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JUN 23 2005
Department of Water Resources

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)
)
)
)

A. Subcase 65-22744

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Idaho Department of Lands
Address: 954 West Jefferson Street
PO Box 83720
Boise, Idaho 83720-0050

Daytime Phone: (208) 334-0200

Name & Address of Attorney, if any:

Attorney Name: LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER
Deputy Attorney General
Idaho Department of Lands
Attorney Address: 700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400
Idaho State Bar # 2597

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: A. L. Cattle, Inc.
Address: P.O. Box 608
Emmett, ID 83617

D. I object to the following elements as recommended in the Director's Report.

1. ☒ **Name and Address**
   Should be: Idaho Department of Lands
   954 West Jefferson Street
   PO Box 83720
   Boise, Idaho 83720-0050

2. ☐ **Source**
   Should be: _____

3. ☐ **Quantity**
   Should be: _____

4. ☐ **Priority Date**
   Should be: _____

5. ☐ **Point(s) of Diversion**
   Should be: _____

6. ☒ **Instream Flow Description**
   Should be: T10N R01W S36 NENESE Begin of Stream Flow within WASHINGTON County
   T10N R01W S36 NESESE End of Stream Flow within WASHINGTON County

7. ☐ **Purpose(s) of Use**
   Should be: _____

8. ☐ **Period of Year**
   Should be: _____

9. ☐ **Place of Use**
   Should be: _____

10. **I object because:**

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The State of Idaho, through the Idaho Department of Lands, is the owner of a portion of the land upon which use is claimed. This land is Public School endowment land. This land consists of a NESE¼ and the SESE¼ of Townshipt 10 North, Range 01 West, B.M. The overlap of the claimant's land with the Public School Endowment Land is shown on Attachment I. The claimant does not have a valid water right for use on the endowment land because a private claim cannot be made on such lands.

The claimant has a grazing lease with the State of Idaho, Department of Lands, State of Idaho State Land Lease, Lease Number G-5005. A true and correct copy is attached as Attachment II. Section 17 of Lease Number G-5005 states as follows:

> 17. WATER RIGHTS
> The establishment of any water right or rights shall be by and for the lessor, and no claim thereto shall be made by the lessee; such rights shall attach to and become appurtenant to said land. The lessee shall not cause any water to be conveyed off the land without prior written approval of the lessor.

The water right needs to be split by describing the state land in one water right and by describing the private land in another water right.

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F. **VERIFICATION**

State of Idaho)
) ss.
County of Ada)

David J. Barber, being first duly sworn, upon oath, deposes and says:

That the State of Idaho, Department of Lands, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Lands, which is a party/claimant in this proceeding as defined by I.C. § 42-1401A (1) and (6), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
DAVID J. BARBER
Deputy Attorney General
Idaho Department of Lands

David J Barber
By Attorney signing in representative capacity

Subscribed and sworn to before me on: _____
(Insert Date)

OLGA L. VALDIVIA NOTARY PUBLIC STATE OF IDAHO

Olga L. Vald
Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 2/8/06

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on June 22, 2005, I caused the original and the copies of this objection, including all attachments, to be served on the following persons by the method designated:

1. Original to:

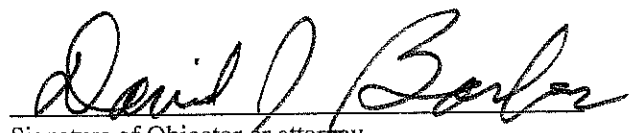
Clerk of the District Court Snake River Basin Adjudication 253 Third Avenue North P.O. Box 2707 Twin Falls, Idaho 83303-2707	U.S. MAIL

2. One copy to the owners of the water right at the following address:

A.L. Cattle, Inc. P.O. Box 608 Emmett ID 83617	U.S. MAIL

3. Copies to:

IDWR Document Depository PO Box 83720 Boise, ID 83720-0098	STATEHOUSE MAIL
Chief of Natural Resource Division Office of the Attorney General State of Idaho P.O. Box 44449 Boise, Idaho 83711-4449	(not applicable)
United States Department of Justice Environment and Natural Resource Division 550 West Fort Street, MSC 033 Boise, Idaho 83724	U.S. MAIL



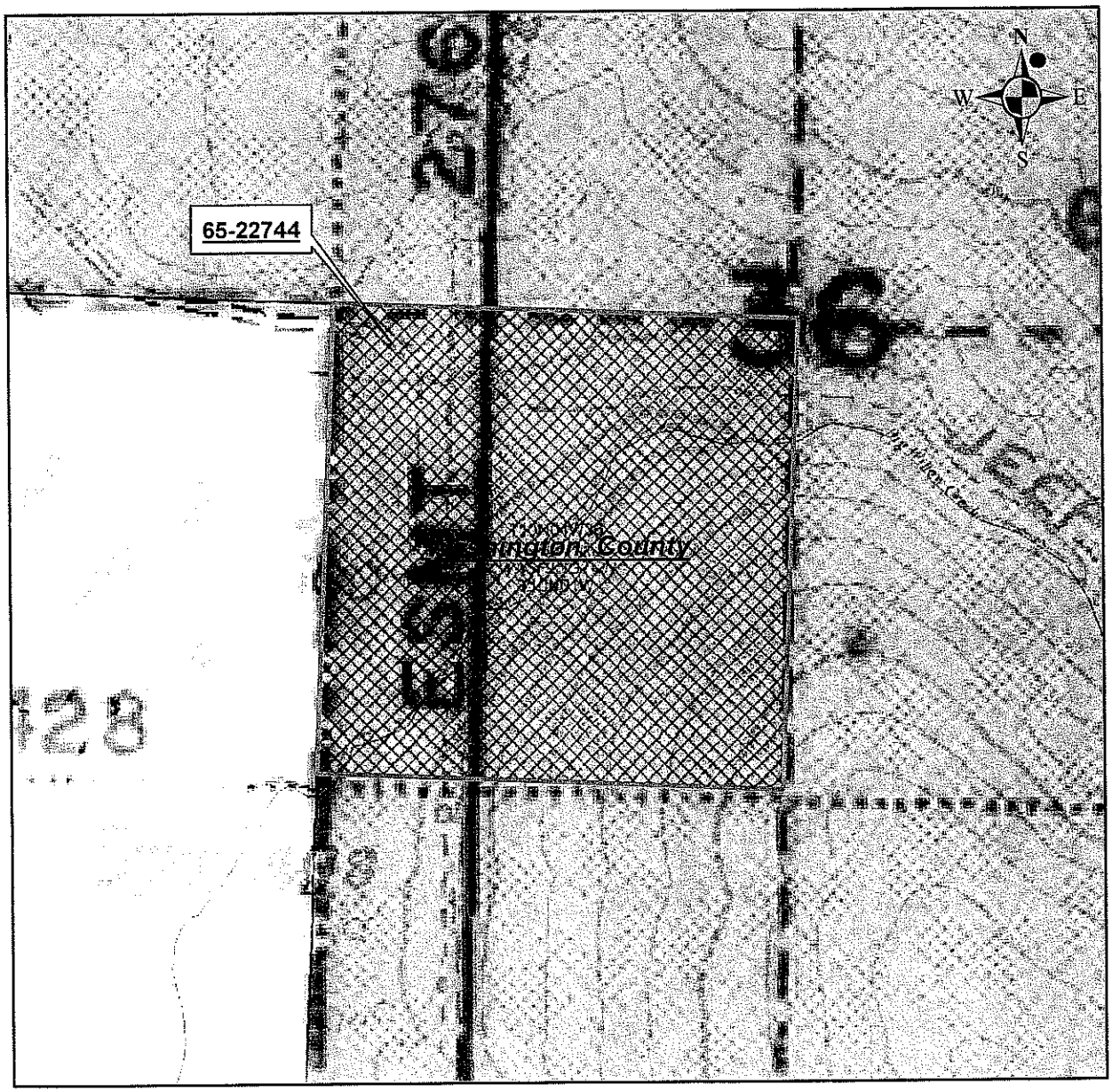
Signature of Objector or attorney
Mailing on Objector's behalf

EXHIBIT

tabbies

I

Point of Diversion
Basin 65
Sequence Number 22744
10N01W - SEC36



SCALE 1:5,500

0 .05 .1 .2 .3 .4 Miles

IDAHO DEPARTMENT OF LANDS

Idaho Department of Lands
Prepared By Dixie Booker-Lair
S:\Bureaus\Legal\Water Rights\Late Claims 2005\lateclaims2005IDTM.mxd
June 16, 2005

EXHIBIT
tabbies
II

STATE OF IDAHO
STATE LAND LEASE

LEASE NUMBER: G-5005

This lease agreement is made and entered into by and between the State of Idaho, acting by and through the State Board of Land Commissioners (lessor) and A.L. Cattle, Inc. (lessee)

P.O. Box 608 (Address) Emmett, (City) ID (State) 83617 (Zip)

This lease shall commence January 1, 1999, and terminate December 31, 2008.

The annual rent payment is due on May 1 of each year.

The lessor, in consideration of the rental paid and the convenants, conditions and restrictions hereinafter set forth, in attachment B, does hereby lease and demise unto the lessee the lands described in attachment A at the rates and uses specified herein; grazing ~~1350.00~~ 1,880.00 acres containing ~~20~~ 245.00 AUMs , cropland 0.00 acres of dryland at 0.00 per acre, 0.00 acres irrigated land at 0.00 per acre and 0.00 acres of wasteland at 0.00 per acre, miscellaneous 0.00 per annum, or 0.00 premium bid.

IN WITNESS WHEREOF, The parties hereto have caused these presents to be duly executed the day and year first above written.

COUNTERSIGNED:

Pete T. Cenarrusa
Secretary of the State of Idaho

Stanley F. Hamilton
Director Department of Lands

STATE BOARD OF LAND COMMISSIONERS OF THE STATE OF IDAHO

By Dirk Kempthorne
President of the State Board of Land Commissioners and Governor of the State of Idaho

STATE OF IDAHO

COUNTY OF Ada)

On this 23rd day of April, in the year 1999, before me, a Notary Public in and for said State, personally appeared Dirk Kempthorne, known to me to be the president of the State Board of Land Commissioners of the State of Idaho and the Governor of the State of Idaho; and Pete T. Cenarrusa, known to me to be the Secretary of the State of Idaho and Stanley F. Hamilton, known to me to be the Director, that executed the within instrument, and acknowledged to me that the State Board of Land Commissioners of the State of Idaho and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

Residing at Boise, Idaho, Commission expires 6-8-2001

Susan
Notary Public for Idaho

NOTARY PUBLIC STATE OF IDAHO

********** L E S S E E **********

x A.L. Cattle Inc
Agnes L Bradford prs. (lessee)

x
(lessee)

STATE OF IDAHO

COUNTY OF Gem)

On this 30 day of March, in the year 1999, before me, a Notary Public in and for said State, personnally appeared Agnes L. Bradford

known to me to be the lessee that executed the within instrument, and acknowledged to me that she ____ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

Residing at Emmett, Idaho, Commission expires 2000

Cheryl L. Fisher
Notary Public for Idaho

STATE OF IDAHO
STATE LAND LEASE

LEASE NUMBER: G-5005
PAGE 2

ATTACHMENT A

SPECIAL PROVISIONS:

1,880 acres with 245 AUMs will be grazed in accordance with the approved grazing management proposal as follows.

The lands in this lease will be managed in conjunction with BLM and private lands under the proposed Crane Creek AMP and the Willow Ridge AMP and used for spring, summer and fall grazing.

The Crane Creek proposal calls for four large pastures in a rest-rotation grazing system and a 1,000 acre riparian pasture. Each year up to 400 cow/calf pairs rotate through the three grazed pastures with about 45 days of use in each between approximately June 1 and November 30 depending on range readiness and utilization. The riparian pasture includes most of the state Sheep Creek section (Sec. 36, T12N, R1W) and use is planned for a short period in the spring and possibly for one day during the fall trailing period as a holding field.

The Willow Ridge AMP includes four large pastures in a deferred-rest-rotation grazing system and encompasses that portion of this lease in T10N. Up to 600 (usually about 400) head of cattle are rotated through the grazed pastures between April and late October depending on range readiness and utilization with approximately two months of use in each. One pasture will receive complete rest while another will be deferred from grazing until after seed-ripe each year.

DESCRIPTION OF PROPERTY:

COUNTY	ACRES	SUBDIVISION DESCRIPTION	SEC.	TWP.	RGE.	ENDOW.
WASHINGTON	80.00	NWSE,SESE	13 00	10 N	1.0 W	PS
WASHINGTON	30.00	S2N2NWSW, S2NWSW LEX-9-2004	14 00	10 N	1.0 W	PS
~~WASHINGTON~~	~~530.00~~	~~PT N2N2 S OF FENCE, S2N2, S2~~	~~16 00~~	~~10 N~~	~~1.0 W~~	~~PS~~
WASHINGTON	40.00	SWSW	24 00	10 N	1.0 W	PS
WASHINGTON	560.00	E2,E2W2,W2NW	36 00	10 N	1.0 W	PS
WASHINGTON	640.00	ALL	36 00	12 N	1.0 W	PS

STATE OF IDAHO
STATE LAND LEASE

ATTACHMENT B

This lease is made pursuant to the laws of the State of Idaho and the Rules and Regulations governing grazing leases and cropland leases, IDAPA 20.03.14

1. USE OF LAND
The lands herein described shall be used for the purpose of grazing and farming as specified on the signature page; no other uses shall be made of these lands without the prior written approval of the lessor.

2. RECLASSIFICATION OF LAND USE
At the sole discretion of the lessor, lands under this lease may be reclassified in whole or in part for agricultural, commercial, homesite, or other purposes that would result in increased rentals to the lessor. For uses other than cropland or grazing the lands affected will be dropped from the lease.

3. RATE OF RENT – CHANGE OF RENT
Lessee agrees to pay to the lessor, in lawful money of the United States, each year's rent in advance, and prior to the legal possession of the property for such year, an annual rent for each acre of cropland and every AUM covered by this lease. The rent shall be payable on or before the date specified on the signature page. The lessor reserves the right to increase or decrease the annual rent, and the lessee will be notified six months in advance of the first payment of any increase.

4. RIGHT OF LESSOR TO SELL – APPRAISAL OF IMPROVEMENTS – APPROVAL OF IMPROVEMENTS REQUIRED
The lessor reserves the right to sell all or any portion of the land herein described and the lessee agrees to deliver immediate possession unless the lessee is to be permitted to harvest a growing crop. In such event, lessee shall have possession of only the land on which such crops are growing. The lessee will be notified of a scheduled sale at least thirty (30) days prior to sale date. When creditable improvements or growing crops are present, they will be appraised in accordance with Idaho Code, Section 58-313, by the lessor and the lessee will be paid for the improvements or crops by the purchaser on the day of sale; lessor's appraisal shall be conclusive.

Prior written approval of lessor is required to make permanent range improvements, construct permanent buildings, or clear the land for agricultural uses. Failure to secure such written approval shall constitute forfeiture of the value of such improvement in case of sale or lease conflict.

5. RENEWAL OF LEASE – APPRAISAL OF IMPROVEMENTS
If the lessee is not the successful bidder at the expiration of this lease then the value of improvements recognized in Section 4 above shall be paid by the successful bidder to the lessee prior to possession provided no delinquent rent is owed. Improvement payments shall be applied towards any rent due before being disbursed to lessee.

6. RELINQUISHMENT OF RIGHTS
The lessee agrees to relinquish possession of the leased premises upon breach of any of the conditions herein set forth, with all permanent improvements thereon in good order and condition when such breach results in cancellation or forfeiture of this lease.

7. TIMBER ON LAND UNDER LEASE – STATE FIRE LAWS
This lease is made subject to all present and future timber sale contracts. The lessor reserves the right to restrict or prohibit grazing use on all or portions of the land leased for timber management purposes. The lessee will be given one hundred eighty (180) days written notice, prior to turn out of livestock on lands leased, of any such restrictions or termination of grazing use, together with a map of the restricted area. This lease does not authorize the lessee to cut any timber growing on the land leased; any unauthorized use of such timber by the lessee or with his knowledge or consent, shall work a forfeiture of his lease without notice, and said lessee shall be responsible for treble damages to said timber. Lessee is subject to the provisions of state fire laws except for fire protection charges.

8. MINERAL RESERVATIONS
This lease is subject to any mineral lease (including oil, gas and geothermal resource leases) that is now in force or effect or that may hereafter be granted on the lands or any part thereof included herein as provided by Title 47, Idaho Code; provided, however, when a mineral lease is granted after the granting of this lease, the mineral lessee shall give a good and sufficient bond to protect the lessee herein from all damage occasioned to the surface of the lands embraced in this lease, or improvements thereon, whether the damage is due to mineral extraction or rights-of-way or other activities incident to mineral extraction.

9. GRAZING REGULATIONS
For grazing use, the grazing period and the number of stock may be fixed and determined by the lessor. The grazing lessee shall furnish such information as may be required from time to time, to assist in determining the grazing period and number of stock to be grazed. A lessee may be required to participate in a resource management plan which includes all or part of the lands described herein. Any written agreement concerning a management plan will be a condition of this lease.

Where sheep are grazed on land included in this lease, they shall not be bedded more than two nights consecutively on the same bedding ground without prior approval of the lessor.

10. PAYMENTS OF TAXES AND WATER CHARGES
Unless otherwise provided, the lessee shall pay all water charges, assessments or taxes of whatsoever nature that may be legally levied or assessed against the land herein described, or any portion thereof, and if the same is not paid it shall constitute a lien in favor of the State of Idaho against all improvements or crops growing on said land.

11. SUBLEASING – ASSIGNMENT
The lessee shall not sublease any of the land embraced in this lease without prior written approval of lessor. The lessee shall not assign this lease except upon the written approval of the lessor on forms provided for that purpose, and only where the rent owing has been paid in full, except that if a rental extension has been granted, such extension shall be assumed by the assignee and if improvements exist, such will be purchased by the assignee.

12. RIGHT OF ENTRY AND INSPECTION – ABANDONMENT
The lessor reserves the right to enter upon land, or any portion thereof, during the term of this lease for the purpose of inspecting the property. Should any of the property covered by this lease be abandoned, or the lease cancelled or forfeited for any breach of condition herein contained, all improvements placed upon the property by the lessee shall remain a part of the realty and title thereto shall vest in the State of Idaho.

13. LESSOR PROTECTED AGAINST WASTE – NOXIOUS WEED CONTROL
The lessee shall use the property under this lease in such manner as will best protect the State of Idaho against loss or waste, and shall cooperate with the lessor or any other agency authorized to undertake programs for control or eradication of noxious weeds. The lessee shall take measures to control noxious weeds on the leased land in accordance with Title 22, Chapter 24, Idaho Code. Control of noxious weeds on state grazing lands shall be shared jointly by the lessee and lessor with the lessor's share subject to funds appropriated for that purpose.

14. FORFEITURE OF LEASE
In case the lessee fails to comply with any of the covenants, terms or conditions of this lease, the lessor may forfeit or cancel the lease upon ten days notice to the lessee and the lessee shall not, during the period of notice, remove any of the improvements or crops thereon, whether the crops have been harvested or not. The lessee shall, upon lease expiration, deliver immediate possession of the lands herein to the lessor without further notice or demand.

15. EASEMENTS
The lessor reserves the right to grant easements and rights-of-way across or upon the land described in this lease and to grant immediate possession thereof to the grantee of such easement. The lessor shall coordinate with the lessee before processing any easement applications on the leased land. The grantee of such easement shall, before exercising the same, pay to the lessee the reasonable value of the growing and immature crops and improvements, as determined by the lessor's appraisal; lessor's appraisal shall be conclusive. This lease is subject to any right-of-way or easement heretofore granted over the lands embraced by this lease.

16. PUBLIC USE
The lessee must allow the general public the right to use the lands described in the lease for outdoor recreation. However, nothing in this lease authorizes or purports to authorize trespass on private lands to reach state-owned lands. State lands shall not be restricted without prior written approval of the lessor. Grazing or cropland leases will not be considered exclusive use leases as described under Idaho Code, Section 36-1603.

17. WATER RIGHTS
The establishment of any water right or rights shall be by and for the lessor, and no claim thereto shall be made by the lessee; such rights shall attach to and become appurtenant to said land. The lessee shall not cause any water to be conveyed off the land without prior written approval of the lessor.

18. SEED HARVEST
The lessor reserves the right to harvest seed from plants on land not under a cropland lease. The lessor will coordinate the harvesting activities with lessee to minimize impacts on livestock operations.

19. ROAD CLOSURE
The lessor reserves the right to close roads for road protection, wildlife protection or administrative purposes. Planned road closures will be reviewed with lessee prior to action. The lessee will have the right to appeal to the Land Board decisions affecting his use.

20. LIABILITY
The lessee shall indemnify and hold harmless the lessor, its departments, agencies and employees for any and all claims, actions, damages, costs and expenses which may arise by reason of lessee's occupation of the leased premises, or the occupation of the leased premises by any of the lessee's agents, or by any person occupying the same with the lessee's permission.

21. BINDING ON HEIRS
All of the terms, covenants, and conditions of this lease shall be binding upon the heirs, executors and assigns of the lessee.

22. CIVIL RIGHTS
The lessee shall not discriminate against any person on the basis of such person's race, creed, color, sex, national origin or handicap.

IDAHO DEPARTMENT OF LANDS

LAND EXCHANGE ADDENDUM

AL Cattle, Inc., holder(s) of State Lease G-5005 does/do hereby acknowledge that land described as Pt. N2N2 (South of Fence), S2N2, S2 Section 16, T10N, R1W, containing approximately 530 acres is included in our lease and is proposed for land exchange.

We agree that the lands above- referenced may be deleted from my lease by the Department of Lands upon thirty (30) days written notice from the Director, Department of Lands, upon the consummation of the proposed land exchange.

Our signature on this document constitutes the necessary agreement to the land exchange in accordance with section 58-138, Idaho Code.

We understand that we may continue to use the lands described above in accordance with our state lease for the balance of the year in which the lands are deeded, unless otherwise notified, in writing, by the Department of Lands.

The Land Exchange Addendum, upon the signature of the LESSEE and the approval of the Director, Department of Lands, will become a part of the above reference state lease and will be binding (as a provision of the lease) upon the LESSEE, his heirs, successors and assigns.

A.L. Cattle, Inc — May 19, 1999

Lessee by Agnes L Bradford, Pres — Date

Lessee — Date

M. Christine Tuttle — May 19, 1999

Witnessed by — Date

Approved: Tracy Behrens — 6-7-99

for Director, Department of Lands — Date

DL-1513 (1997)