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Documents
In File

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: A63-16129
Date Received: 7/06/1989
Receipt No: C006797
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MICHAEL THOMAS MC LEMORE 208-939-6032
Address: 722 VALLI HI ROAD
EAGLE, ID 83616

AND/OR

Name: LYNN ANN PENNOUD
Address: EAGLE, ID 83616

2. Date of Priority: DEC 31, 1978

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05N	01E	32	SW	NE			ADA

5. Description of diverting works:
140' WELL W/ 8" CASING

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
ONE HOUSEHOLD

A63-16129

Page 1

Date: 07/06/89

MICROFILMED

AUG 25 1992

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	01E	32	SW NE		DOMEST	

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

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

CIVIL CASE NUMBER: 39576

Identification No. A 63 - 16729

Date Received _____

Receipt Number 0006797NOTICE OF CLAIM
TO A
WATER RIGHTRECEIVED
MAY 16 1989ACQUIRED UNDER STATE LAW
For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day.

Department of Water Resources

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) Michael Thomas M'Leone and/or Lynn Ann Pennaud Phone (208) 939-6032Mailing Address 722 Valli Hi Rd, Eagle ID Zip 836112. Date of Priority (Only one per claim) estimated - 1978 Month/Day/Year3. Source of water supply (Check one) (☒ Groundwater or Other () (a) estimated 1978
Name or kind of source

which is tributary to (b) _____

4. Location of point of diversion is: Township 5N Range 1ESection 32 1/4 of SW 1/4 of NE 1/4, Govt. Lot _____, BM.,County of Ada

Additional points of diversion if any: _____

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. 140' deep 8" dia.

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For domestic purposes from 1-1 Month/Day to 12-31 Month/Day amount 0.04 (cfs)
(Both dates are inclusive)

For _____ purposes from _____ to _____ amount _____

7. Total quantity claimed 0.04 (cfs)8. Total consumptive use claimed is de minimus9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) 1 house hold

MICROFILMED

AUG 25 1992

HOW YOU WILL RECEIVE NOTICES IN THE SNAKE RIVER BASIN ADJUDICATION

All documents filed in the Snake River Basin Adjudication other than notices of claims are filed with the court. Notices of claims to water rights filed in the Snake River Basin Adjudication are filed with the Idaho Department of Water Resources. Copies of all documents filed in the Snake River Basin Adjudication will not be mailed to all parties (claimants) in the adjudication.

By order of the court, any document filed with the court will be mailed only to those parties who may be directly affected by it. A monthly docket sheet will be prepared by the department which contains a summary of all documents filed with the court in the previous month and the dates and locations of hearings scheduled for the following three months. The docket sheet will be filed with the district court clerk in each county within the Snake River Basin in Idaho. Copies of the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying. If you wish to receive a copy of the docket sheet each month, you should mark the appropriate place on your notice of claim form. You will be charged a small annual subscription fee to cover the cost of copying and mailing. Copies of any document listed on the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying.

Copies of all notices of claims filed with the department will be available for inspection from all offices of the department. Copies of the notices of claims may be obtained in person or by mail, but you will be charged for the cost of copying and mailing. (A claimant will not be charged for a copy of his or her own notice of claim, and a person who acquires property with water rights for which a notice of claim was filed will not be charged for a copy of the notice of claim filed by the previous owner.)

After the notices of claims have been reviewed, the director will prepare and file a report with the court. Part 1 of the report will contain the director's recommendations as to each water right claimed under state law. Part 2 of the report will list each federal reserved water right claimed. A number of reports will be prepared, one or more for each sub-basin in the Snake River Basin. When the report for your sub-basin is filed with the court, you will be mailed a notice informing you that the report for your sub-basin has been filed. The notice will be sent to the most recent address shown by the department's files. Attached to the notice will be a copy of those portions of the report describing the water rights you have claimed. If you do not agree with the way your water right is described, you may file an objection to the report with the court. You can also file an objection if you disagree with the way other claimant's water rights are described, and the notice will tell you where a copy of the full report is available for inspection. The notice will tell you when and where to file your objection. The notice of filing for each sub-basin report will also be published state-wide in local newspapers.

10. Place of use is: Township: 5N Range 1E

Section 32, SW 1/4 of NF ~~SW~~ 1/4, Govt. Lot _____ B.M.,

County of Ada for (Circle One) Domestic Stock Domestic and Stock

Additional places of use, if any _____

11. In which county (ies) are lands listed above as place of use located? Ada

12. Do you own the property listed above as place of use? Yes ☒ No ☐

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above. None (4)

14. Remarks: _____

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number _____

By signing I/We acknowledge reading the notice on the back of this claim form.
I/We wish to receive for a small annual fee monthly copies of the docket sheet.
YES _____ NO _____

16. Signature (s) _____

Number of Attachments _____

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

Signature of Claimant (s) Michael M Lompre Date 5-16-89

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____

of _____, that I have signed the foregoing

document in the space below as _____ of _____

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

State of Idaho/or _____ }
County of Ada } SS.

Subscribed and sworn (or affirmed) before me this 16th day of May 1989

SEAL

Notary Public Kathryn A. Walker

Residing at Eagle, Idaho

My Commission Expires 2-14-1993

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant

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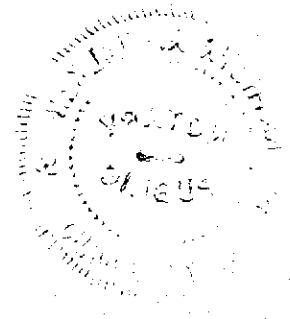
AUG 25 1992

It is very important that you inform the department in writing of any change in your address. This is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

If you are acquiring property with water rights in the Snake River Basin water system in Idaho (either by purchase, gift, inheritance, or other means), it is very important that you inquire of the department whether a notice of claim has been filed. If not, you must file a notice of claim or the water right may be declared by the court to no longer exist. If a notice of claim has been filed, it is very important that you file a written notice of change in ownership with the department. The notice of change in ownership must be accompanied by some evidence of the change in ownership, such as a copy of the deed or a property tax statement showing the name of the new owner. Again, this is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

The cost of the subscription to the docket sheet is \$7.50 for calendar year 1988. The cost of the subscription may increase a small amount for calendar year 1989 if the cost of copying and/or mailing should increase.

If you are planning to file a motion or other pleading (not a notice of claim) with the court (not IDWR), the court has issued an order setting a special procedure that is different from the usual civil rules. A copy of the order may be obtained from any office of IDWR; you may be charged for the cost of mailing and/or copying.



AJ0749NP
No. 63-16129

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 06/24/99
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	LEO ALLEN SMITH	12/31/1978	DOMESTIC	01-01 12-31	0.04 CFS	
C	JODY MARIE SMITH 722 VALLI HI RD EAGLE ID 83616 (208) 939-8166				0.04 CFS	
D	MICHAEL THOMAS MC LEMORE					
D	LYNN ANN PENNOUD 722 VALLI HI RD EAGLE ID 83616 (208) 939-6032					
				TOTAL DIVERSION:	0.04 CFS	

D MICHAEL THOMAS MC LEMORE
D LYNN ANN PENNOUD
722 VALLI HI RD
EAGLE ID 83616
(208) 939-6032

Water Source: GROUNDWATER

Tributary to:

Stage: BENEFICIAL USE

Point(s) of Diversion:

SWNE

T05N R01E S32

ADA County

Place of use Legal Description for: DOMESTIC

		NE		NW		SW		SE		
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac
05N	01E	32	:	:	:	:	:	:	:	:
		D		:		:		:		:

POU County: ADA

Non-Irrigation Uses: 1 HOME

Other Rights: NONE

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
63-23087 A63-16129 A63-23087

Conditions of Approval:

- M11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
- DETERMINATION OF HISTORICAL BENEFICIAL USE.
- M13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
- GALLONS PER DAY.

Remarks: EXP PARCEL NO. RP R9350200100
PROPERTY ALSO KNOWN AS LOT 1 WHISPERING WINDS SUB.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

AJ0749NP
No. 63-16129

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 06/24/99
PAGE: 2

Comments: Date: 06/24/1999 User-ID: DBUFFING Subject: NAME CHANGE - OWNERSHIP CHANGE
THE DATA IN THE NAME FIELD WAS CHANGED TO SHOW THIS RIGHT HAS AN
OWNERSHIP CHANGE.

Audit: 06/24/99 DBUFFING



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

June 25, 1999

DIRK KEMPTHORNE
GOVERNOR

RE: Water Right No. 63-16129

KARL J. DREHER
DIRECTOR

LEO ALLEN SMITH
JODY MARIE SMITH
722 VALLI HI RD
EAGLE ID 83616

Dear Property Owners:

Enclosed is a copy of the above referenced water right which reflects the change in ownership of the land and appurtenant water rights covered under the original filing. Also enclosed is a copy of the Notice of Completed Administrative Proceedings which has been sent to the Snake River Basin Court as notification of the change.

Thank you for your patience and cooperation. If you have any questions concerning the enclosed water rights, please feel free to contact this office.

Sincerely,

Denise Buffington
Denise Buffington
Records Clerk
Adjudication Section
Western Region

DB:db

Enclosures

cc: Michael Thomas Mc Lomore and Lynn Ann Pennoud

DATE: 05/08/98
PAGE: 1

DIVERSION VOLUME

TOTAL DIVERSION:

Stage: BENEFICIAL USE

ADA County

[illegible]

Other Rights: NONE

- THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
- THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Objection Filed Date:

Audit: 05/08/98 L HARRIS

PREFIX TRANSLATION: ADJUDICATION CLAIM

+ - - - - DECREE PLAINTIFF - - - +
+ - - - - DECREE DEFENDANT - - - +
00/00/0000

+ - - - - AUDIT FIELDS - 07/06/89 SCHULJ

+ - - - - COMMENTS - - - - - NO COMMENTS FOUND

COURT REPORT FILING		FIELD INSPECTION MADE		ADJUDICATION RIGHTS DATES AND FLAGS AREA		CIVIL CASE NUMBER	
OBJECTION FILED DATE	- 00/00/0000	FIELD INSPECTION MADE	- 00/00/0000			CIVIL CASE NUMBER	- 39576
RESPONSE FILED DATE	- 00/00/0000	FIELD INSPECTION FLAG	-			OLD CASE NUMBER	-
CLAIM RECEIVED DATE	- 05/16/1989	VERIFIED DATE	- 00/00/0000			OLD JUDICIAL DISTRICT	-
PROOF DUE DATE	- 00/00/0000	LAST AMENDED DATE	- 00/00/0000			TEMPORARY RIGHT	- P
LICENSED DATE	- 00/00/0000	PROOF MADE DATE	- 00/00/0000			WATER DISTRICT	-
CLAIMS TAPE ERROR FLG	-	RECEIPT NUMBER	- C006797			FEDERAL/STATE INDICATOR	- S
FEE EXEMPT FLAG	-	POU OWNERSHIP FLAG	- Y			PRESUMPTION FLAG	-
		NAME CONNECTOR	- AND/OR				

R 9350200100

Lot 1 Whispermans Winds Sub

Smith, Leo A & Judy M

722 Vall. H. Rd

Boyle 83616

DATA ENTRY
ENTERED
CHECKED

Verified By
Topo Map/Ortho-PQ
ASCS Map
Watermaster Records
NAPP Photos
Field Exam
Other (See Remarks)
County Records
Witness Statement
Project Records
IDWR Records

PROOF
JUN 19 1991

VERIFIED
AUG 19 1991

CERTIFIED
AUG 19 1991
WATER EXAMINER

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 63-16129

NAME & ADDRESS: LEO ALLEN SMITH
JODY MARIE SMITH
722 VALLI HI RD
EAGLE ID 83616

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 12/31/1978

POINT OF DIVERSION: T05N R01E S32 SWNE Within ADA County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	DOMESTIC 1 HOME	01-01 12-31	0.04 CFS

PLACE OF USE: DOMESTIC Within ADA County
T05N R01E S32 SWNE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE
PARCEL NO. RP R9350200100
PROPERTY ALSO KNOWN AS LOT 1 WHISPERING WINDS SUB.

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)
)
)
)
)
)

NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDINGS
Water Right 63-16129

IDWR has completed the following Administrative Proceeding:

<u> </u>	Change of Address
<u>X</u>	Substitution of Party
<u> </u>	I.C. 42-222 Transfer

SUBSTITUTION OF PARTY

Does the change in "ownership" result in a splitting of the water right claimed? ☒ Yes ☐ No

If yes, does the split involve an I.C. 42-222 transfer? ☐ Yes ☐ No

Water Right(s): 63-16129

From (Claimant/Seller):

Name of Claimant: MICHAEL THOMAS MC LEMORE
LYNN ANN PENNOUD
Address: 722 VALLI HI RD
EAGLE ID 83616
Phone: (208) 939-6032

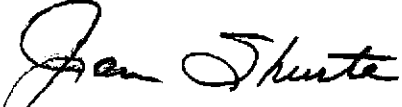
To (Claimant/Purchaser):

Name of Claimant: LEO ALLEN SMITH
JODY MARIE SMITH
Address: 722 VALLI HI RD
EAGLE ID 83616
Phone: (208) 939-8166

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached Amended Director's Reports for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the Notice of Completed Administrative Transfer and Amended Director's Reports(s) on the claimant(s), prior claimants(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: June 25, 1999



Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on June 25, 1999 I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
2. One Copy to:
Claimant/Seller for Substitution of Party or attorney of record:

MICHAEL THOMAS MC LEMORE
LYNN ANN PENNOUD
722 VALLI HI RD
EAGLE ID 83616
3. One Copy to:
Claimant/Purchaser for Substitution of Party or attorney of record:

LEO ALLEN SMITH
JODY MARIE SMITH
722 VALLI HI RD
EAGLE ID 83616
4. One Copy to:
Chief, Natural Resources Division
Office of the Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449
5. One Copy to:
United States Dept. of Justice
Environment & Natural Resource Div.
550 West Fort Street, MSC 033
Boise, ID 83724

Dennie Buffington
Signature of person or attorney mailing the form

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED

NOV 24 1998

WATER RESOURCES
WESTERN REGION

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s).: 63-16129
Adjudication Claim No(s).: _____

2. The following REQUIRED information must be submitted with this form:
 - A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
 - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)
OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant MICHAEL THOMAS MCLEMORE
UNKNOWN ADDRESS AND/OR LYNN ANN PERRAUD

4. New Owner/Claimant(s) LEO ALLEN SMITH AND OR JODY MARIE SMITH
Name Connector (Check one): ☐ and, ☐ or, ☒ and/or
New Mailing Address 722 VALLI HI ROAD
City, State and ZIP Code EAGLE, ID. 83616
New Telephone Number (208) 939-8166

5. Date you acquired the property 2/22/91

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.
 Number of acres you irrigate _____ Number and type of stock _____
 Diversion rate in CFS 0.04 CFS Number of homes 1 Other uses _____
 If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner or Claimant(s) Leo A. Smith 11/23/98
(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims..

INSTRUCTIONS

This form has been prepared to assist new owners of property to comply with the requirements of Sections 42-248 and 42-1409(6), Idaho Code. Section 42-248 requires certain property holders to notify the Department of Water Resources (IDWR) of any change in mailing address or ownership of all or part of a water right record on file with IDWR. Section 42-1409(6) provides that new property owners must notify IDWR of any change in ownership of a water right during an adjudication of water rights. Required claims may be filed by a new owner.

Separate brochures are available from IDWR describing the adjudication of water rights and the requirement to notify IDWR of changes in ownership. Please contact your nearest IDWR office, or call 1-800-451-4129, if you would like more information or need help completing this form. Please attach additional sheets to the form if you require additional space to describe or explain any of the items on the form.

1. If there are water rights associated with the property, the seller should be able to provide you with the water right or adjudication claim number(s). Please enter these number(s) at **Item 1**. If you or the seller believes there are water rights for the property but the numbers are unknown, you may wish to contact IDWR for assistance in identifying the water rights for the property in question. If claims for the rights are required, and have not been filed, IDWR will so advise you.
2. The information described at **Item 2** is required, since IDWR cannot process the requested change without documentation of ownership. The preferred types of documentation are shown; contact IDWR if you have difficulty obtaining this information. Do not obtain a new survey for purposes of this form before contacting IDWR.
3. Please provide the name and address of the former owner of the water right and/or adjudication claim at **Item 3**.
4. The name, mailing address, and telephone number of the new owner(s) is entered at **Item 4**. Please indicate the relationship between multiple owners by using the connector 'and', 'or', or 'and/or'. If an 'and' is used, all parties must sign this form. If an 'and/or' or 'or' is used, all parties may sign. However, only one of the named parties is required to sign.
5. At **Item 5**, please provide the date the property in question was acquired. This may be the date of "closing" in the case of a real estate transaction or the date of court order for other types of ownership changes.
6. You may be purchasing only a portion of the total water right held by the seller. This means the water right held by the seller may be "split" to provide your share of the right in question. Be sure to include a description of the portion of the water right you have purchased at **Item 6**.

Please provide as much detail as possible concerning your water right: include the number of homes, irrigated acreage if more than 1/2 acre is irrigated, type and number of stock if your right is for stockwater, etc. In the absence of information to the contrary, IDWR will assume the intent is to split the rights *proportionately*.

7. The new owner(s) must sign the form in the space(s) provided at **Item 7**. Corporations and other organizations must submit a list of directors or officers demonstrating the authority of the director or officer to sign the form.
8. There is no filing fee. When complete, you should retain a copy and return the original of the form to the IDWR office nearest you:

IDWR Western Region, 2735 Airport Way, Boise, ID 83705-5082 (208) 334-2190

IDWR Southern Region, 1341 Fillmore St. N., Twin Falls, ID 83301-3380 (208) 736-3033

IDWR Northern Region, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, ID 83814-2615 (208) 769-1450

IDWR Eastern Region, 900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 (208) 525-7161



WARRANTY DEED

For Value Received

Michael McLemore and Lynn Ann Perraud, husband and wife,
hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto
Leo A. Smith and Jody M. Smith, husband and wife,
hereinafter referred to as Grantee, whose current address is
722 Valli-Hi Road, Eagle, ID, 83616
the following described premises, to-wit:

Lot 1 of WHISPERING WINDS SUBDIVISION, according to the official plat thereof, filed in Book 28 of Plats at Page 1751, Official Records of Ada County, Idaho.

9110365
FIRST AMERICAN TITLE CO.

ADJ. FOR REC'D. FOR
J. DAVID KAVANNO
RECORDER BY *[Signature]*
3.00

'91 FEB 28 PM 3 37

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

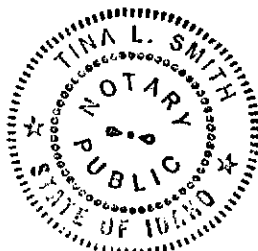
Dated: February 27, 1991

Michael McLemore
Michael McLemore

Lynn Ann Perraud
Lynn Ann Perraud

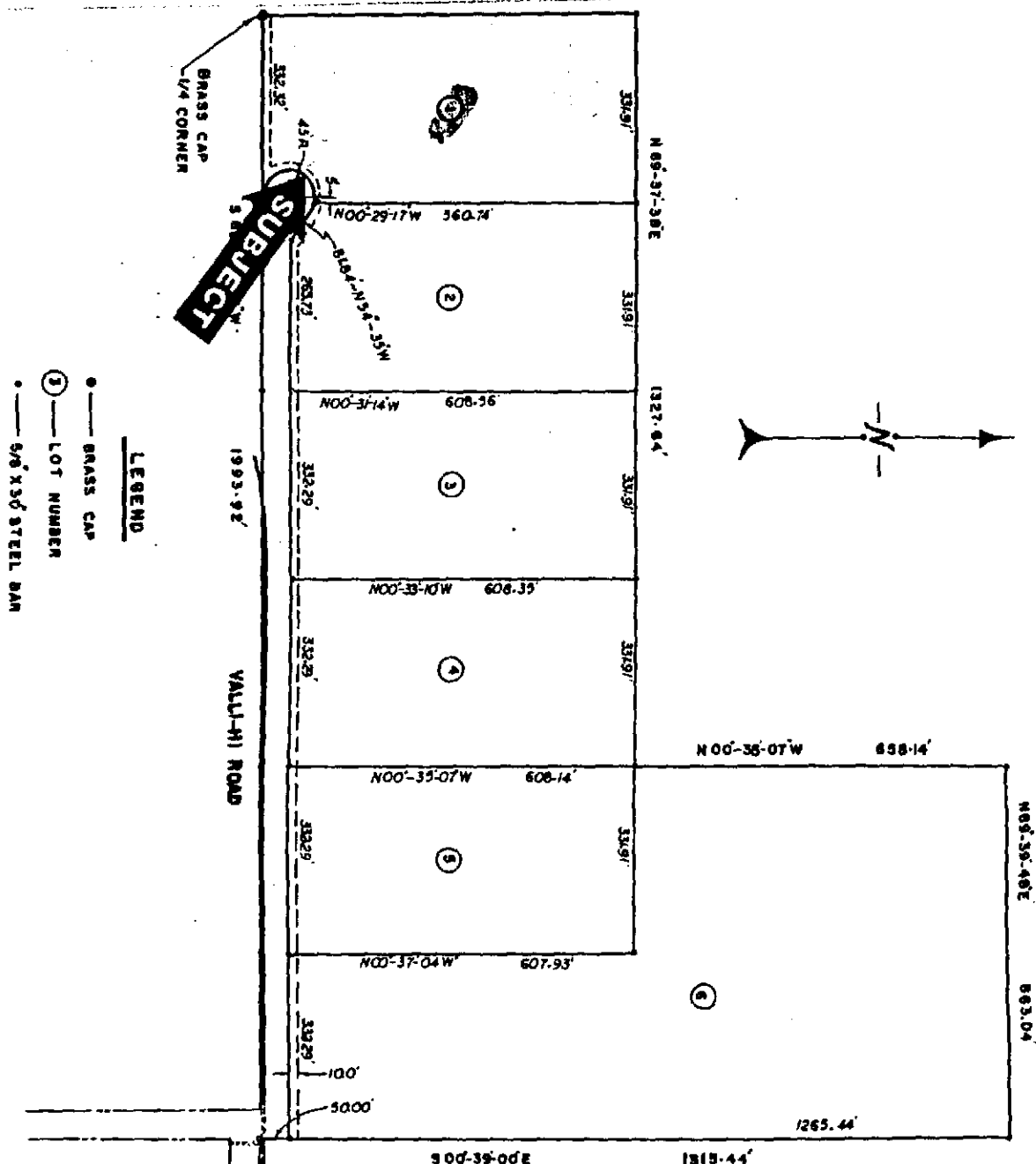
STATE OF IDAHO)
 : ss
COUNTY OF Ada)

On This 28th day of February, in the year 1991, before me, a Notary Public in and for said State, personally appeared Michael McLemore and Lynn Ann Perraud, known or identified to me to be the persons whose names are subscribed to the within Instrument, and acknowledged to me that they executed the same.



Tina L. Smith
Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires: 7/27/93

EF



LEGEND

● — RAS CAP

③ — LOT NUMBER

• — 5/8" x 30' STEEL BAR

--- EASEMENT LINE

S 1/2, NE 1/4, SEC. 32, T. 5 N, R. 1 E, B. 1 M.
ADA COUNTY, IDAHO.

III

1972
CLAYTON W. HAHN
RICE, DAVID
RECEIVED

EAGLE ROAD

Plat Map

1958851

DEED OF TRUST NOTE

**NOTICE: THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF
THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT.**

\$ 140,361.00

EAGLE, Idaho,
FEBRUARY 27, 1991

FOR VALUE RECEIVED, I promise to pay to U.S. BANCORP MORTGAGE COMPANY

or order, the principal sum of ONE HUNDRED FORTY THOUSAND THREE HUNDRED SIXTY ONE AND 00/100

Dollars

(\$ 140,361.00), with interest from date at the rate of NINE AND 00/100
per centum (9.000 %) per annum on the monthly balances remaining from time to time un-
paid. The said principal and interest shall be payable at the office of U.S. BANCORP MORTGAGE COMPANY
in PORTLAND, OREGON 97204

or at such other place as the holder hereof may designate in writing delivered or mailed to the debtor, in monthly
installments of

ONE THOUSAND ONE HUNDRED TWENTY NINE AND 38/100

Dollars (\$ 1,129.38),

commencing on the first day of APRIL 1, 19 91, and continuing on the first day of each month
thereafter until this note is fully paid, except that, if not sooner paid, the final payment of principal and interest shall
be due and payable on the first day of MARCH 1, 2021.

Privilege is reserved to prepay at any time, without premium or fee, the entire indebtedness or any part thereof
not less than the amount of one installment, or one hundred dollars (\$100.00), whichever is less. Prepayment in full
shall be credited on the date received. Partial prepayment, other than on an installment due date, need not be credited
until the next following installment due date or thirty days after such prepayment, whichever is earlier.

If any deficiency in the payment of any installment on this note is not made good prior to the due date of the
next such installment, the entire principal sum and accrued interest shall at once become due and payable without
notice at the option of the holder of this note.

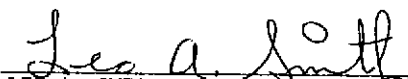
The failure of the holder of this note to enforce its rights upon default in any of the terms of this note shall
not constitute a waiver of any such right in the event of a subsequent default.

If suit is instituted to collect this note or any portion thereof, I agree to pay, in addition to the costs and
disbursements as are allowed by law, such additional sum as the court may adjudge reasonable as attorney's fees in
such suit.

This note is secured by Deed of Trust of even date executed by the undersigned on certain property described
therein and represents money actually used for the acquisition of said property or the improvements thereon.

The undersigned hereby waive presentment, protest, and notice.

This note, or any payment thereunder, may be extended from time to time without in any way affecting the
liability of the makers and endorsers thereof.


LEO A. SMITH


JODY M. SMITH

THIS IS TO CERTIFY that this is the note described in and secured by Deed of Trust of even date herewith
in the same principal amount as herein stated to

Trustee, on real estate situated in

County, State of Idaho.

Dated this

day of

, 19

Notary Public.

1958851 ②

DEED OF TRUST

**THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE
VETERANS ADMINISTRATION OR ITS AUTHORIZED AGENT.**

THIS DEED OF TRUST, made this 27th day of FEBRUARY, 1991,

BETWEEN LEO A. SMITH & JODY M. SMITH HUSBAND & WIFE

, as GRANTOR,

whose address is 722 VALLI-HI ROAD
(Street and number)

EAGLE
(City)

IDAHO 83616
(State)

U.S. BANK OF WASHINGTON, NATIONAL ASSOCIATION

, as TRUSTEE, and

U.S. BANCORP MORTGAGE COMPANY

, as BENEFICIARY,

WITNESSETH: That Grantor irrevocably GRANTS, BARGAINS, SELLS, CONVEYS, and ASSIGNS to TRUSTEE IN TRUST, WITH POWER OF SALE, the property in ADA County, Idaho, containing not more than twenty acres, and described as follows:

LOT 1 OF WHISPERING WINDS SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF,
FILED IN BOOK 28 OF PLATS AT PAGE 1751, OFFICIAL RECORDS OF ADA COUNTY,
IDAHO.

DEED OF TRUST RIDER ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED.

TOGETHER WITH the improvements thereon and the hereditaments and appurtenances thereunto belonging, and the rents, issues, and profits thereof, SUBJECT, HOWEVER, to the right, power, and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits; and all fixtures now or hereafter attached to or used in connection with the premises herein described and in addition thereto the following-described household appliances, which are, and shall be deemed to be, fixtures and a part of the realty, and are a portion of the security for the indebtedness herein mentioned:

ONE HUNDRED FORTY THOUSAND THREE HUNDRED SIXTY ONE AND 00/100

Dollars

(\$ 140,361.00), with interest thereon according to the terms of a promissory note of even date herewith, payable to Bene-

fiary or order and made by Grantor, with final payment due **MARCH 1, 2021**

1. Privilege is reserved to prepay at any time, without premium or fee, the entire indebtedness or any part thereof not less than the amount of one installment, or one hundred dollars (\$100), whichever is less. Prepayment in full shall be credited on the date received. Partial prepayment, other than on an installment due date, need not be credited until the next following installment due date or thirty days after such prepayment, whichever is earlier.

2. Grantor agrees to pay to Beneficiary as trustee (under the terms of this trust as hereinafter stated) in addition to the monthly payments of principal and interest payable under the terms of said note, on the first day of each month until said note is fully paid, the following sums:

(a) An installment of the ground rents, if any, and of the taxes and special assessments levied or to be levied against the premises covered by this Deed of Trust; and an installment of the premium or premiums that will become due and payable to renew the insurance on the premises covered hereby against loss by fire or such other hazard as may be required by Beneficiary in amounts and in a company or companies satisfactory to Beneficiary; Grantor agreeing to deliver promptly to Beneficiary all bills and notices therefor. Such installments shall be equal respectively to one-twelfth (1/12) of the annual ground rent, if any, plus the estimated premium or premiums for such insurance, and taxes and assessments next due (as estimated by Beneficiary, and of which Grantor is notified) less all installments already paid therefor, divided by the number of months that are to elapse before one month prior to the date when such premium or premiums and taxes and assessments will become delinquent. Beneficiary shall hold such monthly payments in trust to pay such ground rents, premium or premiums, and taxes and special assessments before the same become delinquent.

(b) The aggregate of the amounts payable pursuant to subparagraph (a) and those payable on the note secured hereby, shall be paid in a single payment each month, to be applied to the following items in the order stated:

(I) ground rents, taxes, special assessments, fire and other hazard insurance premiums;

(II) interest on the note secured hereby;

(III) amortization of the principal of said note.

Any deficiency in the amount of any such aggregate monthly payment shall, unless made good prior to the due date of the next such payment, constitute an event of default under this Deed of Trust.

3. If the total of the payments made under (a) of paragraph 2 preceding shall exceed the amount of payments actually made by Beneficiary as trustee for ground rents, taxes or assessments, or insurance premiums, as the case may be, such excess may be applied on any indebtedness secured hereby, or be credited by Beneficiary on subsequent payments to be made by Grantor for such items or, at Beneficiary's option as trustee shall be refunded to Grantor. If however, such monthly payments shall not be sufficient to pay such items when the same shall become due and payable, then Grantor shall pay to Beneficiary as trustee any amount necessary to make up the deficiency within thirty (30) days after written notice from the Beneficiary stating the amount of the deficiency, which notice may be given by mail. If at any time Grantor shall tender to Beneficiary, in accordance with the provisions hereof, full payment of the entire indebtedness secured hereby, Beneficiary as trustee shall, in computing the amount of indebtedness, credit to the account of Grantor any credit balance remaining under the provisions of (a) of paragraph 2 hereof. If there shall be a default under any of the provisions of this Deed of Trust and thereafter a sale of the premises in accordance with the provisions hereof, or if the Beneficiary acquires the property otherwise after default, Beneficiary shall apply as trustee at the time of the commencement of such proceedings, or at the time the property is otherwise acquired, the amount then remaining to credit of Grantor under (a) of paragraph 2 preceding, as a credit on the interest accrued and unpaid and the balance to the principal then remaining unpaid on said note.

4. At Beneficiary's option, Grantor will pay a "late charge" not exceeding four per centum (4%) of any installment when paid more than fifteen (15) days after the due date thereof to cover the extra expense involved in handling delinquent payments, but such "late charge" shall not be payable out of the proceeds of any sale made to satisfy the indebtedness secured hereby, unless such proceeds are sufficient to discharge the entire indebtedness and all proper costs and expenses secured thereby.

To protect the Security of This Deed of Trust, Grantor Agrees:

5. To protect and preserve said property and to maintain it in good condition and repair.

6. Not to remove or demolish any building or improvement thereon.

7. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged, or destroyed thereon, and pay when due all costs incurred therefor.

8. Not to commit or permit waste of said property.

9. To comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting said property.

10. To provide and maintain hazard insurance, of such type or types and amounts as Beneficiary may from time to time require, on the improvements now or hereafter on said premises, and except when payment for all such premiums has heretofore been made under (a) of paragraph 2 hereof, to pay promptly when due any premiums therefor; and to deliver all premiums therefor; and to deliver all policies to Beneficiary, which delivery shall constitute an assignment to Beneficiary of all return premiums.

11. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum incurred by Beneficiary or Trustee.

12. To pay at least 10 days before delinquency all assessments upon water company stock, and all rents, assessments and charges for water, appurtenant to or used in connection with said property; to pay, when due, all encumbrances, charges, and liens with interest, on said property or any part thereof, which at any time appear to be prior or superior hereto; to pay all reasonable costs, fees, and expenses of this Trust.

13. Should Grantor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Grantor and without releasing Grantor from any obligation hereof, may: Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof, or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which reasonably appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts are reasonably necessary therefor, including cost of evidence of title, and reasonable counsel fees.

14. To pay within 30 days after demand all sums properly expended hereunder by Beneficiary or Trustee, with interest

from date of expenditure at the rate provided for in the principal indebtedness, and the repayment thereof shall be secured hereby.

15. Grantor agrees to do all acts and make all payments required of Grantor and of the owner of the property to make said note and this Deed eligible for guaranty or insurance under the provisions of the Servicemen's Readjustment Act and amendments thereto, and agrees not to do, or cause or suffer to be done, any act which will void such guaranty or insurance during the existence of this Deed.

IT IS MUTUALLY AGREED THAT:

16. Should the property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may after deducting therefrom all its expenses, including reasonable attorney's fees, apply any moneys so received by it, at its option, either to the restoration of the damaged premises or to the reduction of the indebtedness. Grantor agrees to execute such further assignments of any compensation, award, damage, and rights of action and proceeds as Beneficiary or Trustee may require.

17. That upon the request of the Beneficiary the Grantor shall execute and deliver a supplemental note or notes for the sum or sums advanced by the Beneficiary for the alteration, modernization, improvement, maintenance, or repair of said premises, for taxes or assessments against the same and for any other purpose authorized hereunder. Said note or notes shall be secured hereby on a parity with and as fully as if the advance evidenced thereby were included in the note first described above. Said supplemental note or notes shall bear interest at the rate provided for in the principal indebtedness and shall be payable in approximately equal monthly payments for such period as may be agreed upon by the creditor and debtor. Failing to agree on the maturity, the whole of the sum or sums so advanced shall be due and payable 30 days after demand by the creditor. In no event shall the maturity extend beyond the ultimate maturity of the note first described above.

18. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

19. That the lien of this instrument shall remain in full force and effect during any postponement or extension of the time of payment of the indebtedness or any part thereof secured hereby.

20. At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Deed and the note for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the property.

The GRANTEE in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be \$10.

21. As additional security, Grantor hereby assigns to Beneficiary during the continuance of these trusts, all rents, issues, royalties, and profits of the property affected by this Deed and of any personal property located thereon. Until Grantor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Grantor shall have the right to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable, save and excepting rents, issues, royalties, and profits arising or accruing by reason of any oil, gas, or mineral lease of said property. If Grantor shall default as aforesaid Grantor's right to collect any of such moneys shall cease and Beneficiary shall have the right, with or without taking possession of the property affected hereby, to collect all rents, royalties, issues, and profits. Failure or discontinuance of Beneficiary at any time, or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Deed to any such tenancy, lease or option.

22. Upon any default by Grantor hereunder, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name, sue for or otherwise collect said rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

23. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

24. Upon default by Grantor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default, which declaration of default may be contained in the written notice of default hereinafter provided. If Beneficiary desires said property to be sold, it shall deposit with Trustee this Deed of Trust and all promissory notes and documents evidencing expenditures secured hereby, shall deliver to Trustee a written notice of default and of election to cause the property to be sold, in the form required by law, which shall be duly filed for record by Trustee or Beneficiary.

25. (a) After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Grantor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Grantor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee shall deliver to the purchaser its Deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Grantor, Trustee, or Beneficiary, may purchase at the sale.

(b) When Trustee sells pursuant to the powers herein, Trustee shall apply the proceeds of sale to payment of the

expenses of such sale, together with the reasonable expenses of this Trust, including therein reasonable Trustee's fees and reasonable counsel fees if any are incurred; and then to the items in subparagraph (c) in the order there stated.

(c) After paying the items specified in subparagraph (b) if the sale is by Trustee, or the proper court costs if sale is pursuant to judicial foreclosure, the proceeds of sale shall be applied in the order stated to the payment of:

- (1) Cost of any evidence of title procured in connection with such sale and of any revenue stamps;
- (2) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate provided for in the principal indebtedness;
- (3) all other sums then secured hereby;
- (4) reimbursement of the Veterans Administration for any sums paid by it on account of the guaranty or insurance of the indebtedness secured hereby; and
- (5) the remainder, if any, to the person or persons legally entitled thereto.

26. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to any successor Trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed and its place of record, which, when recorded in the office of the County Recorder of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor Trustee. The foregoing power of substitution and the procedure therefor shall not be exclusive of the power and procedure provided for by law for the substitution of the Trustee or Trustees in the place of the Trustee or Trustees named herein.

27. The waiver by Trustee or Beneficiary of any default of Grantor under this Deed of Trust shall not be or be deemed to be a waiver of any other or similar defaults subsequently occurring.

28. (a) In addition to any of the powers or remedies conferred upon the Trustee and the Beneficiary or either of them under this instrument, the Trustee and Beneficiary jointly, or either, may bring an action in the proper court for the foreclosure of this instrument as a mortgage, upon default, and upon proper proof obtain all the remedies in such action that are given by any statute or other law of the State of Idaho.

(b) No power or remedy herein conferred is exclusive of, or shall prejudice any other power or remedy of Trustee or Beneficiary.

(c) The exercise of any power or remedy on one or more occasions shall not exclude the future exercise thereof from time to time upon the conditions prescribed herein or by operation of law.

29. If a final decree in favor of plaintiff is entered in a suit brought to foreclose this Deed of Trust, it may include a reasonable attorney fee as provided in the note secured hereby, but not in excess of the amount actually paid or unconditionally incurred by the proper plaintiffs.

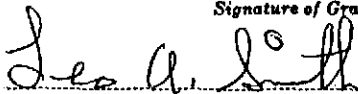
30. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

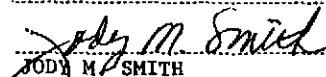
31. If the indebtedness secured hereby be guaranteed or insured under Title 38, United States Code, such Title and Regulations issued thereunder and in effect on the date hereof shall govern the rights, duties and liabilities of the parties hereto, and any provisions of this or other instruments executed in connection with said indebtedness which are inconsistent with said Title or Regulations are hereby amended to conform thereto.

32. This Deed shall inure to and bind the heirs, legatees, devisees, administrators, executors, successors, and assigns of the parties hereto. All obligations of Grantor hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder, including pledgees of the indebtedness secured hereby, whether by operation of law or otherwise. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

33. Request is hereby made that a copy of any notice of default and of any notice of sale hereunder be mailed to Grantor at the address hereinbefore set forth.

Signature of Grantor


LEO A. SMITH


JODY M. SMITH

VA ASSUMPTION POLICY RIDER

1958851

NOTICE: THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT.

THIS ASSUMPTION POLICY RIDER is made this 27th day of FEBRUARY, 1991, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Deed to Secure Debt ("Instrument") of the same date herewith, given by the undersigned ("Mortgagor") to secure the Mortgagor's Note ("Note") of the same date to

U. S. BANCORP MORTGAGE COMPANY

its successors and assigns

("Mortgagee") and covering the property described in the Instrument and located at:

722 VALLI-HI ROAD EAGLE, IDAHO 83616

(Property Address)

Notwithstanding anything to the contrary set forth in the Instrument, Mortgagee and Mortgagor hereby acknowledges and agrees to the following:

TRANSFER OF THE PROPERTY: If all or any part of the Property or any interest in it is sold or transferred, this loan shall be immediately due and payable upon transfer ("assumption") of the property securing such loan to any transferee ("assumer"), unless the acceptability of the assumption and transfer of this loan is established by the Department of Veterans Affairs or its authorized agent pursuant to section 1817A of Chapter 37, Title 38, United States Code.

An authorized transfer ("assumption") of the property shall also be subject to additional covenants and agreements as set forth below:

(a) **ASSUMPTION FUNDING FEE:** A fee equal to one-half of 1 percent (.50%) of the unpaid principal balance of this loan as of the date of transfer of the property shall be payable at the time of transfer to the mortgagee or its authorized agent, as trustee for the Secretary of Veterans Affairs. If the assumer fails to pay this fee at the time of transfer, the fee shall constitute an additional debt to that already secured by this instrument, shall bear interest at the rate herein provided, and, at the option of the mortgagee of the indebtedness hereby secured or any transferee thereof, shall be immediately due and payable. This fee is automatically waived if the assumer is exempt under the provisions of 38 U.S.C. 1829 (b).

(b) **ASSUMPTION PROCESSING CHARGE:** Upon application for approval to allow assumption and transfer of this loan, a processing fee may be charged by the mortgagee or its authorized agent for determining the creditworthiness of the assumer and subsequently revising the holder's ownership records when an approved transfer is completed. The amount of this charge shall not exceed the maximum established by the Department of Veterans Affairs for a loan to which section 1817A of Chapter 37, Title 38, United States Code applies.

(c) **ASSUMPTION INDEMNITY LIABILITY:** If this obligation is assumed, then the assumer hereby agrees to assume all of the obligations of the veteran under the terms of the instruments creating and securing the loan, including the obligation of the veteran to indemnify the Department of Veterans Affairs to the extent of any claim payment arising from the guaranty or insurance of the indebtedness created by this instrument.

(d) **REARMORTIZATION OR ADJUSTMENT OF DEBT:** The interest rate, payment terms, or balance due on the loan may be indexed, adjusted, renewed or renegotiated by the Grantors under the Deed of Trust or their successors in interest and the Beneficiary under the Deed of Trust or its successors in interest. In no event shall the interest rate be increased beyond the prevailing VA rate at the time the loan was closed. The provisions of this paragraph are hereby deemed to be incorporated within the terms of the Deed of Trust and the Deed of Trust Note secured by this Deed of Trust.

IN WITNESS WHEREOF, Mortgagor(s) has executed this Assumption Policy Rider.


LEO A. SMITH

(Seal)
Mortgagor


JODY M. SMITH

(Seal)
Mortgagor

(Seal)
Mortgagor

(Seal)
Mortgagor

1958851 ⑦

DEED OF TRUST

**THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE
VETERANS ADMINISTRATION OR ITS AUTHORIZED AGENT.**

— THIS DEED OF TRUST, made this 27th day of FEBRUARY, 1991 —

BETWEEN LEO A. SMITH & JODY M. SMITH HUSBAND & WIFE

, as GRANTOR,

whose address is 722 VALLI-HI ROAD
(Street and number)

EAGLE
(City)

IDAHO 83616
(State)

U.S. BANK OF WASHINGTON, NATIONAL ASSOCIATION

, as TRUSTEE, and

U.S. BANCORP MORTGAGE COMPANY

, as BENEFICIARY,

WITNESSETH: That Grantor irrevocably GRANTS, BARGAINS, SELLS, CONVEYS, and ASSIGNS to TRUSTEE IN
TRUST, WITH POWER OF SALE, the property in ADA County, Idaho, containing
not more than twenty acres, and described as follows:

LOT 1 OF WHISPERING WINDS SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF,
FILED IN BOOK 28 OF PLATS AT PAGE 1751, OFFICIAL RECORDS OF ADA COUNTY,
IDAHO.

DEED OF TRUST RIDER ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED.

TOGETHER WITH the improvements thereon and the hereditaments and appurtenances thereunto belonging, and the rents, issues,
and profits thereof, SUBJECT, HOWEVER, to the right, power, and authority hereinafter given to and conferred upon Bene-
ficiary to collect and apply such rents, issues, and profits; and all fixtures now or hereafter attached to or used in connection with
the premises herein described and in addition thereto the following-described household appliances, which are, and shall be
deemed to be, fixtures and a part of the realty, and are a portion of the security for the indebtedness herein mentioned:

ONE HUNDRED FORTY THOUSAND THREE HUNDRED SIXTY ONE AND 00/100

Dollars

(\$ 140,361.00), with interest thereon according to the terms of a promissory note of even date herewith, payable to Beneficiary or order and made by Grantor, with final payment due

MARCH 1, 2021

1. Privilege is reserved to prepay at any time, without premium or fee, the entire indebtedness or any part thereof not less than the amount of one installment, or one hundred dollars (\$100), whichever is less. Prepayment in full shall be credited on the date received. Partial prepayment, other than on an installment due date, need not be credited until the next following installment due date or thirty days after such prepayment, whichever is earlier.

2. Grantor agrees to pay to Beneficiary as trustee (under the terms of this trust as hereinafter stated) in addition to the monthly payments of principal and interest payable under the terms of said note, on the first day of each month until said note is fully paid, the following sums:

(a) An installment of the ground rents, if any, and of the taxes and special assessments levied or to be levied against the premises covered by this Deed of Trust; and an installment of the premium or premiums that will become due and payable to renew the insurance on the premises covered hereby against loss by fire or such other hazard as may be required by Beneficiary in amounts and in a company or companies satisfactory to Beneficiary; Grantor agreeing to deliver promptly to Beneficiary all bills and notices therefor. Such installments shall be equal respectively to one-twelfth (1/12) of the annual ground rent, if any, plus the estimated premium or premiums for such insurance, and taxes and assessments next due (as estimated by Beneficiary, and of which Grantor is notified) less all installments already paid therefor, divided by the number of months that are to elapse before one month prior to the date when such premium or premiums and taxes and assessments will become delinquent. Beneficiary shall hold such monthly payments in trust to pay such ground rents, premium or premiums, and taxes and special assessments before the same become delinquent.

(b) The aggregate of the amounts payable pursuant to subparagraph (a) and those payable on the note secured hereby, shall be paid in a single payment each month, to be applied to the following items in the order stated:

- (I) ground rents, taxes, special assessments, fire and other hazard insurance premiums;
- (II) interest on the note secured hereby;
- (III) amortization of the principal of said note.

Any deficiency in the amount of any such aggregate monthly payment shall, unless made good prior to the due date of the next such payment, constitute an event of default under this Deed of Trust.

3. If the total of the payments made under (a) of paragraph 2 preceding shall exceed the amount of payments actually made by Beneficiary as trustee for ground rents, taxes or assessments, or insurance premiums, as the case may be, such excess may be applied on any indebtedness secured hereby, or be credited by Beneficiary on subsequent payments to be made by Grantor for such items or, at Beneficiary's option as trustee shall be refunded to Grantor. If however, such monthly payments shall not be sufficient to pay such items when the same shall become due and payable, then Grantor shall pay to Beneficiary as trustee any amount necessary to make up the deficiency within thirty (30) days after written notice from the Beneficiary stating the amount of the deficiency, which notice may be given by mail. If at any time Grantor shall tender to Beneficiary, in accordance with the provisions hereof, full payment of the entire indebtedness secured hereby, Beneficiary as trustee shall, in computing the amount of indebtedness, credit to the account of Grantor any credit balance remaining under the provisions of (a) of paragraph 2 hereof. If there shall be a default under any of the provisions of this Deed of Trust and thereafter a sale of the premises in accordance with the provisions hereof, or if the Beneficiary acquires the property otherwise after default, Beneficiary shall apply as trustee at the time of the commencement of such proceedings, or at the time the property is otherwise acquired, the amount then remaining to credit of Grantor under (a) of paragraph 2 preceding, as a credit on the interest accrued and unpaid and the balance to the principal then remaining unpaid on said note.

4. At Beneficiary's option, Grantor will pay a "late charge" not exceeding four per centum (4%) of any installment when paid more than fifteen (15) days after the due date thereof to cover the extra expense involved in handling delinquent payments, but such "late charge" shall not be payable out of the proceeds of any sale made to satisfy the indebtedness secured hereby, unless such proceeds are sufficient to discharge the entire indebtedness and all proper costs and expenses secured thereby.

To protect the Security of This Deed of Trust, Grantor Agrees:

5. To protect and preserve said property and to maintain it in good condition and repair.

6. Not to remove or demolish any building or improvement thereon.

7. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged, or destroyed thereon, and pay when due all costs incurred therefor.

8. Not to commit or permit waste of said property.

9. To comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting said property.

10. To provide and maintain hazard insurance, of such type or types and amounts as Beneficiary may from time to time require, on the improvements now or hereafter on said premises, and except when payment for all such premiums has heretofore been made under (a) of paragraph 2 hereof, to pay promptly when due any premiums therefor; and to deliver all premiums therefor; and to deliver all policies to Beneficiary, which delivery shall constitute an assignment to Beneficiary of all return premiums.

11. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum incurred by Beneficiary or Trustee.

12. To pay at least 10 days before delinquency all assessments upon water company stock, and all rents, assessments and charges for water, appurtenant to or used in connection with said property; to pay, when due, all encumbrances, charges, and liens with interest, on said property or any part thereof, which at any time appear to be prior or superior hereto; to pay all reasonable costs, fees, and expenses of this Trust.

13. Should Grantor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Grantor and without releasing Grantor from any obligation hereof, may: Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof, or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which reasonably appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts are reasonably necessary therefor, including cost of evidence of title, and reasonable counsel fees.

14. To pay within 30 days after demand all sums properly expended hereunder by Beneficiary or Trustee, with interest

from date of expenditure at the rate provided for in the principal indebtedness, and the repayment thereof shall be secured hereby.

15. Grantor agrees to do all acts and make all payments required of Grantor and of the owner of the property to make said note and this Deed eligible for guaranty or insurance under the provisions of the Servicemen's Readjustment Act and amendments thereto, and agrees not to do, or cause or suffer to be done, any act which will void such guaranty or insurance during the existence of this Deed.

IT IS MUTUALLY AGREED THAT:

16. Should the property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may after deducting therefrom all its expenses, including reasonable attorney's fees, apply any moneys so received by it, at its option, either to the restoration of the damaged premises or to the reduction of the indebtedness. Grantor agrees to execute such further assignments of any compensation, award, damage, and rights of action and proceeds as Beneficiary or Trustee may require.

17. That upon the request of the Beneficiary the Grantor shall execute and deliver a supplemental note or notes for the sum or sums advanced by the Beneficiary for the alteration, modernization, improvement, maintenance, or repair of said premises, for taxes or assessments against the same and for any other purpose authorized hereunder. Said note or notes shall be secured hereby on a parity with and as fully as if the advance evidenced thereby were included in the note first described above. Said supplemental note or notes shall bear interest at the rate provided for in the principal indebtedness and shall be payable in approximately equal monthly payments for such period as may be agreed upon by the creditor and debtor. Failing to agree on the maturity, the whole of the sum or sums so advanced shall be due and payable 30 days after demand by the creditor. In no event shall the maturity extend beyond the ultimate maturity of the note first described above.

18. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

19. That the lien of this instrument shall remain in full force and effect during any postponement or extension of the time of payment of the indebtedness or any part thereof secured hereby.

20. At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Deed and the note for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the property.

The GRANTEE in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be \$10.

21. As additional security, Grantor hereby assigns to Beneficiary during the continuance of these trusts, all rents, issues, royalties, and profits of the property affected by this Deed and of any personal property located thereon. Until Grantor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Grantor shall have the right to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable, save and excepting rents, issues, royalties, and profits arising or accruing by reason of any oil, gas, or mineral lease of said property. If Grantor shall default as aforesaid Grantor's right to collect any of such moneys shall cease and Beneficiary shall have the right, with or without taking possession of the property affected hereby, to collect all rents, royalties, issues, and profits. Failure or discontinuance of Beneficiary at any time, or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Deed to any such tenancy, lease or option.

22. Upon any default by Grantor hereunder, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name, sue for or otherwise collect said rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

23. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

24. Upon default by Grantor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default, which declaration of default may be contained in the written notice of default hereinafter provided. If Beneficiary desires said property to be sold, it shall deposit with Trustee this Deed of Trust and all promissory notes and documents evidencing expenditures secured hereby, shall deliver to Trustee a written notice of default and of election to cause the property to be sold, in the form required by law, which shall be duly filed for record by Trustee or Beneficiary.

25. (a) After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Grantor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Grantor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee shall deliver to the purchaser its Deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including Grantor, Trustee, or Beneficiary, may purchase at the sale.

(b) When Trustee sells pursuant to the powers herein, Trustee shall apply the proceeds of sale to payment of the

expenses of such sale, together with the reasonable expenses of this Trust, including therein reasonable Trustee's fees and reasonable counsel fees if any are incurred; and then to the items in subparagraph (c) in the order there stated.

(c) After paying the items specified in subparagraph (b) if the sale is by Trustee, or the proper court costs if sale is pursuant to judicial foreclosure, the proceeds of sale shall be applied in the order stated to the payment of:

- (1) Cost of any evidence of title procured in connection with such sale and of any revenue stamps;
- (2) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate provided for in the principal indebtedness;
- (3) all other sums then secured hereby;
- (4) reimbursement of the Veterans Administration for any sums paid by it on account of the guaranty or insurance of the indebtedness secured hereby; and
- (5) the remainder, if any, to the person or persons legally entitled thereto.

26. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to any successor Trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed and its place of record, which, when recorded in the office of the County Recorder of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor Trustee. The foregoing power of substitution and the procedure therefor shall not be exclusive of the power and procedure provided for by law for the substitution of the Trustee or Trustees in the place of the Trustee or Trustees named herein.

27. The waiver by Trustee or Beneficiary of any default of Grantor under this Deed of Trust shall not be or be deemed to be a waiver of any other or similar defaults subsequently occurring.

28. (a) In addition to any of the powers or remedies conferred upon the Trustee and the Beneficiary or either of them under this instrument, the Trustee and Beneficiary jointly, or either, may bring an action in the proper court for the foreclosure of this instrument as a mortgage, upon default, and upon proper proof obtain all the remedies in such action that are given by any statute or other law of the State of Idaho.

(b) No power or remedy herein conferred is exclusive of, or shall prejudice any other power or remedy of Trustee or Beneficiary.

(c) The exercise of any power or remedy on one or more occasions shall not exclude the future exercise thereof from time to time upon the conditions prescribed herein or by operation of law.

29. If a final decree in favor of plaintiff is entered in a suit brought to foreclose this Deed of Trust, it may include a reasonable attorney fee as provided in the note secured hereby, but not in excess of the amount actually paid or unconditionally incurred by the proper plaintiffs.

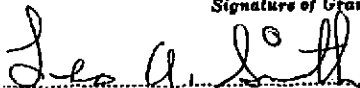
30. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

31. If the indebtedness secured hereby be guaranteed or insured under Title 38, United States Code, such Title and Regulations issued thereunder and in effect on the date hereof shall govern the rights, duties and liabilities of the parties hereto, and any provisions of this or other instruments executed in connection with said indebtedness which are inconsistent with said Title or Regulations are hereby amended to conform thereto.

32. This Deed shall inure to and bind the heirs, legatees, devisees, administrators, executors, successors, and assigns of the parties hereto. All obligations of Grantor hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder, including pledgees of the indebtedness secured hereby, whether by operation of law or otherwise. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

33. Request is hereby made that a copy of any notice of default and of any notice of sale hereunder be mailed to Grantor at the address hereinbefore set forth.

Signature of Grantor


LEO A. SMITH


JODY M. SMITH

VA ASSUMPTION POLICY RIDER

1958851

NOTICE: THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT.

THIS ASSUMPTION POLICY RIDER is made this 27th day of FEBRUARY, 1991, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Deed to Secure Debt ("Instrument") of the same date herewith, given by the undersigned ("Mortgagor") to secure the Mortgagor's Note ("Note") of the same date to

U.S. BANCORP MORTGAGE COMPANY

its successors and assigns ("Mortgagee") and covering the property described in the Instrument and located at:

722 VALLI-HI ROAD EAGLE, IDAHO 83616

(Property Address)

Notwithstanding anything to the contrary set forth in the Instrument, Mortgagee and Mortgagor hereby acknowledges and agrees to the following:

TRANSFER OF THE PROPERTY: If all or any part of the Property or any interest in it is sold or transferred, this loan shall be immediately due and payable upon transfer ("assumption") of the property securing such loan to any transferee ("assumer"), unless the acceptability of the assumption and transfer of this loan is established by the Department of Veterans Affairs or its authorized agent pursuant to section 1817A of Chapter 37, Title 38, United States Code.

An authorized transfer ("assumption") of the property shall also be subject to additional covenants and agreements as set forth below:

(a) **ASSUMPTION FUNDING FEE:** A fee equal to one-half of 1 percent (.50%) of the unpaid principal balance of this loan as of the date of transfer of the property shall be payable at the time of transfer to the mortgagee or its authorized agent, as trustee for the Secretary of Veterans Affairs. If the assumer fails to pay this fee at the time of transfer, the fee shall constitute an additional debt to that already secured by this instrument, shall bear interest at the rate herein provided, and, at the option of the mortgagee of the indebtedness hereby secured or any transferee thereof, shall be immediately due and payable. This fee is automatically waived if the assumer is exempt under the provisions of 38 U.S.C. 1829 (b).

(b) **ASSUMPTION PROCESSING CHARGE:** Upon application for approval to allow assumption and transfer of this loan, a processing fee may be charged by the mortgagee or its authorized agent for determining the creditworthiness of the assumer and subsequently revising the holder's ownership records when an approved transfer is completed. The amount of this charge shall not exceed the maximum established by the Department of Veterans Affairs for a loan to which section 1817A of Chapter 37, Title 38, United States Code applies.

(c) **ASSUMPTION INDEMNITY LIABILITY:** If this obligation is assumed, then the assumer hereby agrees to assume all of the obligations of the veteran under the terms of the instruments creating and securing the loan, including the obligation of the veteran to indemnify the Department of Veterans Affairs to the extent of any claim payment arising from the guaranty or insurance of the indebtedness created by this instrument.

(d) **REAMORTIZATION OR ADJUSTMENT OF DEBT:** The interest rate, payment terms, or balance due on the loan may be indexed, adjusted, renewed or renegotiated by the Grantors under the Deed of Trust or their successors in interest and the Beneficiary under the Deed of Trust or its successors in interest. In no event shall the interest rate be increased beyond the prevailing VA rate at the time the loan was closed. The provisions of this paragraph are hereby deemed to be incorporated within the terms of the Deed of Trust and the Deed of Trust Note secured by this Deed of Trust.

IN WITNESS WHEREOF, Mortgagor(s) has executed this Assumption Policy Rider.



LEO A. SMITH (Seal)
Mortgagor



JODY M. SMITH (Seal)
Mortgagor

(Seal)
Mortgagor

(Seal)
Mortgagor

Form No. 1402
(10/21/87)
ALTA Owner's Policy



POLICY OF TITLE INSURANCE



ISSUED BY

First American Title Insurance Company

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

First American Title Insurance Company

BY *Parker S. Kennedy*

PRESIDENT

599833

ATTEST

William C. Zaenke

SECRETARY

FIRST AMERICAN



First American Title Insurance Company

**POLICY
OF
TITLE
INSURANCE**



EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.

CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

(b) "insured claimant": an insured claiming loss or damage.

(c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land": the land described or referred to in Schedule (A), and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A), nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.

the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY.

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or ten-

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

11. LIABILITY NONCUMULATIVE.

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

12. PAYMENT OF LOSS.

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

13. SUBROGATION UPON PAYMENT OR SETTLEMENT.

(a) **The Company's Right of Subrogation.**
Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in

retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT.

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

4. DEFENSE AND PROSECUTION OF ACTIONS: DUTY OF INSURED CLAIMANT TO COOPERATE.

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes

and obligations to the insured under this policy, other than the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs (b)(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE.

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or, (ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or (ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

(c) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

8. APPORTIONMENT.

If the land described in Schedule (A)(C) consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

9. LIMITATION OF LIABILITY.

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(b) The Company's Rights Against non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

14. ARBITRATION.

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

16. SEVERABILITY.

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

17. NOTICES, WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at 114 East Fifth Street, Santa Ana, California 92701, or to the office which issued this policy.



First American Title Company of Idaho

7311 POTOMAC DRIVE • BOISE, IDAHO 83704 • (AREA 208) 375-0700

April 12, 1991

Leo A. Smith and Jody M. Smith
722 Valli-Hi Road
Eagle, ID 83616

Re: FA-78571
McLemore;Perraud/Smith

Dear Mr. & Mrs. Smith:

Enclosed are the following documents in connection with the above-referenced transaction:

1. Original recorded Warranty Deed Instrument No. 9110365
2. Policy of Title Insurance No. H 599833

We appreciate your business, and look forward to working with you again in the future.

If you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

FIRST AMERICAN TITLE COMPANY

Tina L. Smith
Escrow Officer

TLS/bh
Encl.



First American Title Company of Idaho

7311 POTOMAC DRIVE • BOISE, IDAHO 83704 • (AREA 208) 375-0700

FA- 78571

NOTE: THIS CONTAINS IMPORTANT INFORMATION ABOUT THE REAL ESTATE TRANSACTION YOU HAVE JUST COMPLETED. READ IT AND RETAIN IT WITH YOUR OTHER VALUABLE PAPERS PERTAINING TO THE PROPERTY.

The new home or other real estate you have purchased is protected with a Policy of Title Insurance issued by **FIRST AMERICAN TITLE INSURANCE COMPANY**. This is your guarantee of ownership.

We have assigned the above number to your records to assure prompt processing of future title orders involving the property. If you sell this property within two years, **FIRST AMERICAN TITLE WILL REDUCE THE USUAL POLICY RATE — 25 PERCENT.**

To be sure you obtain this savings, you should request your realtor or the escrow officer to forward this letter to us with the order for title insurance.

We appreciate the opportunity of serving you and will be glad to assist you in any way, remembering that **PROTECTION OF YOUR PROPERTY IS YOUR FIRST CONSIDERATION — AND OURS.**

FIRST AMERICAN TITLE COMPANY


ESCROW OFFICER



File No. FA-78571

Policy No. H 599833

SCHEDULE A

Amount of Insurance : \$158,800.00

Date of Policy: FEBRUARY 28, 1991 AT 3:37 P.M.

1. Name of Insured:

LEO A. SMITH and JODY M. SMITH

2. The estate or interest in the land which is covered by this policy is:

FEE SIMPLE

3. Title to the estate or interest in the land is vested in:

LEO A. SMITH and JODY M. SMITH, husband and wife

4. The land referred to in this policy is situated in the State of Idaho, County of Ada, and is described as follows:

Lot 1 of WHISPERING WINDS SUBDIVISION, according to the official plat thereof, filed in Book 28 of Plats at Page 1751, Official Records of Ada County, Idaho.



SCHEDULE B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorney's fees or expenses) which arise by reason of:

PART I

Section 1

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

continued



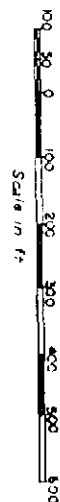
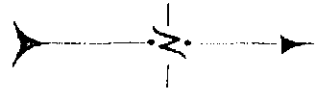
SCHEDULE B CONTINUED

Section 2

1. General and Special Taxes for the year 1991, a lien not yet due and payable.
2. The rights, powers and easements of Drainage District No. 2, which are collected with the general taxes.
3. Covenants, conditions and restrictions in an instrument recorded October 27, 1972, as Instrument No. 624755, AND AMENDED BY AN INSTRUMENT, recorded April 12, 1973, as Instrument No. 842372, Official Records.
4. Easements, reservations, restrictions and dedications, if any, as shown on the official plat of said Subdivision.
5. Rights of Way for Ditches, Tunnels and Telephone and Transmission lines constructed by authority of the United States as granted to the United States under provisions of Section 58-604, Idaho code 1947.
6. Exceptions and reservations of mineral rights in favor of the STATE OF IDAHO, by Deed recorded April 12, 1955, as Instrument No. 375337, Official Records. (47-701 Idaho Code 1947)
7. An Easement over said land in favor of IDAHO POWER COMPANY, a corporation, for power lines and incidental purposes as set forth in an instrument recorded October 9, 1971, as Instrument No. 862979, Official Records. (Appears to lie within the easements shown on the plat.)
8. A Deed of Trust and Rider, dated February 27, 1991, to secure an indebtedness in the principal sum of \$140,361.00, Recorded: February 28, 1991, as Instrument No. 9110366
Grantor: LEO A. SMITH and JODY M. SMITH, husband and wife
Trustee: U.S. BANK OF WASHINGTON, NATIONAL ASSOCIATION
Beneficiary: U.S. BANCORP MORTGAGE COMPANY

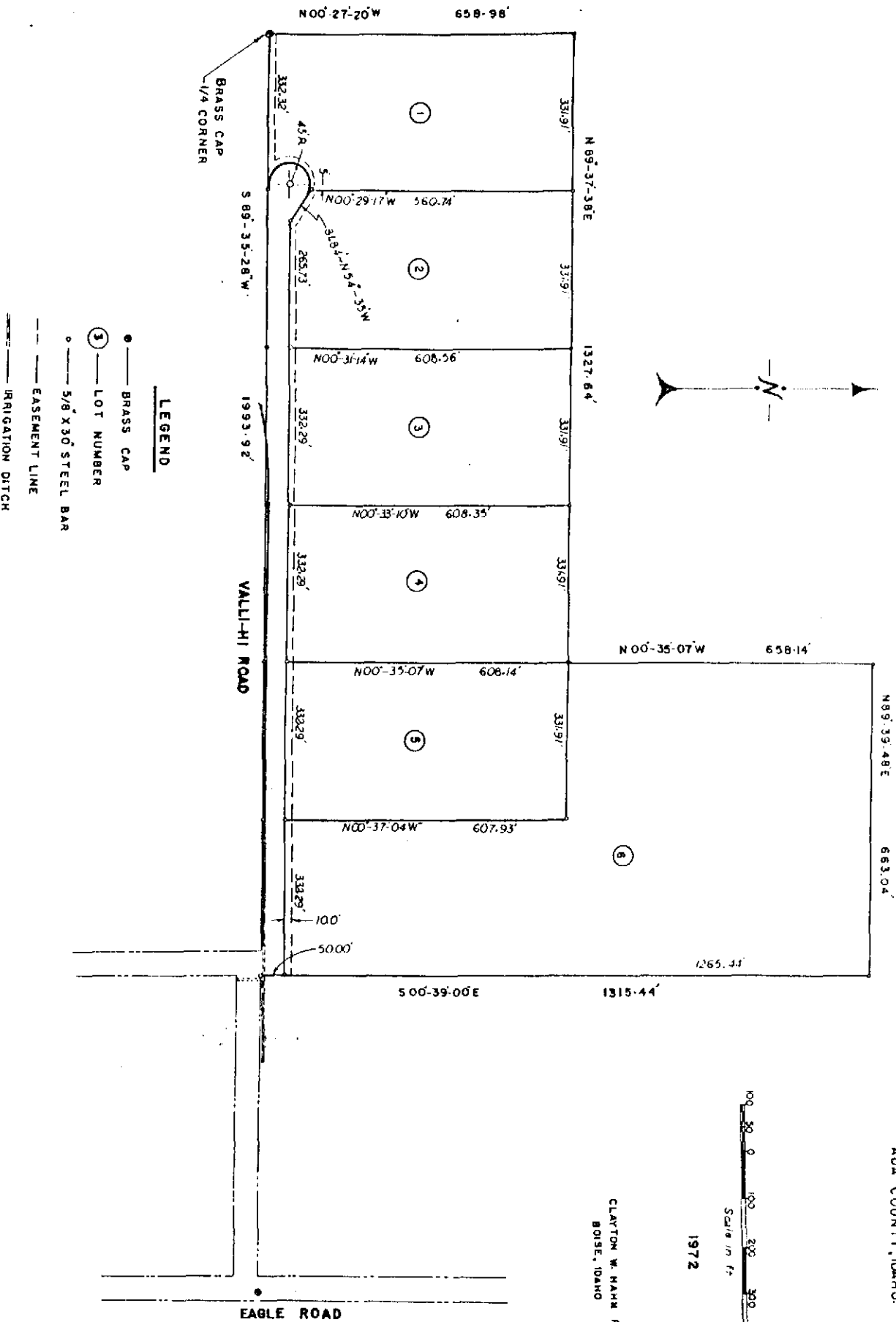
PLAT SHOWING WHISPERING WINDS SUBDIVISION

1/4
S 1/2, NE 1/4, SEC 32, T 5 N, R 1 E, B M.
ADA COUNTY, IDAHO.



1972

CLAYTON W. NAHM, P.E.
BOISE, IDAHO



DECLARATION OF PROTECTIVE COVENANTS
AND RESTRICTIONS OF THE
"WHISPERING WINDS SUBDIVISION"

Dated: April 4, 1972

Recorded: October 27, 1972

Instrument No. 824755

KNOW ALL MEN BY THESE PRESENTS:

The undersigned W. JOHN STIRM and ROSIE L. STIRM, as individual parties; and Thelma E. Skinner

all as Grantors do hereby certify and declare:

1. Grantors describe real property situated in Ada County, Idaho, to-wit:

Whispering Winds Subdivision situated in Section 32 -
T. 5 N. R. 1. E. Boise Meridian; Ada County, Idaho.

2. All of the real estate, including lots, parcels, and tracts thereof, and any conveyance covering or describing all or any part thereof, either by reference to the above described plat or by any number or designated plat or by any number or designation thereon, or by any other description shall be subject to the following restrictions, covenants and conditions, and that by the acceptance of any such conveyance, the grantee or grantees and their heirs, executors, administrators successors and assigns, covenant with the undersigned, its successors and assigns, and with each other as to the property described as follows:

a. LAND USE: These tracts shall be limited to a single family dwelling, and used as residential residence.

b. BUILDING LOCATION: No building shall be located on any lot nearer than 40 feet from the front lot or street line or nearer than 20 feet to any interior side lot line or nearer than 10 feet to any side street line, each distance respectively measured at the closest point of said structure to said front, street or lot line.

As an appurtenance to any dwelling house, or luxury double-wide Mobile home, a private garage, garden house, structure for the housing of small domestic animals or barn for the purpose of housing not more than 4 horses, no pigs, architecturally in harmony therewith and of permanent construction may be erected within the building limits herein set forth. No barn loafing shed or other building for housing or care of animals, shall be placed within 100 feet of any residence building or individual domestic well.

c. BUILDINGS: All buildings erected upon this lot in this

(Continued)

subdivision shall be maintained in good repair so as to be inoffensive to any other property owners in said subdivision. A double wide mobile home will be put on foundation and all buildings kept in respectable order at all times. No building shall be moved onto any building site unless specified permission and approval of plans and specifications is obtained in writing from grantors.

d. ANIMALS: Animals shall be fenced separate and apart from family dwelling. Household pets such as dogs and cats cannot run at large.

e. FENCES: Fences are required where there are any animals at all. No fence can be erected temporarily or of barbed wire. Fences must at all times be maintained.

f. WATER: The Grantors are under no obligation to deliver domestic or irrigation water to any lot or building site in this subdivision. It is contemplated that domestic water for use in any building erected upon a building site shall be supplied by the buyer at his expense. Such wells shall be located at a minimum of 100 feet from the individual sewerage disposal facilities and shall comply in all respects with regulations and health standards of the Ada County Health Department. All wells must be registered.

g. SEWAGE DISPOSAL: Approval of all sewages and septic tanks installed shall be obtained from the cognizant health authority and the Grantors shall have no obligation to construct any sewer or provide any connection thereto. All sewages and septic tanks must be installed by the buyers at their own expense.

h. REFUSE AND DUMPING: No garbage, glass, tin cans, trash or rubbish shall be permitted to accumulate on any lot. Burying of any of said items will absolutely not be permitted. Trash, garbage or other waste materials shall be deposited only in sanitary containers meeting the requirements of the sanitation ordinance of the County of Ada, State of Idaho, and the regulations of the State of Idaho Health Authorities.

i. EASEMENTS: Easements for installation and maintenance of utilities to each of these lots are to be maintained but no structure or plants or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities.

j. PROCEDURES: The committee's approval or disapproval as required in these covenants shall be in writing. In the event the

(Continued)

committee, or its designated representative fail to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

k. QUALITY OF CONSTRUCTION: All buildings erected shall be of good quality and shall be constructed in a good and workmanlike manner. The structure shall be compatible and in keeping with the area in order that the development and construction of the buildings will enhance the area to the advantage of all of the owners. i.e. Only luxury double wide mobile homes, Boise Cascade Homes, etc.

l. TERM: These protective restrictions and covenants shall run with the land described herein and shall be binding upon the parties hereto and all successors in title or interests to said property of any part thereof, until at which time it is desirable and can be re-zoned to one acre tracts by the zoning and planning commission.

m. VIOLATIONS: If the parties hereto, or any of the, or their heirs or assigns, shall violate or attempt to violate any of the covenants or restrictions set forth before the termination thereof, it shall be lawful for any person or persons owning any other lots on said development of subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant or restrictions, and either to prevent him of them from so doing or to recover damages or other relief for such violations.

The validation of any one of these covenants by judgement or court order shall no no wise affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned individual parties have here unto subscribed their names this 4th day of April, 1972.

AMENDMENT OF DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS
WHISPERING WINDS SUBDIVISION

Dated: April 11, 1973

Recorded: April 12, 1973

Instrument No. 842372 (824755)

COME NOW W. JOHN STIRM and ROSIE L. STIRM, Husband and Wife, and do hereby and herewith amend that certain Declaration of Protective Covenants and Restrictions of Whispering Winds Subdivision, which Declaration was dated the 4th day of April, 1972, and recorded on the 27th day of October, 1972, as Instrument No. 824755, Records of Ada County, Idaho, the said Amendment to provide as follows:

1. The provisions of that certain Declaration of Protective Covenants and Restrictions of Whispering Winds Subdivision notwithstanding, authority is specifically granted to the owners, to establish and maintain a small commercial enterprise at any reasonable place within the boundaries of the lot they own, provided it does not interfere with other land owners and also does not diminish land values, nor contravene any law or ordinance of any governmental agency.

DATED this 11th day of April, 1973.

SUBSCRIBED AND SWORN to before me this 12 day of April, 1973.

4/5/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME M³ Remore, Michael or Pennaud Lynn CLAIM IDENT. NO. 63DATE RECEIVED 5-16-89 CK # C006797 AMOUNT \$ 25 YES NO Required Info?

1. Is the name and address complete with zip code? ☒ YES ☐ NO ☐ Required Info? *
2. Is a priority date entered? ☒ YES ☐ NO ☐ Required Info? *
- Is the priority date acceptable in view of mandatory filing dates? ☒ YES ☐ NO ☐ Required Info? *
- See Adjudication Memos #1 and #4 to determine if a Permit is required. ☒ YES ☐ NO ☐ Required Info? *
3. (a) Is a source entered? ☒ YES ☐ NO ☐ Required Info? *
- (b) Is a tributary to entered? (if required) ☐ YES ☒ NO ☐ Required Info? *
4. Is the legal description of the p.d. sufficient? ☒ YES ☐ NO ☐ Required Info? *
5. Is there a description of the diverting works? ☒ YES ☐ NO ☐ Required Info? *
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. ☒ YES ☐ NO ☐ Required Info? *
- Is the period of use included? ☒ YES ☐ NO ☐ Required Info? *
- Is a quantity claimed for each use? ☒ YES ☐ NO ☐ Required Info? *
7. Is a total quantity claimed entered? ☒ YES ☐ NO ☐ Required Info? *
8. If required is a consumptive use entered? ☐ YES ☒ NO ☐ Required Info? *
- Is the consumptive use correct? ☐ YES ☒ NO ☐ Required Info? *
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. ☐ YES ☒ NO ☐ Required Info? *
10. Is (are) the place(s) of use and purpose(s) indicated? ☒ YES ☐ NO ☐ Required Info? *
11. Is (are) the county(ies) entered? ☒ YES ☐ NO ☐ Required Info? *
12. Is the ownership of p.u. checked? ☒ YES ☐ NO ☐ Required Info? *
13. Are other water rights listed or "none" indicated? ☒ YES ☐ NO ☐ Required Info? *
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) ☐ YES ☒ NO ☐ Required Info? *
15. Is the basis of the claim indicated? ☒ YES ☐ NO ☐ Required Info? *
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) ☐ YES ☒ NO ☐ Required Info? *
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. ☒ YES ☐ NO ☐ Required Info? *
18. Has the claim been signed, sealed, and dated by a notary? ☒ YES ☐ NO ☐ Required Info? *
19. Was this claim filed on time, or was an extension granted? ☒ YES ☐ NO ☐ Required Info? *
20. Is the fee enclosed correct? ☐ YES ☒ NO ☐ Required Info? *
21. If this claim is based on an existing water right, has the identification number been entered? ☐ YES ☒ NO ☐ Required Info? *
22. Should this claim be data entered? ☒ YES ☐ NO ☐ Required Info? *

Claim checked by: Danni Smith Date: 6-13-89Claim must be returned to claimant: ☐ (Yes) ☐ (No)Claimant must be notified of modifications: ☐ (Yes) ☐ (No)

Receipt Prepared by: _____ Date: _____
 Claim data entered by: _____ Date: _____
 Sent to claimant by: _____ Date: _____

Comments: _____

MICROFILMED

AUG 25 1992