

31-00160B 31-00161B 31-04011C & 31-07131

**T07N R34E
S17 & S18**



Map prepared by: Carter Fritschle
Date prepared: 11/24/00
1987-1988 NAPP photography
Idaho Department of Water Resources

RECEIVED

DEC 23 1974

Department of Water Resources
Eastern District Office
85030

WARRANTY DEED

County of Jefferson

31-201608

I hereby certify that the above and foregoing is a true and correct copy of the original (on file) (of record)

Dated: Dec 10, 1974

Otto R. Lamm
Clerk of the County of our Lord
Ex-Officio Auditor & Recorder

This Indenture, Made this 11th day of June

between Sandy Mitchell and Dorothy Mitchell, his wife
the part ies of the first part, and
the part y of the second part.

WITNESSETH That, the said part ies of the first part, for and in consideration of the sum of

Five and 40/100ths. - (\$10.00) ----- DOLLARS,

to them in hand paid by the said part y of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said part y

and his heirs and assigns, forever, all the following described real estate, situated in

Jefferson County, State of Idaho, to-wit:

The West Half of the Southwest Quarter (E1/2SW1/4) the Southeast Quarter (SE1/4) the South Half of the Northeast Quarter (S1/2NE1/4) and Lot One (1) of Section Five (5) and the West Half of the East Half of Section Four (4) Township Seven (7) North, Range Thirty four (34) East 6th Meridian.

subject to taxes and assessments for the year 1948 and thereafter, and to the right of Sandy Mitchell to drill a well or wells on said premises, in addition to the well now owned by him, and to construct the necessary pumping equipment and ditches, sufficient to reduce an aggregate of 600 inches of water, including the water now produced by him.

Excepting from this conveyance all water or water rights thereupon situated and all ditches not constructed thereon; and the parties of the first part hereby reserve in themselves the right to enter upon said premises at all and any times to drill wells and develop waters on said premises and to maintain and construct wells, pumps and ditches and the party of the second part agrees not to drill a well thereon, excepting he shall have the right to drill a small well for domestic and culinary purposes. The parties of the first part hereby agree that no water will be developed thereon in such a manner that such water works or ditches will interfere with or become dangerous to livestock.

Any taxes or a assessment levied against said wells or pumping equipment shall be paid by the parties of the first part, their successors or assigns.

\$6.05 in U.S.R.S. Attached and cancelled.

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversions and reversions, remainder and remainders, rents, issues and profit thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said part ies of the first part.

TO HAVE AND TO HOLD, All and singular, the above mentioned and described premises, together with the appurtenances unto the said part y of the second part, to his heirs and assigns forever. And the

said part ies of the first part and their heirs, the said premises in the quiet and peaceable possession of the said part y

of the second part, his heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whosoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend

IN WITNESS WHEREOF, the said part ies of the first part have hereunto set their hands and seals, the day and year first above written

Signed, Sealed and Delivered in the Presence of

Sandy Mitchell (SEAL)

Dorothy Mitchell (SEAL)

(SEAL)

STATE OF IDAHO,

County of Bonneville

On this 11th day of June

, in the year 1948, before me,

the undersigned a Notary Public

in and for said County and State,

personally appeared Sandy Mitchell and Dorothy Mitchell, his wife.

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

My Commission Expires: November 9, 1951

John L. Bloem, Notary Public
Residing at Idaho Falls, Idaho.

Recorded at the request of John L. Bloem this 16th day of June

10:48 a.m. 10 minutes past 1 o'clock P.M.

Mitchell (Sauer) Wells on Joe Hartwell's Property

1930 - Sauve Decree decrees rights 31-00160 to Alexander Mitchell and 31-00161 to Mary Mitchell, both rights have a source of Spring Lake and a priority date of December 8, 1913.

1936 - Documentation supports that Spring Lake had dried up and the east well was drilled in T07N, R34E, S05 NESE by Tom Mitchell to replace the Spring Lake water.

1939 - Documentation supports that the west well was drilled in T07N, R34E, S05 NESE by Tom Mitchell.

1948 - Warranty deed from Sandy and Dorothy Mitchell to Joe Hartwell reserves the right for Thomas Mitchell to drill a new well or wells on property Mitchells sell to Hartwell (includes T07N, R34E, S05, NESE.) The existing well and the new well or wells total diversion rate is limited to 600 inches (12.00 cfs).

1956 - Documentation supports the east well in Section 5 was enlarged. Claims 31-04011B and 31-04011C are for the enlarged use.

1974 - Application for Permit 31-07131 and statutory claim 31-04011 filed. Joe Hartwell protested the application for permit. Bruce Mitchell agreed not to increase the amount of water currently developed and abide by the 1948 warranty deed. Joe Hartwell and Bruce Mitchell signed a stipulation that was also a withdrawal of the protest. See memo from Ron Carlson in file 31-07131 dated December 17, 1974.

1975 - Statutory claim 31-04012 filed by Earl Hunter. Bruce Mitchell filed an exception to the claimed priority date of 1934 stating it should be 1939 or 1940.

1977 - The field exam for 31-07131 was conducted on September 2, 1977. The "capacity" of the east well was measured at 7.42 cfs.

1979 - Application for Permit 31-07320 filed by Sauer Enterprises with the Point of Diversion a well in Section 18.

1985 - Application for Permit 31-07320 amended by Sauer Enterprises to include the wells in Section 5. Amended application states an easement authorizes access to wells in Section 5. A copy of the easement is not furnished with the application, and it is assumed the document that authorizes the easement is the 1948 warranty deed reservation. Joe Hartwell files a protest to this amended application stating that an increase in flow from the wells in Section 5 will "create a trespass condition and disregard the terms under which I purchased the land on which the wells are located." Joe Hartwell later withdrew his protest.

1990 - A re-examination for 31-07320 is conducted to include the flows of both the east well and west well in Section 5. This field exam found the east well producing 5.71 cfs and the west well producing 7.38 cfs. This is a total of 13.09 cfs which is 1.09 cfs greater than the 12.00 cfs described in the 1948 warranty deed.

2000 - A check with Jefferson County Assessor shows Joe Hartwell as the owner of record for T07N, R34E, S05, NESE.

File Nos. 31-00160A, 31-00160B, 31-00161A, 31-00161B, 31-02299, 31-02415, 31-04011B, 31-04011C, 31-04012, 31-07131, 31-07320 and 31-10652.

CLF 11-30-00