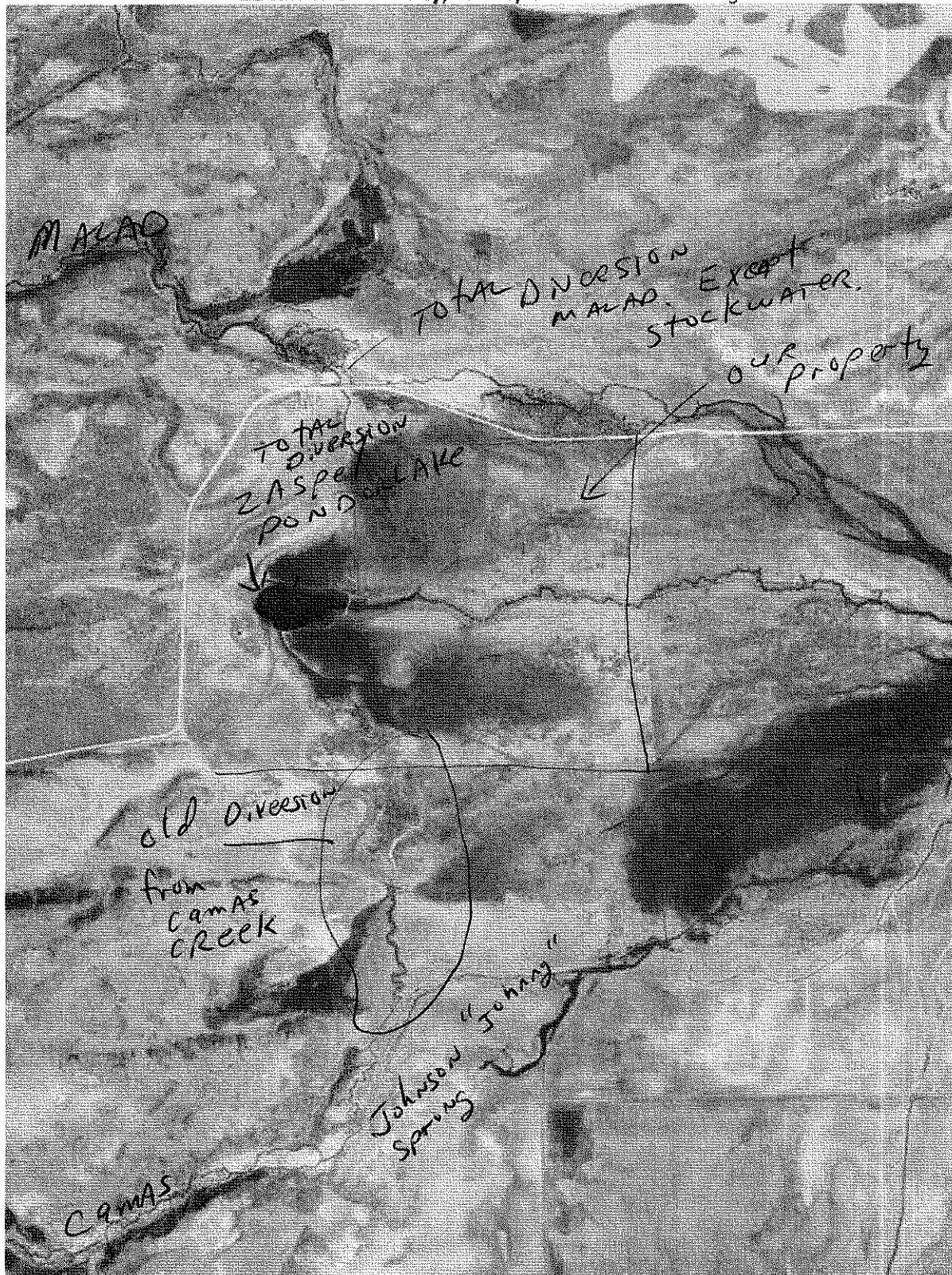
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Show Grid Lines

Change to Landscape

USGS 11 km W of Hill City, Idaho, United States 20 Aug 1998



0 1 2 3 4 5 Km

0 1 2 3 4 5 Mi

Image courtesy of the U.S. Geological Survey

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USGS 9 km W of Hill City, Idaho, United States 20 Aug 1998

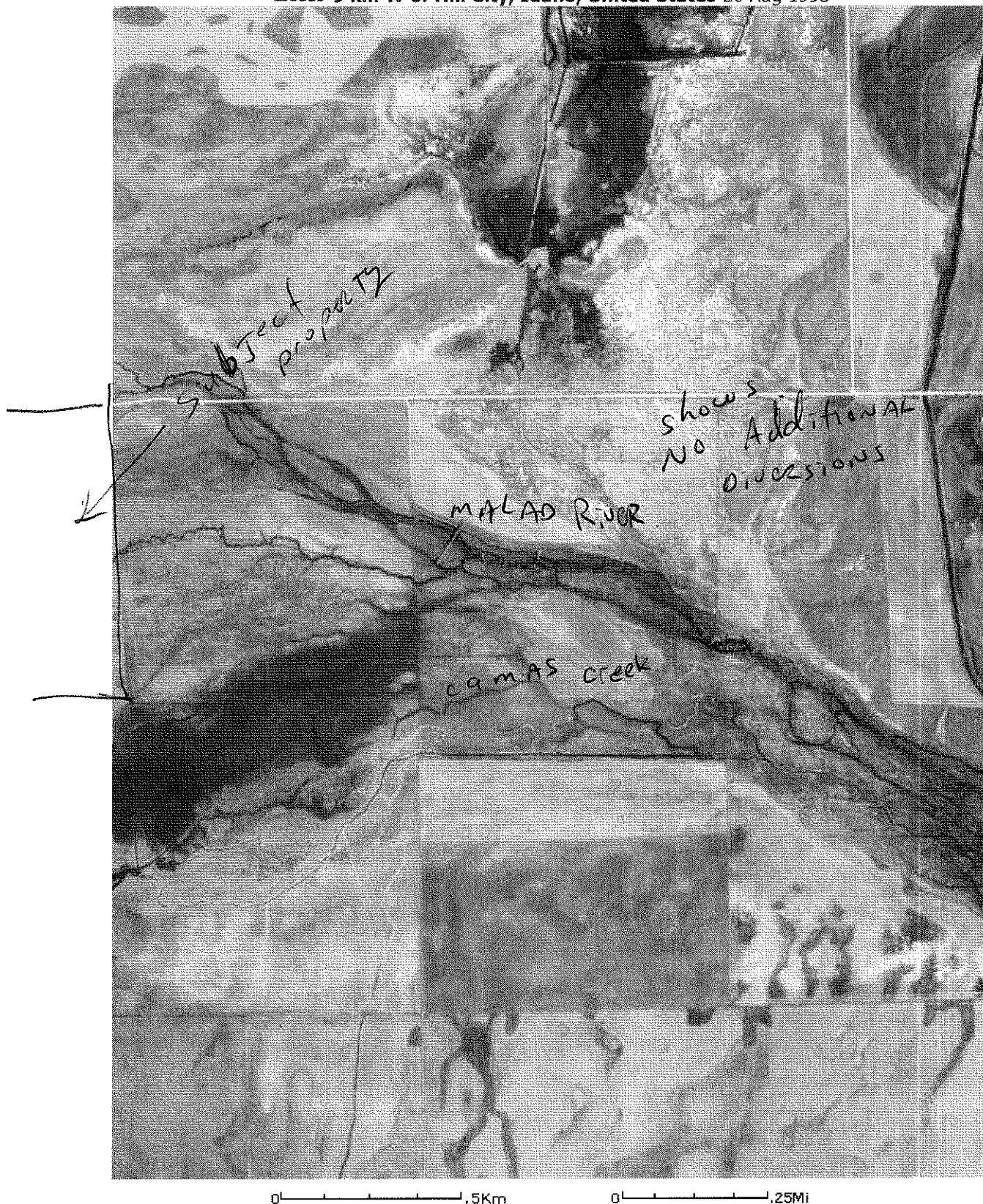


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(E)

AFFIDAVIT

IN THE MATTER OF:

Water Decree A37-00514
A37-04403
A37-10130

State of Idaho
County of Elmore

CHARLES A. HOBDEY
sworn, deposes and says:

Being first duly

I, the owner and operator of the Quarter Circle Lazy H Ranch, made beneficial use of all water from the point of diversion of Dyer/Malad Creek from 1951 until I retired in 1988. This water was used to irrigate my land in Range 11, Elmore County, State of Idaho: Section 32, SW1/4 NW1/4 and the SW 1/4; and also land in Section 31 of the same range and county.

All of the water from Dyer/Malad Creek continues to be used on the same property by my son-in-law, Elden Thompson, who is now the president of the Quarter Circle Lazy H, Inc. and who personally has done all of the irrigating for the corporation since I retired in 1988.

The places below the Quarter Circle Lazy H property have used only the run-off water since before 1951.

Charles A. Hobdey
Signature

Subscribed and sworn to before me this 26th day
of October, 1994.

Lt. H. P. Harrison
Notary Public

Residing at Bliss
My commission expires 2/99

F

AFFIDAVIT

IN THE MATTER OF:

Water Decree A37-00514
A37-04403
A37-10130

State of Idaho
County of Elmore

ELDEN A. THOMPSON
sworn, deposes and says:

Being first duly

I am the president of the Quarter Circle Lazy H, Inc. Ranch and am well-acquainted with the Quarter Circle Lazy H, Inc. property in Section 31 and 32 of Range 11 E.B.M., Elmore County, State of Idaho. The Quarter Circle's property is irrigated with all of the water from Dyer/Malad Creek and has been since before the property was purchased by us in 1951.

Beginning in 1972, I have helped irrigate the property using all of the water from Dyer/Malad Creek, and I have done all of the irrigating since 1988 continuing to use all of the water from May 15 to October 1st annually.

Elden A. Thompson
Signature

Subscribed and sworn to before me this 1st day
of August, 1994.

John H. Lawrence
Notary Public

Residing at Bliss
My commission expires 2/99