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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

)

A. Subcase 63-18974

(Insert water right number)

)

Case No. 39576

)

STANDARD FORM 1
OBJECTION

)

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Bob Taunton
Avimor, LLC.
Address: 485 E. Riverside Drive
Eagle, ID 83616
Daytime Phone: (208) 939-0343

Name & Address of Attorney, if any:

Albert P. Barker
Barker, Rosholt & Simpson, LLP
PO Box 2139
Boise, ID 83701

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Spring Valley Livestock Co Inc.
Address: PO Box 9
Star, ID 83669

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☒ **Name and Address**
Should be: Avimor, LLC., 485 E. Riverside Drive, Eagle, ID 83616
2. ☒ **Source**
Should be: Groundwater
3. ☒ **Quantity**
Should be: 1.14
4. ☒ **Priority Date**
Should be: 1958
5. ☒ **Point of Diversion**
Should be: Groundwater NWNWNE § 7 T5NR2E
6. ☐ **Instream Flow Beginning and Ending Point**
Should be:
7. ☒ **Purpose(s) of Use**
Should be: Irrigation
8. ☒ **Period of Year**
Should be: 4/15 to 10/15
9. ☒ **Place of Use**
Should be: T5NR2E § 7 NWNE 27 acres, NWSE 6 acres, SWNE 24 acres
10. ☒ **I object because:**
 - ☐ This water right Should not exist.
 - ☒ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S):

See attached Memorandum and Affidavits of Mike Wardle and Eldon "Red" Ward.

F. VERIFICATION (must be completed)

State of IDAHO)
)ss.
County of ADA)

ALBERT P. BARKER, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

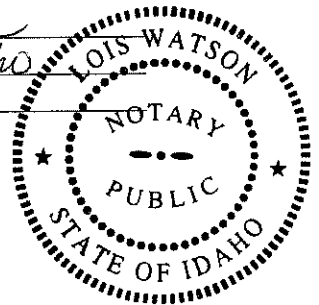
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and(6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

Albert P. Barker
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: April 20, 2006

Notary Public for *Lois Watson*
Residing at: *Ada County, Idaho*
My Commission Expires: *12/08*



INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on the 20 of April, 2006, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

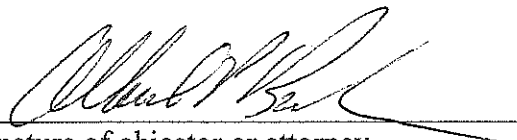
Name: Spring Valley Livestock Co Inc.
Address: PO Box 9
Star, ID 83669

3. Copies to:

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PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Signature of objector or attorney
mailing on Objector's behalf

Albert P. Barker, ISB #2867
Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
205 North Tenth St., Suite 520
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

Attorneys for Avimor, LLC

**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. 63-18974
)
)
) **AVIMOR, LLC'S MEMORANDUM**
) **IN SUPPORT OF OBJECTION**
)
)

COMES NOW, Avimor, LLC, by and through its attorneys of record, Barker, Rosholt & Simpson, LLP, and hereby enters this MEMORANDUM IN SUPPORT OF OBJECTION. In its recommendations for water right claim no. 63-18974, the Department of Water Resources (hereinafter "Department") recommended that the water right be disallowed because it did not have evidence of beneficial use prior to 1964. However, given that the well was drilled and used beginning in 1958, this recommendation is wrong.

STATEMENT OF FACTS

The Spring Valley Livestock Co., Inc. (hereinafter "SVLC") filed a claim for water right no. 63-18974 seeking 1.14 cfs of ground water for irrigation with a priority date of June 1, 1948. The SVLC was owned and operated by the McLeod family since Colin McLeod purchased the property in 1916. *See Affidavit of Michael D. Wardle*. Exs. A & B. SVLC is the predecessor in interest to Avimor, LLC of the Spring Valley Ranch – the land in question. However, after

asserting insufficient proof of beneficial use prior to 1964, the Department recommended the water right be disallowed since, in 1964, a permit would be required for ground water. Yet, a history of the area shows that the well was actually drilled in 1958.

On October 4, 1916, Colin McLeod and W.J. Hodgson acquired the following property: (1) the east $\frac{1}{2}$ of each of the SW $\frac{1}{4}$, Section 6, the NW $\frac{1}{4}$ and SW $\frac{1}{4}$ of Section 7, and the NW $\frac{1}{4}$ and SW $\frac{1}{4}$ of Section 18; (2) the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 6; and (3) the west $\frac{1}{2}$ of each of the NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of Section 7, and the NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of Section 18 – all in Township 5N of Range 2E. *See Id.* at Ex. A; *see also Id.* at Ex. B (wherein Colin McLeod acquired W.J. Hodgson's interest in the property on November 16, 1917). Thereafter, the McLeod family ran the SVLC for until it was purchased by Avimor, LLC, in 2003.

Throughout the years, the McLeod's had a number of ranch managers who became personally familiar with the property's surface and ground water irrigation system. Eldon "Red" Ward worked on the Spring Valley Ranch as a farm worker and/or manager from 1945 through 1977. *See Affidavit of Eldon "Red" Ward.* Ward recalls that the well was initially drilled in 1958 with the assistance of B&M Equipment Company from Caldwell. *Id.* The water was pumped from the well with a turbine pump that fed into a tank. *Id.* From there, the water was pumped through sprinklers using a centrifugal pump. *Id.* Water from the well was used to irrigate "the field south of the old house and barn, and west of the current rang manager's house." *Id.*

ARGUMENT

I. Since the Well was Drilled and Used Beginning for the Irrigation Season in 1958, the Department's recommendation is incorrect.

The recommendation that water right 63-18974 be disallowed should be rejected. The priority date will be set at the date that a claimant shows that the water was first diverted and

placed to a beneficial use. *See* I.C. § 42-106; *Rabido v. Furey*, 33 Idaho 56, 190 P. 73 (1920).

This right should have a priority date of March 1, 1958.

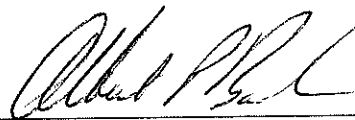
Relying on a 1964 aerial photograph, the Department incorrectly determined that water right 62-18974 was not appropriated prior to 1963. After operating the Spring Valley Ranch for over 40-years, the McLeods decided that more water would be necessary to irrigate certain portions of their property. *Ward Aff.* Therefore, in 1958, the B&M Equipment Company, of Caldwell, was hired to assist in the drilling of a 10-12 inch well 350 foot deep to irrigate “the field south of the old house and barn, and west of the current rang manager’s house.” *Id.* The water was used in that irrigation season and was pumped with a turbine pump, collected in a tank, then pumped with a centrifugal pump to the sprinklers. *Id.* Since the well was drilled, and has been used, since 1958, the priority date for water right 63-18974 should be March 1, 1958.

CONCLUSION

The well used to divert water for water right 63-18974 was originally drilled in 1958. It has been used since that time. As such, this water right should be allowed with a priority date of March 1, 1958.

Dated this 20th day of April, 2006.

BARKER ROSHOLT & SIMPSON, LLP

A handwritten signature in cursive script, appearing to read "Albert P. Barker", written over a horizontal line.

Albert P. Barker

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of April, 2006, I served a true and correct copy of the foregoing AVIMOR, LLC'S MEMORANDUM IN SUPPORT OF OBJECTION on the person(s) listed below, in the manner indicated

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Chief, Natural Resources Division
Office of Attorney General
P.O. Box 44449
Boise, ID 83711-4449

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Albert P. Barker

Albert P. Barker, ISB #2867
Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
205 North Tenth St., Suite 520
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

Attorneys for Avimor, LLC

**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 Nos. 63-5386, 63-5287 & 63-
) 18974
)
) **AFFIDAVIT OF MICHAEL D.**
) **WARDLE IN SUPPORT OF**
) **AVIMOR, LLC'S MEMORANDUM**
) **IN SUPPORT OF OBJECTION**
)

COMES NOW, MICHAEL D. WARDLE, being first duly sworn upon oath and states as follows:

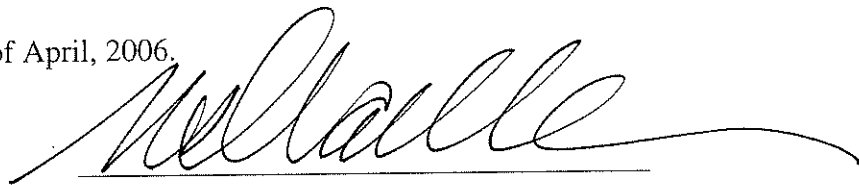
1. I am the Vice President, Planning and Governmental Affairs for Avimor, LLC. The exhibits attached hereto are from the files and records maintained by Avimor in relation to the Spring Valley Ranch property.
2. Attached hereto as Exhibit A is a true and correct copy of an Indenture dated October 4, 1916, wherein Colin McLeod and W.J. Hodgson first acquired property in the Spring Valley Ranch – specifically, (1) the east ½ of each of the SW¼, Section 6, the NW¼ and SW¼ of Section 7, and the NW¼ and SW¼ of Section 18; (2) the SW¼ SW ¼ of Section 6; and (3) the west ½ of each of the NE¼ and SE¼ of Section 7, and the NE¼ and SE¼ of Section 18 – all in Township 5N of Range 2E. The Indenture also conveys “all

irrigation ditches or laterals or water rights therein belonging or in any wise appertaining thereto,” suggesting that water rights had been obtained by the time of transfer.

3. Attached hereto as Exhibit B is a true and correct copy of an Indenture dated November 16, 1917, wherein Colin McLeod acquired W.J. Hodgson’s interest in the Spring Valley Ranch. This Indenture also conveyed “all irrigation ditches or laterals or water rights therein or belonging in any wise appertaining thereto,” suggesting that water rights had been obtained by the time of transfer.
4. Attached hereto as Exhibit C is a true and correct copy of an Indenture dated December 10, 1883, and a United States Land Patent Certificate dated May 15, 1884, wherein Llewellyn Argabright acquired the east ½ of the NW ¼ and the west ½ of the NE ¼ of Section 18, Township 5N, Range 2E (containing 160 acres).
5. Attached hereto as Exhibit D is a true and correct copy of an excerpt from “Ada County Historic Resources: A Reconnaissance Survey,” dated August 1989 and prepared by Belinda Davis/Barbara Perry Bauer and the Ada County Development Services Department for the Ada County Historic Preservation Council. This excerpt describes the Spring Valley Ranch area in the 1890s.
6. Attached hereto as Exhibit E is a true and correct copy of the United States Geological Services Map of 1897 showing the community of Howell (which was located where Spring Valley Ranch is now located). A portion of the land that became the Spring Valley Ranch was originally patented by Eliza Howell. That land is immediately adjacent to the land patented by Hurt in Spring Valley.

7. Attached hereto as Exhibit F is a true and correct copy of an Indenture dated April 23, 1889, wherein Llewellyn Argabright acquired the east ½ of the SW¼ and the west ½ of the SE¼ of Section 18, Township 5N, Range 2E.
8. Attached hereto as Exhibit G is a true and correct copy of an Indenture and a Homestead Certificate, each dated September 13, 1890, wherein Charles Hurt acquired the SE¼ of the NW¼ and the west ½ of the NE¼ of Section 7, and the SW¼ SE¼ of Section 6, Township 5N, Range 2E.
9. Attached hereto as Exhibit H is a true and correct copy of a United States Land Patent Certificate dated January 07, 1896, wherein William Hurt acquired the east ½ of the SE ¼, the NW ¼ of the SE ¼, and the NE ¼ of the SW ¼ of Section 6, Township 5N, Range 2E.
10. The Spring Valley property originally patented by Argabright, Hurt and Howell all passed to McLeod through the transactions set out in Exhibits A & B hereto.
11. On or about July 27, 2003, the Spring Valley Ranch property and all appurtenant water rights were transferred from McLeod to First American Title in trust for SunCor Idaho, LLC.
12. On or about March 7, 2006 SunCor Idaho, LLC filed articles of amendment changing its name to Avimor, LLC. A true and correct copy of the articles of amendment are attached hereto as Exhibit I.

DATED THIS 20th day of April, 2006.

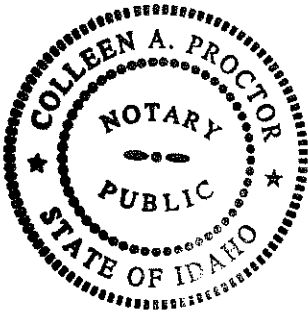


Michael D. Wardle

STATE OF IDAHO)
) ss.
County of Ada)

On this 20th day of April, 2006, before me, a Notary Public for said County and State, personally appeared **MICHAEL D. WARDLE**, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that 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.



Colleen A. Proctor
NOTARY PUBLIC FOR IDAHO
Residing at: Boise, Idaho
My commission expires: 8-15-09

CERTIFICATE OF SERVICE

I hereby certify that on the 20 day of April, 2006, I served a true and correct copy of the foregoing AFFIDAVIT OF MICHAEL D. WARDLE IN SUPPORT OF AVIMOR, LLC'S MEMORANDUM IN SUPPORT OF OBJECTION on the person(s) listed below, in the manner indicated

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Chief, Natural Resources Division
Office of Attorney General
P.O. Box 44449
Boise, ID 83711-4449

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Albert P. Barker



This Indenture, Made this Fourth day of October
 in the year of our Lord one thousand nine hundred and sixteen between
W. C. Cleveland and Nettie J. Cleveland, husband and wife
John Orchal and Benedicta Orchal, husband and wife
 of Boise County of Oda State of Idaho
 the parties of the first part, and

McLeod and Hodgson
 (Colin McLeod and W. J. Hodgson)

of Caldwell County of Canyon State of Idaho
 the parties of the second part,

Witnesseth, That the said parties of the first part, for and in consideration of the sum of
One dollar and other good and valuable considerations Dollars,
 lawful money of the United States of America, to them in hand paid, by the said parties 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 parties of the second part, and to their heirs
 and assigns forever, all the following described real estate, situated in Oda
 County, State of Idaho, to-wit:

The Lots numbered two (2) and three (3), the southwest quarter
of northwest quarter (S.W. 1/4 of N.W. 1/4), the north one half of southwest
quarter (N. 1/2 of S.W. 1/4), the southwest quarter of southwest quarter (S.W.
1/4 of S.W. 1/4) of section one (1), the south one half of section two (2), the
southeast quarter of southwest quarter (S.E. 1/4 of S.W. 1/4) of section eleven
(11), the southwest quarter of southeast quarter (S.W. 1/4 of S.E. 1/4) of
section fourteen (14) all in township five (5) north range one (1) east
of Boise Meridian. Area six hundred forty (640) acres according to
Government survey, some being more or less.

Also the southwest quarter (S.W. 1/4) southeast quarter (S.E. 1/4)
and east half of southwest quarter (E. 1/2 of S.W. 1/4) of section six (6),
the west half of northeast quarter (W. 1/2 of N.E. 1/4) the east half of
northwest quarter (E. 1/2 of N.W. 1/4), the west half of southeast quarter
(W. 1/2 of S.E. 1/4) and east half of southwest quarter (E. 1/2 of S.W. 1/4) of
section seven (7), the west half of northeast quarter (W. 1/2 of N.E. 1/4),
the east half of northwest quarter (E. 1/2 of N.W. 1/4), the west half of
southeast quarter (W. 1/2 of S.E. 1/4) and east half of southwest quarter
(E. 1/2 of S.W. 1/4) of section eighteen (18), all in township five (5)
north, range two (2) east of Boise Meridian. Area seven hundred sixty
(760) acres according to Government survey.

(The southwest quarter of southeast quarter (S.W. 1/4 of S.E. 1/4)
and northeast quarter of southwest quarter (N.E. 1/4 of S.W. 1/4) of section
six (6), township five (5) north, range two (2) east of Boise Meridian are
situate in both Oda and Boise counties.)

Together with all irrigation ditches or laterals or water rights
therein belonging or in any wise appertaining thereto.

In Witness Whereof, The said parties of the first part have hereunto set their hands and seal on the day and year first above written.

Signed, Sealed and Delivered in the Presence of

W. F. Carr

W. C. Cleveland

Nettie J. Cleveland

John Archabal

Benedicta Archabal



State of Idaho,

County of

Ada

ss.

On this *10th* day of *October* in the year *1916*, before me,

W. F. Carr

a Notary Public

in and for said County, personally appeared *W. C. Cleveland and Nettie J. Cleveland, husband and wife, and John Archabal and Benedicta Archabal, husband and wife.* known to me to be the persons whose names 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.

W. F. Carr

Notary Public for Idaho residing at Boise, Idaho.

B

This Indenture, Made this sixteenth day of November

in the year of our Lord one thousand nine hundred and seventeen between

W. J. Hodgson

of Caldwell County of Canyon State of Idaho

the part of the first part, and Colin McLeod

of Caldwell County of Canyon State of Idaho

the part V. of the second part,

Witnesseth, That the said part of the first part, for and in consideration of the sum of Forty-three thousand six hundred twenty-eight \$ 86/100 (\$43628.86 Dollars, lawful money of the United States of America, to them in hand paid by the said part V. of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said part V. of the second part, and to his heirs and assigns forever, all those piece s or parcel s of land situate, lying and being in Ada County of Idaho, and particularly described as follows, to wit:

The Lots numbered Two (2) and Three (3), the Southeast quarter of Northwest quarter (SE $\frac{1}{4}$ of NW $\frac{1}{4}$), the North one-half of Southwest quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$), the Southwest quarter of Southwest quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section One (1), the South half of Section Two (2), the Southeast quarter of Southwest quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$), of Section Eleven (11), the Southwest quarter of Southeast quarter (SW $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section Fourteen (14), all in Township Five (5) North Range One (1) East of Boise Meridian. Area Six hundred forty (640) acres according to Government Survey, the same being more or less.

Also the Southwest quarter (SW $\frac{1}{4}$) Southeast quarter (SE $\frac{1}{4}$) and East half of Southwest quarter (E $\frac{1}{2}$ of SW $\frac{1}{4}$) of Section Six (6) the West half of Northeast quarter (W $\frac{1}{2}$ of NE $\frac{1}{4}$) the East half of Northwest quarter (E $\frac{1}{2}$ of NW $\frac{1}{4}$), the West half of Southeast quarter (W $\frac{1}{2}$ of SE $\frac{1}{4}$) and East half of Southwest quarter of Section Seven (7) the East half of Northeast quarter (E $\frac{1}{2}$ of NE $\frac{1}{4}$), the East half of Northwest quarter (E $\frac{1}{2}$ of NW $\frac{1}{4}$), the West half of Southeast quarter (W $\frac{1}{2}$ of SE $\frac{1}{4}$) and East half of Southwest quarter (E $\frac{1}{2}$ of SW $\frac{1}{4}$) of Section Eighteen (18), all in Township Five (5) North Range Two (2) East of Boise Meridian. Area seven hundred sixty (760) acres according to Government Survey.

(The Southwest quarter of the Southeast quarter (SW $\frac{1}{4}$ of SE $\frac{1}{4}$) and the Northeast quarter of Southwest quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Six (6), Township Five (5) North Range Two East of Boise Meridian are situate in both Ada and Boise counties.)

Together with all irrigation ditches or laterals or water rights therein belonging or in any wise appertaining thereto.

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

This Grant is intended as a Mortgage to secure the payment of one
certain promissory note..... of even date herewith, executed and delivered by the said
W. J. Hodgson.....

..... to the said part. y.. of the second part, which
note. is in words and figures following, to wit:

\$ 43625.86

Caldwell, Idaho, November 16, 1917

One year after date, I, we, or either of us, promise to pay to

Colin McLeod or order,

Forty-three thousand six hundred twenty-eight & 86/100 Dollars,

For value received, negotiable and payable at FIRST NATIONAL BANK, of Caldwell, Idaho, in Gold Coin of the United States of America, with interest at the rate of eight per cent. per annum from date, and a reasonable attorney's fee in case this note, or any part thereof, is collected by an attorney, either with or without suit. If this note is not paid at maturity it shall thereafter bear interest at the rate of twelve per cent. per annum until paid, both before and after judgment. All makers and endorsers of this note each hereby expressly waive demand, notice of non-payment and protest, and guarantee the payment of this note at maturity or at any time thereafter.

No. _____ W. J. Hodgson

Due Nov. 16, 1918

P. O. Caldwell, Idaho *8/73 J. H. R. S. Conrad*

REG. D. BARNARD & CO. ST. LOUIS

And these Presents shall be Void if such payment..... be made. But in case default shall be made in the payment of said principal sum..... of money or any part thereof as provided in said note....., or if the interest be not paid as therein specified, then and from thenceforth it shall be optional with the said part. y.. of the second part, ... h. is executors, administrators or assigns, to consider the whole of said principal sum..... expressed in said note..... as immediately due and payable, although the time expressed in said note..... for the payment thereof shall not have arrived; and immediately to enter into and upon all and singular the above described premises, and to sell and dispose of the same

U

Argabright
to
Stull

This Indenture, Made the 10th day of December in the year of our Lord one Thousand Eight Hundred and Eighty Three, Between Clewellyn Argabright of the County of Ada, Territory of Idaho party of the first part and W. H. Stull of same County the party of the second part, Witnesseth, that the said party of first part for and in consideration of the sum of Two Thousand one hundred and fifty dollars, lawful money of the United States of America to him in hand paid by the said party of the second part the receipt whereof is hereby acknowledged, does by these presents grant, bargain and sell, convey and confirm unto the said party of the second part and to his heirs and assigns forever, all those certain lots and parcels of land situate lying and being in the County of Ada, Territory of Idaho and bounded and particularly described as follows, to wit:

The east half of the North west quarter and the West half of the North east quarter of Section numbered Eighteen (18) in Township numbered Five (5) North of Range numbered Two (2) East; containing one hundred and sixty (160) acres.

Together with all and singular the tenements hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents issues and profits thereof.

To have and to hold, all and singular, the said premises, together with the appurtenances unto the said party of the second part and to his heirs and assigns forever.

In Witness Whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed Sealed & Delivered
in the presence of
John S. Gray.

L. H. Argabright

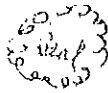
Seal

Territory of Idaho
County of Ada

On this Tenth day of December A. D. one Thousand Eight Hundred and Eighty Three personally appeared before me John S. Gray a Notary Public in and for the County of Ada Clewellyn Argabright

whose name is subscribed to the annexed instrument as a party thereto personally known to me to be the same person described in and who executed the said annexed instrument as a party thereto and the said Sewellyn Argabright duly acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein mentioned.

In Witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



John S. Gray
Notary Public

Recorded at the request of John M. Lamb Dec 29th 1893.
at 25 minutes past 4 o'clock P.M.

B. S. Brickett
Recorder

The United States of America,

To all to whom these presents shall come, Greeting:

CERTIFICATE

No. 604

Territory

~~Whereas~~ *Llewellyn Argabright of Ada County Idaho*

has deposited in the General Land Office of the United States a Certificate of the Register of the Land Office as Possibility Idaho Territory whereby it appears that full payment has been made by the said *Llewellyn Argabright*

according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the Public Lands," and the acts supplemental thereto for the east half of the north-west quarter and the west half of the north-east quarter of section eighteen in township five north of range two east of Bowel Meridian in Idaho Territory containing one hundred and sixty acres

according to the Official Map of the Tract of the said Lands, returned to the General Land Office by the Surveyor General, which said Tract has been purchased by the said *Llewellyn Argabright*

Now know ye, That the United States of America, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said *Llewellyn Argabright*

and to his heirs, the said Tract above described. To have and to hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatever nature, thereto belonging, unto the said *Llewellyn Argabright* and to his heirs and assigns forever, subject to any vested and mineral water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law.

In testimony whereof, *Chester A. Arthur* President of the United States of America, has caused these letters to be signed, sealed, and the Seal of the General Land Office to be hereunto appended.

CERTIFIED

to be a true copy of a document on file in the Idaho State Office

MAR 03 2004

BUREAU OF LAND MANAGEMENT

Given under my hand, at the City of Washington, the *fifteenth* day of *May* in the year of our Lord one thousand eight hundred and *eighty-four* and of the Independence of the United States the one hundred and *eighth*

BY THE PRESIDENT

Chester A. Arthur

Wm. H. Brock

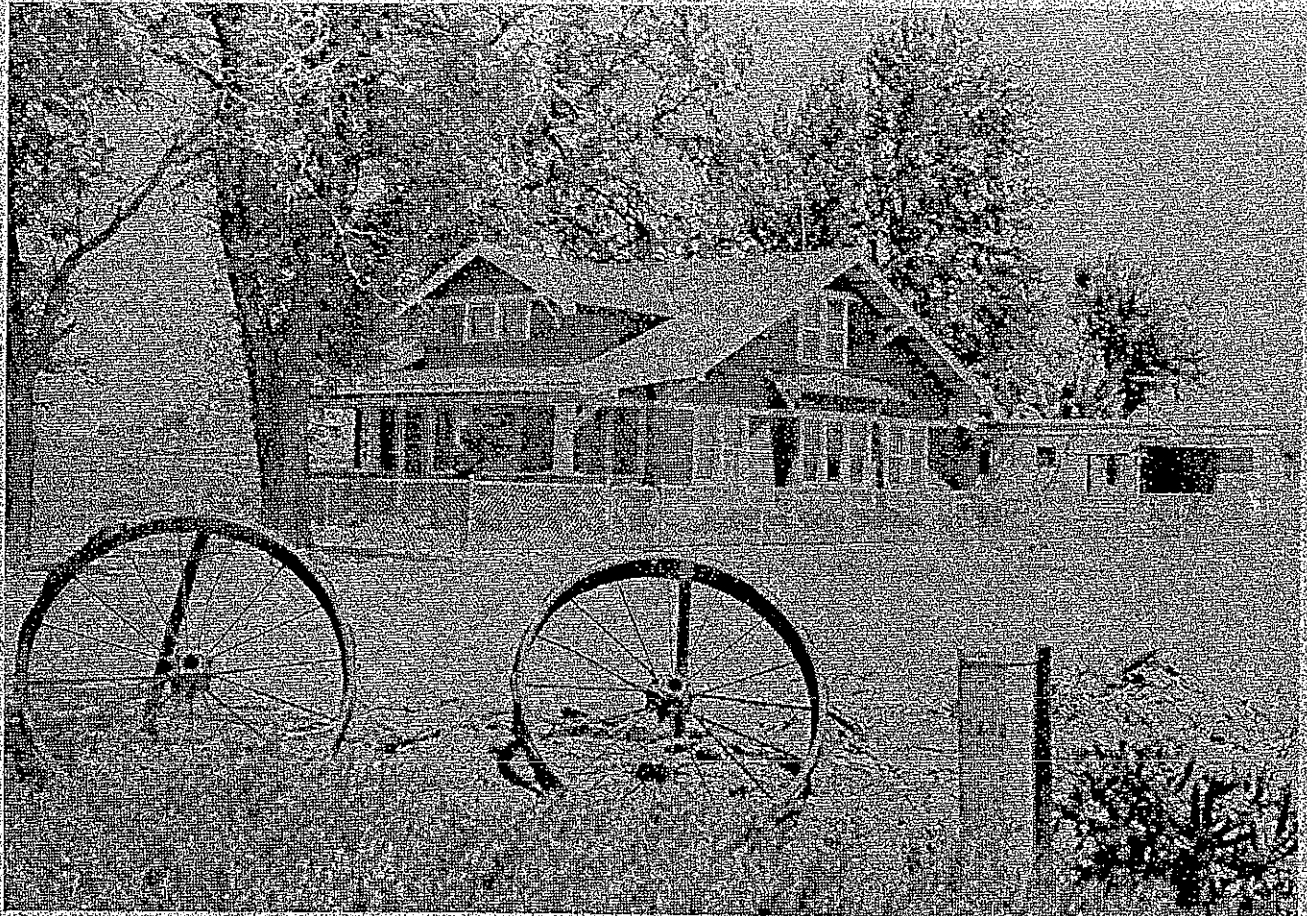
S. W. Clark

Secretary

Recorder of the General Land Office

P

ADA COUNTY HISTORIC RESOURCES: A RECONNAISSANCE SURVEY

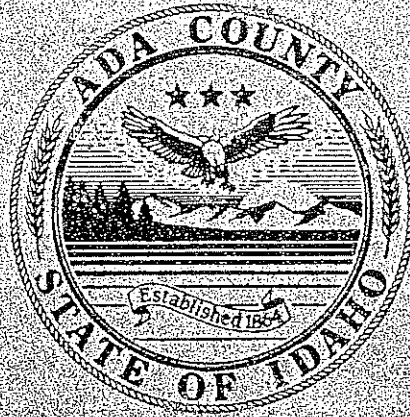


PREPARED BY BELINDA DAVIS/BARBARA PERRY BAUER, CONSULTANTS
AND THE ADA COUNTY DEVELOPMENT SERVICES DEPARTMENT

FOR THE ADA COUNTY HISTORIC PRESERVATION COUNCIL

MADE POSSIBLE BY A CERTIFIED LOCAL GOVERNMENT GRANT FROM THE NATIONAL PARK SERVICE,
DEPARTMENT OF THE INTERIOR, THROUGH THE IDAHO STATE HISTORIC PRESERVATION OFFICE.

August 1989



BOARD OF ADA COUNTY COMMISSIONERS

Vernon L. Bisterfeldt, Chairman
Michael L. Johnson
Judy M. Peavey

ADA COUNTY HISTORIC PRESERVATION COUNCIL

Robert L. Aldridge, Chairman
John R. Crowe, Vice-Chairman
David Baghard
Janet Harrison Carver
Dan N. Magleby

There were not many properties located around the Dry Creek area, but Dry Creek is a unique area where a small farming community was once located. Two properties inventoried there are the Pedro Echanove house, a National pyramidal-styled structure (Field No. 48) constructed of quarried stone and the Sam Goldbloom house, a National-style farmhouse (Field No. 50).

The Spring Valley Ranch (Field No.'s 32-34) area located on the northern edge of the county apparently was a thriving community (once known as Howell) boasting a general store, blacksmith shop and post office. Remnants of an old road which extended to Pearl are still visible to the east of the main house. Both Howell and the road appear on an 1890 map of the area. The ranch currently exists of a massive gabled barn constructed with hewn joints and wooden pegs and a well preserved folk Victorian house. Portions of this ranch also lie within Boise County.

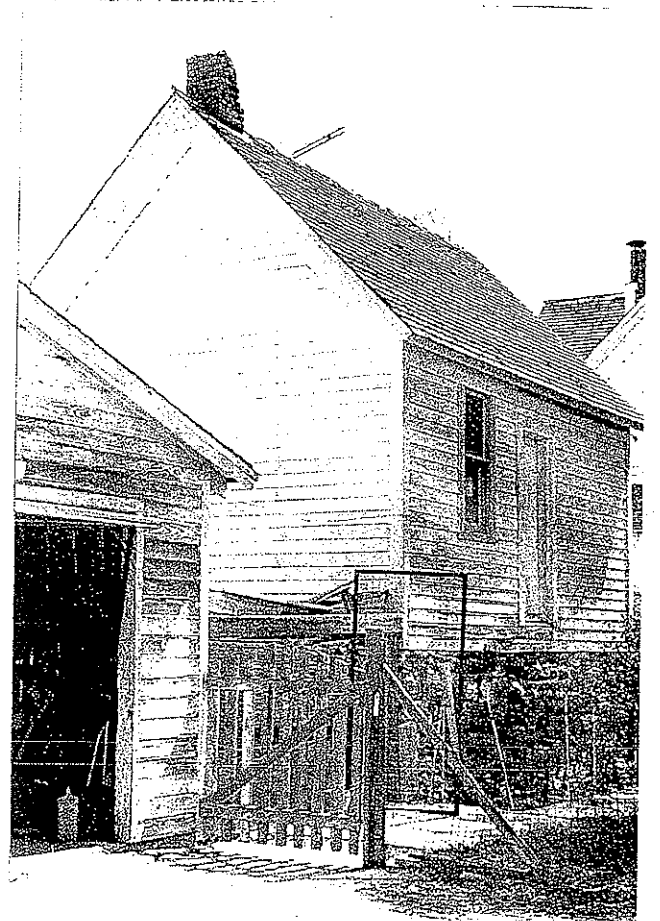
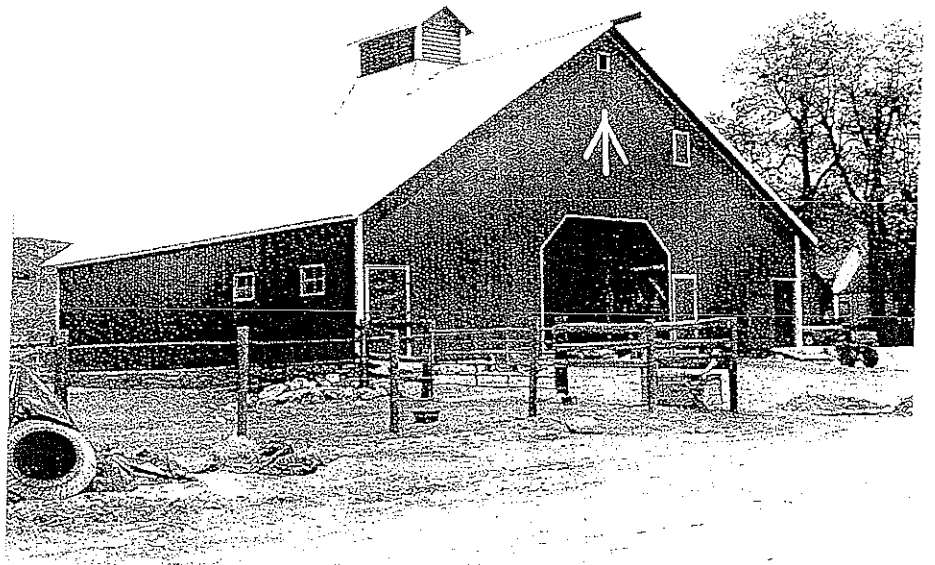
The aforementioned areas, in addition to others not mentioned here, do have potential historical value and could best be approached by first researching documents to determine what types of sites are likely to occur and following up with a pedestrian survey.

Under the present Phase II Reconnaissance Survey, eleven sites were determined to be eligible for listing in the National Register of Historic Places. They are: 1) Dallas Forrey Lava Rock Structure (Field No. 37), 2) Delbert McFarland House (Field No. 70), 3) Linder Road National House with turned posts (Field No. 70), 4) Craftsman House with wagon wheels (Field No. 79), 5) Ustick Road Prairie House with pine trees (Field No. 100), 6) White Cross School (Field No. 112), 7) John D. Turnbull House (Field No. 127), 8) Cosgrove House (Field No. 146), 9) Herridge House (Field No. 159), 10) Star Depot (Field No. 159), and 11) Hipped Roof Craftsman House (Field No. 63). Eighteen sites were determined to be not eligible for listing and 116 sites remain unevaluated. These figures do not include the re-recording of sites reviewed during Phase I of the project.

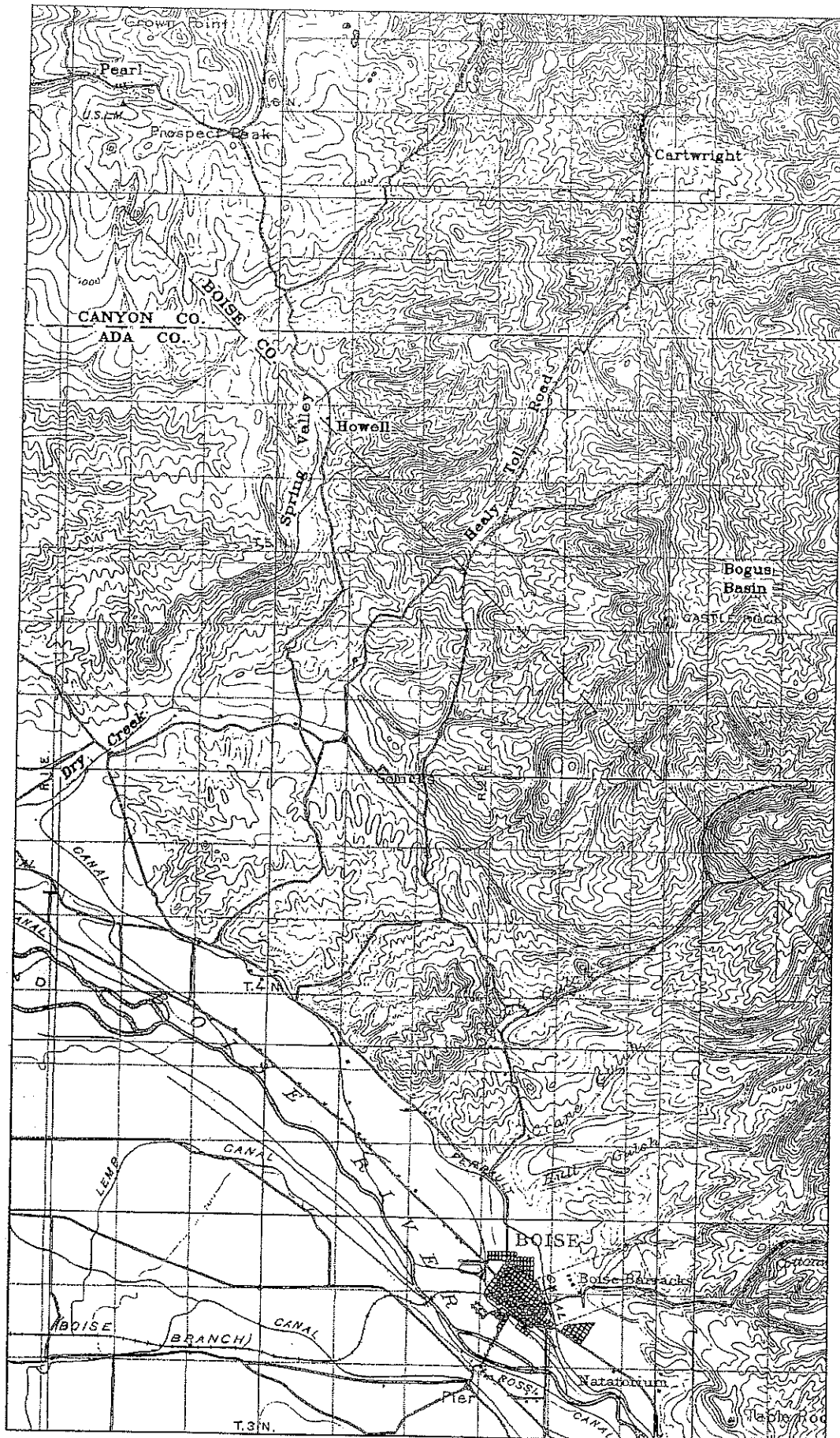
The consultants recommend that the eleven sites mentioned above should undergo further research in order to more fully document their historic significance in terms of the National Register criteria.

There are some areas where architectural properties were not found. The area south of Kuna-Mora Road and west of Swan Falls Road to the county line did not produce any areas of architectural significance. Also, the area between South Cloverdale Road east to I-84 did not produce many architectural structures. These areas consist mainly of rangelands with few or no amenities to attract settlement. Since no significant architectural properties were identified, these areas should be removed from further consideration of such properties. On the other hand, in future Ada County studies it is recommended that a field inspection be conducted specifically to identify archaeological and historical sites which may be within Ada County's jurisdiction. Suggested areas in the Ada County Reconnaissance Survey area south of Kuna and the undeveloped lands comprising the eastern and northern edges of the county.





E




AVIMOR™


Not To Scale
Figure 4

SOURCE: IDAHO STATE HISTORICAL LIBRARY

A SunCor Planned Community

USGS Map of 1897

5

Argabright. This Indenture, made the 23^d day of April in the year of our Lord
 1889, one thousand eight hundred and eighty nine Between Elwellyn Argabright
 and Belle Argabright his wife of Spring Valley Ada County Idaho
 Territory Parties of the first part and Benjamin Wilson Range W. Williams of same County and Territory
 Parties of the second part Witnesses. That the said parties of the first part have

in consideration of the of Eight Hundred dollars lawful money of the
 United States of America, to them in hand paid by the parties of the
 second part, the receipt whereof is hereby acknowledged, do by these
 presents grant, bargain, sell convey and confirm unto the the said
 parties of the second part, and to their heirs and assigns forever all that
 piece and parcel of land situate and being in the County of Ada
 and Territory of Idaho, bounded and described as follows, to wit:

The East half (1/2) of the Southeast Quarter (1/4) and the West half (1/2) of
 the Southeast Quarter (1/4) of Section Eighteen in Township Five
 North of Range Two (2) East of Boise Meridian in Idaho Territo-
 ry containing one hundred and sixty acres according to the Official
 Plat of the Survey of the said lands returned to the General Land Of-
 fice by the Surveyor General. Together with all and singular the
 tenements hereditaments and appurtenances thereto belonging or in any
 wise appertaining, and the rents, issues and profits thereof. To have and to
 hold to and singular the above mentioned and described premises together
 with the appurtenances unto the said parties of the second part and
 to their heirs and assigns forever. And the said parties of the first part and
 their heirs, the said premises in the quiet and peaceable possession
 of the said parties of the second part their 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 parties of the first part have here-
 unto set their hands and seals the day and year first above written
 signed, sealed, and delivered in the Presence of S.B. Maunse
 Olive Thurman

Elwellyn Argabright
 Belle Argabright

Territory of Idaho }
 County of Ada } ss On this 23rd day of April in the
 year one thousand eight hundred and eighty nine before me S.B.
 Quinn County Recorder, in and for said County of Ada personally
 appeared Llewellyn Argabright personally known known to me
 to be the person who is described in, and whose name is subscribed
 to the within instrument and acknowledged to me that he executed
 the same Also, at the same time and place appeared before me
 Belle Argabright wife of Llewellyn Argabright known to
 me to be the person described in, and whose name is subscribed
 to the within instrument, described as a married woman, and
 upon examination, without the hearing of her husband, I made
 her acquainted with the contents of the instrument and there
 upon she acknowledged to me that she executed the same, and
 that she does not wish to retract such execution In Witness
 Whereof, I have hereunto set my hand and affixed my official
 seal, the day and year last above written.

S.B. Quinn

County Recorder.

Recorded at request of G. W. Williams Apr. 24th 1889 at 10 A.M.

S. B. Quinn

Recorder

5

Now Know All Men by these presents, That on the Thirtieth day of September in the year

To our Lord one thousand eight hundred and ninety, Between
 Howell et al. Charles Hart and Phoebe Hart, his wife of Ada County, Idaho,
 parties of the first part, and William Howell, Sanford W. Carhart
 and Almon M. White of Ada County, Idaho, the parties of the
 second part, Witnesseth, That the said parties of the first part,
 for and in consideration of Twenty-seven hundred & fifty Dollars
 lawful money of the United States of America, to them in hand
 paid by the said parties 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 parties of the second part, and to their heirs and assigns forever
 all the following described real estate, to wit: The Southeast quarter
 of the Northwest quarter, and the West half of the Northwest quarter
 of Section Seven, and the Southwest quarter of the Southeast
 quarter of Section Six in Township five North of Range Two East of
 Boise Meridian, situate, lying and being in Ada and Boise Counties
 in the State of Idaho, and containing one hundred and sixty
 acres, also all right, title and interest in and to all springs,
 water ditches, reservoirs and streams, which the said parties of
 the first part have used for the irrigation of said lands
 and for home or domestic purposes.

Together with all and singular the tenements, hereditaments and
 appurtenances thereto belonging or in anywise appertaining, and
 the reversion and reversions, remainder and remainders, rents, issues
 and profits thereof and also all estate, right, title, interest in and
 to the said property, possession, claim and demand whatsoever,
 as well in law as in equity, of the said parties of the first part,
 of in or to the said premises, and every part and parcel thereof,
 with the appurtenances, to have and to hold, all and singular
 the above mentioned and described premises, together with the
 appurtenances, unto the parties of the second part, and to their
 heirs and assigns forever. And the said parties of the first
 part, and their heirs, the said premises in the quiet and peace-
 able possession of the said parties of the second part, their heirs
 and assigns against the said parties of the first part and their
 heirs and against all and every person and persons whomsoever,
 lawfully claiming or to claim the same shall and will

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manant and by these presents forever defend.

In Witness Whereof the said parties of the first part have hereunto set their hands and seals the day of the year first above written.

Signed Sealed and Delivered in the presence of

T. D. Cahalan

Charles Hunt

Seal

Phoebe Hunt

Seal

State of Idaho

County of Ada

On this 13th day of September 1890, before me, Chas. A. Clark a Notary Public in and for said County, personally appeared Charles Hunt and Phoebe Hunt, 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, and the said Phoebe Hunt, above described as a married woman, upon an examination without the hearing of her husband, I made her acquainted with the contents of the instrument and thereupon she acknowledged to me that she executed the same and that she does not wish to retract such execution, In testimony Whereof I have hereunto set my hand and official seal on the day

Seal

Chas. A. Clark

Notary Public

Recorded at request of Wm. Howell Sept 13th 1890 at 40 min past 4 P. M.

S. B. Mann

Recorder

Honesty certificate
No. 413
Appraisal 111

The United States of America, To all to whom these presents shall come, Greeting: Whereas there has been deposited in the General Land Office of the United States, a Certificate of the Register of the Land Office at Boise City, Idaho Territory, whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Charles Hunt has been established and duly consummated for conformity to law, for the Southeast quarter of the Northwest quarter and the West half of the Northeast quarter of Section Eleven and the Southwest quarter of the Southeast quarter of Section Six in Township Five North of Range Two East of Boise Meridian in Idaho Territory, containing one hundred and sixty acres according to the Official Plat of the Survey of the said land returned to the General Land Office by the Surveyor General; Now know Ye, that there is, therefore, granted by the United States unto the said Charles Hunt the tract of land above described, To have and to hold the said tract of Land, with the appurtenances thereof, unto the said Charles Hunt and to his heirs and assigns forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted as provided by law.

In testimony Whereof, I, Grover Cleveland, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the twentieth day of March, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and tenth.

(Seal)

By the President Grover Cleveland

By Mr McKean

Secretary

(Recorded, Vol. 1 Page 412) S. W. Clark, Recorder of the General Land Office
Recorded at request of Mr. Howell Sept 13th 1890 at 80 min past 4 P. M.

S. B. Mann
Recorder

9

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Form 1810-9
(July 1965)
(Formerly 4-207c)

718801

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho Land Office
Boise, Idaho
June 5, 1969

49 1582
Ada County, Idaho, 2
Request of

Idaho Title Co.

Time 4:00 P. M.

Date JUN 20 1969

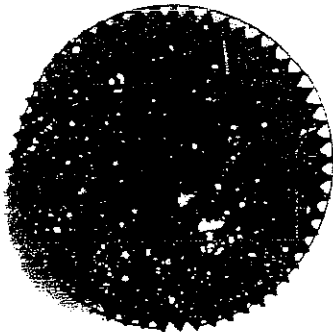
CLARENCE A. PLANTING

RECORDED

BY *Clarence A. Planting*
120 Deputy

I HEREBY CERTIFY That the annexed copy of patent is - true
and literal exemplification from the record which is in my custody
in this Office.

IN TESTIMONY WHEREOF I have hereunto subscribed my name and
caused the seal of this Office to be affixed,
at Boise, Idaho
on the day and year above written.



D

William C. Ketter
Certifying Officer
William C. Ketter

The United States of America

Be it remembered that presents shall come before

Thomas Reed, Notary Public, No. 1019,

Application 1987 and 2722. Whereas, There has been

in the General Land Office of the United States at Washington

the Director of the said Office at Boise City, Idaho, whereby

and, pursuant to the Act of Congress approved 20th May 1862

and the Act of March 3rd 1879 on the Public Domain

and not supplemental thereto, the claim of William Hunt

established and duly commemorated, in conformity to the

in the East of the said East quarter, the North West quarter of the

South East quarter and the North East quarter of the South West

quarters of Section six in Township five North of Range three East

in Teton County, Idaho, containing one hundred and eight

acres, to the official Plat of the Survey of the said land

to the General Land Office by the Surveyor General

Canterbury, that there is, therefore, granted by the United States

to the said William Hunt the tract of land above described

to have and to hold the said tract of land, with the appur-

tenances thereto, unto the said William Hunt and to his heirs

and assigns forever; subject to any vested and accreted

rights to farming, agricultural, manufacturing, or

other uses, and rights to ditches and reservoirs used in connection

with, and water rights, as may be recognized and

regulated by the local customs, laws, and decisions of courts

also subject to the right of the proprietor of a mine or lode

to locate and remove his ore therefrom, should the same be

located on or intersect the premises hereby granted, as provided

by law. And there is reserved from the North West quarter of the

South East quarter and the North East quarter of the South West

quarters of Section six in Township five North of Range three East

East of the above described lands, except the appurtenances

ditches or canals constructed by the authority of the

United States.

In Testimony Whereof, I have hereunto set my hand and the

Seal of the United States of America, this 10th day of May 1909.

Notary Public, and the seal of the General Land Office, Idaho, is

"Metal" is also joined on the East by the "Uncle Dick" and the "1651
mining claims; said "Yellow Metal" mining claim extends 300
linear feet on each side of the middle of the vein or lode thereof.
Together with all the dips, spurs and angles, and also all the metals,
ore, gold and silver bearing quartz, rock and corals thereon, and
all the rights, privileges and franchises that in said vein, appurtenant
and appertaining, or otherwise usually had and enjoyed, and also
all and singular the tenements, hereditaments and appurtenances
thereto belonging, or in anywise appertaining, and the rents, issues
and profits thereof.

To Have and to Hold, All and singular, the said premises, together
with the appurtenances and privileges thereto in direct unto the
said party of the second part his heirs and assigns forever.

In Witness Whereof, the said party of the first part have here-
unto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered } J. J. Blake Seal
in the Presence of } W. J. Sharp Seal
W. Scott Neal } W. D. Stevens Seal
Seal

State of Iowa, }
County of Boone }

On this 21st day of December 1895, before me
W. Scott Neal, a Notary Public in and for said County, person-
ally appeared J. J. Blake, W. D. Stevens and W. J. Sharp 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.

W. Scott Neal.
Notary Public.

State of Iowa, }
County of Boone }

I hereby certify that this instrument was
filed for record at the request of M. W. McKinley at 2:45 o'clock
P. M. this 7 day of Jan 1896.

W. F. B. Osmington
Ex-officio Recorder

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FILED EFFECTIVE

ARTICLES OF AMENDMENT TO ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

RECEIVED - 7 17 10:57

(Instructions on back of application)

1. The name of the limited liability company is:

SunCor Idaho, LLC

If the LLC has been administratively dissolved and the name is no longer available for use, #3 below must include an amendment of name.

2. The date the articles of organization were filed was:

July 22, 2003

COMPLETE ONLY THE APPLICABLE ITEMS

3. The name of the limited liability company is amended to read:

Avimor, LLC

4. The management of the limited liability company shall henceforth be vested in:

☐ Manager(s) ☐ Members

5. The information on the managers/members shall be amended as follows:

Name	Address	Add	Delete	Other
_____	_____	☐	☐	_____
_____	_____	☐	☐	_____
_____	_____	☐	☐	_____
_____	_____	☐	☐	_____
_____	_____	☐	☐	_____

6. Signature of at least one manager, if any, or at least one member.

Signature: DEBUTyped Name: Duane S. BlackCapacity: Executive Vice President & COOBy: SunCor Development Company,Its: Sole Member

Secretary of State use only

IDAHO SECRETARY OF STATE
03/07/2006 05:00
CX: 14659 CT: 176891 RH: 941697
1 @ 30.00 = 30.00 ORGAN AMEN # 2
1 @ 20.00 = 20.00 EXPEDITE C # 3

W25199

Albert P. Barker, ISB #2867
Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
205 North Tenth St., Suite 520
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

Attorneys for Avimor, LLC

**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

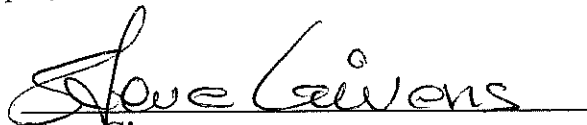
)
) Subcase No. 63-5386 & 63-5287
)
) **AFFIDAVIT OF STEVE GIVENS IN**
) **SUPPORT OF AVIMOR, LLC'S**
) **MEMORANDUM IN SUPPORT OF**
) **OBJECTION**
)
)

COMES NOW Steve Givens, being first duly sworn upon oath and states as follows:

1. I am a resident of Star, Idaho, and have lived in Idaho most of my life.
2. I am familiar with the property known as the Spring Valley Ranch.
3. My father is Orin Givens and my grandfather was Guy Givens. I spoke with them often about the Spring Valley Ranch.
4. My grandfather ran the Spring Valley Ranch for Colin McLeod from 1931 through 1942. He took care of the horses and the hayfields and worked with the irrigation of the property. The Ranch property was irrigated when my grandfather worked there, and part of his job was to irrigate the property. My father grew up on the Ranch where he learned to ride, shoot and work.

5. The first year that my grandfather worked on the ranch, he raised alfalfa seed for the McLeods.
6. In addition to the main ranch, my grandfather told me how Mr. McLeod purchased several smaller homesteads adjoining the Ranch and expanding it to the west.
7. The attached photographs are from our family photo album, which has been in my family for generations.
8. I can identify the attached photos as photos of the Spring Valley Ranch. They were taken during the time period that my grandfather ran the Ranch for the McLeods, and appear to be from the early 1930s.
9. Exhibit A is a photograph of the barn and yard with the Ranch house behind the trees.
10. Exhibit B is a photograph taken from the east above the Ranch showing the Ranch house and buildings and the cultivated fields, west and south of the Ranch house, in the same location as the fields today.
11. Exhibit C is taken from ground level on the west side of the cultivated fields looking towards the Ranch house and buildings.

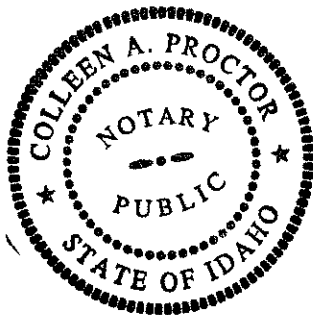
DATED THIS ____ day of April, 2006.


Steve Givens

STATE OF IDAHO)
) ss.
County of Ada)

On this 20th day of April, 2006, before me, a Notary Public for said County and State, personally appeared **STEVE GIVENS**, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that 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.



Colleen A. Proctor
NOTARY PUBLIC FOR IDAHO
Residing at: Boise, Idaho
My commission expires: 8-15-09

CERTIFICATE OF SERVICE

I hereby certify that on the 20 day of April, 2006, I served a true and correct copy of the foregoing AFFIDAVIT OF STEVE GIVENS IN SUPPORT OF SUNCOR IDAHO, LLC'S MEMORANDUM IN SUPPORT OF OBJECTION on the person(s) listed below, in the manner indicated

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

United States Department of Justice
Environmental & Nat'l Resources Div.
550 W. Fort Street, MSC 033
Boise, ID 83724

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

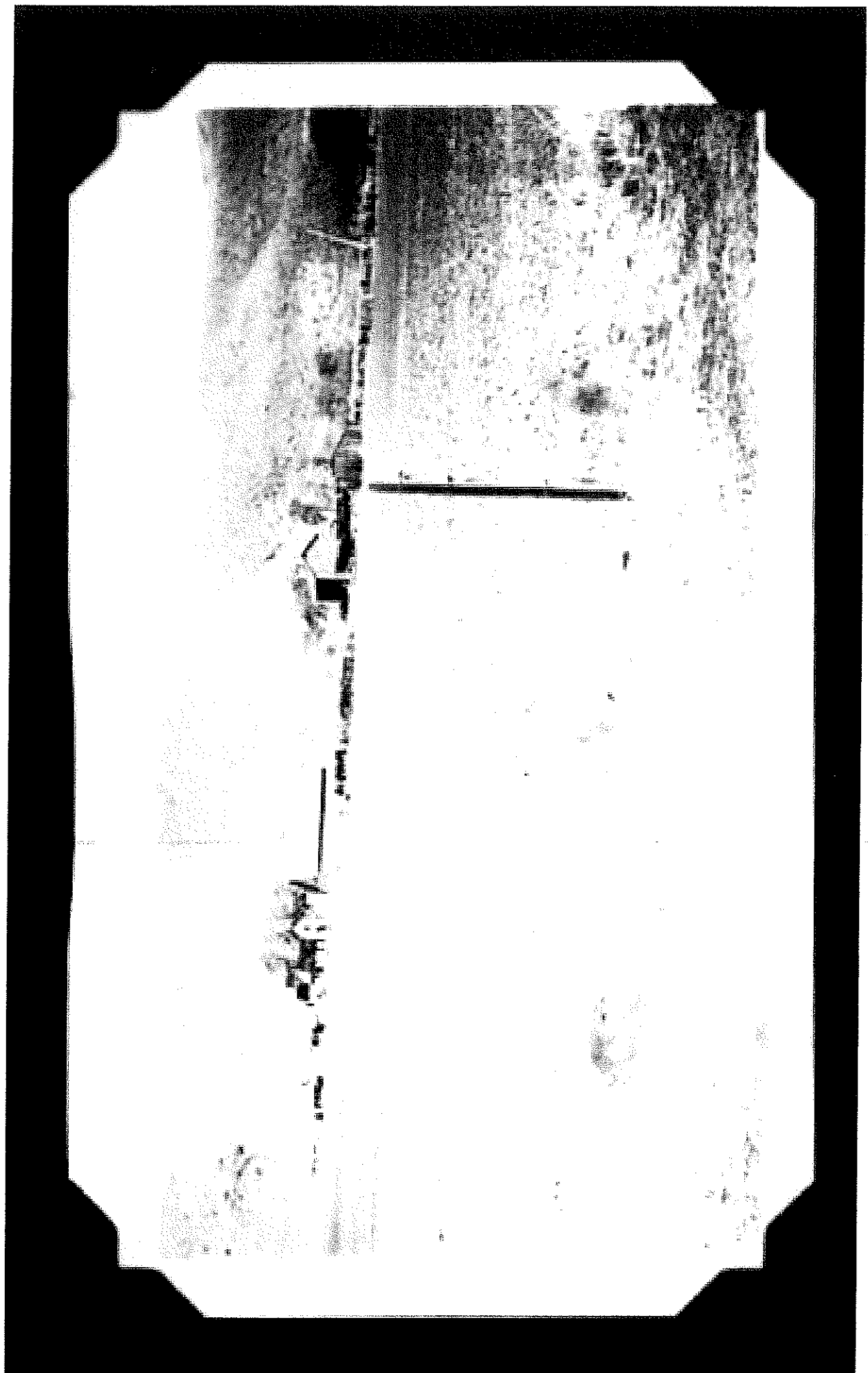
Chief, Natural Resources Division
Office of Attorney General
P.O. Box 44449
Boise, ID 83711-4449

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email



Albert P. Barker







Albert P. Barker, ISB #2867
Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
205 North Tenth St., Suite 520
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

Attorneys for Avimor, LLC

**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. 63-5386, 63-5287 & 63-
) 18974
)
) **AFFIDAVIT OF ELDON "RED"**
) **WARD IN SUPPORT OF AVIMOR,**
) **LLC'S MEMORANDUM IN**
) **SUPPORT OF OBJECTION**
)

COMES NOW Eldon "Red" Ward, being first duly sworn upon oath and states as follows:

1. I am a resident of Horseshoe Bend, Idaho, and I have been a resident of Idaho for most of my life. I am 83 years old and of sound mind. I make the following statement based upon personal knowledge of the facts and circumstances set forth herein below.
2. I worked for the Spring Valley Livestock Company, on the Spring Valley Ranch, from 1945 through 1977, as a farm worker and a farm manager.
3. When I began working at the Ranch, surface water was used to irrigate the area north of the ranch headquarters and the central part of the valley from diversions on Willow Creek and Spring Valley Creek.

4. Willow Creek was diverted into a ditch by damming the creek with dirt and boards. The ditch ran from the creek down to the fields and was used to irrigate the area north of the ranch headquarters, which I understand is more accurately described as the SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6, Township 5N of Range 2E.
5. Water was diverted from Spring Valley Creek and used to irrigate the central part of the valley below the Ranch headquarters, which I understand is more accurately described as the E $\frac{1}{2}$ of the NW $\frac{1}{4}$, the E $\frac{1}{2}$ of the SW $\frac{1}{4}$, the W $\frac{1}{2}$ of the NE $\frac{1}{4}$, the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, Township 5N of Range 2E.
6. In the mid-1950's, the Soil Conservation District installed the head-gate structures now in Spring Valley Creek. Before the Soil Conservation District installed the structures, there was a concrete head gate in the Spring Valley Creek. From its appearance, that that head gate had obviously been there for a long period of time before the Soil Conservation structures were installed.
7. I recall speaking with Colin McLeod about the Spring Valley Creek diversion. He informed me that the old diversion was in use long before I started working at the ranch in 1945.
8. Colin McLeod also informed me that the Willow Creek ditch was being used "from the beginning." I took this to mean that it was in use before Colin McLeod bought the ranch in 1916.
9. In 1958 the B&M Equipment Company, from Caldwell, assisted in the drilling of a well west of the ranch manager's house. The well was 10 or 12 inches in diameter and was originally drilled about 350 feet deep. It was drilled deeper later.

10. The well was used to irrigate the field south of the old house and barn, and west of the current ranch manager's house. More specifically, the well was used to irrigate the W½ of the NE¼ and a portion of the NW¼ NE¼ of Section 7, Township 5N of Range 2E.
11. Irrigation from that well was always done by sprinklers.
12. Originally, the well pump was a turbine pump that fed into a tank. A centrifugal pump was used to run the sprinklers.

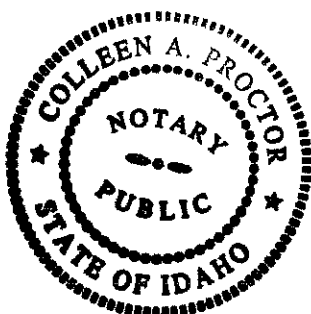
DATED THIS ___ day of April, 2006.

Eldon "Red" Ward
Eldon "Red" Ward

STATE OF IDAHO)
County of Ada) ss.
)

On this 18th day of April, 2006, before me, a Notary Public for said County and State, personally appeared ELDON "RED" WARD, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that 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.



Colleen A. Proctor
NOTARY PUBLIC FOR IDAHO
Residing at: Bow, Idaho
My commission expires: 8-15-09

CERTIFICATE OF SERVICE

AFFIDAVIT OF ELDON "RED" WARD IN SUPPORT OF SUNCOR IDAHO, LLC'S
MEMORANDUM IN SUPPORT OF OBJECTION

I hereby certify that on the 20 day of April, 2006, I served a true and correct copy of the foregoing AFFIDAVIT OF ELDON "RED" WARD IN SUPPORT OF SUNCOR IDAHO, LLC'S MEMORANDUM IN SUPPORT OF OBJECTION on the person(s) listed below, in the manner indicated

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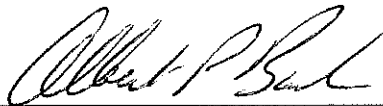
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Albert P. Barker