

Law Offices

***RIGBY, THATCHER, ANDRUS
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October 7, 2005

Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau
900 N. Skyline Dr. Suite A
Idaho Falls, ID 83402

Re: Marshall Water Right #21-10906

Dear Mr. Ruberry:

I write this letter in support of the above Water Right and some related matters. First of all, I enclose herewith the following:

- Exhibit A.1— map of the area, including the source of the water, diversionary works, and place of use
- Exhibit A.2 – the history of the Marshall water right, color coded to the map.
- Exhibit B – the IDWR Adjudication Claim Report
- Exhibit C – a letter dated September 26, 2005, from Jim Marshall
- Exhibit D – a letter dated September 1, 2005, from Dick Seeley
- Exhibit E – a letter dated September 13, 2005, from John R. Hess
- Exhibit F – a letter dated September 16, 2005, from Dick Baker
- Exhibit G – a letter from you, A. Ruberry, to your file, referring to visit notes with Dick Seeley. Even though this concerns Dick Seeley's water right, it does have some bearing upon the Marshall water right.

Kevin Egbert and Z.J. Egbert have water right number 21-11973. Mr. Marshall and Mr. Seeley are not clear on whether Egbert's said right or any other Egbert right or claim, affects the Marshall claim and the Seeley claim. So, reference is made herein, with the request that you examine any documents in the

court files wherein Egberts have made any claim that the source of their water, or otherwise, affects either the Marshall or Seeley claim.

-Exhibit H – in case the record may reveal documentation concerning a possible claim by Reid T. Richey, this exhibit indicates that such claim (claim number 21-7115) was denied. For a more detailed explanation of the relationship between Richey and Marshall, please review Exhibit A.2 above. To reclaim some additional farming land, Richey wanted to drain the so called “Unnamed Lake.” To do so, it required that a channel be dug across the Marshall land, which was allowed by Marshall, with the understanding that the water so drained would be Marshall’s, upon which he could file this claim. The exhibits above, taken together, should establish that all of the water from the “Unnamed Lake,” also known as the Richey Lake, was claimed and used by Marshalls, to the exclusion of anyone else, during the irrigation season. Naturally, heavy runoff from melting snows, etc., would result in some excess water, at times, flowing on down into the irrigation ditch (as indicated on A.1 and A.2), and into the river.

Water Right number 21-7174

As a separate matter, pertaining to Marshall claims, we submit IDWR Water Right Report for Water Right number 21-7174. For your reference, we are sending you a copy of the Application for Permit for this water right, together with a copy of the publication of notice of said application and a copy of the IDWR Water Right Report. Our question is, was there ever a “Partial Decree” issued in this matter, and, if it wasn’t, the IDWR report indicates that it was licensed. Both Donald and Wanda Marshall are dead and the family cannot find a copy of that license. So, we would like to have verification and documentary evidence if possible for this right.

General Information

Wanda Marshall died on November 11, 2000, and Donald Marshall died on December 15, 2000. There was no necessity for a probate, because their property had been transferred. As proof of that transfer, I submit herewith copies of the following documents:

Exhibit 1 – Warranty Deed dated September 6, 1996, from Donald R. Marshall and Wanda O. Marshall to James G. Marshall and Tracy Flint Marshall

Exhibit 2 – Quitclaim Deed dated September 7, 1996, from Tracy Flint Marshall to James G. Marshall

Exhibit 3 – Quitclaim Deed dated June 6, 2000, from Tracy Flint Marshall to James G. Marshall and Colleen Marshall

Exhibit 4 – Deed of Correction dated October 19, 2000, from Wanda Marshall to James G. Marshall

Exhibit 5 – Quitclaim Deed dated November 6, 2001, from Tracy Flint Marshall to James G. Marshall and Colleen Marshall

Alan B. Ruberry, IDWR
Re: Marshall Water Right #21-10906
October 7, 2005

Page 3

This transfer information is furnished so that the water right can be issued in the name of James G. Marshall (Jim Marshall).

Sincerely,

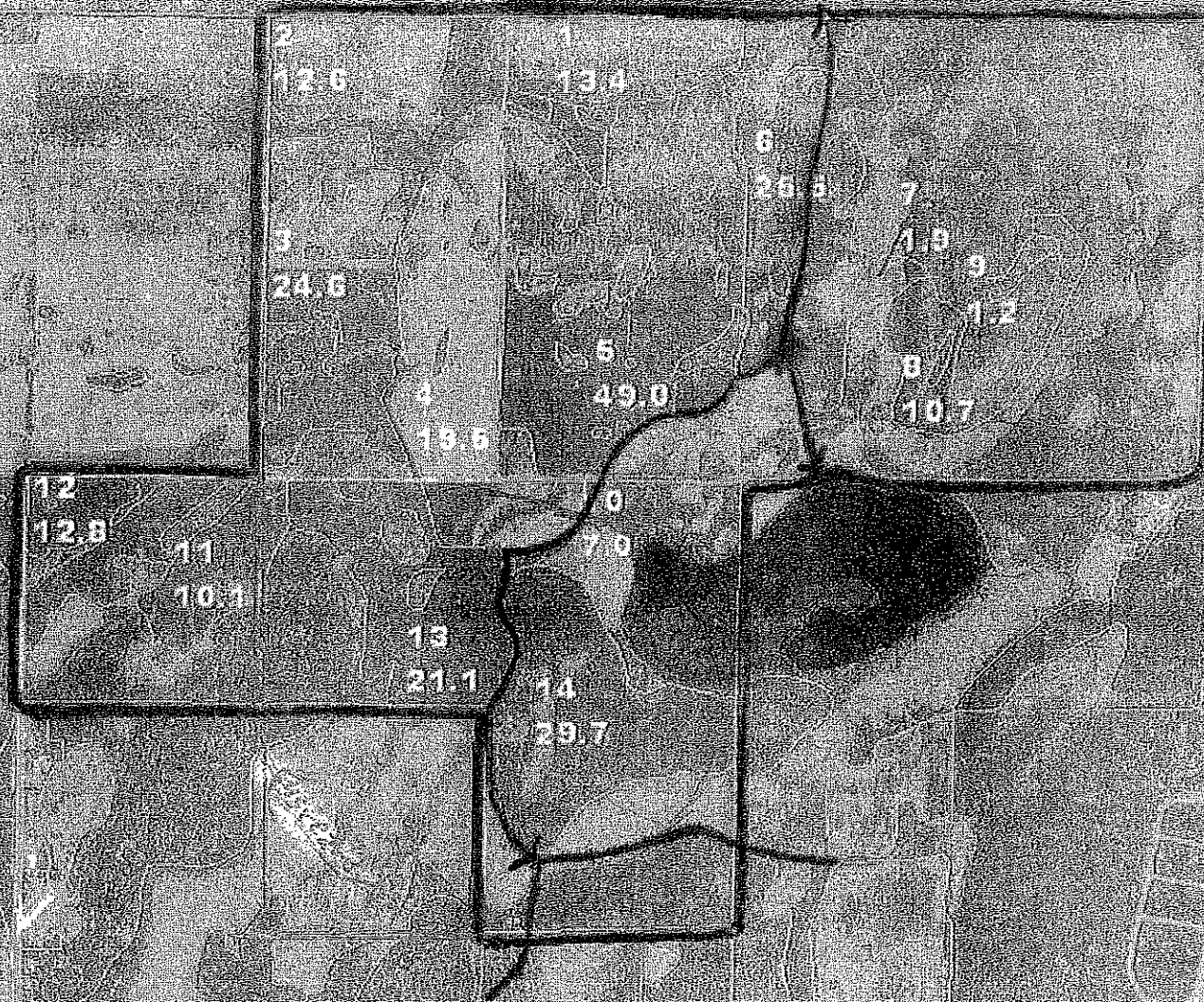
A handwritten signature in cursive script that reads "Ray W. Rigby". The signature is written in dark ink and is positioned below the word "Sincerely,".

Ray W. Rigby

RWR/sje
Enclosures

Cc: Jim Marshall

F:\WP6\DK\MARSHALL.LT9



Marshall Water Right 9/7/05

Color Code

Green: Ritchie Lake (IDWR calls it "unnamed")

Yellow: Land irrigated by Marshall's

Blue: Land watered by Egbert's

Orange: Farmer's Own Canal

Brown: The lateral ditch from Farmer's Own Canal

Pink: Intersection of ditch (brown) and lake drain (purple)

Purple: Lake drain

Red: Marshall place

516

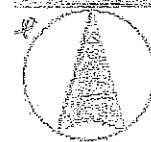
NOT TO SCALE 660

71011

Sec 22/23/26 T9N R42E

F:\WP6\DK\Marshall.cc

0 0.1 0.2 0.3 0.4 Miles



Color Code:

-Green: The lake known as the Ritchie Lake, but given the designation of "Unnamed Lake" by IDWR

-Yellow: The land watered by the Marshalls

-Blue: The land watered by the Egberts

-Orange: Farmer's Canal

-Brown: The ditch from Farmer's Canal through the Marshall land to the intersection with the drain ditch from the lake to the pump pond and any surplus goes on to the river and pursuant to the agreement of the parties referred to and the Dick Seeley and Jim Marshall letters, that the parties went to Ray Rigby's office where the Egberts agreed they would take their water rights out of the river and not from Richey Lake.

History:

The Marshalls own shares of stock in Farmer's Own Ditch and take water from the canal through the main ditch (brown) to an intersection with a drain with Richey Lake where they have a pump.

The recent history of use by Marshall:

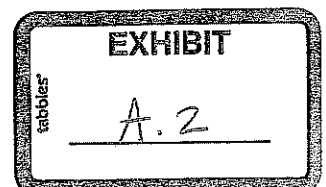
1. The Marshall rights in the Farmer's Own Canal came down the main ditch (brown) beyond what is now the intersection with the drain from the lake and beyond the present pump pond to the Marshall land where they surface irrigated about 100 acres of pasture land. And that all started about 1900.
2. About 1950 (see Marshall's SRBA claim for date—Jim's parents filed on the water coming from the Richey Lake about 1950(?)—see if we can find a copy of the filing—check 1950 and/or 1979) until that drain from the lake was constructed, neither Marshalls nor Egberts or anyone had used water out of Ritchie Lake. Marshall is the first user out of the drain from the lake water, which is intermittent.
3. When Marshalls started using water out of Richey Lake, it was co-mingled with water from the Farmer's Own canal, which came down the main ditch (brown) and they joined at the intersection labeled "pump pond" and was used to surface irrigate until about 1978-1980 when they converted their irrigation system to a 30hp pump and hand lines and sprinklers and increased the acreage irrigated (at this time, then, they irrigated about 45 acres).
4. In 2004, Jim Marshall installed a new sprinkler system using a 50 hp motor and irrigated 140 acres. And that's the condition today.
5. Egberts, who are also stock holders in Farmer's Own Canal Co. (?) got permission to pump out of the river (a change in point of diversion) but, he continues to claim an interest in water from the Ritchie Lake and in the drain ditch, which takes that water through the Marshalls to his own acreage, and he has greatly increased his acreage.

*Note: Marshall and Seely (including Dick Seely) came to see Ray Rigby

*So, Egbert and Marshall have both filed on the water coming from Ritchie Lake and the Marshalls claim that theirs was ahead of Egbert (check with the IF office of IDWR and our own files to see if we can find a copy of the agreement between Seely, Marshall, and Egbert.

-Reynolds, Hess, Baker, Seely would testify of Marshall's use of water

-See if you can find claims.



EXHIBIT

tabbies

B

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

10/05/2005

WATER RIGHT NO. 21-10906

Owner Type	Name and Address
Current Owner	DONALD R MARSHALL
Current Owner	WANDA MARSHALL
	3475 E 1425 N
	ASHTON, ID 83420
	(208)652-3390

Priority Date: 04/01/1950

Basis: Beneficial Use

Status: Active

Source	Tributary
UNNAMED LAKE	HENRYS FORK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	0.4 CFS	
Total Diversion			50 CFS	

Location of Point(s) of Diversion:

UNNAMED LAKE	SESW	Sec. 23	Township 09N	Range 42E	FREMONT County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION FREMONT County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
09N	42E	23		SWNW	10									
				NWSW	10									

Total Acres: 20

Conditions of Approval:

1. SEE MEMORANDUM DECISION AND ORDER FOR APPLICATION NO. 21-7115.

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

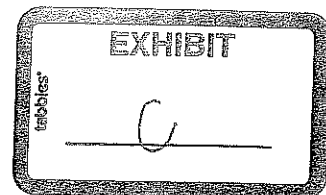
Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close



Idaho Dept of Water Resources
Eastern Region
900 N Skyline Dr. STE A
Idaho Falls, ID 83402

September 26, 2005

Dear Idaho Dept of Water Resources,

I am writing this letter to support the beneficial use of water from the Richey Pond and to dispute the filing of Z.J. Egbert on this water.

The water from Richey pond has been used by my family for supplemental irrigation water and fall livestock water ever since the drain ditch was dug by Elton Richey in about 1950 or 1949. The drain ditch is about 700 feet long thru our land and 12 feet deep at one place. This drain ditch is large and has created about 1 acre of wasteland that we have tolerated all these years for the small amount of water that drains from the lake. It flows into one of our irrigation ditches that originates at the Farmer's Own ditch. Where these ditches intersect, we have had a 30 horse pump since 1980. In 2003 we installed a 50 horse pump at the same place and have installed a pivot. The ditch continues thru our place for 1900 feet and then thru Egberts pasture for about 900 feet to the river(North Fork of the Snake). They have changed the ditch on their land so it flows into a reservoir that they have installed at the mouth of Spring Creek.

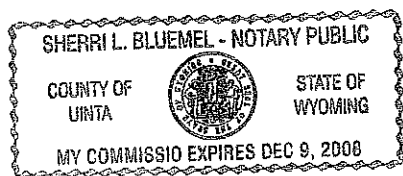
The Egberts when they had a right in the Farmers Own Ditch did irrigate some land from this ditch. In the 70's they changed their diversion point and started to pump from the river. The only way they used this water from Richey Lake was out of the river if any water got by us. There is some wastewater and over flow from our pump and high water early in the spring that gets to the Egberts. Truthfully, since the 70's we have used this water as our own and maintained the ditch etc. My father filed on this water in 1950. In 1978 or 1979 Z. J. filed on this water and my father and two neighbors Ray Osborne and Dick Seeley went down to Ray Rigbys and there was some kind of agreement. I don't know just what the out come was, I do know my father thought he had proven his right to the water. Z. J. did not pursue his filing ambitions and we continued to use the water as if we had the right, which we do. Ray Rigby has not been able to find his notes on this meeting but remembers the occasion. Dick Seeley remembers this meeting also.

I think this filing of Z.J.'s is just an opportunist grab for water because he is short of water.

Sincerely,
Jim Marshall

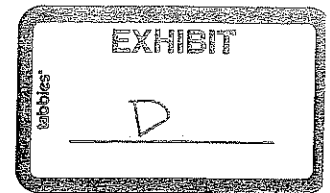
A handwritten signature in cursive script that reads "Jim Marshall".

CB



A handwritten signature in cursive script that reads "Sherri L. Bluemel".

September 1, 2005



To Whom It May Concern:

This statement is made to support the beneficial use of water from the Richey Pond for irrigation purposes by the Marshall family.

During the latter 40's and early 50's I lived off and on approximately ¼ mile east of the Marshall farm. From 1958 to 1962, during the summers, I worked for Don and Wanda Marshall on their farm. Since then, my family or I have owned a farm directly north across the Snake River from their place.

Mr. Elton Richey had an outlet dug for the Richey Pond so that it would partially drain and give him more pasture. Marshall's did not object to the outlet being dug, as it was an additional irrigation water source for the Marshall family as it went through their place.

While in junior high and high school, I would help Marshall's pick potatoes. Potatoes were planted throughout the farm on a crop rotation basis with hay and grain. Water from this pond was used for irrigation when possible. When I worked for Marshall's in the summer time (1958-62), I remember setting water on potatoes in a field adjacent to the Ray Osborne place and not having enough water from the pond to run the desired amount of tubes.

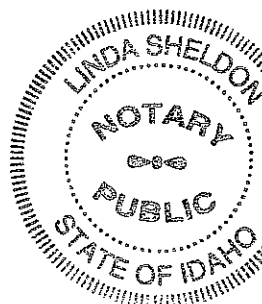
I recall that in the latter 70's or early 80's Don Marshall, Ray Osborne and myself went to attorney Ray Rigby's office and met with the Egberts. At that time Egbert's had filed on the Richey Pond water and Don asked me to go to this meeting with him to verify beneficial use of the water. I can't remember the agreement made, but I do know that the Egberts haven't used any of the water or maintained any of the ditches for many years, as they have pumped from the reservoir. Ray Rigby should have records of this meeting.

To my knowledge, this water has been used whenever available to irrigate land owned by the Marshall's since Mr. Richey dug the outlet in the 1950's.

Sincerely,

Dick Seeley
Dick Seeley

Box 654
Ashton, Idaho 83420

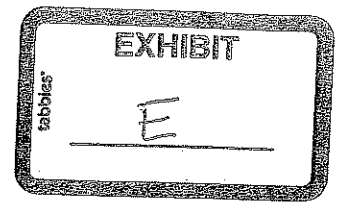


STATE OF IDAHO
COUNTY OF FREMONT
CITY OF ASHTON

On this 9th day of Sept, 2005,
before me a notary public in and for said State, personally
appeared Dick Seeley known to me to be the
(person/persons) whose (name/names) (is/are) subscribed to
the within instrument and acknowledged to me that (he/she, they)
executed the same.
My commission expires 1-28-06

Linda Sheldon

3490 East 1000 North
Ashton, Idaho 83420
September 13, 2005



TO WHOM IT MAY CONCERN:

I, John R. Hess, have known the Marshall family all of my life. They have farmed north of Ashton, Idaho between the area of 3475 East 1425 North. By their property is a small lake known by the local people as Richey Lake, and this lake sets on the Richey property and a spring known as Shit Creek.

Besides the water used from the Farmer's Canal for irrigation, the Marshall Family have used this lake for their irrigation, as well as water for their stock. One of their pumps sets on the outlet of the lake and it draws water from both the lake and the Farmer's Canal ditch. The only time any water goes pass this pump, into Shit Creek and into the Reservoir of the Snake River, is if there is a malfunction of the pump during the irrigation season or if the water has been turned in the ditch only for stock water in the irrigation's off season.

The outlet of the lake was dug in the early fifties by the Richey Family with the idea that it was only a pothole and could be drained and farmed, but it was discovered that there is a small spring in the bottom of the pothole. In the dry years, the water is lost due to evaporation, but in the wet years, the water can be high enough to pump water out of it for irrigation, thus, making it impossible to be used as pasture or farm land.

To my knowledge, the Marshall family filed and used this water for flood irrigation before they installed their pump. Since the installation of the pump, they have used the water to irrigate the 160 acres that it runs through.

We, Hess Farms, Inc., have been renting the Marshall farm for the last four years and we have worked hard to improve the irrigation system so that it is more efficient and labor saving. This water has been used for irrigation since the early fifties, and it has always been owned and used by the Marshall family for their irrigation and stock water.

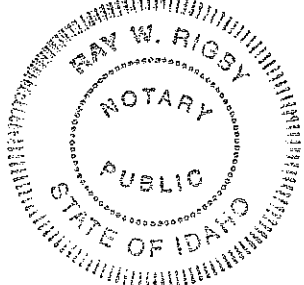
Sincerely,

A handwritten signature in cursive script that reads "John R. Hess".

John R. Hess, Hess Farms, Inc.

State of Idaho.)
 ss.
County of Madison)

On this 13th day of September, 2005, before me personally appeared JOHN R. HESS, to me known (or proved to me on basis of satisfactory evidence,) to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed the same.



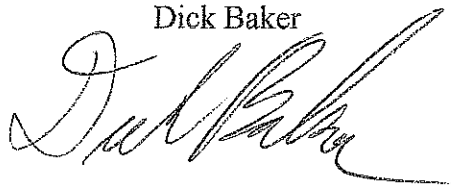
A handwritten signature in cursive script that reads "Ray W. Rigby".

Notary Public for Idaho
Residing at: Rexburg, Idaho
My Comission Expires: 3-12-2011

I Dick Baker rented and farmed the Marshall place from 1986 until 1998. They used the Richey pond for irrigating their pastures and some hay during the time that I was farming the property.

Sincerely,

Dick Baker



STATE OF IDAHO, COUNTY OF FREMONT

On this 16 day of Sept 2005,
before me, a notary public in and for said State, personally
appeared

Dick Baker

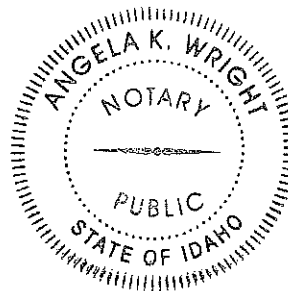
known to me to be the person whose name
subscribed to the within instrument and acknowledged to
me that he executed the same.

Angela K. Wright

Notary Public
Idaho

Residing at
comm. expires:

Ashton
6-18-10



MEMORANDUM

15 December 2004

To: the file of 21-11973

From: A. Ruberry

Subject: Visit notes of Mr. Dick Seeley

Mr. Seeley and wife were in today to inquire into and discuss the claim filed by Z.J. Egbert on water of Willow Creek, tributary to Ashton Reservoir. Mr. Seeley was upset that the Department would allow Mr. Egbert to even file a claim because there was a decree (circa) 1977 that decreed certain waters from Willow Creek to Mr. Seeley with a 1893 priority and, apparently, decreed water to Egbert with something like a 1952 priority.

I explained that anyone could file a claim on any water. Immediately, they would have two problems: 1. Ownership, 2. Use. Further, that Mr. Egbert had filed 21-11973 as a Beneficial Use claim with an 1893 priority date. The priority date and basis of claim did not fall under the purview of the 1977 decree and therefore could not be recommended with an 1893 priority, unless there was something that we did not know at this time.

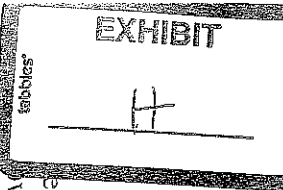
Mr. Seeley stated that Egberts pump all summer from the reservoir but he did not know when they go on storage from Fremont-Madison Irrig.

What is interesting here is that Egbert filed 21-11973 as BU, but, according to Seeley have a 1952, or so, decree. That right is unknown at this time.

Mr. Seeley will send copies of the decree (1977) and the deed to his property for review in this issue.

21-11973 Also Requires Evidence of
Priority —

IDWR Water Right and Adjudication Search



This search tool is used for both active and inactive water rights. If you want to search only active water rights, please uncheck the box

☒ Search for both active and inactive water right records.

Search Results

Type of Query

☒ All SRBA & Water Rights	
SRBA	Water Rights
☐ Claims	☐ Applications
☐ Recommendations	☐ Permits
☐ Both	☐ Decrees, Licenses and Statutory Claims
	☐ Transfers
	☐ All of the above

Basin Who What When Where

Query parameters:

basinFrom = 21

sequenceNumberFrom = 7115

Search for: both active and inactive Records

Information for type: Application

	Record	Basin	Sequence	Suffix	Version	Basis	Status	Priority Date	Diversion Rate	Source List	Water Uses	Owner List
Details	1	21	7115				Denied					RICHEY, REID T (Current)
General Provision												

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Application Report

There is no water application ID for water right number 21-7115

10/6/2005

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

10/06/2005

WATER RIGHT NO. 21-7174

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DONALD R MARSHALL
Current Owner	WANDA MARSHALL
	3475 E 1425 N
	ASHTON, ID 83420
	(208)652-3390

Priority Date: 06/18/1979

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
BASELL SPRINGS	SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	4/01	11/01	0.02 CFS	1.2 AFA
Total Diversion			0.02 CFS	

Location of Point(s) of Diversion:

BASELL SPRINGS	NWNE	Sec. 01	Township 09N	Range 41E	FREMONT County
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Licensed Diversion Capacity: 0.03

Place(s) of use:

Place of Use Legal Description: STOCKWATER FREMONT County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
09N	41E	1		NWNE										

Conditions of Approval:

1.	R04	Use of water under this water right will be regulated by the watermaster of State Water District No. 01 .
2.		Stockwater use is for 150 cattle.

Dates:

Licensed Date: 03/07/1991

Decreed Date:

Permit Proof Due Date: 3/1/1990

Permit Proof Made Date: 3/27/1989

Permit Approved Date: 3/18/1985

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 06/18/1979

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 01

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

**NOTICE OF APPLICATION
FOR WATER RIGHT**

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

Applicant No.: 21-7174
Applicant: MARSHALL, DONALD R. &/or WANDA; STAR ROUTE, ASHTON, ID 83420
Source: BASSELL SPRINGS tributary to SINKS

Date Filed: 06/18/1979
Amount: 0.02 CFS
Diversion Point: NWNE Sec 01 T 09N R 41E, FREMONT Co.

Use: STOCKWATER (0.02 CFS) from 04/01 to 11/01

Place of Use: NWNE Sec 01 T 09N R 41E

Diversion Means: PIPE & TROUGHS

Applicant No.: 21-7175

Applicant: REYNOLDS, DEE &/or NIKKI; P O, BOX 39, ASHTON, ID 83240

Source: GROUNDWATER

Date Filed: 06/21/1979

Amount: 0.20 CFS

Diversion Point: NWSE Sec 25 T 09N R 42E, FREMONT Co.

Use: IRRIGATION (0.16 CFS) from 04/01 to 11/01; DOMESTIC (0.04 CFS) from 01/01 to 12/31

Place of Use: NWSE Sec 25 T 09N R 42E FOR 8 ACRES

Diversion Means: WELL, PUMP SPRINKLER SYSTEM & CULINARY DELIVERY SYSTEM

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Rd., Idaho Falls, Idaho 83401 on or before JULY 23, 1979.

C. STEPHEN ALLRED
Director

Publ. July 5 and 12, 1979AH

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Donald R. and Wanda Marshall Phone 652-3390
Post office address Star Route, Ashton, Idaho 83420

2. Source of water supply Bassell Springs which is a tributary of sinks

3. Location of point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 1 Township 9N

Range 41E B.M. Fremont County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.02 for Stockwater purposes from 4/1 to 11/1 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 0.02 cfs cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Perforated pipe to settlement basin
to 300 feet of 1 inch pipe to watering troughs.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir
capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial
use is five years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 1 Township 9N

Range 41E B.M.

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered 150 range cattle

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____

(5) If water is to be used for other purposes describe: _____

b. If $\mathcal{A}$

[illegible]

Total number of acres to be irrigated

c. Describe any other water rights used for the same purposes as described above. None

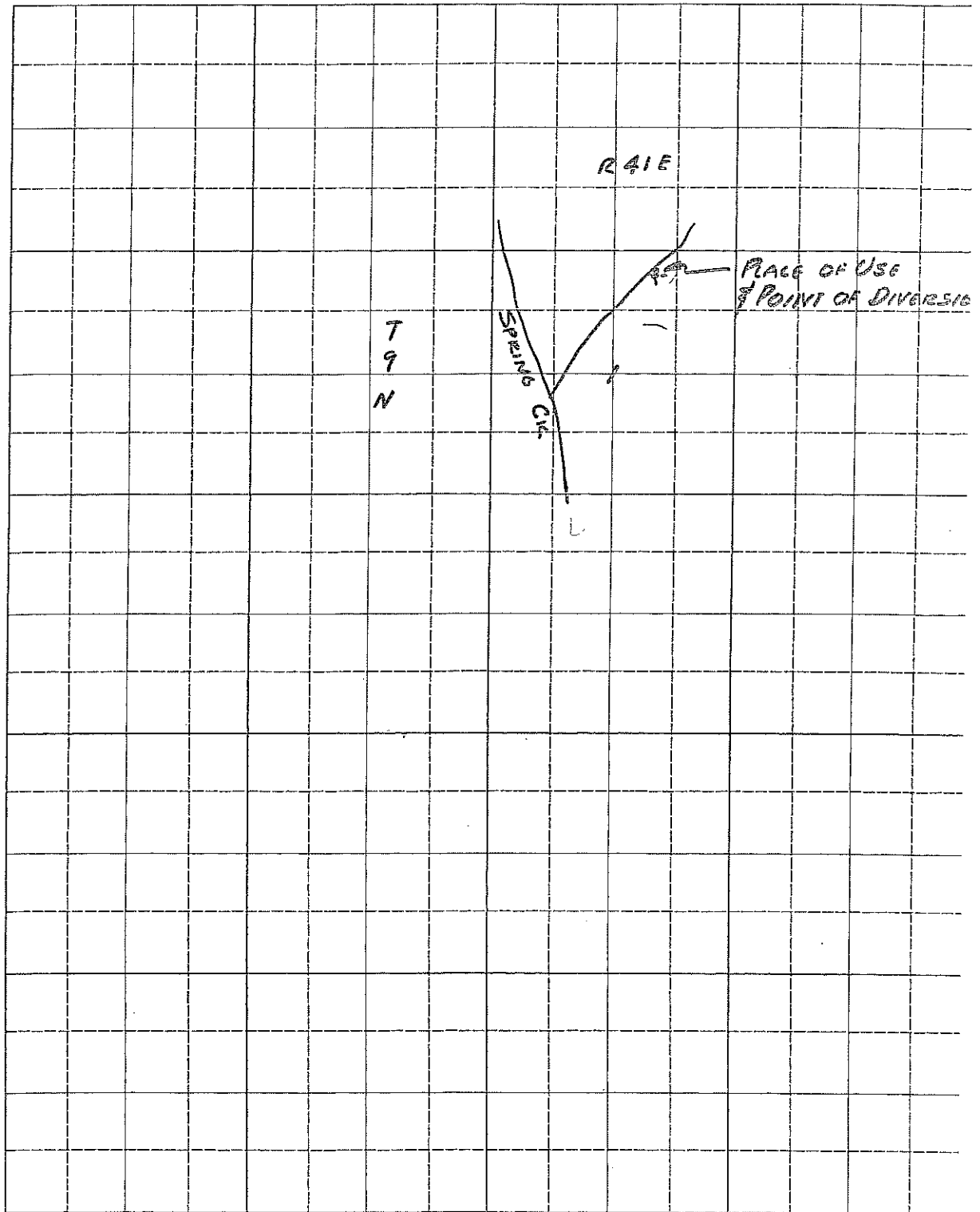
9. a. Who owns the property at the point of diversion Applicant

b. Who owns the land to be irrigated or place of use _____ Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing

10. Remarks

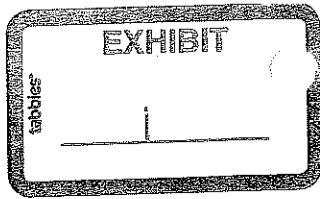
11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Donald R Marshall
(Applicant)



COPY

WARRANTY DEED

497555
Film No. 12 Day 20 1995
At 12:32 O'Clock P M
ABBIE MACE
FREMONT CO RECORDER
Fee \$ 9.00
Recorded at Request of
Ray W. Bigley Deputy

THIS INDENTURE, Made this 6th day of September, 1996, between DONALD R. MARSHALL and WANDA O. MARSHALL, husband and wife, of 3475 E. 1425 N., Ashton, ID 83420, the parties of the first part, and JAMES G. MARSHALL, a married man, of 397 Magpie Lane, P.O. Box 731, Lyman, WY 82937, and TRACY FLINT MARSHALL, a single man, of 3475 E. 1425 N., Ashton, ID 83445, the parties of the second part,

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Ten and no/100 Dollars, lawful money of the United States of America, and other valuable consideration to them in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, 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 of their interests in and to the following described real estate, situated in Fremont County, State of Idaho, to-wit:

The South Half Southeast Quarter; the Northeast Quarter Southeast Quarter, and the Southeast Quarter Northeast Quarter of Section 22, Township 9 North, Range 42 East, Boise Meridian.

ALSO: The Southwest Quarter Northeast Quarter; the Northeast Quarter Southwest Quarter; the Southeast Quarter Northwest Quarter; Tax 2, more particularly described as: Beginning 4 rods 4 links (68 feet 7.68 inches) North of the Southeast corner of the Northwest Quarter Southeast Quarter, thence North 9.09 chains (599.94 feet), thence East 6.70 chains (442.2 feet), thence South 3.10 chains (204.6 feet), thence S39°06'25"W 469.9 feet, thence S78°06'17"W 149 feet to the point of beginning; the Northwest Quarter Southeast Quarter; the Southwest

Quarter Southwest Quarter; and the Southwest Quarter Northwest Quarter of Section 23, Township 9 North, Range 42 East, Boise Meridian.

ALSO: The Northwest Quarter Northwest Quarter and the West 50 rods of the Southwest Quarter Northwest Quarter of Section 26, Township 9 North, Range 42 East, Boise Meridian.

SUBJECT TO easements, if any, of record or in existence for roads streets, ditches, canals, pipelines and utilities.

TOGETHER WITH any and all water and water rights, ditch and ditch rights appurtenant thereto.

TOGETHER WITH all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the said premises, together with all and singular the tenements, hereditaments, easements, and appurtenances thereunto belonging or in anywise appertaining, and the reversions, remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to said premises, as well in law as in equity, of the said parties of the first part.

And the said parties of the first part, and their heirs, hereby warrant and agree to forever defend the parties of the second part, their heirs and assigns, in the quiet and peaceable possession of said premises against all and every person lawfully claiming an interest therein.

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

Donald R. Marshall
Donald R. Marshall

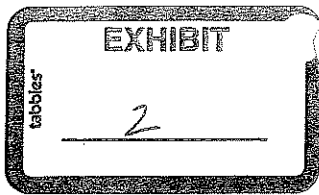
Wanda O. Marshall
Wanda O. Marshall

STATE OF IDAHO,)
 ss.
County of Madison.)

On this 6th day of September, 1996, before me, the undersigned, a
Notary Public in and for said State, personally appeared DONALD R. MARSHALL and
WANDA O. MARSHALL, 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.

Debra A. Keller
Notary Public for Idaho
Residing at Rexburg, Idaho
My Commission Expires: 11-15-99



444208
9-7-1996

QUITCLAIM DEED

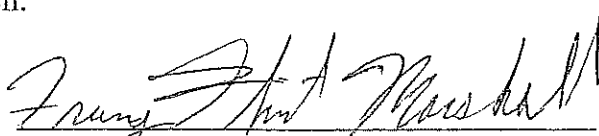
THIS INDENTURE, Made this 7th day of September, 1996, between TRACY FLINT MARSHALL, a single man, of 3475 E. 1425 N., Ashton, ID 83445, the party of the first part, and JAMES G. MARSHALL, a married man, of 397 Magpie Lane, P.O. Box 731, Lyman, WY 82937, the party of the second part,

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One and No/100 Dollars, lawful money of the United States of America, and other valuable consideration, to him in hand paid by the party of the second part, the receipt of which is hereby acknowledged, does by these presents remise, release and forever QUITCLAIM, unto the said party of the second part, and to his heirs and assigns, forever, all of my interest in and to the following described real estate, situated in the County of Fremont, State of Idaho, to-wit:

The Northeast Quarter of the Southeast Quarter (NE1/4SE1/4) of Section 22, Township 9 North, Range 42, E.B.M.

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.

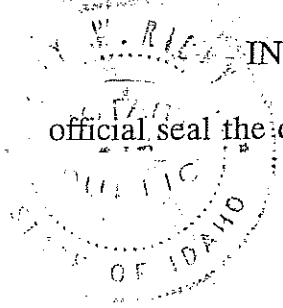
IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand the day and year first above written.


Tracy Flint Marshall

STATE OF IDAHO,)
 SS.
County of Madison.)

On this 7th day of September, 1996, before me, the undersigned, a
Notary Public in and for said State, personally appeared TRACY FLINT MARSHALL,
known to me to be the person whose name is subscribed to the within instrument and
acknowledged to me that he executed the same.

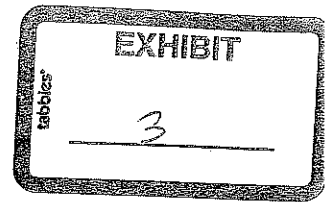
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year in this certificate first above written.



Ray W. Rigby
Notary Public for Idaho
Residing at: Rexburg, Idaho
My Commission Expires: 3-12-99

Microfilm No. 444208
17 Day Dec 19 96
At 12:00 O'clock 1 M
MICKIE FUNKE
FREMONT CO. RECORDER
Fee \$ 16- CR Deputy
Recorded At Request of
Ray Rigby

QUITCLAIM DEED



THIS INDENTURE, Made this 6th day of June, 2000, between TRACY FLINT MARSHALL, of 3475 E. 1425 N., Ashton, ID 83420, dealing with his sole and separate property and for his sole and separate use, the party of the first part, and JAMES G. MARSHALL and COLLEEN MARSHALL, husband and wife, of 397 Magpie Lane, P.O. Box 731, Lyman, WY 82937, the parties of the second part

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One and No/100 Dollars, lawful money of the United States of America, and other valuable consideration, in hand paid by the parties of the second part, the receipt of which is hereby acknowledged, does, by these presents, remise, release and forever QUITCLAIM, unto the said parties of the second part, and to their heirs and assigns, forever, all of his interests in the following described real estate, situated in the County of Fremont, State of Idaho, to-wit:

Parcel 1

The SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, and beginning 1.04 chains, more or less, North of the center of the SE $\frac{1}{4}$ of Section 23; thence North 9.09 chains, more or less; thence East 6.7 chains, more or less; thence South 3.1 chains, more or less, to the intersection of three large cracks in a mound of lava rock on the East side of Warm Spring Creek; thence South 46 degrees West, 7.12 chains, more or less; thence South 75 degrees West, 2.26 chains, more or less, to the place of beginning, all in Section 23, Township 9 North, Range 42, East of Boise Meridian.

Parcel 2

The NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, all in Section 22; the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, all in Section 23, and all in Twp. 9 N., Rge. 42, E.B.M., together with all water rights; TOGETHER with an undivided $\frac{1}{2}$ interest in 2 pumps and 2 motors (30 HP and 50 HP) on a ditch in Sec. 23, Twp. 9 N., Rge. 42, E.B.M., and an easement for access to said pumps and motors.

LESS the following described property located in Fremont County, Idaho, heretofore deeded to the said party of the first part, TO WIT:

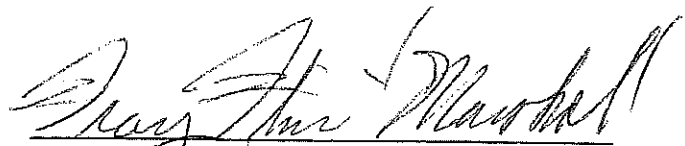
A parcel of land being a portion of the Southwest One-Quarter of Section 23, Township 9 North, Range 42 East of the Boise Meridian, Fremont County, Idaho, and being more particularly described as follows:

Commencing at the SW corner of said Section 23, as filed for record as Instrument No. 402691 in the office of the Fremont County Clerk and Recorder; thence N 41°15'54"E a distance of 1759.02 feet to a point in the centerline of an existing road, being the point of beginning; thence North a distance of 313.00 feet; thence East a distance of 208.71 feet; thence South a distance of 313.00 feet; thence West along the centerline of said county road a distance of 208.71 feet to the point of beginning; containing 1.5 acres, and being subject to a 30 foot easement parallel and adjacent to said county road centerline.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, and rents, issues and profits thereof;

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances, unto the said parties of the second part, and to their heirs and assigns forever.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand the day and year first above written.

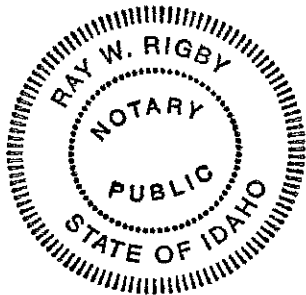

TRACY FLINT MARSHALL

County of Madison.)

On this 6th day of June, 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared TRACY FLINT MARSHALL, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he 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.



Lay W. Leiby
Notary Public for Idaho
Residing at: Rexburg, Idaho
My Commission Expires: 3/12/2005

DEED OF CORRECTION

THIS INDENTURE, Made and entered into this 17th day of October, 2000, by and between WANDA MARSHALL, of 3475 E. 1425 N., Ashton, Fremont County, Idaho 83420, dealing with her sole and separate property, and for her sole and separate use, the party of the first part, and JAMES G. MARSHALL, a married man, of 397 Magpie Lane, P.O. Box 731, Lyman, WY 82937, the party of the second part, as his sole and separate property, with the rents, issues, and profits thereof to remain sole and separate.

WITNESSETH:

That said party of the first part, for and in consideration of the love and affection she holds for the party of the second part, by these presents, does give, convey and confirm unto the said party of the second part, the following described real property located in Fremont County, State of Idaho, to-wit:

Parcel 1

SW $\frac{1}{4}$, Section 31, Township 10 N., Range 42 E.B.M. Lot 1, the S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, all in Section 1, Township 9 North, Range 41, E.B.M. NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, Township 9 North, Range 41, E.B.M., and

Parcel 2

That portion of Lot 2, Township 9 North, Range 41 E.B.M. lying South and East of the North Canyon Wall of North Lake Canyon where said wall intersects the West boundary line of Lot 2, Twp. 9 North, Rge. 41 E.B.M. and runs Northeasterly along said north canyon wall to where it intersects the North Boundary line of said Lot 2, Twp. 9 North, Rge. 41 E.B.M., Fremont County, Idaho. All of the above described property located in Section 1, Township 9 North, Range 41 E.B.M. Fremont County, Idaho.

Together with the rents, issues and profits thereof, and the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining unto the said party of the second part, and to his heirs and assigns forever.

465827
Recorded in 216 by [Signature] 10/13/00
Fremont Co. Recorder
Fees \$ 60
Recorded at request of [Signature]
Ray, W. [Signature]
10/13/00
Re: [Signature] 83440

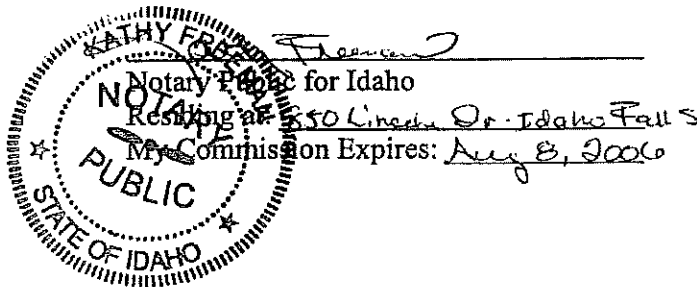
This deed is made to correct the legal description in that certain *Gift Deed* that was recorded on August 24, 2000, in the records of Fremont County, Idaho as Instrument No. 464652.

IN WITNESS WHEREOF, The party of the first part hereunto set her hand and seals the day and year first above written.

Wanda Marshall
WANDA MARSHALL

STATE OF IDAHO,)
 ss.
County of Bonneville.)

On this 19 day of October, 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared WANDA MARSHALL, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.



QUITCLAIM DEED

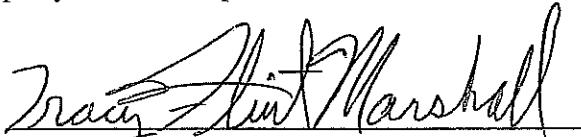
THIS INDENTURE, Made this 6th day of November, 2001, between, TRACY FLINT MARSHALL, of 3475 E. 1425 N., Ashton, ID 83420, the party of the first part, as his sole and separate property, and JAMES G. MARSHALL and COLLEEN MARSHALL, husband and wife, of 397 Magpie Lane, P.O. Box 731, Lyman, WY 82937, the parties of the second part,

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One and No/100 Dollars, lawful money of the United States of America, and other valuable consideration, in hand paid by the parties of the second part, the receipt of which is hereby acknowledged, do by these presents remise, release and forever QUITCLAIM, unto the said parties of the second part, with the rents, issues, and profits thereof to remain sole and separate, and to their heirs and assigns, forever, all of the interests of the party of the first part in and to the following described real estate, situated in the County of Fremont, State of Idaho, TO WIT:

S½ SE¼ of Section 22; SW¼ of SW¼ of Section 23; NW¼ of NW¼, and West 50 rods of SW¼ of NW¼, of Section 26; all in Township 9 North, Range 42 E.B.M. together with 72 shares of Capital Stock of Farmers Own Ditch Company.

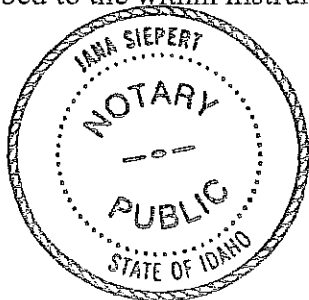
TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining,

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand the day and year first above written.


TRACY FLINT MARSHALL

STATE OF IDAHO,)
SS.
County of Madison.)

On this 6th day of November, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared TRACY FLINT MARSHALL, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.




Notary Public for Idaho
Residing at: Rexburg, Idaho
My Commission Expires: 03-15-2007