

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: **A45-00569**
Date Received: 5/18/1989
Receipt No: X999999
Received By: *[Signature]*

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: HAROLD REX MARTIN 208-862-3490
Address: RT 1 BOX 146
OAKLEY ID 83346
AND
Name: ANNE R MARTIN 208-862-3490
Address: RT 1 BOX 146
OAKLEY ID 83346

2. Date of Priority: DEC 31, 1879

3. Source: SPRING CREEK Trib. to: MILL CREEK
MILL CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
13S	23E	33		NW	SW		CASSIA
14S	23E	10		SE	NE		CASSIA

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.740		
STOCKWATER	01/01	12/31	0.030		1.40

7. Total Quantity Appropriated is:
0.740 C.F.S. (and/or) 1.40 A.F.A.

8. Total consumptive use is 95.0 Acre Feet Per Annum.

9. Non-irrigation uses:

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10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	23E	33	NW	SW		IRR	38.0
Section Acres							38.0
Total Acres							38.0

11. Place of use in counties: CASSIA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

14. Remarks:

SOURCES FOR THIS RIGHT ARE MILL CREEK & SPRING CREEK.

OWNERSHIP CHANGE 7-11-95 TF.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/26/1987

A. KENNETH DUNN

Decree Plaintiff

KYLE ADAMS

vs

Decree Defendant



State of Idaho
DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

July 11, 1995

PHILIP E. BATT
Governor

KARL J. DREHER
Director

HAROLD REX AND ANNE R MARTIN
RT 1 BOX 146
OAKLEY ID 83346

RE: SRBA Claim(s) A45-00574, A45-00575, A45-00569, A45-00576,
A45-00618, A45-02658

Dear Mr. and Mrs. Martin:

Pursuant to the change in ownership request that has been submitted to the Department, we have changed the record of current ownership to you. Please find the enclosed copies of the computer record of the claim(s) noting the change in claimant. Review these records and if there is an error, or you have any questions, please contact this office.

Sincerely,

Trish Fawcett
Technical Records Specialist

enc.

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DEC 03 1996



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED

Please print or type

(see instructions on back of page)

DATE OF CLOSING: January 13, 1995

FEB 10 1995

LEGAL DESCRIPTION OF PROPERTY: Township _____ Range _____ Department of Water Resources
 Section _____, 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____, Southern Region
 Lot _____, Block _____, Subdivision/Townsite _____, BM.

If you have additional legal descriptions, please attach separate sheet.

*See attached Exhibit "A" for legal description

☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

☐ Water Right Number(s)
 Assigned by IDWR: A45-00574, A45-00575, A45-00569, A45-00576,
A45-00618 and A45-02658

☐ Name and Address of Former Owner/Claimant(s)(Seller): LeRoy Fairchild
Route #1 Box 145
Oakley, Idaho 83346

☐ New Owner/Claimant (Purchaser): Harold Rex Martin and Anne R. Martin

☐ New Mailing Address: Route #1 Box 146
Oakley, Idaho 83346

☐ New Telephone Number: (208) 862 - 3490

☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no
 If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

☐ Attach proof of ownership, describe proof attached: recorded Warranty Deed

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

☐ Signature of New Owner/Claimant(s) Harold Rex Martin Date 2-7-95
Harold Rex Martin Date 2-7-95

☐ Signature of Former Owner/Claimant(s): Anne R. Martin Date _____
 _____ Date _____

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date _____ By: _____

Further Action Needed:

Further Action Taken

Date _____ By: _____

Final Review and Data-Entry

Date _____ By: _____

Claim Numbers of Split, if any:

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Original to be mailed to Idaho Department of Water Resources
 Copies to Former Owner and New Owner

DEC 8 1996

WARRANTY DEED

RECEIVED

For Value Received

FEB 10 1995

LEROY FAIRCHILD, a single man

Department of Water Resources
Southern Region

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

HAROLD REX MARTIN and ANNE R. MARTIN, husband and wife
Address: Route #1 Box 146, Oakley, Idaho 83346

Hereinafter called the Grantee, the following described premises situated in Cassia County, Idaho, to-wit:

TOWNSHIP 13 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHOSection 25: E $\frac{1}{2}$ W $\frac{1}{2}$ and E $\frac{1}{2}$ TOWNSHIP 13 SOUTH, RANGE 23 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 19: Lots 2, 3 and 4

Section 27: SE $\frac{1}{4}$ Except the following described parcel:Commencing at the quarter corner between Sections 27 and 34, of
Township 13 South, Range 23 East of The Boise Meridian; Thence due
North a distance of 34 rods to the point of beginning;
Thence due East a distance of 8 rods;
Thence due North a distance of 10 rods;
Thence due West a distance of 8 rods;
Thence due South a distance of 10 rods to the Point of Beginning.

Section 30: Lot 1

Section 33: N $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and
NE $\frac{1}{4}$ SW $\frac{1}{4}$ EXCEPT the S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 34: W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$ TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto
including but not limited to all water rights from Mill Creek, Warm Spring Creek, and Spring Creek,
EXCEPTING AND RESERVING TO THE GRANTOR, HIS SUCCESSORS OR ASSIGNS, ALL
WATER RIGHT ATTACHED OR APPURTENANT TO THE S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ 33 T 13 R 23 AND
ALSO EXCEPTING AND RESERVING TO THE GRANTOR, HIS SUCCESSORS OR ASSIGNS, ALL
WATER RIGHTS FROM FAIRCHILD CANYON SPRING CREEK.
SUBJECT TO:

All reservations in patents or deeds in the chain of title.

Taxes for 1995 and subsequent years.

Power Line Easement from Orville Heiner and Mildred Heiner to Idaho Power Company dated October
17, 1961 and recorded March 27, 1962 as Instrument No. 5954 on Film No. 12, records of Cassia County,
Idaho, over and across NE $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 33 Township 13 South, Range 23 East of the
Boise Meridian.Power Line Easement from Carl Gorringer, Ralph Gorringer and Lorraine Gorringer and Mildred S. Gorringer
to Idaho Power Company dated September 15, 1961 and recorded March 27, 1962 as Instrument No. 5955
on Film No. 12, records of Cassia County, Idaho, over and across the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33, Township 13
South, Range 23 East of the Boise Meridian.MICROFILMED
DEC 03 1996

Easement Agreement between Herschel Bedke and Ethel Bedke, husband and wife and Kenneth Fairchild, a bachelor, Leroy Fairchild, a bachelor, and Ruth Fairchild, a widow, dated August 9, 1967 and recorded January 26, 1968 as Instrument No. 38703 on Film No. 54, records of Cassia County, Idaho. (Affects Lots 2 and 3 in Section 19, Township 13 South, Range 23 East of the Boise Meridian.)

Easement and Water Agreement between Ruth Fairchild, a widow, and Kenneth E. Fairchild, a bachelor and LeRoy Fairchild a bachelor, and M. Roy Steel and Iona Steel, husband and wife, dated April 7, 1976 and recorded January 18, 1979 as Instrument No. 113670 on Film No. 123, records of Cassia County, Idaho. (Affects NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33, Township 13 South, Range 23 East of the Boise Meridian)

ASSIGNMENT OF EASEMENT AND WATER AGREEMENT executed by Lowell T. Dayley and Sharlene Dayley, husband and wife to Peter M. Link, a single man, dated March 30, 1984 and recorded April 3, 1984 as Instrument No. 159552 on Film No. 164, records of Cassia County, Idaho.

Easement for Pipeline between LeRoy Fairchild, a single man and Ruth Fairchild, a widow and H & E Inc., an Idaho corporation dated July 12, 1983 and recorded July 20, 1983 as Instrument No. 153546 on Film No. 158, records of Cassia County, Idaho, over and across NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33, Township 13 South, Range 23 East of the Boise Meridian.

Power Line Easement from LeRoy Fairchild, sole owner to Idaho Power Company, a corporation, dated November 4, 1988 and recorded January 27, 1989 as Instrument No. 200013 on Film No. 204, records of Cassia County, Idaho, over and across NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, Township 13 South, Range 23 East of the Boise Meridian.

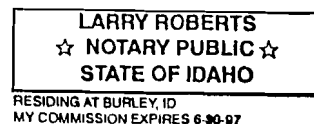
TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: January 13, 1995

LeRoy Fairchild
LeRoy Fairchild

STATE OF IDAHO)
) ss.
COUNTY OF Cassia)

On this 13th day of January, 1995, before me, the undersigned, a Notary Public in and for said State, personally appeared LEROY FAIRCHILD, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



Larry Roberts
Notary Public
Residing at: Burley
My Commission expires: 6-30-97

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DEC 03 1996

RECORDED AT THE REQUEST OF
LAND TITLE & ESCROW

FILM 262

1995 JAN 13 P 3:48

234734

DARRELL H. KOSMELLEY
RECORDER

FEE 600 DEPUTY LM

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DEC 03 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS

Governor PHILIP E. BATT

R. KEITH HIGGINSON
Director

January 31, 1995

LAND TITLE & ESCROW INC
NANCY GARRETT
PO BOX 177
BURLEY ID 83318

RE: #25723; REQUEST FOR SRBA CLAIM REPORTS ON PROPERTY LIST

DEAR NANCY GARRETT,

ENCLOSED PLEASE FIND THE SUMMARY PROOF REPORTS FOR THE SRBA CLAIMS THAT WERE FOUND TO COVER THE PROPERTY LISTED IN THE LEROY FAIRCHILD WARRANTY DEED AS YOU HAVE REQUESTED. BELOW IS A LISTING OF THE PARCELS AND CLAIM NUMBERS AS THEY CROSS REFERENCED:

T13S R23E SEC. 33	NWSE	A45-00574 & A45-00575
	NWSW	A45-00569 & A45-00575
	NESW	A45-00574, A45-00575,
		A45-00576, A45-00618,
		& A45-02658

NO WATER SRBA CLAIMS WERE FOUND TO BE APPURTENANT TO THE OTHER LANDS LISTED IN THE WARRANTY DEED EXCEPT THOSE LISTED ABOVE.

IF YOU HAVE FURTHER QUESTIONS PLEASE CALL OUR OFFICE.

SINCERELY,

STEVE CLELLAND
WATER AGENT, SR.

ENC:

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DEC 03 1996

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: A45-00569
Date Received:
Receipt No: X999999
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LE ROY FAIRCHILD 208-862-3345
Address: ROUTE #1, BOX 145
OAKLEY, ID 83346

2. Date of Priority: DEC 31, 1879

3. Source: SPRING CREEK Trib. to: MILL CREEK
MILL CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13S	23E	33	NW	SW			CASSIA
14S	23E	10	SE	NE			CASSIA

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.740		
STOCKWATER	01/01	12/31	0.030		1.40

7. Total Quantity Appropriated is:
0.740 C.F.S. (and/or) 1.40 A.F.A.

8. Total consumptive use is 95.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	23E	33	NW	SW		IRR	38.0

Section Acres 38.0

A45-00569

Page 1

Date: 07/06/89

MICROFILMED
MAR 07 1993

10. Place of Use: Continued

Total Acres 38.0

11. Place of use in counties: CASSIA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

14. Remarks:

SOURCES FOR THIS RIGHT ARE MILL CREEK & SPRING CREEK.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/26/1987

A. KENNETH DUNN

Decree Plaintiff

vs

KYLE ADAMS

Decree Defendant

MICROFILMED

MAR 07 1993

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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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: 45-00569

DATE RECEIVED:

RECEIPT NO: X999999

RECEIVED BY: -----

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. NAME: KENNETH FAIRCHILD
ADDRESS:

OAKLEY, ID 83346

NAME: LE ROY FAIRCHILD

ADDRESS:

OAKLEY, ID 83346

2. DATE OF PRIORITY: DEC 31, 1879

3. SOURCE: SPRING CREEK TRIB. TO: MILL CREEK
MILL CREEK

4. POINT OF DIVERSION:

TOWNSHIP	RANGE	SECTION	1/4 OF	1/4 OF	1/4	LOT	COUNTY
13S	23E	33	NW	SW			CASSIA
14S	23E	10	SE	NE			CASSIA

5. DESCRIPTION OF DIVERTING WORKS:

6. WATER IS USED FOR THE FOLLOWING PURPOSES:

PURPOSE	FROM	TO	C.F.S.	(OR)	A.F.A.
IRRIGATION	03/15	11/15	0.740		
STOCKWATER	01/01	12/31	0.030		1.40

7. TOTAL QUANTITY APPROPRIATED IS:
0.740 C.F.S. (AND/OR)

1.40 A.F.A.

8. TOTAL CONSUMPTIVE USE IS ACRE FEET PER ANNUM.

9. NON-IRRIGATION USES:

MICROFILMED

MAR 07 1993

10. PLACE OF USE:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4	LOT	USE	ACRES
13S	23E	33	NW SW		IRR	38.0
SECTION ACRES						38.0
TOTAL ACRES						38.0

11. PLACE OF USE IN COUNTIES: CASSIA, CASSIA

12. DO YOU OWN THE PROPERTY LISTED ABOVE AS PLACE OF USE? YES

13. OTHER WATER RIGHTS USED:

14. REMARKS:

SOURCES FOR THIS RIGHT ARE MILL CREEK & SPRING CREEK.

15. BASIS OF CLAIM: DECREE

CASE NUMBER:

COURT :

DECREE DATE: 3/26/1987

A. KENNETH DUNN

DECREE PLAINTIFF

KYLE ADAMS

VS

DECREE DEFENDANT

UNFILED

MAR 07 1993

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 ____ WISH TO RECEIVE AND PAY A SMALL ANNUAL FEE FOR MONTHLY COPIES OF THE DOCKET SHEET.

NUMBER OF ATTACHMENTS: _____

FOR INDIVIDUALS:

I/WE DO SOLEMNLY SWEAR OR AFFIRM THAT THE STATEMENTS CONTAINED IN THE FOREGOING DOCUMENT ARE TRUE AND CORRECT.

SIGNATURE OF CLAIMANT(S): *Le Roy Lanchier* DATE: May 18, 1989

DATE: _____

FOR ORGANIZATIONS:

I DO SOLEMNLY SWEAR OR AFFIRM THAT I AM _____ OF
_____, TITLE
_____, THAT I HAVE SIGNED THE FOREGOING
ORGANIZATION
DOCUMENT IN THE SPACE BELOW AS _____ OF
_____, TITLE
_____, AND THAT THE STATEMENTS CONTAINED IN THE
ORGANIZATION
FOREGOING DOCUMENT ARE TRUE AND CORRECT.

SIGNATURE OF AUTHORIZED AGENT

TITLE AND ORGANIZATION

DATE

STATE OF IDAHO)
COUNTY OF Cassia) SS.

SUBSCRIBED AND SWORN (OR AFFIRMED) BEFORE ME THIS 18th DAY
OF May 19 89

Anna Baunhoff
NOTARY PUBLIC

SEAL

RESIDING AT Anna Baunhoff, Notary Public
Residing at Boise, Idaho
MY COMMISSION EXPIRES December 7, 1994
DATE: 04/20/89

UNRECORDED

MAR 07 1993

45-00561

45-00576

45-00658

45-00619

45-00574

45-00575

45-00618

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. No.

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

Please type or print clearly:

Name of Claimant(s)

Le Roy Fairchild

Mailing Address
(include Zip Code)

Box 145 RT#1

Oakley, Idaho

83346

Phone Number

(208) 862-3345

MICROFILMED

MAR 07 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 22, 2006

Mr. And Mrs. Harold Rex Martin
72 E Basin Rd
Oakley, ID 83346

RE: Le Roy Fairchild/Martin rights

Dear Mr. & Mrs. Martin,

After talking with our Deputy Attorney General, Nick Spencer, it is the Department's understanding, according to the deed submitted with the ownership change, that Mr. Fairchild intended to keep the rights out of Fairchild Spring, 45-575 and 45-619, in their entirety, and split the other rights proportionately between the acres he retained and the acres you purchased. (45-575 is for stock water storage, irrigation, stock water, and domestic uses and 45-619 is for irrigation.) He retained ownership of the rights but did not file a transfer to move them to the property he retained, or somewhere else. These two rights should still be shown as appurtenant to the entire 35 acres they were originally decreed to in the Basin Creek Decree. The portion of the rights still appurtenant to the acres you purchased could eventually be lost if a transfer of the place of use is not filed by Mr. Fairchild within five years of the partial decree.

If this was not the intention of your agreement, then perhaps both parties should get together with their attorneys and execute new warranty deeds. (I will also be sending a letter to Mr. Fairchild regarding this matter.)

I will be out of the office next week, but give me a call the following week if you have any questions.

Sincerely,

Jeanie Robertson
Sr. Water Resource Agent



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 22, 2006

Mr. Le Roy Fairchild
84 E Basin Rd
Oakley, ID 83346

RE: Le Roy Fairchild/Martin rights

Dear Mr. Fairchild,

After talking with our Deputy Attorney General, Nick Spencer, it is the Department's understanding, according to the deed submitted with the ownership change, that you intended to keep the rights out of Fairchild Spring, 45-575 and 45-619, in their entirety, and split the other rights proportionately between the acres you retained and the acres purchased by the Martin's. (45-575 is for stock water storage, irrigation, stock water, and domestic uses and 45-619 is for irrigation.) You retained ownership of the rights but did not file a transfer to move them to the property you retained, or somewhere else. These two rights should still be shown as appurtenant to the entire 35 acres they were originally decreed to in the Basin Creek Decree. The portion of the rights still appurtenant to the acres you sold could eventually be lost if a transfer of the place of use is not filed within five years of the partial decree.

If this was not the intention of your agreement, then perhaps both parties should get together with their attorneys and execute new warranty deeds. (I will also be sending a letter to the Martin's regarding this matter.)

I will be out of the office next week, but give me a call the following week if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jeanie', written in dark ink.

Jeanie Robertson
Sr. Water Resource Agent

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2006 DEC 1 PM 3 31

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	)	Water Right Claims 45-574, 45-575, 45-576,
	)	45-618, 45-2658
Case No. 39576	)	
_____	)	ORDER OF REFERENCE TO SPECIAL
		MASTER TERENCE A. DOLAN

On November 29, 2006, this Court received correspondence regarding the possible errors in the *Partial Decrees* for the above-captioned water right claims. A copy of the correspondence is attached to this *Order*. The original of the correspondence was file stamped, docketed as received, and lodged in the subcase file. Where the water right claim was previously uncontested, a subcase file was created for the correspondence. Where a partial decree was previously entered for the water right claim, the partial decree was also included in the subcase file.

THE FOLLOWING ARE HEREBY ORDERED:

1. That Terrence Dolan is appointed Special Master to preside over the above-captioned water right claim for the following purposes:

a. To determine the intended purpose of the correspondence and the legal significance of the correspondence, if any. For example, the Special Master may determine whether the correspondence constitutes a motion to correct a clerical error pursuant to I.R.C.P. 60(a), or a motion to set aside a partial decree pursuant to I.R.C.P. 60(b), etc.;

b. To determine whether the correspondence complies with *SRBA Administrative Order 1 (AOI)* and the Idaho Rules of Civil Procedure or whether additional time should be granted to allow the party to file an appropriate motion with the Special Master and/or to obtain counsel in the matter; whether the matter should be dismissed on its face; or to

determine whether the matter would be more appropriately processed administratively through the Idaho Department of Water Resources;

c. If the correspondence is ultimately deemed a sufficient motion, or in the event a new motion is filed in compliance with the applicable rule(s), the Special Master shall conduct all proceedings necessary to issue a recommendation as to the underlying merits. For example, if the Special Master concludes a partial decree should be set aside or amended, the recommendation should not only include that the partial decree be amended or set aside, but should also include how the elements of the water right should be partially decreed.

2. The original of this **Order** shall be placed in the subcase file and the file transferred to the Special Master for proceedings consistent with this **Order**.

3. The Special Master shall issue a **Special Master's Report and Recommendation** on the matter consistent with **AOI**.

IT IS SO ORDERED.

DATED December 1, 2006



JOHN MELANSON
Presiding Judge
Snake River Basin Adjudication

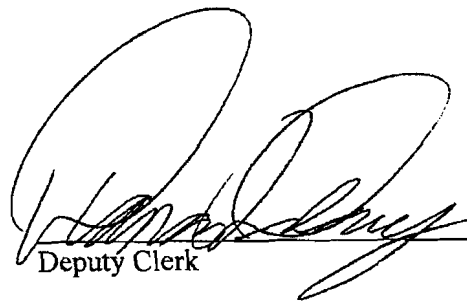
CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE TO SPECIAL MASTER DOLAN was mailed on December 1, 2006, with sufficient first-class postage to the following:

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

Leroy Fairchild
84 E Basin Rd
Oakley, ID 83346

Harold Martin
Anne Martin
72 E Basin Rd
Oakley, ID 83346



Deputy Clerk

6120

5/6/05

November 27, 2006
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2006 NOV 29 AM 11 58

Snake River Adjudication Court
253 3rd Ave. North
Twin Falls, ID 83301

To Whom It May Concern,

I Leroy Fairchild request that Partial Decrees 45-574, 45-575, 45-576, 45-618, and 45-2658 in the name of Harold and Anne Martin be set aside due to the reason that I retained a portion of the place of use and all of the spring known as Fairchild Spring when the north $\frac{3}{4}$ of the NE/SW Sec. 33 T. 13SR. 23E was sold to the Martins in 1995.

According to IDWR a letter was sent to me regarding the change of water right ownership that was filed in 2002 by the Martins in reference to the water right ownership purchased by Martins in 1995; however, I never received said letter because of problems with the mail delivery that was occurring in Oakley at the time. Therefore, I was never aware that all of these claims went entirely to the Martins until a few months ago.

I would appreciate any help in resolving this matter that you can give.

Sincerely,



Leroy Fairchild

Le Roy Fairchild
84 E Basin Rd.
Oakley, ID 83346

Snake River Bar
253 3rd ave
Twin Falls,

02/12/2004

NOTICE OF ERROR
REPLY

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: See cover letter

Water right number: 45-569

ANNE R MARTIN
72 E BASIN RD
OAKLEY ID 83346
Telephone Number: (208)862-3490

HAROLD REX MARTIN
72 E BASIN RD
OAKLEY ID 83346
Telephone Number: (208)862-3490

RECEIVED
MAY 28 2004

Department of Water Resources
Southern Region

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

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

DATE: MAY 23, 2004

SIGNATURE:

H.R. Martin

Please print your name:

HAROLD R. MARTIN

ANNE R. MARTIN

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301, 2087363033



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

Sent
July 24, 2003
C. [signature]

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Dear Basin 45 water user:

This letter is to inform you that you may be eligible to file additional claims with the Idaho Department of Water Resources (IDWR) in connection with the Snake River Basin Adjudication (SRBA). IDWR is sending this letter to water users whose water rights were adjudicated in the Basin Creek Adjudication during the years 1974 to 1988 and who might have relied upon the pre- and post-season irrigation provision and the non-irrigation season stockwater provision from the Basin Creek Adjudication when filing their claims in the SRBA.

The pre- and post-season irrigation provision from the Basin Creek Adjudication states:

The normal irrigation season is from March 15 to November 15, inclusive. Irrigation users shall be allowed to divert water during both the pre-irrigation and post-irrigation periods provided;

- a. **Waters so diverted are applied to a beneficial use, and existing water rights effective during the November 15 to March 15, including future appropriations, are first satisfied.**
- b. **In times of extremely high flows water may be diverted to avert flood damage downstream.**

The non-irrigation season stockwater provision from the Basin Creek Adjudication states:

"When stockwater is not a specifically mentioned use for a right that includes irrigation, a reasonable flow is implied and included for the watering of livestock during the non-irrigation season."

Recently in a case in the SRBA, the Idaho Supreme Court struck down general provisions that contained similar language. Because of the Idaho Supreme Court's ruling the pre- and post-season irrigation language and the non-irrigation season stockwater language quoted above will not be included in the General Provisions for Basin 45.

IDWR recognizes that in reliance on these provisions in the Basin Creek Adjudication, water users may not have filed claims in the SRBA to cover these situations. Individuals who historically used water during the pre- and post-irrigation season or have watered stock during the non-irrigation season may choose to file separate claims for these uses with IDWR. Otherwise, a water user's ability to use water outside the standard irrigation season might be impaired or lost.

To be eligible for a pre- and post-season irrigation claim, you or your predecessor(s):

1. Must have actually and historically irrigated during the pre- and/or post-season timeframes;
2. Must have filed an irrigation claim in both the Basin Creek Adjudication and the SRBA.

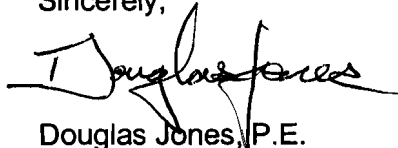
To be eligible for a new non-irrigation season stockwater claim, you or your predecessor(s):

1. Must have actually and historically watered livestock during the non-irrigation season without a separate stockwater right;
2. Must have filed a surface water irrigation claim in both the Basin Creek Adjudication and the SRBA;
3. Must not have filed a stockwater claim with the surface water irrigation claim.

Before IDWR can recommend these water rights to the SRBA court, you will be expected to submit evidence showing that water has been put to beneficial use outside IDWR's standard irrigation season.

If you meet these requirements, you may file a Notice of Claim form with IDWR. **To have a timely filing you must file this claim with IDWR by September 5, 2003.** Filing fees (\$50 per claim) will be required for the pre- and post-irrigation season claims. Filing fees will be waived for the non-irrigation season stockwater claims if filed before this deadline. Failure to file your claim in a timely manner may prevent you from claiming it in the future. Notice of Claim forms are available on IDWR's website at <http://www.idwr.state.id.us/water/srba/forms.htm> or from any IDWR office. You can call IDWR, Southern Region at (208) 736-3033 to make an appointment if you need assistance filling out a Notice of Claim form.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas Jones", with a stylized flourish extending from the end.

Douglas Jones, P.E.
Water Rights Supervisor
Idaho Department of Water Resources

12/20/2002

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

RIGHT NUMBER: 45-569
NAME AND ADDRESS: ANNE R MARTIN
RT 1 BOX 146
OAKLEY ID 83346
HAROLD REX MARTIN
RT 1 BOX 146
OAKLEY ID 83346

SOURCE: MILL CREEK
SPRING CREEK

TRIBUTARY:
TRIBUTARY: MILL CREEK

QUANTITY: 0.740 CFS
1.400 AFY

PRIORITY DATE: 12/31/1879

POINT OF DIVERSION:

T13S R23E S33 NWSW Within CASSIA County
T14S R23E S10 SENE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.030 CFS 1.40 AFY
IRRIGATION	03/15 11/15	0.740 CFS

PLACE OF USE: STOCKWATER Within CASSIA County
T13S R23E S33 NWSW
IRRIGATION Within CASSIA County
T13S R23E S33 NWSW 38.0

38 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: Decreed

45-569



0 1320 2640 3960 Feet

RECOMMENDED PLACE OF USE
DATA ENTRY ON DEC. 23, 2002
TWP 13S, RNG 23E, SEC.33



- ⊙ Point of diversion
- Place of use
- Quarter-quarter lines
- ▭ Section lines

Gis Place of Use Presentation
1987/1988 Napp Photography
Prepared by Jeanie Robertson

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 45-569 V1

WATER RIGHT NUMBER: 45-569 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	KENNETH FAIRCHILD
Current Owner	OAKLEY, ID 83346 ANNE R MARTIN RT 1 BOX 146 OAKLEY, ID 83346 (208)862-3490
Current Owner	HAROLD REX MARTIN RT 1 BOX 146 OAKLEY, ID 83346 (208)862-3490
Original Owner	LE ROY FAIRCHILD RT #1 BOX 145 OAKLEY, ID 83346 (208)862-3345

Priority Date: 12/31/1879

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MILL CREEK	MILL CREEK
SPRING CREEK	

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.030 CFS	1.40 AF
IRRIGATION	03/15 to 11/15	0.740 CFS	
	<u>Total Diversion:</u>	0.740 CFS	1.40 AF

Location of Point(s) of Diversion

MILL CREEK	SE1/4NE1/4	Sec. 10, Twp 14S, Rge 23E, B.M.
CASSIA County		
SPRING CREEK	NW1/4SW1/4	Sec. 33, Twp 13S, Rge 23E, B.M.
CASSIA County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	23E	33											X						

IRRIGATION

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 45-569 V1

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	23E	33																	38.0

Total Acres: 38

Conditions of Approval:

1. C18 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.

Remarks:Comments:

1. jroberts 12/20/2002 Basis of Recommendation
Comment: Recommendation per Basin Creek Decree of 3/27/1987.

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector:
 Water District Number: 45A
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Element Reviewed/Verified Dates:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status
Priority Date	12/20/2002 2:35:06 PM	jroberts			Active
POD	12/20/2002 2:35:22 PM	jroberts			Active
Source	12/20/2002 2:40:56 PM	jroberts			Active
POU	12/20/2002 2:41:17 PM	jroberts			Active
Use	12/20/2002 2:42:37 PM	jroberts			Active
Season	12/20/2002 2:43:34 PM	jroberts			Active
Quantity	12/20/2002 2:44:34 PM	jroberts			Active
Summary			12/20/2002	jroberts	Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 45-569 V1

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Priority Date	12/20/2002 2:35:07 PM	jroberts	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POD	12/20/2002 2:35:24 PM	jroberts	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file? (No) 10. Is a POD remark and/or condition required?
POD	12/20/2002 2:39:44 PM	jroberts	Edited point location
POD	12/20/2002 2:39:54 PM	jroberts	Edited PLS
POD	12/20/2002 2:40:09 PM	jroberts	Edited point location
POD	12/20/2002 2:40:19 PM	jroberts	Edited PLS
Source	12/20/2002 2:40:57 PM	jroberts	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
POU	12/20/2002 2:41:19 PM	jroberts	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (No) 14. Is a POU remark and/or condition required?
POU	12/20/2002 2:41:44 PM	jroberts	Edited shape boundary
POU	12/20/2002 2:41:53 PM	jroberts	Edited PLS
POU	12/20/2002 2:42:19 PM	jroberts	Edited shape boundary
Use	12/20/2002 2:42:39 PM	jroberts	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (No) 13. Is a Purpose of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 45-569 V1

Season	12/20/2002 2:43:36 PM	jroberts	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a Period of Use? (Yes) 5. Can the claimed Period of Use be verified using the water right file? (Yes) 14. Is irrigation claimed as a Purpose of Use? (No) 16. Is the Period of Use on the decree, license or transfer shorter on either the start date or end date than allowable under current IDWR standards? (No) 18. Is a Period of Use remark and/or condition required?
Quantity	12/20/2002 2:44:36 PM	jroberts	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (Yes) 8. Does the parent right have an annual diversion volume limit? (Yes) 10. Is a irrigation a purpose of use? (No) 12. Is a Quantity remark or condition required? Description for Question 10 - Volume determined by decree for stockwater use only.
Summary	12/20/2002 2:45:53 PM	jroberts	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (No) 5. Is an additional remark and/or condition required? (Yes) 6. Would you like to view the recommended right? (No) 7. Is this a split or combined right? (No) 8. Do you have documents you would like to attach or link to the file? (Yes) 9. Would you like to set the verification date?



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 26, 2002

HAROLD & ANNE MARTIN
RT 1 BOX 146
OAKLEY ID 83346

Re: Ownership Change from Fairchild

Dear Mr. & Mrs. Martin,

I have been reviewing your adjudication claims and came across this ownership change from Fairchild to you back in 1995. On the form, the question asked if the change resulted in a splitting of the water rights and NO was checked. However, in the warranty deed, it looks like Mr. Fairchild retained the S ½ of the S ½ of the NESW of Section 33, T 13S, R23E (about 10.5 acres) and the water rights appurtenant to them. (The deed also mentions specifically water rights from Fairchild Canyon Spring Creek.)

There are six water rights appurtenant to 35 acres in the NESW with sources of Mill Creek, Spring Creek, Fairchild Springs, and ground water. The ownership was changed to Martin on all of them, but perhaps some or all of them need to be split? If so, how many of the 35 irrigated acres should go to each of you? Please give me a call at the office so we can straighten this out. (I will also contact Mr. Fairchild).

Sincerely,

Jeanie Robertson
Sr. Water Resource Agent



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 26, 2002

LE ROY FAIRCHILD
RT 1 BOX 145
OAKLEY ID 83346

Re: Ownership Change to Martin

Dear Mr. Fairchild,

I have been reviewing adjudication claims in the area and came across this ownership change from you to Martin back in 1995. On the form, the question asked if the change resulted in a splitting of the water rights and NO was checked. However, in the warranty deed, it looks like you retained the S ½ of the S ½ of the NESW of Section 33, T 13S, R23E (about 10.5 acres) and the water rights appurtenant to them. (The deed also mentions specifically water rights from Fairchild Canyon Spring Creek.)

There are six water rights appurtenant to 35 acres in the NESW with sources of Mill Creek, Spring Creek, Fairchild Springs, and ground water. The ownership was changed to Martin on all of them, but perhaps some or all of them need to be split? If so, how many of the 35 irrigated acres should go to each of you? Please give me a call at the office so we can straighten this out. (I will also contact Mr. & Mrs. Martin).

Sincerely,

Jeanie Robertson
Sr. Water Resource Agent

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 45-569

WATER RIGHT NUMBER: 45-569

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LE ROY FAIRCHILD
	OAKLEY, ID 83346
Current Owner	KENNETH FAIRCHILD
	OAKLEY, ID 83346

Priority Date: 12/31/1879

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MILL CREEK	
SPRING CREEK	MILL CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	0.740 CFS	
STOCKWATER	1/01 to 12/31	0.030 CFS	1.40 AF
	<u>Total Diversion:</u>	0.740 CFS	1.40 AF

Location of Point(s) of Diversion

SPRING CREEK	NW1/4SW1/4	Sec. 33, Twp 13S, Rge 23E, B.M.
CASSIA County		
MILL CREEK	SE1/4NE1/4	Sec. 10, Twp 14S, Rge 23E, B.M.
CASSIA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
13S	23E	33	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
																			38.0

Total Acres: 38

STOCKWATER same as IRRIGATIONConditions of Approval:Remarks:

- General SOURCES FOR THIS RIGHT ARE MILL CREEK & SPRING CREEK.

Comments: