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Attorneys for Tugaw Ranch

RECEIVED  
 OCT 28 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

Subcase No. 45-487A

AFFIDAVIT OF TRAVIS L.  
 THOMPSON IN SUPPORT OF  
 MOTION TO FILE LATE NOTICE OF  
 CLAIM

STATE OF IDAHO )  
 ) ss.  
 County of Twin Falls )

TRAVIS L. THOMPSON, being first duly sworn upon oath, deposes and hereby states as follows:

1. I am an attorney representing Tugaw Ranch in the above-captioned subcase. I am over the age of 18 and state the following based upon my own personal knowledge.
2. Attached hereto as Exhibit A is a true and correct copy of the *Stoner v. Willhite* decree entered by the Twin Falls County District Court on May 28, 1942. I obtained the copy from the Southern Regional Office of the Idaho Department of Water Resources.

3. Attached hereto as Exhibit B is a true and correct copy of the application for transfer no. 1762 that was filed by Joseph E. Tugaw on August 2, 1974 and approved by the Idaho Department of Water Resources on June 26, 1975.

4. Attached hereto as Exhibit C are true and correct copies of water right reports for water right no. 45-487A and 45-487B obtained from the Idaho Department of Water Resources' files on their website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

5. Attached hereto as Exhibit D is a true and correct copy of the SRBA Court's partial decree for water right no. 45-487B.

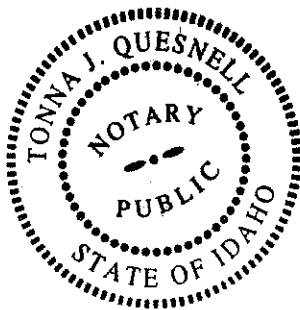
6. Attached hereto as Exhibit E is a true and correct copy of the SRBA Court's partial decree for water right no. 45-487C. The copy was obtained from the SRBA Court's website: [www.srba.state.id.us](http://www.srba.state.id.us)

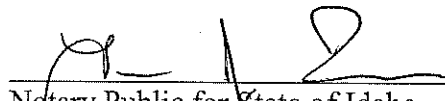
Further you affiant sayeth nought.

DATED this 27 day of October 2005

  
Travis L. Thompson

SUBSCRIBED AND SWORN to before me this 27 day of October, 2005.



  
Notary Public for State of Idaho  
Residing at Twin Falls, Idaho.  
Commission Expires: 9 / 28 / 11

### CERTIFICATE OF SERVICE

I hereby certify that on the 27<sup>th</sup> day of October, 2005, I served a true and correct copy of the foregoing document(s) on the person(s) listed below, in the manner indicated:

Original to:

Clerk of the District Court  
Snake River Basin Adjudication  
253 3<sup>rd</sup> Ave North  
P.O. Box 2707  
Twin Falls, Idaho 83303-2707

Copies to:

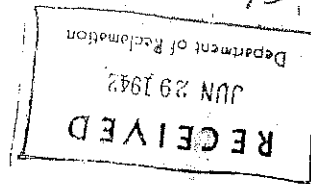
IDWR Document Depository  
P.O. Box 83720  
Boise, Idaho 83720-0098

Chief, Natural Resources Division  
Office of the Attorney General  
State of Idaho  
P.O. Box 44449  
Boise, Idaho 83711-44449

United States Department of Justice  
Environment and Natural Resource Division  
550 West Fort St., MSC 033  
Boise, Idaho 83724

  
Travis L. Thompson

## **EXHIBIT “A”**



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

ETHEL STONER, JULIA STONER, and  
DRY CREEK WATER COMPANY, a cor-  
poration,

Plaintiffs,

vs.

ALICE I. WILLHITE and J. H. WILLHITE,  
wife and husband; ILLA A. OLIVER and  
W. R. OLIVER, wife and husband;  
ARCHIE QUESNELL and ANNA  
QUESNELL, husband and wife,

Defendants,

and

ANDREW ROGERSON,

Additional Party Defendant,

and

ROY A. READ and MABEL F. READ, husband  
and wife; and ANNA S. ARSTEIN, a widow,

Interveners.

#7475

DISTRICT COURT  
ELEVENTH JUDICIAL DISTRICT  
COUNTY OF TWIN FALLS, STATE OF IDAHO

FILED MAY 28 1942

Walter C. Masgrave

BY Paul H. Gordon

Entered May 28, 1942

DECREE

The above entitled action came on regularly for trial at Twin Falls, Idaho, before Honorable T. Bailey Lee, District Judge, on this 22nd day of May, 1942, plaintiffs appearing by and through their counsel, James R. Bothwell, Esquire; defendants by and through their counsel, Messrs. Parry and Thoman; additional party defendant, Andrew Rogerson, by and through his attorney, Frank L. Stephan, Esquire; and the interveners by and through their attorney, C. A. Bailey, Esquire; and after hearing the allegations and proofs of the parties, which consisted of a Stipulation of Facts in writing, signed by counsel for the respective parties, and the cause having been submitted to the Court for decision, and the Court having adopted the Stipulation of Facts as its findings of fact constituting his decision in writing, and conclusions of law having been waived, and now

being fully advised in the premises:

It is ORDERED, ADJUDGED AND DECREED

I

That there is hereby awarded to defendants, Alice I. Willhite and J. H. Willhite, wife and husband, and their successors in interest, for use upon the following described lands situated in Twin Falls County, Idaho, to-wit:

Lot One (1), Lot Two (2) in Section Thirty (30), Township Eleven (11) South, Range Twenty (20) E.B.M., and that portion South of Milner Low Life Canal of Lot Four (4), Section Nineteen (19), Township Eleven (11) South, Range Twenty (20) E.B.M.,

a water right from Dry Creek, situated in Cassia and Twin Falls Counties, Idaho, and its tributaries, of

45 0481 90 inches of water per second of time with date of priority December 31, 1877, and

45 0482 63 1/3 inches of water per second of time with date of priority March 1, 1880,

to be diverted at the Upper Jordan Dam in the Northwest Quarter of the Northeast Quarter of Section Twelve (12), Township Twelve (12) South, Range Nineteen (19) East B. M., Cassia County, Idaho.

II

That there is hereby awarded to defendants, Illa A. Oliver and W. R. Oliver, wife and husband, and their successors in interest, for use upon the following described lands situated in Twin Falls County, Idaho, to-wit:

Lot Three (3), Lot Four (4); Northeast Quarter of Southwest Quarter (NE 1/4 SW 1/4), and Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) of Section Thirty (30), Township Eleven (11) South, Range Twenty (20) E.B.M.,

a water right from Dry Creek, situated in Cassia and Twin Falls Counties, Idaho, and its tributaries, of

45 0483 90 inches of water per second of time with date of priority December 31, 1877, and

45 0481 63 1/3 inches of water per second of time with date of priority March 1, 1880,

to be diverted at the Upper Jordan Dam in the Northwest Quarter of the Northeast Quarter of Section Twelve (12), Township Twelve (12) South, Range Nineteen (19) East B. M., Cassia County, Idaho.

### III

That there is hereby awarded to defendants, Archie Quesnell and Anna Quesnell, husband and wife, and their successors in interest, for use upon the following described lands situated in Twin Falls County, Idaho, to-wit:

Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section Nineteen (19); the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ ), the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ ); the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ ), the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ ), and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ ) in Section Thirty (30), all in Township Eleven (11) South, Range Twenty (20) E.B.M.,

a water right from Dry Creek, situated in Cassia and Twin Falls Counties, Idaho, and its tributaries, of

45 0485 90 inches of water per second of time with date of priority December 31, 1877, and

45 0486 63 1/3 inches of water per second of time with date of priority March 1, 1880,

to be diverted at the Upper Jordan Dam in the Northwest Quarter of the Northeast Quarter of Section Twelve (12), Township Twelve (12) South, Range Nineteen (19) East B.M., Cassia County, Idaho.

### IV

That there is hereby awarded to Ethel Stoner and Julia Stoner, and their successors in interest, for use upon the following described lands situated in Cassia County, Idaho, to-wit:

The East half of the West Half (E $\frac{1}{2}$ W $\frac{1}{2}$ ), and the West Half of the East Half (W $\frac{1}{2}$ E $\frac{1}{2}$ ), and Lot One (1) and the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ ), all in Section One (1), Township Twelve (12) South, Range Nineteen (19) East of the Boise Meridian, and Lots Three (3) and Four (4), with the exception of Lot 1 of Sub-tract 3, as shown on the official plat of Artesian City and Suburban tracts of record in the Recorder's

Office, Twin Falls County, State of Idaho, and the South Half of the Northwest Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$ ) of Section Six (6), Township Twelve (12) South, Range Twenty (20) East of the Boise Meridian;

and for use upon the following described lands situated in Twin Falls County, Idaho, to-wit:

Lots One (1), Two (2) and Three (3), and the West Half of Lot Four (4), and the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ ) and the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section Thirty-one (31), Township Eleven (11) South, Range Twenty (20) East of the Boise Meridian, and the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ ) and the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ ), and the South Half of the Northwest Quarter of the Southeast Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section Thirty-six (36), Township Eleven (11) South, Range Nineteen (19) East of the Boise Meridian, with the exception of the following described suburban tracts, to-wit:

Lots 7, 8 and 11 of Sub-tract #1, Lot 31 and the West Half of Lot 35, and the West Half of Lot 39 of Sub-tract #1, Lots 42, 44, 45, 46 and 47, of Sub-tract #1, Lots 1, 2, 3, 4 and 7 of Sub-tract #2, and Lots 12, 14 and 16 of Sub-tract #4, as shown on the official plat of Artesian City and Suburban Tracts of record in the Recorder's Office of Twin Falls County, State of Idaho,

a water right from Dry Creek, situated in Cassia and Twin Falls Counties, Idaho, and its tributaries, of

45 0487 292 inches of water per second of time with date of priority March 1, 1879, and

45 0488 53 inches of water per second of time with date of priority March 1, 1884,

all of which water shall be applied directly or commingled with hot water of the Artesian Water Company, as plaintiffs and their successors shall elect, said water to be diverted at the present point of diversion from Dry Creek in the Southwest Quarter of the Southwest Quarter of Section Thirteen (13), Township Twelve (12) South, Range Nineteen (19) East B.M., Cassia County, Idaho, and Upper Jordan Dam in the Northwest Quarter of the Northeast Quarter of Section Twelve (12), Township Twelve (12) South, Range Nineteen (19) East B.M., Cassia County, Idaho.

V

That there is hereby awarded to plaintiff, Dry Creek Water Company, a corporation, for use by its stockholders upon lands situated in Twin Falls County, State of Idaho, and Cassia

County, State of Idaho, to-wit:

Lands owned by said stockholders wheresoever situated within Section 36, Township 11 South, Range 19 East B. M., and Section 31, Township 11 South, Range 20 East B. M., Twin Falls County, Idaho, and Section 1, Township 12 South, Range 19 East B.M., and Section 6, Township 12 South, Range 20 East B. M., in Cassia County, Idaho,

a water right from Dry Creek, situated in Cassia and Twin Falls Counties, Idaho, and its tributaries, of

45 0489 153 inches of water per second of time with date of priority March 1, 1879, and

45 0490 27 inches of water per second of time with date of priority March 1, 1884,

to be delivered proportionately, based upon the number of shares of stock owned by each stockholder, said water to be diverted at the Upper Jordan Dam in the Northwest Quarter of the Northeast Quarter of Section Twelve (12), Township Twelve (12) South, Range Nineteen (19) East B. M., Cassia County, Idaho.

#### VI

That there is hereby awarded to interveners, Roy A. Read and Mabel F. Read, husband and wife, and Anna S. Arstein, and their successors in interest, for use upon the following described lands situated in Twin Falls County, Idaho, to-wit:

The West Half of the Northeast Quarter ( $W\frac{1}{2}NE\frac{1}{4}$ ), Southeast Quarter of the Northeast Quarter ( $SE\frac{1}{4}NE\frac{1}{4}$ ), Northeast Quarter of the Southeast Quarter ( $NE\frac{1}{4}SE\frac{1}{4}$ ), and North Half of the Northwest Quarter of the Southeast Quarter ( $N\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ), all in Section Thirty-six (36), Township Eleven (11) South, Range Nineteen (19) East of the Boise Meridian,

a water right from Dry Creek, situated in Cassia and Twin Falls Counties, Idaho, and its tributaries, of

Their proportionate share of the waters above awarded to the said plaintiff, Dry Creek Water Company, a corporation, based upon 600 shares of the capital stock of said Dry Creek Water Company, a corporation owned by said interveners,

said water to be diverted at the Upper Jordan Dam in the North-

West Quarter of the Northwest Quarter of Section Twelve (12),  
Township Twelve (12) South, Range Nineteen (19) East B. M.,  
Cassia County, Idaho.

VII

That this decree shall and does bind the additional  
party defendant herein, Andrew Rogerson, as mortgagee of the  
lands of defendants, Alice I. Willhite and J. H. Willhite, here-  
inafter described.

VIII

That this readjudication only affects 985 inches of  
the waters of Dry Creek, as above described, and shall not be  
construed as relating to any other priorities or amounts of water  
adjudicated in the actions wherein the waters of Dry Creek have  
heretofore been decreed.

IX

That when not more than ten (10) inches of water shall  
reach the location of the weir of defendants now situated in the  
Northeast Quarter of the Northeast Quarter of Section 36, Township  
11 South, Range 19 East of the Boise Meridian, Twin Falls County,  
State of Idaho, that then and in that case it shall be considered  
and determined that defendants cannot make beneficial use of the  
water then in the stream, and the water then in Dry Creek shall  
be diverted to plaintiffs as the holders of the priority next  
in right; provided however that whenever, and as often as, there  
shall again be enough water in the creek to produce more than  
ten (10) inches at said weir last above described, the <sup>defendants</sup> ~~plaintiff~~  
shall be entitled to again use the water available under the  
priorities awarded them herein.

X

That none of the parties to this action will sustain  
any injury or damage on account of the diversions and/or use of  
the waters herein decreed to the lands as herein described.

XI

It is further Ordered, Adjudged and Decreed that the rights and priorities herein determined and awarded be, and they are each and all of them, quieted and confirmed as against each and every party hereto, their agents, servants, and employees, and all parties acting by, under or through them, or either or any of them, and that all of the parties to this action, their agents, servants, and employees, and all persons claiming by, through or under them, or either or any of them, are forever debarred and enjoined from claiming or asserting any right, title or interest in or to the waters of said Dry Creek, situated in Cassia and Twin Falls Counties, State of Idaho, and its tributaries, other than the amounts, the date of priority, and the points of diversion for use upon the lands as set forth in this decree; provided, however, that nothing herein contained shall affect the validity of that certain other water right of eighty (80) inches not affected by this action which was awarded to the defendants, Alice I. Willhite and J. H. Willhite, as Water Right Number 8 with a priority date of March 1, 1900 appurtenant to the lands therein described by the said Decree of May 7, 1926 referred to in the stipulation of facts herein; provided, also, that nothing herein contained shall affect the validity of that certain other water right of one hundred ninety-six (196) inches not affected by this action which was awarded to plaintiffs, with priority date of May 14, 1904, designated as Water Right Number 9 in said Decree of May 7, 1926, referred to in the stipulation of facts herein, and which is appurtenant to the land described in said decree. And all of the parties to this action, and their successors in interest, their agents, servants, and employees, and each and all of them, are hereby perpetually enjoined from in any manner diverting, or causing to be diverted, any of the waters of said Dry Creek, or any of its tributaries,

in any amounts, dates of priority, or at points of diversion, or for use upon lands other than as specifically provided in this decree.

XII

That all pleadings herein are and shall be deemed to be amended to conform to the facts as contained in the stipulation of facts and in this decree.

XIII

That all bonds heretofore given by the plaintiffs in connection with temporary restraining orders or injunctions be, and they are hereby, exonerated.

XIV

That except only as hereby readjudicated as between the parties hereto, all water rights heretofore decreed to any of the parties hereto or any of the lands herein described shall remain in full force and effect as valid and subsisting water rights, it being the purpose hereof only to provide for the division and the allocation of the said water rights previously adjudicated among the parties to this action.

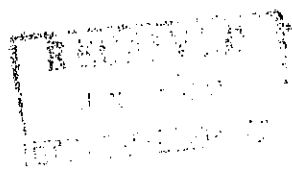
XV

That each of the parties shall pay their own costs expended in this action.

DONE IN OPEN COURT this 27th day of May, 1942.

T. Bailey Lee

DISTRICT JUDGE.



# **EXHIBIT “B”**

Identification No. (1) 45-487 (part) (2) 45-491 (3) 45-492  
Transfer No. (4) 45-493 (5) 45-495  
(6) 45-496 (part)

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION

# 1762

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT  
To Change the Point of Diversion and/or the Place of Use

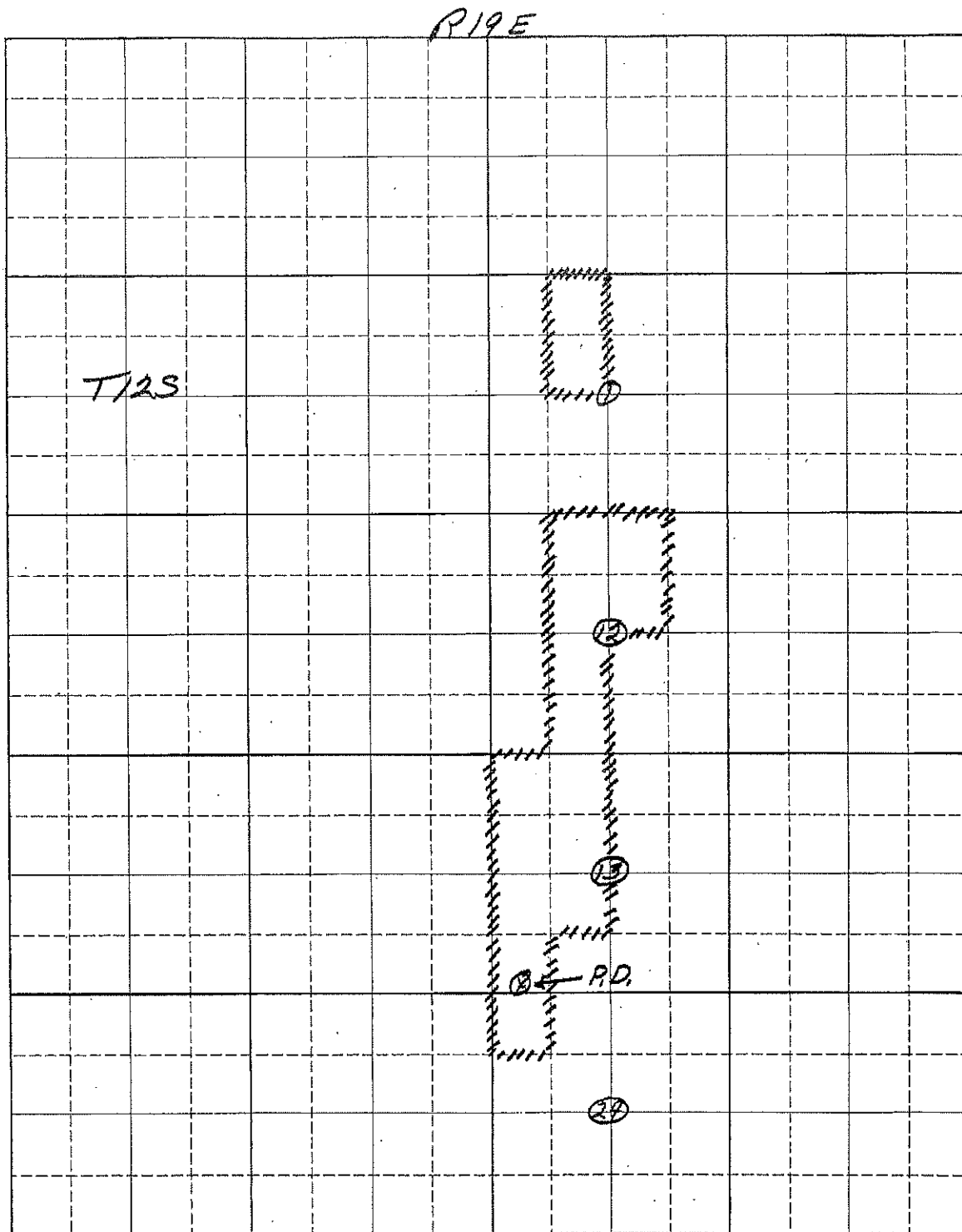
1. Name of Right Holder Joseph E. Tugaw  
Post office address Murtaugh, Id.
2. Right obtained by Fannie L. Thomas, Ethel & Jerry Bonard et al, Ethel Stoner,  
a. Decree to Julia Stoner, A.J. Fuller in Case of et al  
(Name) 5-7-26  
vs. D.B. Moorman, et al Dated 7-26-26 in 11th Judicial Court  
Alice L. Willhite et al 5-27-42 (Name of Court)  
Court, County of Twin Falls  
Water Right No. (1) 45-487 (part) (2) 45-491, (3) 45-492, (4) 45-493, (5) 45-495  
b. ~~XXXXXX~~ issued by the State of Idaho, Department of Reclamation.  
(6) 45-496 (part) Deer Creek Dry Creek  
3. Source of water Dry Creek tributary to Snake River  
(Name of stream or source)  
4. Date of Priority (1) 3-1-79 (2) 3-1-84 (3) 3-1-94 (4) 3-1-95 (5) 5-18-08 (6) 10-21-08  
(1) .96 (2) 2.6 plus Fuller Spring (3) .08 (4) .08 (5) .9 (6) 2.4  
5. Amount of water a. 7.02 plus Fuller Spring c.f.s. and/or  
b. \_\_\_\_\_ acre feet/annum
6. Water is used for irrigation from Mar. 15 to Nov. 15  
(Month, Day) (Month, Day)  
7. Original location of point of diversion is SW 1/4 SW 1/4 of Section 13,  
Township 12S, Range 19E, B.M., in Cassia County;  
Additional points of diversion, if any \_\_\_\_\_

8. Lands presently irrigated or place of use:

| TWP.    | RANGE | SEC. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | TOTALS |
|---------|-------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|         |       |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
| (1)     | 12S   | 19E  | 1      |        |        |        | X      |        |        | X      |        |        |        |        |        |        |        |        |        |
| (2)     | 12S   | 19E  | 12     |        | X      | X      |        | X      |        | X      | X      |        |        | X      |        | X      |        |        |        |
| (3)&(4) | 12S   | 19E  | 13     |        |        |        | X      |        |        | X      |        | X      | X      |        |        |        |        |        |        |
| (5)     | 12S   | 19E  | 13     |        |        |        |        |        |        |        |        |        | X      |        |        |        |        |        |        |
| (5)     | 12S   | 19E  | 24     |        |        |        |        | X      |        |        |        |        |        |        |        |        |        |        |        |
| (6)     | 12S   | 19E  | 12     |        |        |        |        |        |        |        |        | X      | X      |        |        |        |        |        |        |
|         | 12S   | 19E  |        |        |        |        | X      | X      | X      | X      | X      | X      | X      |        |        |        |        |        |        |
|         | 12S   | 19E  | 24     |        |        |        |        | X      |        |        |        |        |        |        |        |        |        |        |        |

Total number of acres presently irrigated \*

\*None specified in Decree



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

9. If applicant was not the original holder of this right explain how it was acquired: \_\_\_\_\_  
by purchase

10. CHANGE IN POINT OF DIVERSION same

a. Quantity to be diverted at new point: \_\_\_\_\_ c.f.s. and/or \_\_\_\_\_ acre feet

b. New point of diversion: \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_  
 \_\_\_\_\_, Range \_\_\_\_\_, B.M.

c. Description of method of diversion and conveyance from new points of diversion: \_\_\_\_\_  
Headgate measuring device, ditches, sprinkler system

d. Is water to be conveyed to the lands previously irrigated? Yes X No \_\_\_\_\_

If not, the place of use should be changed below.

e. Describe the reasons for applying for a change in the point of diversion:

To be able to use the decreed rights on other lands, so I may put the  
water to a more beneficial use. This point of diversion has been used  
for some years but was never recorded with the State..

f. Do you intend to make the transfer permanent? yes

g. Do you intend to abandon completely the old point of diversion? no

h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

a. Describe the new lands on which you wish to use your right.

| TWP. | RANGE | SEC. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | TOTALS |
|------|-------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |       |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
| 12S  | 19E   | 1    |        |        |        |        | 40     |        |        | 40     |        |        |        |        |        |        |        |        | 80     |
| 12S  | 19E   | 12   |        | 12     | 11     |        | 37     |        |        | 35     | 39     | 9      | 2      | 34     |        |        |        |        | 179    |
| 12S  | 19E   | 13   |        |        |        |        | 13     | 10     | 15     | 10     | 15     | 15     | 20     |        |        |        |        |        | 98     |
| 12S  | 19E   | 24   |        |        |        |        | 10     |        |        |        |        |        |        |        |        |        |        |        | 10     |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total number of acres to be irrigated 367

b. Do you intend to make the transfer permanent? yes

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

No. I am incorporating all my rights, so I may more beneficially use  
my water.

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right: no new ground

e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

Joseph E. Lujan  
(signature of applicant)

Subscribed and sworn to before me this 2nd day of August, 19 74

Spencer L. Tappett  
(notary public)

My commission expires 2-24-78

**ACTION OF STATE RECLAMATION ENGINEER  
AND CERTIFICATE OF TRANSFER**

This is to certify that I have examined Application for Transfer of Water Rights No. 1762,  
and said application is hereby APPROVED

1. Approval of said application is subject to the following limitations and conditions:

That the approval of this change does not grant a right to use the conveyance  
system of another person.

The land irrigated by each individual right shall not be greater than originally  
allowed by the decree. A measuring device of a type approved by this Dept.  
shall be permanently installed and maintained as part of the diverting works.

Witness my hand this 26 day of June, 19 75

State Reclamation Engineer

**FOR DEPARTMENT USE ONLY**

Received by MOF Date 8-2-74

Protest filed by: \_\_\_\_\_ Date \_\_\_\_\_

Prelim. check by MOF Date 8-8-74

Fee received by MOF Date 8-8-74 Fee \$30.00 (139.3)

Approved for publication by \_\_\_\_\_

Published in S.I. Press Dates 8-20 & 8-27-74

Hearing held \_\_\_\_\_

Watermaster Recommendation sent \_\_\_\_\_

## **EXHIBIT “C”**

Close

IDAHO DEPARTMENT OF WATER RESOURCES  
Water Right Report

10/27/2005

WATER RIGHT NO. 45-487A

| Owner Type    | Name and Address |
|---------------|------------------|
| Current Owner | ETHEL STONER     |
| Current Owner | JULIA STONER     |

Priority Date: 03/01/1879

Basis: Decreed

Status: Active

| Source    | Tributary   |
|-----------|-------------|
| DRY CREEK | SNAKE RIVER |

| Beneficial Use  | From | To | Diversion Rate | Volume |
|-----------------|------|----|----------------|--------|
| IRRIGATION      | /    | /  | 4.88 CFS       |        |
| Total Diversion |      |    | 4.88 CFS       |        |

Location of Point(s) of Diversion:

|           |      |         |              |           |               |
|-----------|------|---------|--------------|-----------|---------------|
| DRY CREEK | NWNE | Sec. 12 | Township 12S | Range 19E | CASSIA County |
| DRY CREEK | SWSW | Sec. 13 | Township 12S | Range 19E | CASSIA County |

Place(s) of use:

Place of Use Legal Description: IRRIGATION CASSIA County

| Township | Range | Section | Lot | Tract | Acres | Lot | Tract | Acres | Lot | Tract | Acres | Lot | Tract |
|----------|-------|---------|-----|-------|-------|-----|-------|-------|-----|-------|-------|-----|-------|
| 11S      | 19E   | 36      |     | NWSE  |       |     | SWSE  |       |     | SESE  |       |     |       |
|          | 20E   | 31      | 1   | NWNW  |       | 2   | SWNW  |       |     |       |       |     |       |
|          |       |         | 3   | NWSW  |       | 4   | SWSW  |       |     | SESW  |       |     |       |
| 12S      |       |         |     | SWSE  |       |     |       |       |     |       |       |     |       |
|          | 19E   | 1       | 1   | NENE  |       | 2   | NWNE  |       |     | SWNE  |       |     | SENE  |
|          |       |         |     | NESW  |       |     | SESW  |       |     |       |       |     |       |
|          |       |         |     | NWSE  |       |     | SWSE  |       |     |       |       |     |       |
|          | 20E   | 6       | 3   | NENW  |       | 4   | NWNW  |       | 5   | SWNW  |       |     | SENW  |

Conditions of Approval:

1. P/U INCOMPLETE. SEE FILE.

Dates:

Licensed Date:

Decreed Date: 05/27/1942

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 45N

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES  
Water Right Report

10/27/2005

WATER RIGHT NO. 45-487B

| Owner Type    | Name and Address |
|---------------|------------------|
| Current Owner | ETHEL STONER     |
| Current Owner | JULIA STONER     |

Priority Date: 03/01/1879

Basis: Decreed

Status: Active

| Source    | Tributary   |
|-----------|-------------|
| DRY CREEK | SNAKE RIVER |

| Beneficial Use  | From | To | Diversion Rate | Volume |
|-----------------|------|----|----------------|--------|
| IRRIGATION      | /    | /  | 0.96 CFS       |        |
| Total Diversion |      |    | 0.96 CFS       |        |

Location of Point(s) of Diversion:

|           |      |         |              |           |               |
|-----------|------|---------|--------------|-----------|---------------|
| DRY CREEK | SWSW | Sec. 12 | Township 12S | Range 19E | CASSIA County |
|-----------|------|---------|--------------|-----------|---------------|

Place(s) of use:

Place of Use Legal Description: IRRIGATION CASSIA County

| Township | Range | Section | Lot | Tract | Acres | Lot | Tract | Acres | Lot | Tract | Acres | Lot | Tract |
|----------|-------|---------|-----|-------|-------|-----|-------|-------|-----|-------|-------|-----|-------|
| 12S      | 19E   | 1       |     | NENW  |       |     | SENE  |       |     |       |       |     |       |
|          |       | 12      |     | NWNE  |       |     | SWNE  |       |     |       |       |     |       |
|          |       |         |     | NENW  |       |     | SENE  |       |     |       |       |     |       |
|          |       |         |     | NESW  |       |     | NWSW  |       |     | SWSW  |       |     | SESW  |
|          |       | 13      |     | NENW  |       |     | NWNW  |       |     | SWNW  |       |     | SENE  |
|          |       |         |     | NESW  |       |     | NWSW  |       |     | SWSW  |       |     |       |
|          |       | 24      |     | NWNW  |       |     |       |       |     |       |       |     |       |

Dates:

Licensed Date:

Decreed Date: 05/27/1942

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 45N

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

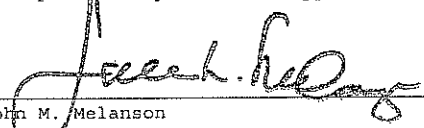
Mitigation Plan: False

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## **EXHIBIT “D”**

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

  
\_\_\_\_\_  
John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication

# EXHIBIT “E”

# SRBA PARTIAL DECREE 45-00487C

Issued on 05-06-2005.

*This is not an official copy.*

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS:

DARRELL M FUNK  
PATRICIA M FUNK  
3173 N 4900 E  
MURTAUGH, ID 83344

SOURCE:

DRY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY:

3.20 CFS

PRIORITY DATE:

03/01/1879

POINT OF DIVERSION:

T12S R19E S12

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PLACE OF USE:

Irrigation

NMNWNE Within Cassia County

PERIOD OF USE  
03-15 TO 11-15

QUANTITY  
3.20 CFS

Within Twin Falls County

T11S R19E S36

NWSE 21.0

LOT 2

SWSE 37.0

R20E S31 LOT 1

SESE 38.0

LOT 4

(SMNW) 78.0

LOT 3

(NMNW) 77.0

LOT 4

(SWSW) 75.0

(NWSW) 78.0

SESW 26.0

T12S R19E S01 LOT 1

(NENE) 39.0

LOT 4

SENE 36.0

R20E S06 LOT 3

(NENW) 38.0

LOT 4

(NMNW) 64.0

LOT 5

(SWNW) 76.0

683.0 Acres Total

USE OF THIS RIGHT WITH RIGHT NO. 45-488A IS LIMITED TO THE  
IRRIGATION OF A COMBINED TOTAL OF 662 ACRES IN A SINGLE  
IRRIGATION SEASON.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF  
A COMBINED TOTAL OF 742 ACRES IN A SINGLE IRRIGATION SEASON.  
COMBINED RIGHT NOS.: 45-487C, 45-488A, 45-489, 45-490, 45-494,  
45-505, 45-506, 45-533.  
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A  
COMBINED TOTAL OF 939 ACRES IN A SINGLE IRRIGATION SEASON.

COMBINED RIGHT NOS.: 45-487C, 45-488A, 45-489, 45-490, 45-494, 45-505, 45-506, 45-533, 45-2290, 45-2291, 45-2292, 45-2317, 45-2318, 45-2319, 45-4142

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 662 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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