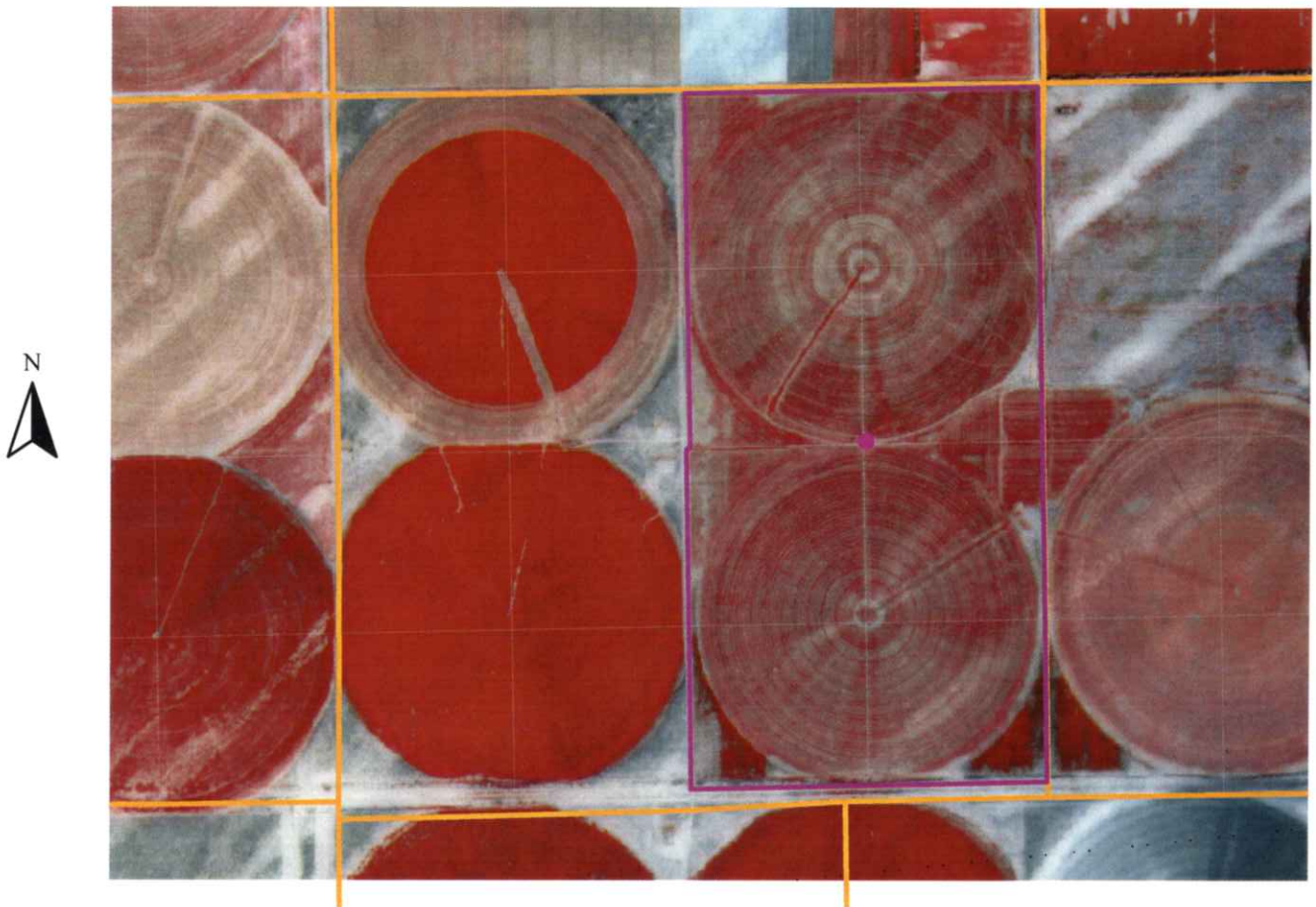


Water Right No. 31-07201

T06N, R34E, Section 32
NE and SE Quarter



- Point of Diversion
- Place of Use

01/12/2001

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 31-7201

NAME AND ADDRESS: MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP
PO BOX 50278
IDAHO FALLS, ID 83405

SOURCE: GROUND WATER

QUANTITY: 5.45 CFS
942 AFY

PRIORITY DATE: 07/29/1976

POINT OF DIVERSION: T06N R34E S32 SWSEN Within JEFFERSON County
E

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04-01 10-31	5.45 CFS 942.00 AFY

PLACE OF USE:

IRRIGATION Within JEFFERSON

County

T06N R34E S32	NENE	39	40	T06N R34E S32	NWNE	38	40
T06N R34E S32	SWNE	39	40	T06N R34E S32	SENE	40	39 40
T06N R34E S32	NESE	40	39	T06N R34E S32	NWSE	39	40
T06N R34E S32	SWSE	39	36	T06N R34E S32	SESE	40	36 35

T6N R34E S33 SWNW 5.0
NW5W 3.0
SW5W 7.0
314 ACRES TOTAL

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. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
THEL W. CASPER
SHAN B. PERRY
AMELIA A. SHEETS

U.S. BANK BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

March 20, 2001

RECEIVED

MAR 26 2001

Department of Water Resources
Eastern Region

Ernie Carlson
IDAHO DEPARTMENT
OF WATER RESOURCES
900 N. Skyline
Idaho Falls, ID 83402-1718

Re: Martin Brothers Land & Livestock Claim Numbers 31-7201 and 32-10422

Dear Ernie:

We are enclosing with this letter Notices of Error Reply for each of the above numbered claims and an Amended Notice of Claim for each pursuant to our recent telephone conversations. Please let us know how we can be of assistance or if there is any additional information needed. Thank you for your kind and continued assistance.

Very truly yours,



Kent W. Foster

Enclosures

G:\WPDATA\KWF\8790\Ernie01.ltr.wpd

March 20, 2001

**NOTICE OF ERROR
REPLY**

RECEIVED

MAR 26 2001

Department of Water Resources
Eastern Region

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: MARCH 9, 2001

Water right number: 31-7201

MARTIN BROTHERS LAND & LIVESTOCK LTD PARTNERSHIP
c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C.
P.O. Box 50130
Idaho Falls, ID 83405

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

Place of use should be 314 acres of the total permissible place of use of 325.6 acres described in the Amended Claim.

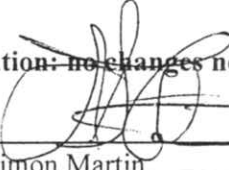
2. Describe the changes you wish to make in the proposed recommendation:

See revised land list in Amended Claim.

3. Give a brief explanation as to why you disagreed with these portions:

After reviewing the satellite photographs that came with the preliminary recommendation it was apparent that this adjustment needed to be made.

 I AGREE with this proposed recommendation: ~~no changes need to be made.~~

DATE: 3/23/2001 SIGNATURE: 

Please print your name: Simon Martin

IDWR Regional Office, 900 N. Skyline, Idaho Falls, ID 83402, (208) 525-7161

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Ident. Number 32-7201
Date Received _____
Receipt Number _____

AMENDED NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
MAR 26 2001

Department of Water Resources
Eastern Region

1. Name of Claimant(s) Martin Brothers Land & Livestock Limited Partnership Phone (208) 523-0620

Mailing Address c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, ID Zip 83405

2. Date of Priority (Only (1) per claim) July 29, 1976

3. Source of water supply (a) ground water

which is tributary to (b) _____

4.a. Location of existing

point of diversion is: Township 6N Range 34E Section 32, SW 1/4 of SE 1/4 of
NE 1/4, Govt. Lot _____, B.M., County of Jefferson

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, 1/4 of 1/4 of 1/4, Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, 1/4 of 1/4 of 1/4 Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged
and the depth of each well. Wells, pumps and sprinklers

6. Water is claimed for the following purposes:

(Both dates are inclusive) (cfs) (acre feet)

For irrigation purposes from 04/01 to 11/01 amount 5.45 or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 5.45 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 785.0 acre feet per annum.

9. Non-irrigation uses; describe full use (e.g. Domestic: Give number of household. Irrigated; Stockwater: Type and number of livestock Etc.) None
10. Description of place of use:
- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

[illegible]

Total number of acres irrigated 325.6

11. In which county(ies) are lands listed above as place of use located? Jefferson
12. Do you own the property listed above as place of use? Yes X No
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above.
Enlargement Right 31-10422 or None ()

14. Remarks:

The license covered 314 acres but there was an enlargement as of April 1, 1985, to a total of 325.6 acres (see 31-10422). This right is limited to use on 314 of the total 325.6 acres in any given irrigation season.

15. Basis of Claim (Check one) Beneficial Use _____ Posted Notice _____ Permit _____ Decree _____ License X
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant

16. Signature(s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) _____ Date _____

Date _____

Last Name Martin Brothers Land & Livestock Limited Partnership Ident. Number 32-7201

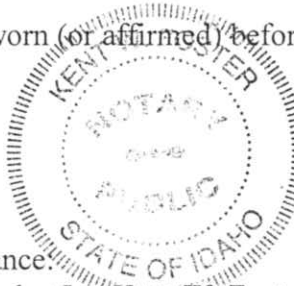
MANAGING F TRUST LAND & LIVESTOCK
For Organizations: I do solemnly swear or affirm that I am _____ of _____
Title Organization

that I have signed the foregoing document in the space below as MANAGING PARTNER
Title
MARTIN BROTHERS LAND & LIVESTOCK LIMITED
of PARTNERSHIP and that the statements contained in the foregoing document are true and correct.
Organization

Signature of Authorized Agent [Signature]
Title and Organization MANAGING PARTNER OF MARTIN BROTHERS LAND & LIVESTOCK
LIMITED PARTNERSHIP Date 3/23/2001

State of Idaho/or _____)
County of BONNEVILLE) SS.

Subscribed and sworn (or affirmed) before me this 23rd day of March, 2001.



Notary Public [Signature]
Residing at IDAHO FALLS, ID
My Commission Expires 11/20/2004

17. Notice of Appearance:
Notice is hereby given that I, Kent W. Foster will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature [Signature]
Address P.O. Box 50130, Idaho Falls, Idaho 83405
Date 3/23/01

G:\WPDATA\KWF\8790\AMENDEDCLAIM31-7201.NTC.wpd.kmc

Log for claim A31-07201

Spatial Dynamics MWY

3/6/00

T	R	SEC	QQ	Acres Claimed	Acres Found	COMMENT
06	34	32	NENE	39	40	
06	34	32	NWNE	38	39	
06	34	32	SWNE	39	39	
06	34	32	SENE	40	40	
06	34	32	NESE	40	40	
06	34	32	NWSE	39	40	
06	34	32	SWSE	39	37	
06	34	32	SESE	40	37	
Totals:				314	312	

DATE: 02/25/00
PAGE: 23

DIVERSION
VOLUME

785.00 AFA

Stage: LICENSE

JEFFERSON County

314.0

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A31-10422

Audit:	09/07/88	VERNER	11/08/88	MCC	11/09/88	MCC	11/10/88	WRAY
--------	----------	--------	----------	-----	----------	-----	----------	------

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 31-7201 Priority July 29, 1976 Amount 5.45 cfs

THIS IS TO CERTIFY, that MARTIN FAMILY TRUST, SIMON S. MARTIN, TRUSTEE
of Idaho Falls, Idaho, has complied with the terms and conditions of Permit
No. 31-7201 issued pursuant to Application for Permit dated July 29, 1976,
and has submitted proof to the Department of Water Resources on November 1, 1977,
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 5.45 cfs of water from a groundwater 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
<u>Irrigation</u>	from <u>April 1</u> to <u>November 1</u>	at <u>5.45</u> cfs and	<u>942 acre feet</u>
	from _____ to _____	at _____ cfs and	_____
	from _____ to _____	at _____ cfs and	_____

(both dates inclusive)

Subject, however, to the condition that no more than 5.45 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
942 acre feet per year, said waters to be diverted within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, Twp. 6N,
Rge. 34E, B. M. in the County of Jefferson

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 $\frac{1}{4}$	
6N	34E	32	39	38	39	40									40	39	39	40	314

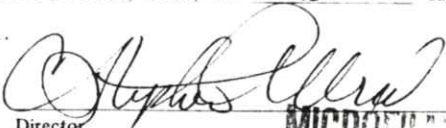
Total number of acres irrigated 314

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 25 day of
June, 19 79.

Director


MICROFILM

1

- DEC 5 1971
Eastern District Office

- (name spring, stream, etc.)

- Other uses: _____

- Max Rate of Diversion 6.40 cubic feet per second and annual volume _____ AF/Annum.

- Township 6N N/S, Range 34E E/W, B.M., Section 32, Subdivision SE $\frac{1}{4}$ NE $\frac{1}{4}$, Jefferson
County
- Township " N/S, Range " E/W, B.M., Section ", Subdivision NE $\frac{1}{4}$ SE $\frac{1}{4}$, _____
County
- Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ $\frac{1}{4}$ _____ $\frac{1}{4}$, _____
County

Other Points of Diversions: _____

Description of diverting works: 400 hp ge motor, pump, 16" x 358' well

Measuring device required: yes ☒ no ☐

- [illegible]

TOTAL ACREAGE 320

Permit No. 21-7221
Examination for Water

DATE OF EXAM

7/10/78

ACREAGE

Found

Recommended

314 ad
314 ad

Irrigation Requirement

30

Ac Ft/Ac

USE

Irrigation Q = 5.45 c.f.s.

V = 942

AF/Ann. from April 1

to Nov 1

Domestic Q = c.f.s.

V =

AF/Ann. from

to

Livestock Q = c.f.s.

V =

AF/Ann. from

to

Is water co-mingled? yes

no X

Name source:

n/a

Twp.

N/S, Rge

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Exchange? yes

no X

Name source exchanged with:

n/a

Twp.

N/S, Rge

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Point of injection:

n/a

Twp.

N/S, Rge

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Point of exchange:

n/a

Twp.

N/S, Rge

E/W, B.M., Sec.

Sub.

1/4

1/4

County

Total Q measured

5.45 cfs

Method of measurement

In line meter

Total Q recommended

5.45 cfs

Meter No. 77-10

Type

Crown

Condition

good

Total V recommended

942 AF/yr

Recommended Amendment*

Place of Use

Other

None

MEASUREMENT CALCULATION:

Measured .01 AF in 80 sec, $435.6 \div 80 = 5.45 \text{ cfs}$ $V = 314 \times 3 = 942 \text{ AF/yr}$ $5.45 \times 1.9835 \times 215 = 2324 \text{ AF/yr}$

SYSTEM DESCRIPTION:

Groundwater is diverted by a 400 HP General Electric
In-clad induction motor, m/y - 5K 318 XC 82H
Sta - C-309015 and by an Husoria Vertiline
vertical turbine pump # 177-71895 (Husoria)
irrigated by 2 Hel Brown minicycle center pivots m/y - 140-90
2 3-blade Hel Brown pivots, each of 2 center corners

REMARKS:

4 handlines in center corners
6 acres omitted for county road encroachment

Examiner's Signature

Anthony R. Kozlowski

Date

Oct 30, 1978

Checked by

Robert A. Farber

Date

Nov - 27, 1978

Approved by

Date

CLAIM NUMBER: A51-07201

DIVERSION
VOLUME

945

~~785.0 AFA~~

STAGE: LICENSE

JEFFERSON COUNTY

2

39	39	4)	:	:	SUM
TOTAL ACRES			:	:	314.0
			:	:	314.0

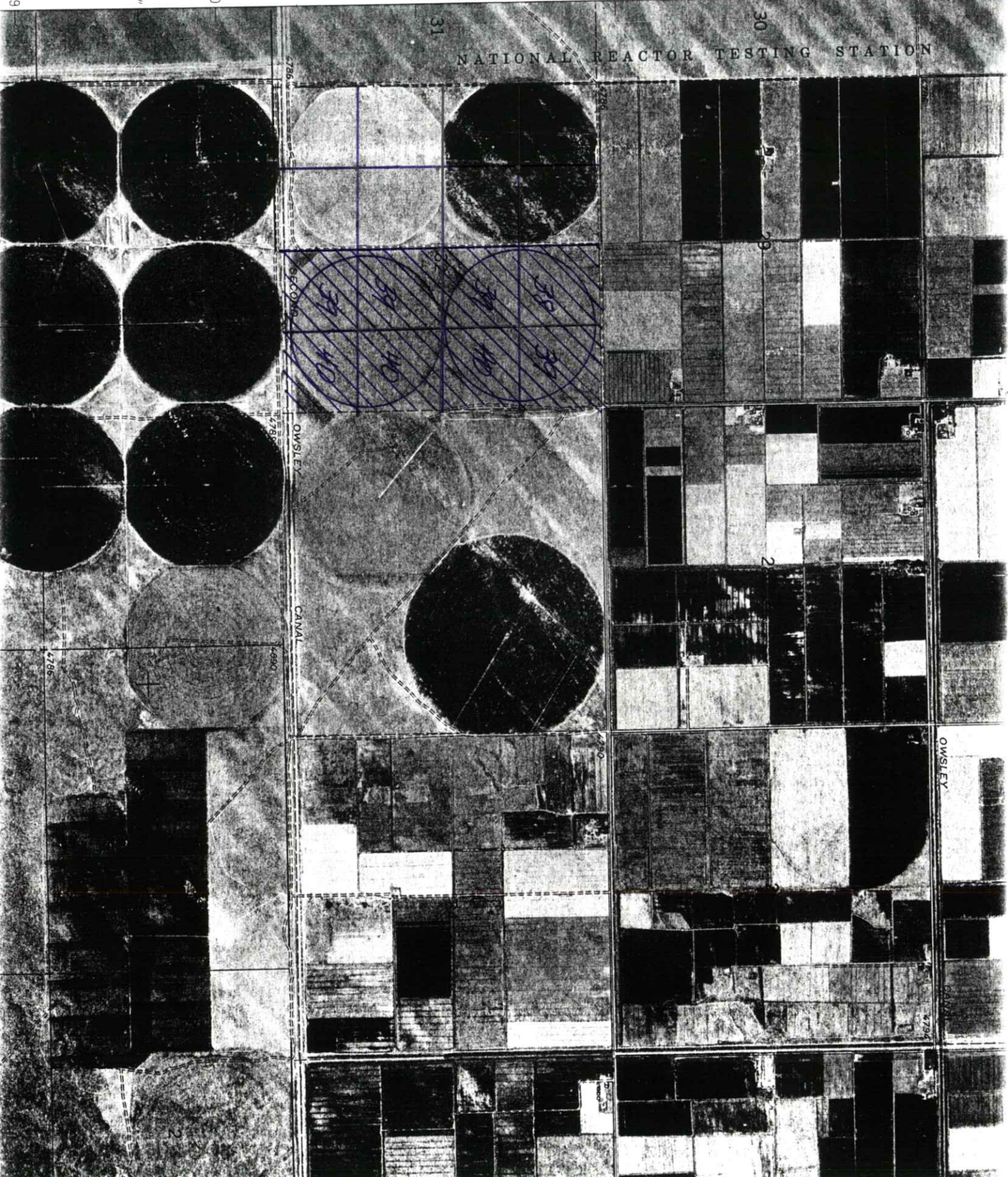
OTHER RIGHTS: 431-10622

FIELD INSPECTION FLAG:

618

W 39
706N, R34E

NATIONAL REACTOR TESTING STATION



T6N

T5N

47 30"

48S0

48S1

48S2

48S3

48A9

RECEIVED

MAR 23 1993

MARTIN BROTHERS
LAND AND LIVESTOCK
BRANDS SM AND UH
P.O. BOX 50278
IDAHO FALLS, IDAHO 83405-0278
(208) 522-4008
(208) 524-1509

Department of Water Resources
-Eastern District Office

March 20, 1993

State of Idaho
Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1718

ATTENTION: Eric Verner, Senior Water Agent

Subject: Notices of claims to water rights -- Numbers A 31-10419, A 31-10422 and
A 31-10423

Ladies and Gentlemen:

Enclosed you will find another original AFFIDAVIT AND DECLARATION OF J. DEWAYNE LEE. Please supplement the record in the subject submittal hand delivered by me on March 8, 1993. During my office conference with Mr. Verner I told him I would be submitting a notarized statement by Mr. Lee; he told me he would be expecting it, and would have it added to the record.

If you have any questions regarding any of our submittals, please call me on 526-1457 during business hours or either of the numbers listed above at other times. Mr. Lee can be reached on 663-4341.

Please do not hesitate to call us. As I am sure you are aware, this is very important to us.

Sincerely,



Simon S. Martin, Managing Partner
Martin Brothers Land & Livestock

cc: J. Dewayne Lee
Kent W. Foster, Esq.

ENCLOSURES

MICROFILMED
APR 15 1994

RECEIVED

MAR 23 1993

Department of Water Resources
Eastern District Office

IN THE DISTRICT COURT OF THE FIFTH
JUDICIAL DISTRICT OF THE STATE OF IDAHO

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

AFFIDAVIT AND DECLARATION OF
J. DEWAYNE LEE

STATE OF IDAHO)
)
COUNTY OF BONNEVILLE)

J. Dewayne Lee, after first being duly sworn upon oath, deposes and says:

1. My name is J. Dewayne Lee and my mailing address is P.O. Box 25, Terreton, ID. My phone number is (208) 663-4641. I am a tenant of Martin Brothers Land & Livestock (Martin Brothers) and I have been a tenant of Martin Brothers and its predecessor entities since 1976. I am over the age of eighteen years and I am competent to testify from personal knowledge as to the contents of this affidavit and declaration.

2. I have reviewed and I am familiar with the documents attached as exhibits to the AFFIDAVIT OF SIMON S. MARTIN, MANAGING PARTNER, MARTIN BROTHERS LAND & LIVESTOCK (Martin affidavit).

3. I am very familiar with the development of the Martin Brothers farms which are the subject of Exhibits 1 and 2 of the Martin affidavit. I was the tenant at the time of the development and I assisted in the management of each development project. After the completion of the development of each project, I farmed the parcel of land irrigated by the project.

4. The following is a narrative of the development of each of the subject projects:

a. A 31-10419 --

This parcel is carried in my records as "Number 7". The well for this parcel was drilled in the Spring of 1985, but the improvements regarding the irrigation system were not made until the Spring of 1986. It was in the Spring of 1986 that I first irrigated this parcel using the well and the irrigation improvements. It was in the Fall of 1986 that I first harvested a crop from this parcel.

b. A 31-10422 --

This parcel is irrigated from the first well Martin Brothers drilled after we began the development projects in 1977. The well used to irrigate this parcel is identified as License Number 31-07201 in the records of

MICROFILMED

APR 15 1994

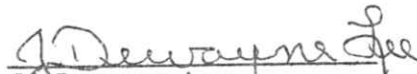
the state of Idaho. This well is located in the East Half of Section 32, Township 6 North, Range 34, EBM, Jefferson County Idaho. Even though this well was drilled in 1977, the subject parcel was not irrigated until 1978, and only after "Pivot Number 3" was developed in 1978. We developed this parcel to fill in a corner of Pivot Number 3. I first applied water to this parcel in the Spring of 1978, and the first crop from the parcel was harvested in the Fall of 1978.

c. A 31-10423 --

This parcel is carried in my records as "Well number 6". The well was drilled in the Spring of 1985, the irrigation improvements were completed in the Spring of 1985, the water was first used to irrigate crops on this parcel in the Spring of 1985, and the first crops were harvested from this parcel in the Fall of 1985.

I declare under penalty of perjury of the State of Idaho and of the United States of America that the above and foregoing affidavit and declaration is true and correct to the best of my knowledge and belief.

Dated this 6th day of March, 1993.


J. Dewayne Lee

Subscribed and sworn to before me this 8th day of March, 1993.


Notary Public For Idaho
Residing at: Leslie, Idaho
My Commission Expires: 8-2-94

MICROFILMED
APR 15 1994