

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

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

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, 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
	<u>29-4434</u>				

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts. 0
- 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) are 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)

Kathryn Capell

4. New Owner/Claimant(s)

Maxilyn M. Capell & Ronald J. or Linda Capell
Name Connector (Check one): [] and, [] or, [] and/or

New Mailing Address

MM 5200 N. Highway 16 Box 116

City, State and ZIP Code

Arima, ID 83214

New Telephone Number

(208) 254-3343

5. Date you acquired the property

7/31/01

KATHRYN CAPELL REVOCABLE TRUST

This declaration of trust is made on Sept 7th, 1993 by KATHRYN CAPELL, of 14700 South Capell Road, City of Arimo, County of Bannock, State of Idaho, sometimes referred herein as trustor and/or trustee.

I, Kathryn Capell, recite and declare that:

1. I am now the owner of the property described in Exhibits "A - F," attached hereto.

2. I desire to make provisions for the care and management of such property, the collection of the income therefrom, and the disposition of both such income and such property in the manner herein provided.

For the reasons set forth above, I hereby designate myself as trustee and create the Kathryn Capell Revocable Trust (Capell Trust), pursuant to the terms set forth below:

SECTION ONE TRANSFER IN TRUST

Trustor, in consideration of acceptance by trustee of the trust herein created, conveys, transfers, assigns and delivers to the Capell trust the property described in Exhibits "A - F," attached and incorporated by reference. That property, together with all other property that may from time to time be held by trustee hereunder, is referred to as "trust estate."

SECTION TWO DISPOSITION OF PRINCIPAL AND INCOME

(a) During my lifetime, the income of the trust shall be distributed to me at least quarterly each year.

(b) The trustee shall also distribute to and for my benefit so much of the principal of the trust, as appears to the trustee to be reasonably necessary, appropriate, and convenient to provide for my medical needs, care, comfort, support, education, and to maintain as nearly as can be maintained the standard of living I presently enjoy.

(c) Upon my death, the successor trustee shall distribute the residue of the trust as follows:

1. The cash assets shall first be used to pay my funeral and burial expenses and my expenses of last illness, all of my debts, all taxes owed at or because of my death, and all costs and expenses in connection with the settlement of my estate in the distribution of trust assets. The proceeds from my Beneficial Life Insurance Policy shall be applied first to the foregoing expenses and obligations.

2. To my son, Ronald James Capell, the following described parcels of property, located in Bannock County, T10S, R35E:

- (a) SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 28
- (b) E $\frac{1}{2}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33
- (c) W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 34

3. To my son, Ronald James Capell, and to my daughter, Maxilyn Marie Capell, as joint tenants with right of survivorship and not as tenants in common, the property described in the attached Exhibit C; together with water in the Portneuf Irrigation Company or Canal Company, as covered by Water Certificates for three-fourths and one-seventh shares respectively. Said property is commonly referred to as the "Homeplace." Notwithstanding the foregoing, I except from the property described in Exhibit C the following parcel of property referred to herein as the residence property:

The home residence in which I am residing and one (1) acre around said dwelling place and an easement for ingress and egress over historically used ground. Said one (1) acre will include two (2) stalls in the existing parking shed, but none of the other property that includes any of the out-buildings or structures that are currently being used for farming purposes and storage. The remaining stall in the parking shed is to be used by Ronald James Capell.

The homeplace and the residence property shall further be subject to the following easements:

a) Easement to Ronald James Capell for ingress and egress to the parking shed and the right to use, day or night, one of the three stalls in the parking shed. This easement shall be for the benefit of the said Ronald James Capell, his heirs, successors, assigns and invitees.

b) Recreation easement to my children, grandchildren and great-grandchildren to use the fish pond for fishing purposes together with ingress and egress to the fish pond and a convenient area around the pond to facilitate fishing.

c) The successor trustee shall be charged with the power and discretion to determine the boundaries of the easements and to make such other adjustments or limitations as he deems fit.

4. To my daughter, Maxilyn Marie Capell, the residence property. Prior to conveying the residence property to my daughter, my successor trustee shall have the property surveyed and legally described. My successor trustee shall have discretion to determine the exact boundaries of the residence property, subject to the limitations provided in this trust instrument.

5. To my son, Harvey J. Capell, that property known as the "Hawkins Basin Farm" as more particularly described as follows:

T10S - R35E
SEC 10 NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$
SEC 15 NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ NW $\frac{1}{4}$

6. To my son, Daniel B. Capell, that property known as the "Henderson Farm" and more particularly described as follows:

T9S-36E
SEC 34 SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$

EXHIBIT

The land referred to in this Guarantee is situated in the State of Idaho, County of Bannock, and described as follows:

Parcel 1:

That portion of the W $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17, Township 10 South, Range 37 East B.M. lying West of the Westerly Right-of-Way line of Highway 91-191 (Yellowstone Park Highway), BANNOCK COUNTY, IDAHO.

EXCEPTION THEREFROM:

Beginning at the West Quarter Section Corner of Section 17 Tp. 10 South Range 37 E.B.M. and running East 150 ft., to the West boundary of the Oregon Short Line R.R. Right of Way, thence South 50 ft., thence West 150 ft., thence North 50 ft., to the PLACE OF BEGINNING all in the North West Quarter of the Southwest Quarter of Section 17, Tp. 10 South Range 37 E.B.M.

Parcel 2:

The E $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 18 Township 10 South, Range 37 East B.M., BANNOCK COUNTY, IDAHO.

EXCEPTING THEREFROM:

Beginning at the S $\frac{1}{16}$ Corner of the East line of Section 18, T. 10 S., R. 37 E.B.M.; thence South along the said East line 1320 feet, more or less, to the South East Corner of said Section 18, thence West along the South line of the said Section 18, 440 feet, thence North 1320 feet, more or less, to the South $\frac{1}{16}$ line of the said Section 18, thence East along the said South $\frac{1}{16}$ line 440 feet to the PLACE OF BEGINNING.

ALSO EXCEPTING THEREFROM:

Beginning at the East Quarter Section Corner of Section 18, Tp. 10 South, Range 37 East of Boise Meridian, thence running along the $\frac{1}{16}$ Section line, West 1263 feet, thence South 50 ft., thence East 763 ft., thence South 60 ft., thence East 300 ft., thence North 60 ft., thence East 200 ft., thence North 50 ft., to the PLACE OF BEGINNING, all in the North East Quarter of South East Quarter, Section 18, Tp. 10 South, Range 37 East.

ALSO EXCEPTING THEREFROM:

A parcel of land being on both sides of the Centerline of Interstate 15, Project No. I-15-1(10)40 Highway Survey as shown on the plans thereof now on file in the office of the Department of Highways of the State of Idaho, and being a portion of the W $\frac{1}{4}$ E $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, Township 10 South, Range 37 East, Boise Meridian, described as follows, to-wit:

continued on page 2

LEGAL DESCRIPTION
ORDER NO. 16014-B
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BEGINNING at the Southwest Corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, Township 10 South, Range 37 East, Boise Meridian; thence Northerly along the West line of the E $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18 a distance of 1641.0 feet, more or less, to a point in the Northeasterly right of way fence line of existing U.S. Highway No. 91-191; thence Southeasterly along said existing right of way fence line 1678.0 feet, more or less, to a point in the South line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$; thence North 89°19' West (shown of record to be West) along said South line 315.0 feet, more or less, to the PLACE OF BEGINNING.

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the trust created hereby in equal shares at any time any or all of the property comprising the trust estate, all without the consent of, or notice to, any beneficiary. The duties of trustee shall not be materially increased by any amendment without the written approval of trustee. The revocation of this agreement, and any withdrawal of all or any part of the trust estate are conditioned upon payment of all sums due trustee, and the release and/or indemnification of trustee to its satisfaction against all liabilities lawfully incurred by trustee in the administration of the trust.

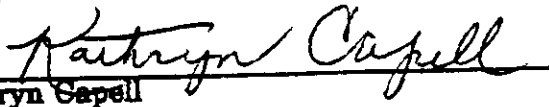
SECTION EIGHTEEN CONSTRUCTION

Whenever the terms "trustee" or "trustee" is used in this agreement, the words shall refer to the trustee specifically named in this agreement, and/or to any successor trustee depending on the context.

SECTION NINETEEN GOVERNING LAW

This agreement and the dispositions hereunder shall be construed and regulated, and their validity and effect shall be determined, by the laws of the State of Idaho, as such laws may from time to time exist.

IN WITNESS WHEREOF, trustor and trustee have executed this agreement at Pocatello, Idaho the day and year first above written.


Kathryn Capell

**LAST WILL AND TESTAMENT
OF
KATHRYN CAPELL**

I, Kathryn Capell, of ^{Arms Bannock} ~~Blackfoot, Bingham~~ County, State of Idaho, am over the age of majority, of sound and disposing mind and memory and not acting under duress, menace, constraint, or undue influence of any kind. I freely, willingly, and as a voluntary act make, publish and declare this to be my Last Will and Testament.

**ARTICLE I
INTRODUCTORY CLAUSES**

Section 1.01. Revocation of Prior Wills.

I hereby revoke all Wills and Codicils that I have previously made.

Section 1.02. Declaration of Family.

My husband predeceased me and I am not married. I have four (4) children now living all of whom are adults and whose names are listed below:

Name

Ronald James Capell

Harvey John Capell

Maxilyn Marie Capell

Daniel Bruce Capell

As used in this Will, the term "my child" and "my children" shall include all of the above named children, and only those children. Reference in this Will to "my children" shall be deemed to include reference to "my child" whenever circumstances indicate the singular is appropriate.

Section 1.03. Debts, Taxes and Estate Expenses.

To the extent not paid for out of the Kathryn Capell Revocable Trust, I order and direct that all my just debts, all taxes at or because of my death, all expenses of my last illness and burial, and all costs and expenses in connection with the probate and distribution of my estate be paid at the discretion of my Personal Representative and I

LAST WILL AND TESTAMENT OF

Kathryn J. Capell

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