

Travis L. Thompson, ISB #6168
BARKER ROSHOLT & SIMPSON LLP
113 Main Ave. West, Suite 303
P.O. Box 485
Twin Falls, Idaho 83303-0485
Telephone: (208) 733-0700
Facsimile: (208) 735-2444

Attorneys for Sally A. Fiddymment

**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. 72-7045
)
)

) **AFFIDAVIT OF SALLY A. FIDDYMENT**
) **IN SUPPORT OF MOTION TO FILE**
) **LATE NOTICE OF CLAIM**
)
)
)

_____)
State of Nevada)
) ss
County of _____)

SALLY A. FIDDYMENT, being first duly sworn upon oath, deposes and states as follows:

1. I am the claimant in the above-listed subcase and make the following affidavit upon my personal knowledge of the facts and circumstances set forth herein below.

2. I purchased approximately 1.5 acres in Custer County from Jack McVicker in June 2000. My property is located in the SWNW of Section 28, Township 14 North, Range 19 East, Custer County, Idaho, and is more specifically described in the "Grant, Bargain and Sale

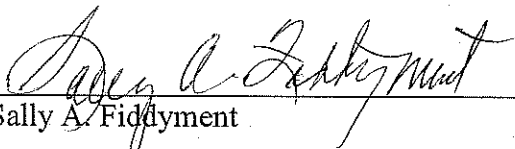
Deed" attached to this affidavit as "Exhibit A". It was my understanding that my purchase of the property included all appurtenances, including any water rights.

3. After purchasing the property I became aware that a prior owner had been issued a water right license (water right no. 72-7045) for "domestic, stockwater, and irrigation" uses on the property. *See* Exhibit B. After learning of the water right associated with the property I filed a *Notice of Change in Water Right Ownership* form with the Idaho Department of Water Resources on June 6, 2003. *See* Exhibit C. In May 2005 I received a response from Kandice McDermott at IDWR regarding my attempt to change the ownership for water right no. 72-7045 into my name. *See* Exhibit D. After receiving this letter from Ms. McDermott I learned that water right no. 72-7045 had not been claimed in the Snake River Basin Adjudication. *See id.*

4. It is my understanding that Mr. McVicker, or his predecessors-in-interest, mistakenly failed to file a notice of claim for water right no. 72-7045 that is associated with the property that I now own. I do not know why the prior owners of the property did not file a water right claim in the SRBA for water right no. 72-7045.

5. Since purchasing the property I have relied upon this water right (72-7045) for domestic and irrigation use. I am filing this late notice of claim to ensure that my use, as previously licensed by IDWR, is permitted to continue and that the right is no longer considered "inactive" by IDWR.

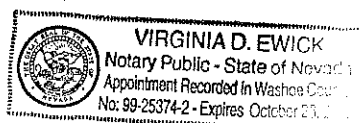
DATED this 11 day of November 2005.


Sally A. Fiddymont

STATE OF NEVADA)
) ss.
County of WASHOE)

On this 11th day of November, 2005, before me, a Notary Public for said County and State, personally appeared SALLY A. FIDDYMENT, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she 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.



Virginia D. Ewick
NOTARY PUBLIC FOR NEVADA
Residing at: 3150 MARKRIDGE DR
My commission expires: 10-26-2007

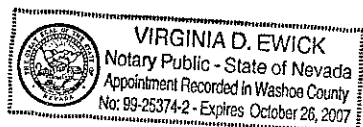


EXHIBIT "A"

A.P. No.
Escrow No. 2000-28438-DEC
R.P.T.T. \$31.20

WHEN RECORDED MAIL TO:
Sally A Fiddymment

0221143

Custer County Rec. of.

Custer County Title

Time 2:00 P M Date 6/14/00

Ethel M. Peck, Clerk

James J. Langis 9:00

Deputy

GRANT, BARGAIN and SALE DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Jack M. McVicker

do(es) hereby GRANT, BARGAIN and SELL to

Sally A Fiddymment, an unmarried woman as her sole and separate property

the real property situate in the County of Custer, State of ~~Nevada~~ ^{IDAHO - DM}, described as follows:

SEE ATTACHED EXHIBIT "A" MADE A PART HEREOF

TOGETHER with all tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

Date 6/13/00

Jack M. McVicker
Jack M. McVicker

STATE OF IDAHO

COUNTY OF CUSTER

ss.

On this 13th day of June In the year 2000, before me, a Notary Public, personally appeared Jack

known or identified to me to be the person whose name subscribed to the within instrument, and acknowledged to me that he executed the same.

Patsy Kindt
Notary Public

Residing at Challis, Idaho

Commission Expires 3/12/2004

~~June 12, 2000~~, by

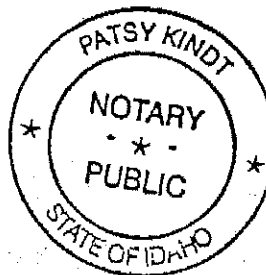


EXHIBIT "A"

TRACT I:

A fraction of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township 14 North, Range 19 E.B.M., Custer County, Idaho, West of the Challis Creed Road, described as: Beginning at the W $\frac{1}{4}$ corner of said Section 28; thence N. 35°45' E. 855.10 feet; thence N. 0°03' W. 196.5 feet; thence N. 51°27' E. 369.77 feet to the TRUE POINT OF BEGINNING, which is also the SW corner of the land described in the Deed to Ada Gozai, a widow, recorded August 25, 1971, as Instrument No. 131759, records of Custer County, Idaho; thence S. 0°04' E. 212.51 feet to a point on the North line of the land described in the Deed to Charles Crank, et.ux., recorded May 27, 1971, as Instrument No. 130975, records of Custer County, Idaho; thence N. 86°20' E. along said North boundary line 374.95 feet; thence N. 22°37'32" W. 205.52 feet, more or less, to a point N. 89°56'00" E. of the True Point of Beginning; thence S. 89°56'00" W. 295.42 feet to the TRUE POINT OF BEGINNING. EXCEPT: A fraction of SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, Township 14 North, Range 19 E.B.M., further described as: Commencing at the W $\frac{1}{4}$ corner of Section 28, a distance of 855.10 feet on a bearing N. 35°45' E.; thence N. 0°03' W. 196.5 feet; thence N. 51°27' E. 369.77 feet to the REAL POINT OF BEGINNING. Thence S. 0°04' E. a distance of 120.00 feet; thence N. 62°22'50" E. a distance of 259.42 feet; thence S. 89°56' W. for a distance of 230.00 feet and also the Point of Beginning.

TRACT II:

A fraction of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township 14 North, Range 19 E.B.M., Custer County, Idaho, West of the Challis Creek Road, beginning at the W $\frac{1}{4}$ corner of said Section 28; thence N. 35°45' E. 855.10 feet; thence N. 0°03' W. 196.5 feet; thence N. 51°27' E. 369.77 feet; thence N. 89°56' E. 295.42 feet to the TRUE POINT OF BEGINNING; thence continuing N. 89°56' E. 116.5 feet, more or less, to a point on the West boundary of the JR White tract as described in Deed #131149 to Justis Richard White, et.ux., recorded June 25, 1970, records of Custer County, Idaho; thence S. 03°05' E. 48 feet, more or less; thence S. 23°38" E. 49.8 feet; thence S. 16°20' W. 105.5 feet, more or less; thence S. 86°20' W. 30 feet, more or less; thence N. 22°37'32" W., 205.52 feet, more or less, to the TRUE POINT OF BEGINNING.

(Continued)

TRACT III:

An easement for ingress and egress to the above described property across the following described burdened parcel also owned by Grantors, to-wit: That parcel of land in the SW¹/₄ of Section 28, Township 14 North, Range 19 E.B.M., Custer County, Idaho, described as: Beginning at a point which bears N. 35°45' E. 855.1 feet from the quarter section corner between Sections 28 and 29, Township 14 North, Range 19 E.B.M.; thence N. 85°20' E. 636.8 feet; thence N. 16°20' E. 208.7 feet; thence S. 86°20' W. 695.8 feet; thence S. 0°03' E. 196.5 feet to the REAL AND TRUE POINT OF BEGINNING. Said easement is 25 feet wide commencing at the NE corner of the burdened parcel and runs West along the Northern boundary of the burdened parcel for a distance of 225 feet.

EXHIBIT “B”



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Cecil D. Andrus
Governor

R. Keith Higginson
Director

Statehouse
Boise, Idaho 83720
(208) 384-2215

September 28, 1976

Re: Permit No. 72-7045

Allan D. Dunham
Box 419
Challis, ID 83226

Dear Mr. Dunham:

Enclosed herewith is a copy of the water right license issued on the above referenced permit.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Darlene Reich", is written above the typed name.

D. DARLENE REICH
Water Rights Supervisor

DDR:mef

Enc.

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 72-7045 Priority June 17, 1974 Amount 0.04 cfs

THIS IS TO CERTIFY, that ALLAN D. DUNHAM
of Challis, Idaho, has complied with the terms and conditions of Permit
No. 72-7045 issued pursuant to Application for Permit dated June 17, 1974,
and has submitted proof to the Department of Water Resources on July 30, 1975
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 0.04 cfs of water from a ground water source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Domestic	from <u>Jan. 1</u> to <u>Dec. 31</u>	at <u>0.04</u> cfs and	<u>0.6</u> acre feet
Stockwater	from <u>Jan. 1</u> to <u>Dec. 31</u>	at <u>0.02</u> cfs and	<u>0.2</u> acre feet
Irrigation	from <u>March 1</u> to <u>Nov. 1</u>	at <u>0.03</u> cfs and	<u>4.5</u> acre feet

(both dates inclusive)

Subject, however, to the condition that no more than 0.04 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
5.3 acre feet per year, said waters to be diverted within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 28,
Twp. 14 N, Rge. 19 E, B. M. in the County of Custer

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
14 N	19 E	28						X											1.5

Total number of acres irrigated 1.5

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 24 day of
September, 19 76.

Director

EXHIBIT “C”

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

RECEIVED

JUN - 6 2003

RECEIVED

JUN 05 2003

Department of Water Resources
Southern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
72.7045					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

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

3. Name and Address of Former Owner/Claimant(s)

4. New Owner/Claimant(s)

X Sally Fiddymant
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

PO Box 208

City, State and ZIP Code

Challis ID 83226

New Telephone Number

() 208-874-5915

5. Date you acquired the property

9/18/98

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) _____
(include title if applicable) _____

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only			
Received by _____	Date _____	Fee _____	
Receipted by _____	Date _____	Receipt No. _____	
Processed by _____	AJ Date _____	WR _____	Date _____

IDAHO DEPARTMENT OF WATER RESOURCES

WELL DRILLER'S REPORT

1. WELL TAG NO. D 00029532
 DRILLING PERMIT NO. _____
 Water Right or Injection Well No. _____

2. OWNER:
 Name Sally Fiddymant
 Address P.O. Box 208
 City Challis State Id Zip 83226

3. LOCATION OF WELL by legal description:

You must provide address or Lot, Blk, Sub. or Directions to well.

Twp. 14 North ☒ or South ☐
 Rge. 19 East ☒ or West ☐
 Sec. 28 1/4 SW 1/4 NW 1/4
 Gov't Lot _____ County _____

Lat: _____ Long: _____
 Address of Well Site 1 mile North Challis Creek Rd.
 City Challis
 Lt. _____ Blk. _____ Sub. Name _____

4. USE:

☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply

(Replacement etc.)

☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD:

☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

Seal Material	From	To	Weight / Volume	Seal Placement Method
<u>Bentonite</u>	<u>0</u>	<u>80'</u>	<u>1500 lbs</u>	<u>Poured Dry</u>

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) 78
 Was drive shoe seal tested? ☐ Y ☐ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
<u>6 + 2</u>	<u>78</u>	<u>250</u>	<u>STC1</u>		☐	☐	☒	☐

Length of Headpipe _____ Length of Tailpipe _____
 Packer ☐ Y ☒ N Type _____

9. PERFORATIONS/SCREENS PACKER TYPE

Perforation Method grinder
 Screen Type & Method of Installation _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
<u>320</u>	<u>240</u>	<u>1" x 1/8"</u>	<u>200</u>	<u>5</u>	<u>PVC</u>	☐	☒

10. FILTER PACK

Filter Material	From	To	Weight / Volume	Placement Method
<u>NONE</u>				

11. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

140 ft. below ground Artesian pressure 0 lb.
 Depth flow encountered _____ ft. Describe access port or control devices: NONE

Office Use Only

Well ID No. _____
 Inspected by _____
 Twp. _____ Rge. _____ Sec. _____
 1/4 1/4 1/4
 Lat: _____ Long: _____

12. WELL TESTS:

☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
<u>30</u>	<u>40'</u>	<u>180</u>	<u>2 HRS</u>

Water Temp. Cold Bottom hole temp. Cold

Water Quality test or comments: Good

Depth first Water Encounter _____

13. LITHOLOGIC LOG: (Describe repairs or abandonment)

Water

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Y	N
<u>12</u>	<u>0</u>	<u>20</u>	<u>Top soil & DG</u>		☒
<u>8</u>	<u>20</u>	<u>80</u>	<u>Broken Rock & Boulders</u>		☒
<u>6</u>	<u>80</u>	<u>140</u>	<u>Rock Granite</u>		☒
<u>6</u>	<u>140</u>	<u>180</u>	<u>Red Rock Granite</u>	☒	
<u>6</u>	<u>180</u>	<u>200</u>	<u>Shale</u>		☒
<u>6</u>	<u>200</u>	<u>240</u>	<u>Shale & clay</u>		☒
<u>6</u>	<u>240</u>	<u>260</u>	<u>Red Granite</u>		☒
<u>6</u>	<u>260</u>	<u>272</u>	<u>Black Basalt</u>	☒	
<u>6</u>	<u>272</u>	<u>320</u>	<u>Red Granite</u>	☒	

Completed Depth 320 (Measurable)

Date: Started May 30 - 03 Completed June 4 - 03

14. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Company Name All State Drilling Firm No. 561
 Principal Driller Harry Jones Date 6/10/03
 and Driller or Operator II Harry Jones Date 6/10/03
 Operator I Harry Jones Date 6/10/03

Principal Driller and Rig Operator Required.
 Operator I must have signature of Driller/Operator II.

6.

If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

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Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
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7.

Signature of New Owner(s) or Claimant(s) _____
(include title if applicable) _____

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____

Date

6/5/03

Fee _____

Received by _____

Date _____

Receipt No. _____

Processed by _____

AJ

Date _____

WR _____

Date _____

A.P. No.
Escrow No. 2000-28438-DEC
R.P.T.T. \$31.20

WHEN RECORDED MAIL TO:
Sally A Fiddymment

0221143

Custer County Rec. of.
Custer County Title
Time 2:00 P.M. Date 6/14/00
Edel M. Peck, Clerk
James J. Langis Deputy

GRANT, BARGAIN and SALE DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Jack M. McVicker

do(es) hereby GRANT, BARGAIN and SELL to

Sally A Fiddymment, an unmarried woman as her sole and separate property

the real property situate in the County of Custer, State of ~~Nevada~~ IDAHO - DM, described as follows:

SEE ATTACHED EXHIBIT "A" MADE A PART HEREOF

TOGETHER with all tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

Date 6/13/00

Jack M. McVicker
Jack M. McVicker

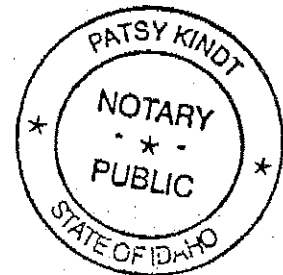
STATE OF IDAHO
COUNTY OF CUSTER

ss.

On this 13th day of June in the year 2000, before me, a Notary Public, personally appeared Jack

known or identified to me to be the person whose name subscribed to the within instrument, and acknowledged to me that he executed the same.

Patsy Kindt
Notary Public
Residing at Challis, Idaho
Commission Expires 3/12/20



June 13, 2000, by

EXHIBIT "A"

TRACT I:

A fraction of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township 14 North, Range 19 E.B.M., Custer County, Idaho, West of the Challis Creed Road, described as: Beginning at the W $\frac{1}{4}$ corner of said Section 28; thence N. 35°45' E. 855.10 feet; thence N. 0°03' W. 196.5 feet; thence N. 51°27' E. 369.77 feet to the TRUE POINT OF BEGINNING, which is also the SW corner of the land described in the Deed to Ada Gozzi, a widow, recorded August 25, 1971, as Instrument No. 131759, records of Custer County, Idaho; thence S. 0°04' E. 212.51 feet to a point on the North line of the land described in the Deed to Charles Crank, et.ux., recorded May 27, 1971, as Instrument No. 130975, records of Custer County, Idaho; thence N. 86°20' E. along said North boundary line 374.95 feet; thence N. 22°37'32" W. 205.52 feet, more or less, to a point N. 89°56'00" E. of the True Point of Beginning; thence S. 89°56'00" W. 295.42 feet to the TRUE POINT OF BEGINNING. EXCEPT: A fraction of SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, Township 14 North, Range 19 E.B.M., further described as: Commencing at the W $\frac{1}{4}$ corner of Section 28, a distance of 855.10 feet on a bearing N. 35°45' E.; thence N. 0°03' W. 196.5 feet; thence N. 51°27' E. 369.77 feet to the REAL POINT OF BEGINNING. Thence S. 0°04' E. a distance of 120.00 feet; thence N. 62°22'50" E. a distance of 259.42 feet; thence S. 89°56' W. for a distance of 230.00 feet and also the Point of Beginning.

TRACT II:

A fraction of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township 14 North, Range 19 E.B.M., Custer County, Idaho, West of the Challis Creek Road, beginning at the W $\frac{1}{4}$ corner of said Section 28; thence N. 35°45' E. 855.10 feet; thence N. 0°03' W. 196.5 feet; thence N. 51°27' E. 369.77 feet; thence N. 89°56' E. 295.42 feet to the TRUE POINT OF BEGINNING; thence continuing N. 89°56' E. 116.5 feet, more or less, to a point on the West boundary of the JR White tract as described in Deed #131149 to Justis Richard White, et.ux., recorded June 25, 1970, records of Custer County, Idaho; thence S. 03°05' E. 48 feet, more or less; thence S. 23°38" E. 49.8 feet; thence S. 16°20' W. 105.5 feet, more or less; thence S. 86°20' W. 30 feet, more or less; thence N. 22°37'32" W., 205.52 feet, more or less, to the TRUE POINT OF BEGINNING.

(Continued)

TRACT III:

An easement for ingress and egress to the above described property across the following described burdened parcel also owned by Grantors, to-wit: That parcel of land in the SW $\frac{1}{4}$ of Section 28, Township 14 North, Range 19 E.B.M., Custer County, Idaho, described as: Beginning at a point which bears N. 35°45' E. 855.1 feet from the quarter section corner between Sections 28 and 29, Township 14 North, Range 19 E.B.M.; thence N. 86°20' E. 636.8 feet; thence N. 16°20' E. 208.7 feet; thence S. 86°20' W. 695.8 feet; thence S. 0°03' E. 196.5 feet to the REAL AND TRUE POINT OF BEGINNING. Said easement is 25 feet wide commencing at the NE corner of the burdened parcel and runs West along the Northern boundary of the burdened parcel for a distance of 225 feet.

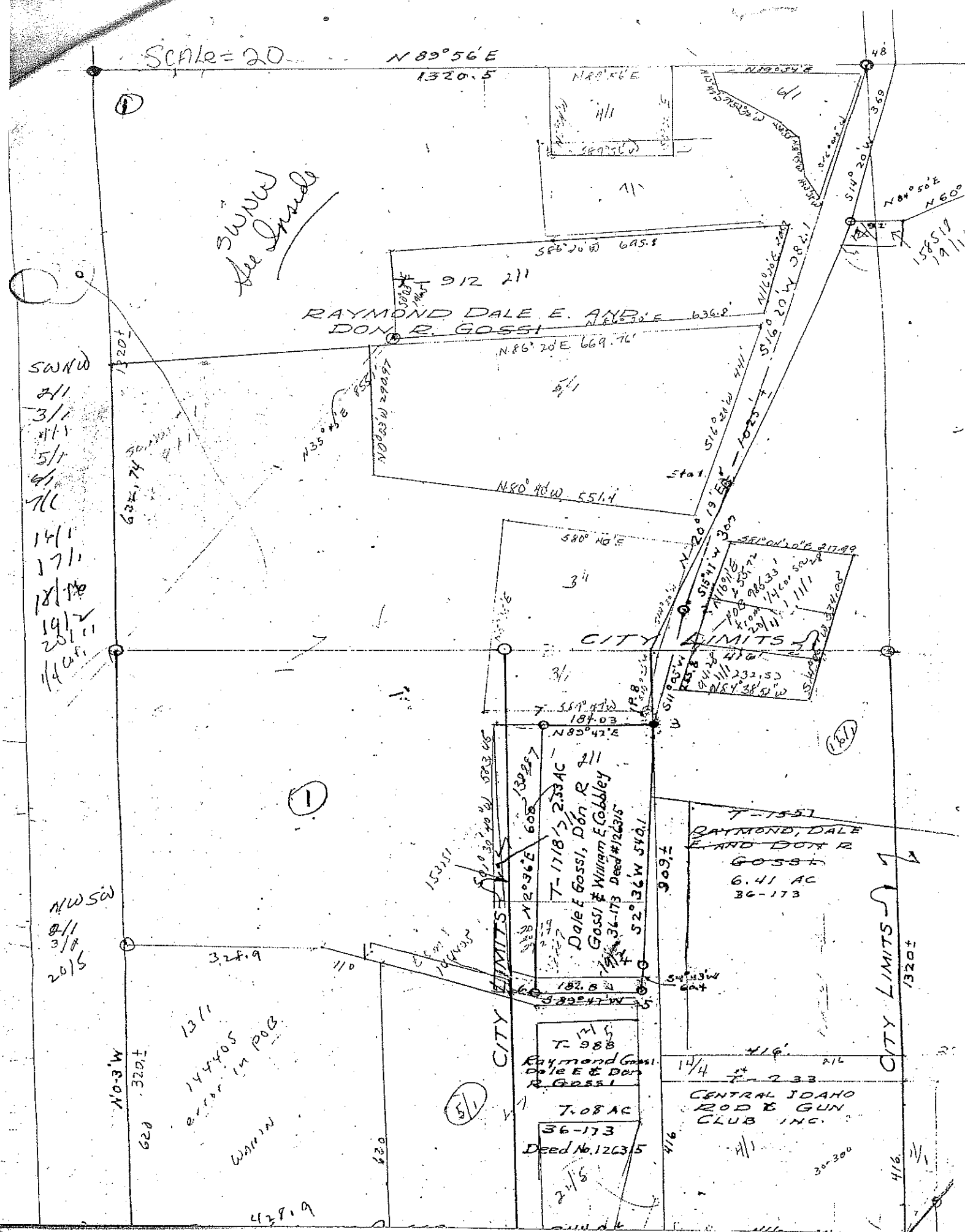


EXHIBIT “D”



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

May 2, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

*6128 Carnegie House
Boise ID 83720-84509*

SALLY A FIDDYMENT
PO BOX 208
CHALLIS ID 83226

RE: Change in Ownership Water Right No. 72-7045

Dear Ms. Fiddymment:

The Department of Water Resources acknowledges receipt of your Notice of Change in Water Right Ownership, which was filed in June 2003. Upon further review, we have found that the water right indicated is not currently an active water right. The water right was made inactive because it was not claimed in the Snake River Basin Adjudication action (SRBA).

Due to the status of the water right we will be unable to process your change in ownership at this time. Enclosed are the change in ownership form and supporting documentation submitted. If you wish, you may pursue the option of filing a late claim with the SRBA court, in order to retain the water right. If you would like to look into this option further, you will need to contact the SRBA court or the Adjudication Section of our Department.

Sincerely,

Kandice L McDermott

Kandice L McDermott
Records Analyst

/klm
Enclosures