

ADA COUNTY HISTORIC RESOURCES: A RECONNAISSANCE SURVEY

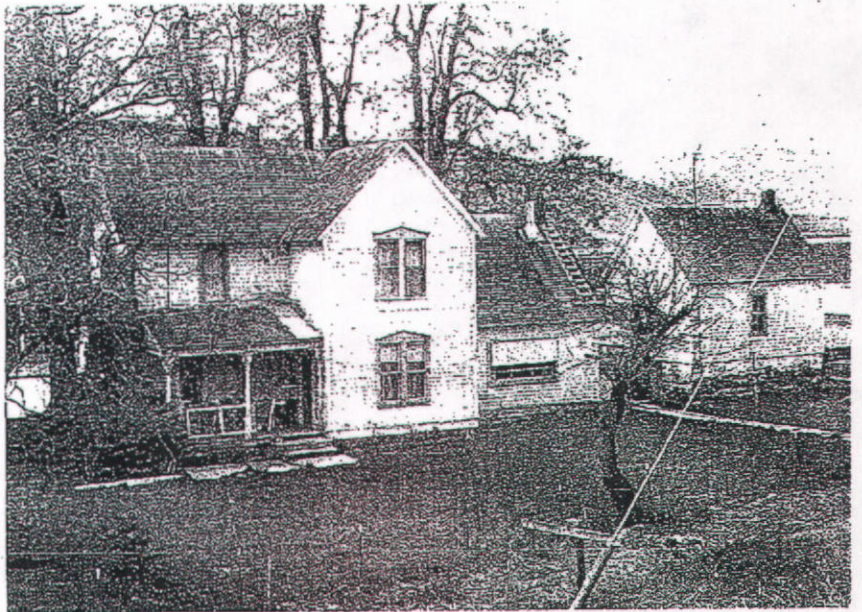


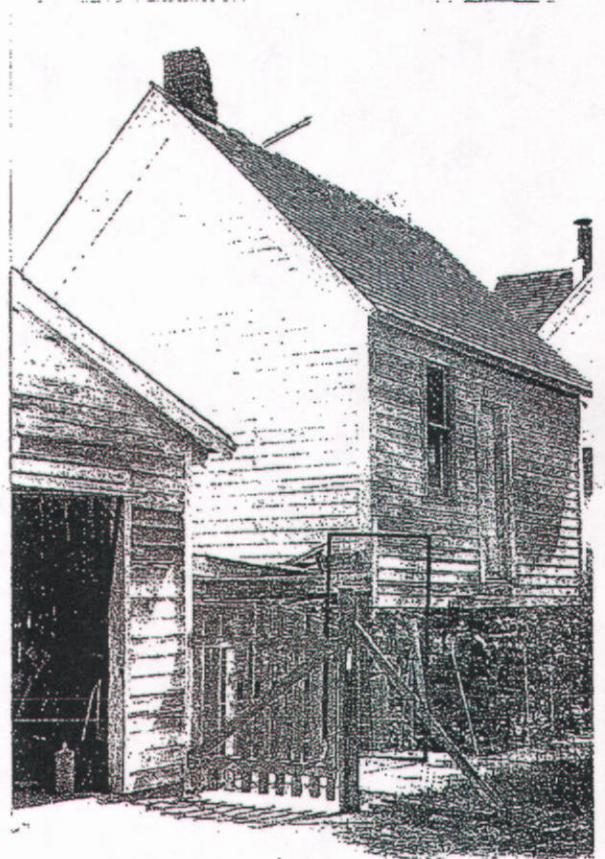
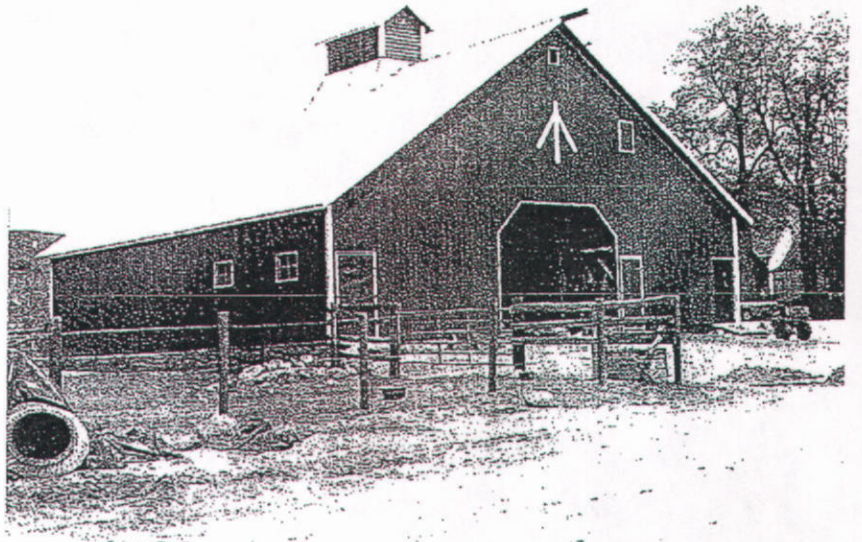
PREPARED BY BELINDA DAVIS/BARBARA PERRY BAUER, CONSULTANTS
AND THE ADA COUNTY DEVELOPMENT SERVICES DEPARTMENT

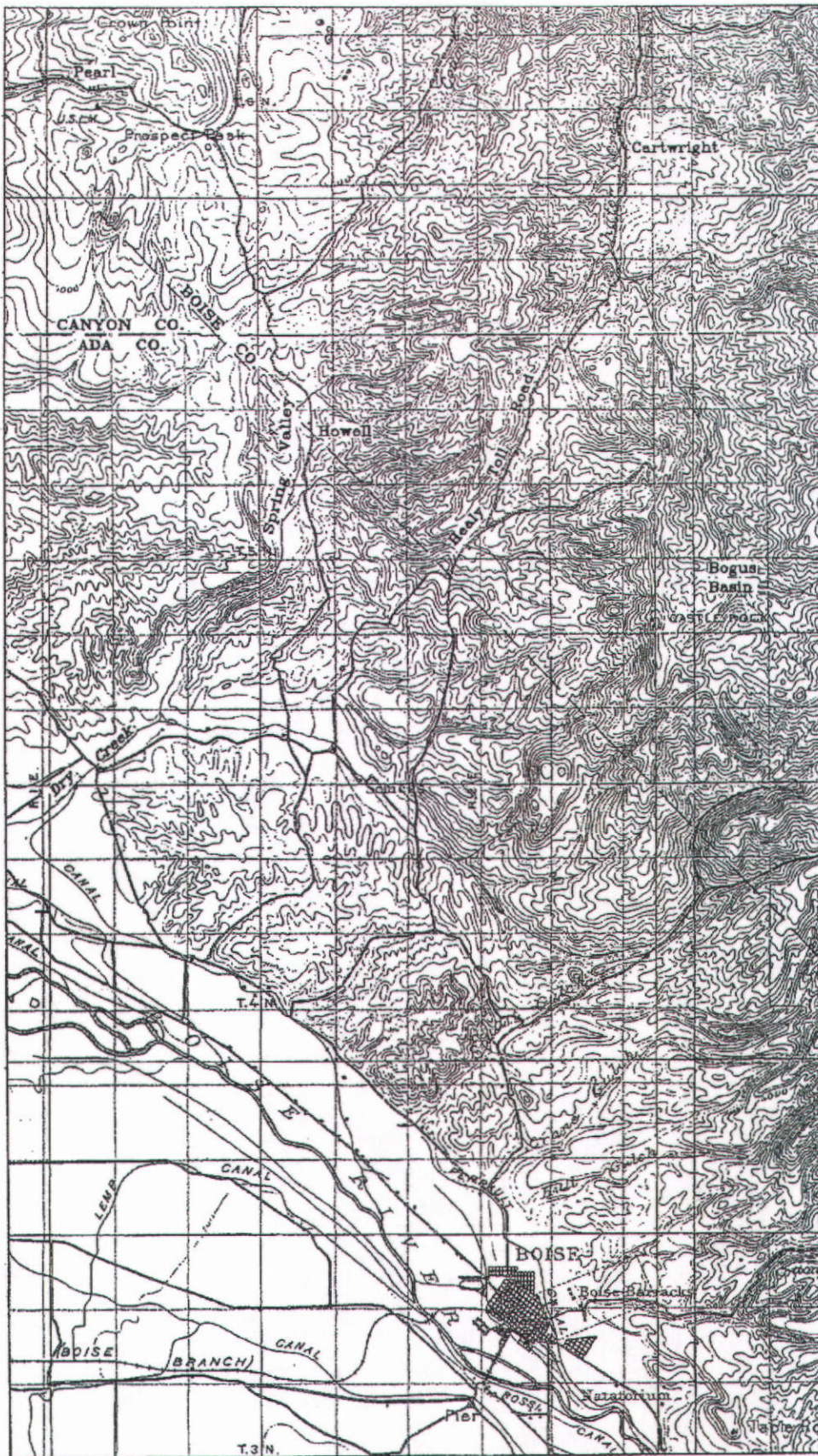
FOR THE ADA COUNTY HISTORIC PRESERVATION COUNCIL

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

August 1989







AVIMOR



Not To Scale
Figure 4

SOURCE: IDAHO STATE HISTORICAL LIBRARY

A SunCor Planned Community

USGS Map of 1897

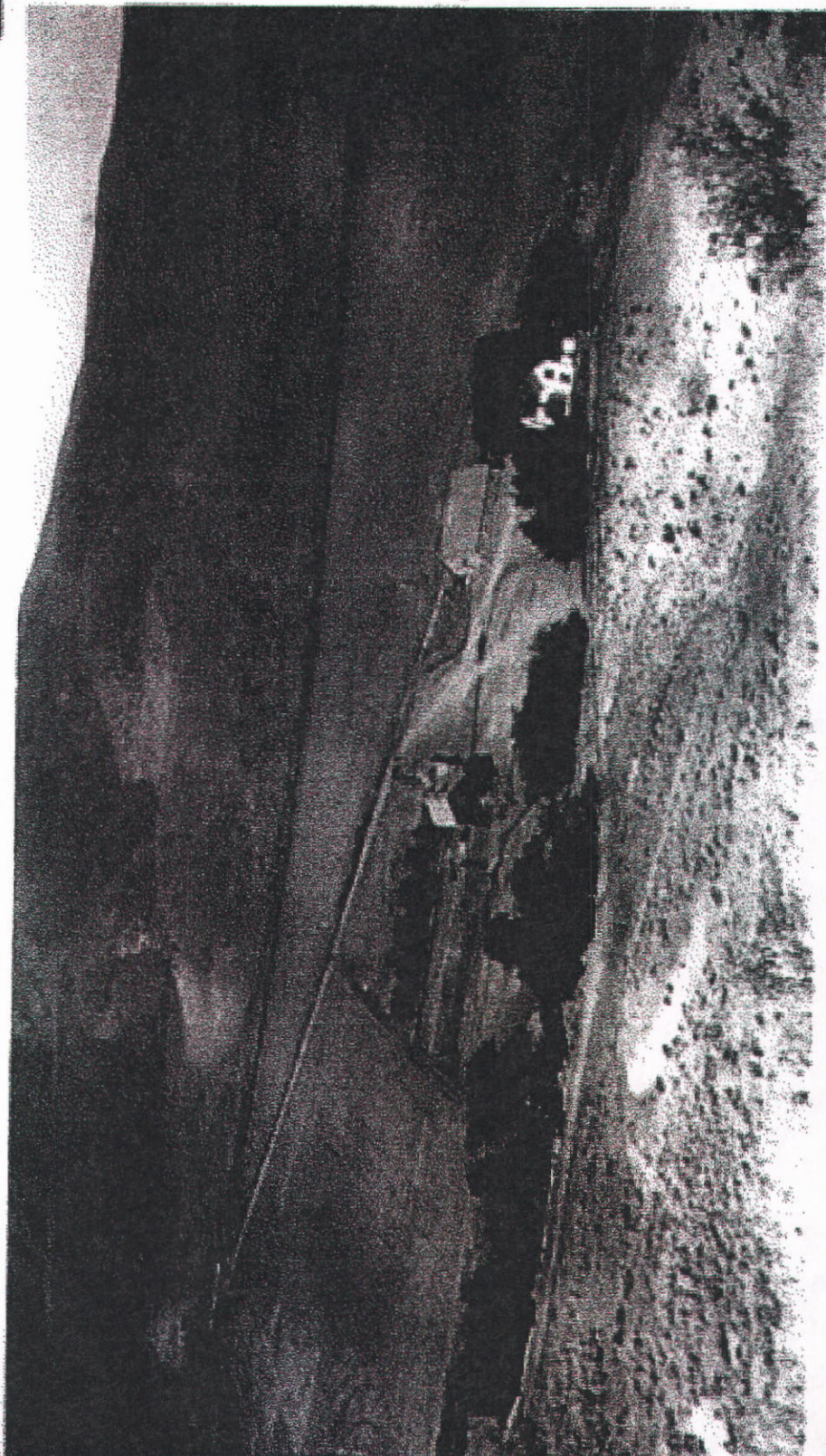
The United States of America

Be it remembered that these presents shall come before the
Honorable President No. 1019.
Application 1987 and 2722. Whereas, Heretofore, the
in the Survey and Land Office of the United States at
the District of the Land Office at Boise City, Idaho, and
and, pursuant to a list of Congress approved 20th May 1890,
and then made to Natural Settlers on the Public Domain
the act supplemental thereto, the claim of William H. Hunt
established and being commemorated, in conformity to the
in the East of the North East quarter, the North West quarter of
North East quarter and the North East quarter of the North West
quarter of Section 12 in Township 11 North of Range 12 East
of the above described lands, containing one hundred and six acres
according to the official Plat of the Survey of the said lands
to the General Land Office by the Surveyor General
then known, that there is, therefore, granted by the United States
to the said William Hunt the tract of land above described
to have and to hold the said tract of land, with the appur-
tenances thereof, unto the said William Hunt and to his he-
irs and assigns forever; subject to any vested and accreted
rights and to farming, agricultural, manufacturing and
mining, and right to to do and to use work in connection
with, and with water rights, as may be recognized and
regulated by the local customs, laws, and decisions of courts
and subject to the right of the proprietor of a mine or lode
tract and remove his ore therefrom, should the same be
to locate or interest the premises hereby granted, as provided
by law. And there is reserved from the North West quarter of the
North East quarter and the North East quarter of the North West
quarter of Section 12 in Township 11 North of Range 12 East
East of the above described lands, all water rights, ditches or canals
constructed by the United States.

In Testimony Whereof, I have hereunto set my hand and
Seal of the United States of America, this 10th day of May, 1890.
Palmer, and the seal of the General Land Office thereunto
affixed.
Given under my hand and seal of the United States of America
this 10th day of May, 1890.



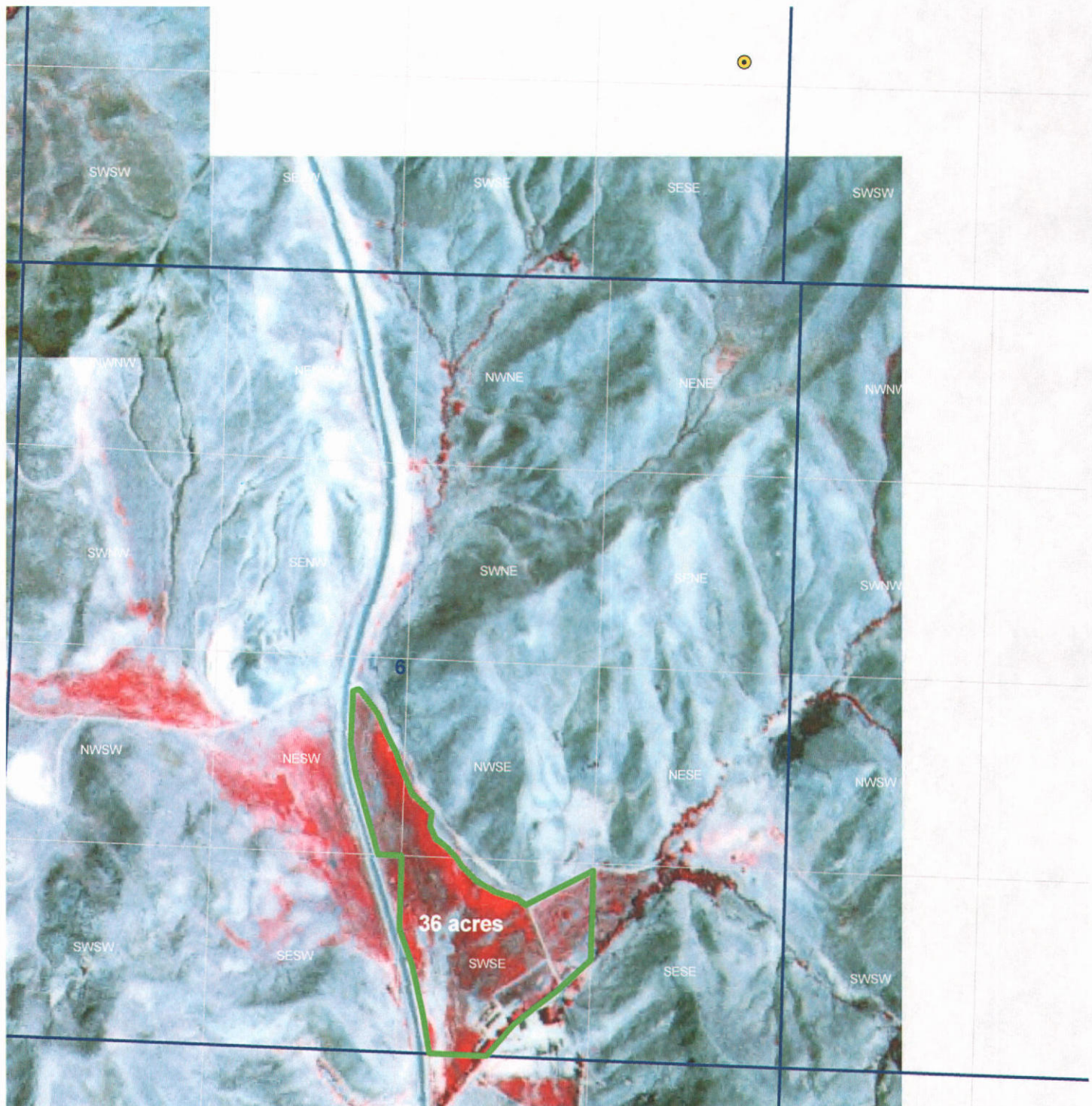




Idaho Department of Water Resources

63-5387

T05N R02E S6



- Point of Diversion
- ▭ Place of Use
- ▭ Sections
- ▭ Quarter Quarter



IDWR
Prepared by: Sandy Egbert
Date: 5-18-05
1987 NAPP Photography

600 0 600 1200 1800 2400 Feet

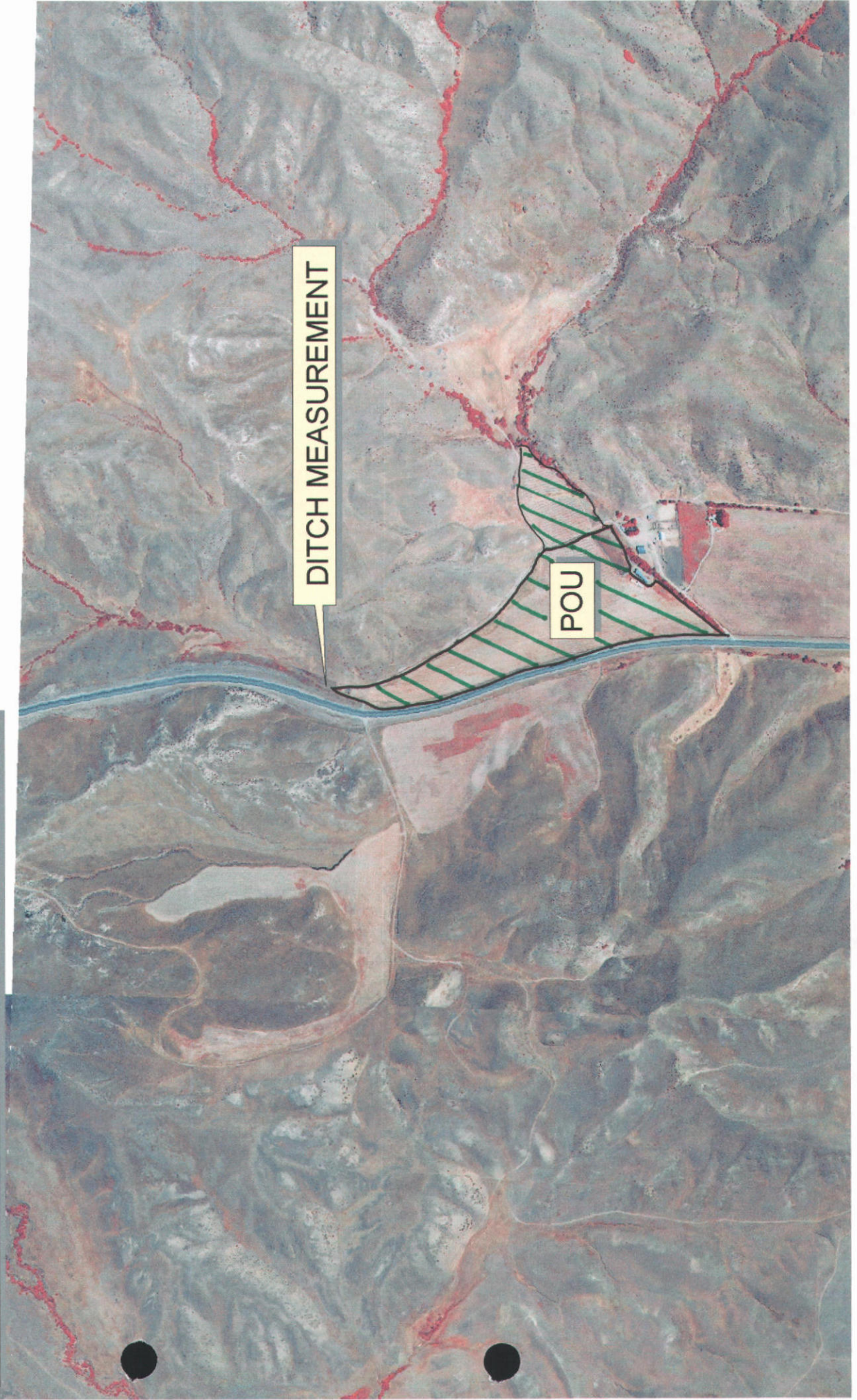
A63-05387
SPRING VALLEY LIVESTOCK COMPANY

CULVERT

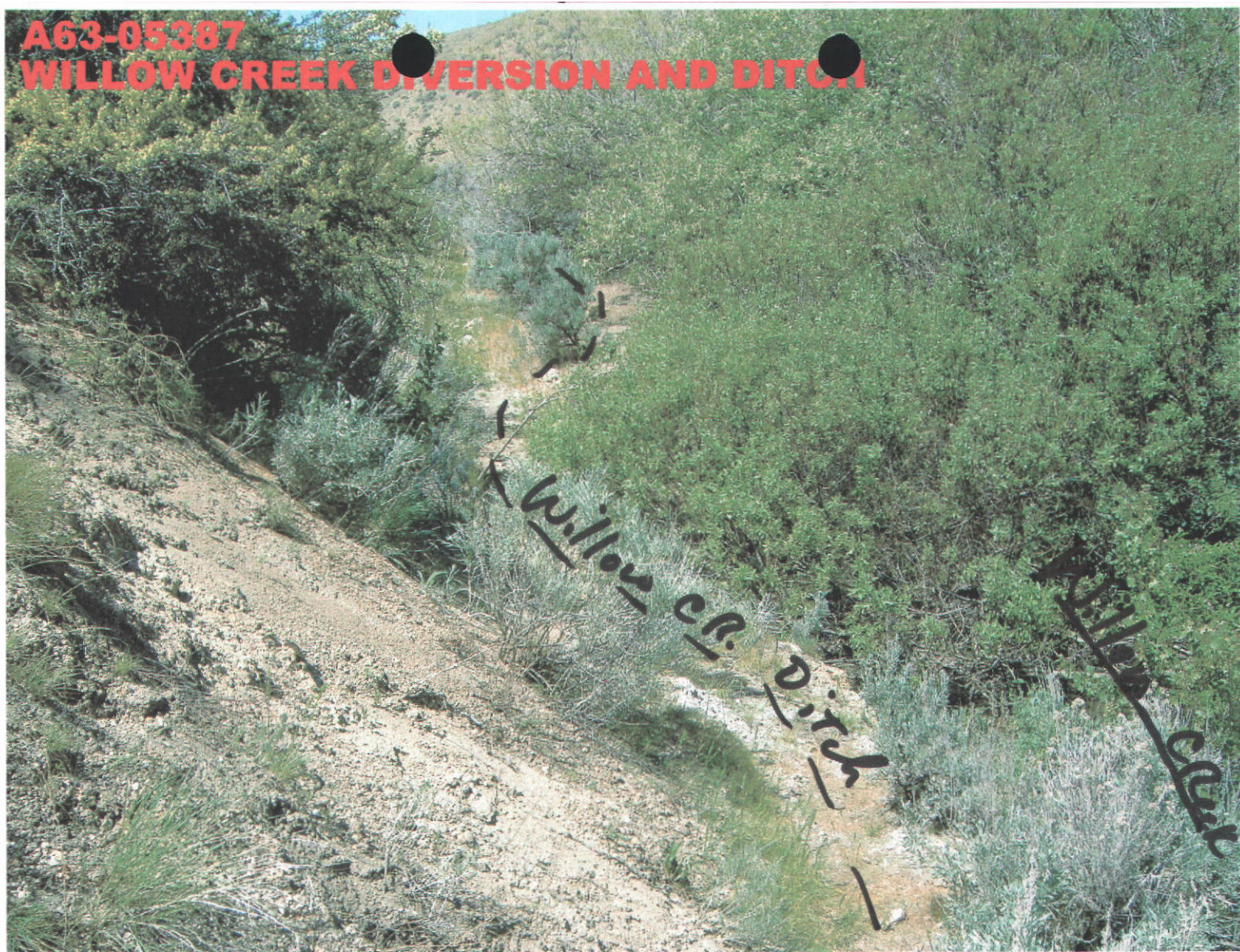
POD WILLOW CREEK



A63-05387
SPRING VALLEY LIVESTOCK COMPANY

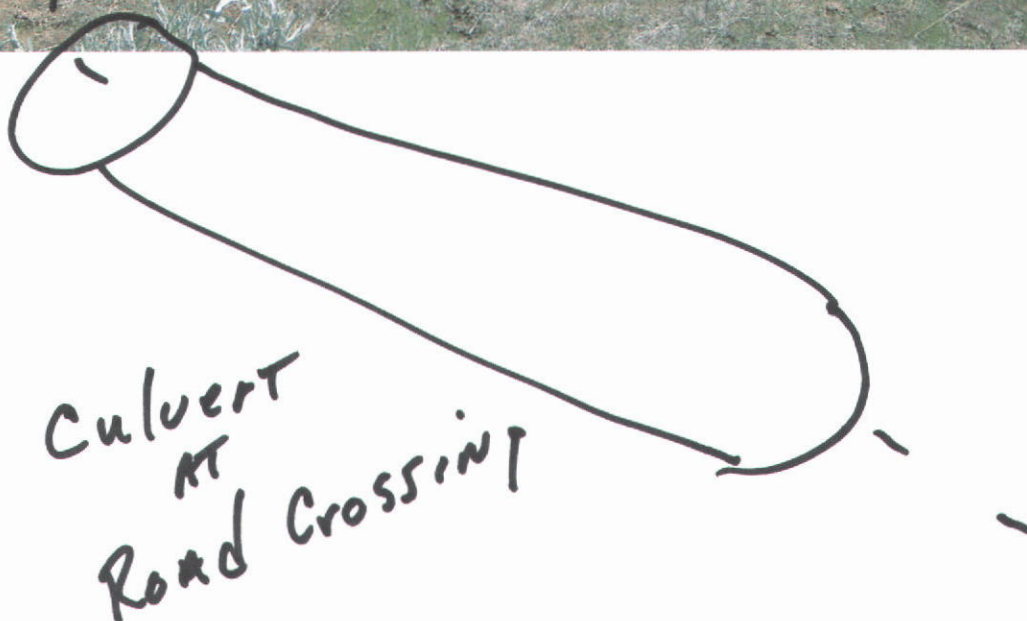


A63-05387
WILLOW CREEK DIVERSION AND DITCH



A63-05387

WILLOW CREEK DITCH ON TOP OF RIDGE



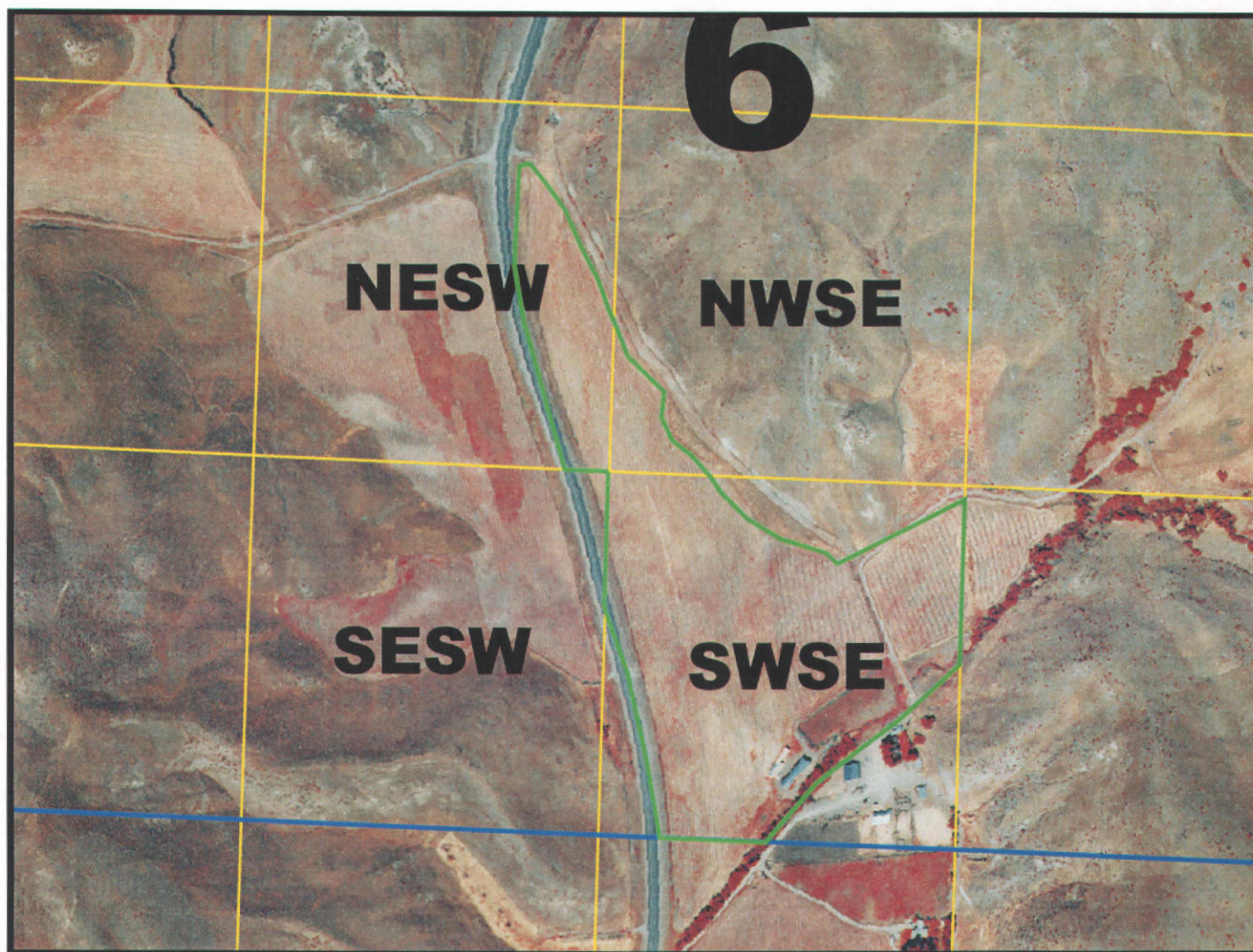
A63-05387

MEASUREMENT OF WILLOW CREEK DITCH





POU location Map 2000 Photography 63-05387



1320

0

1320 Feet



Point of Diversion



Claimed POU



Ada County Tax Lot Data



Quarter Quarter Lines



Section Lines

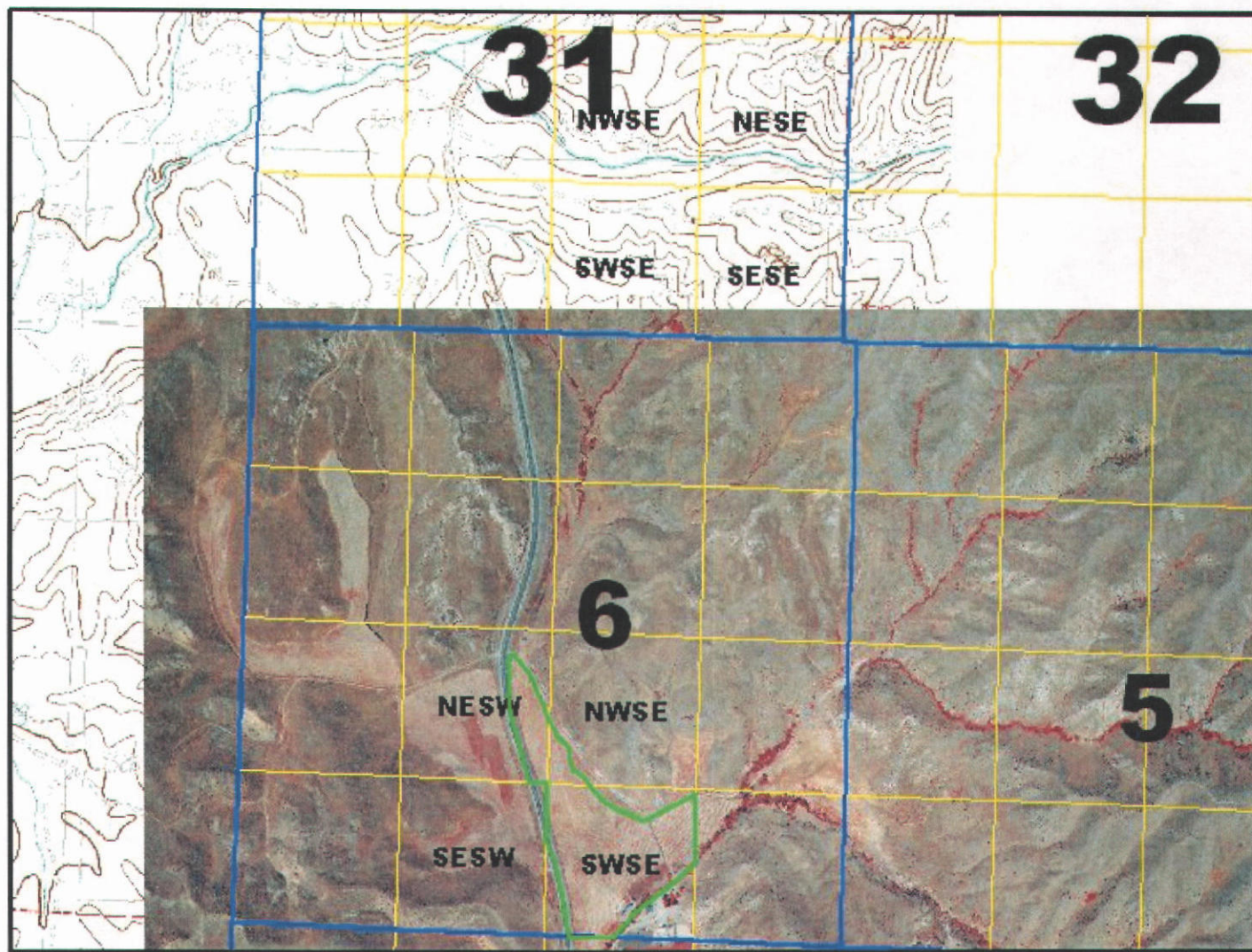
Total claimed Acres: 36.0



Prepared by: C. Saxton
Date: February 2004



POU location Map 2000 Photography 63-05387



1320 0 1320 Feet



-  Point of Diversion
-  Claimed POU
-  Ada County Tax Lot Data
-  Quarter Quarter Lines
-  Section Lines

Total claimed Acres: 36.0



Prepared by: C. Saxton
Date: February 2004

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: A63-05387
Date Received: 9/08/1989
Receipt No: C011422
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: SPRING VALLEY LIVESTOCK CO., INC. 208-286-7975
Address: P.O. BOX 9
STAR, ID 83669

2. Date of Priority: FEB 01, 1880

3. Source: WILLOW CREEK Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06N	02E	31	SW	SE			BOISE

5. Description of diverting works:
DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	02/01	12/01	1.000		
STOCKWATER	02/01	12/01	0.010		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
S/400 RANGE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	02E	6	NE	SW		IRR	3.0
			NW	SE		IRR	2.0

A63-05387

Page 1

Date: 09/18/89

SCANNED
OCT 05 2006

MICROFILMED
AUG 21 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	02E	6	SW SE		IRR	31.0
Section Acres						36.0
Total Acres						36.0

11. Place of use in counties: BOISE

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: STATUTORY CLAIM

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 Organizations:

I do solemnly swear or affirm that I am _____ of
_____, that I have signed the foregoing
_____,
Organization document in the space below as _____ of
_____,
Title and that the statements contained in the
_____,
Organization foregoing document are true and correct.

Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

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AUG 21 1992

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

A63-05387

Date Received

9-8-89 KRT

Receipt Number

C011422

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Spring Valley Livestock Co., Inc Phone (208) 286-7975
Mailing Address P.O. Box 9 Star, Idaho Zip 83669

2. Date of Priority (Only one (1) per claim) 2-1-1880

3. Source of water supply (a) Willow Creek
which is tributary to (b) Boise River

4. a. Location of existing point of diversion is: Township 6N Range 2E Section 31,
SW 1/4 of SE 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of Ada Boise

Additional points of diversion if any: _____

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

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

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

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

MICROFILMED

AUG 21 1992

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 2-1 to 12-1 amount 1. or _____

For ~~domestic~~ stock purposes from 2-1 to 12-1 amount .01 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.01 (cfs) and/or (b) _____ (acre feet)

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) domestic - 1 household 400 range cattle

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
5N	2E	6									3					2	31		36

Total number of acres irrigated 36

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

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.

or None ()

14. Remarks:

MICROFILMED

AUG 21 1992

Last Name _____ Ident No. _____

Copies: White -State, Yellow-Claimant

Scale: 2 inches equals 1 mile

A 16x16 grid of squares. Each square contains a crosshair pattern formed by two dashed lines intersecting at the center. The grid is composed of 16 columns and 16 rows, totaling 256 squares. The dashed lines are black and extend to the edges of each square.

AUG 21 1992

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice ☐ License ☐ Permit ☐

Decree

If applicable provide IDWR Water Right Number 63-05387

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments 1

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

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am Secretary - Treasurer Title

of Spring Valley Livestock Co., Inc Organization, that I have signed the foregoing

document in the space below as Sec - Treas. Title of Spring Valley Livestock Co., Inc Organization

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

Signature of Authorized Agent Theresa McDowell

Title and Organization Sec Treas Spring Valley L/S Co., Inc Date 9-8-89

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

Subscribed and sworn (or affirmed) before me this 8th day of September 1989

SEAL

Notary Public Helen Harrington

Residing at Helen Harrington, Notary Public

My Commission Expires December 1, 1994

Please Print Name

17. Notice of Appearance:

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

Signature _____

Address _____

Date _____

MICROFILMED

AUG 21 1992

Last Name _____ Ident. Number _____

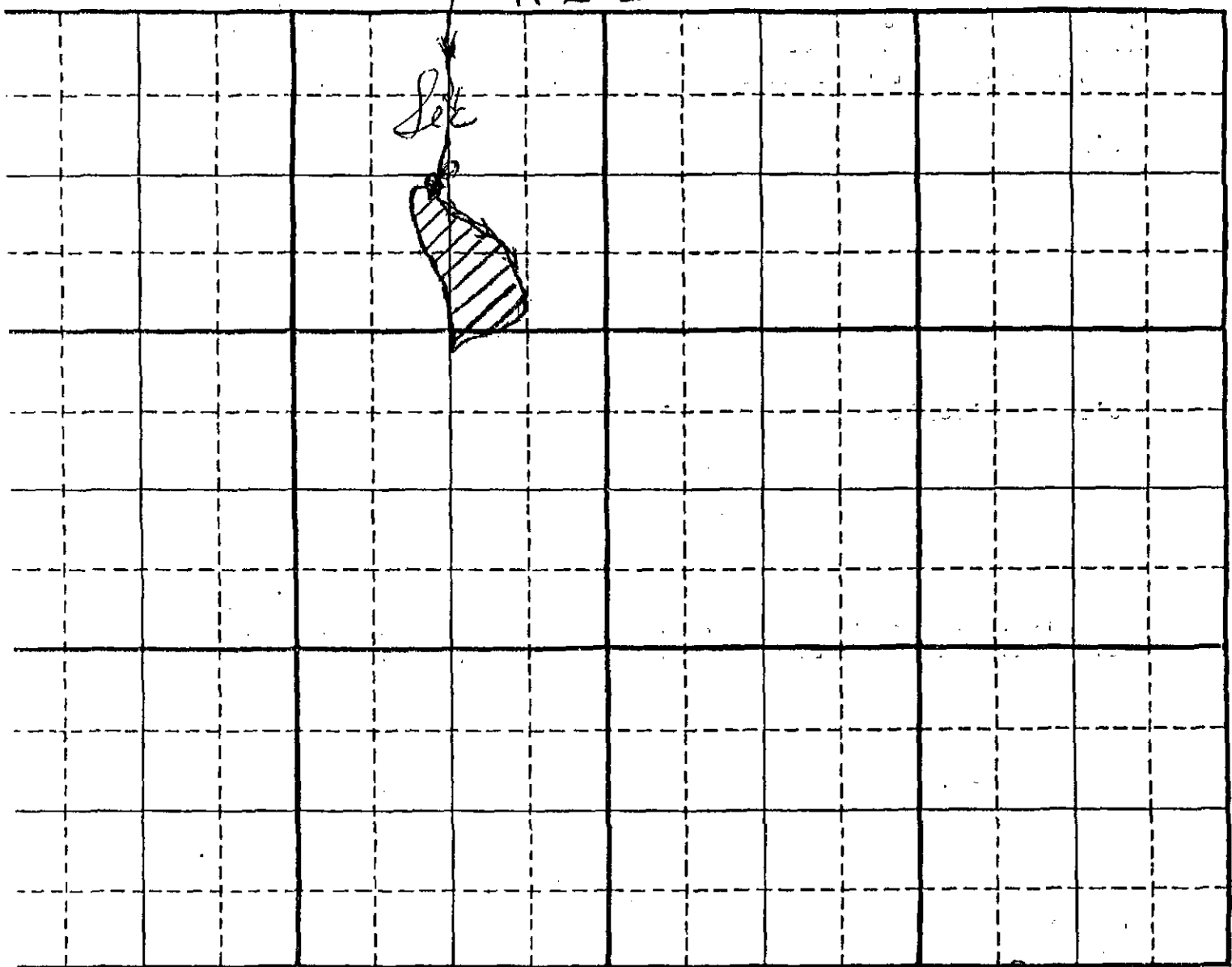
Copies White-State, Yellow-Claimant

Attachment to
AG 3-05387

Remarks

31' Willow Cr

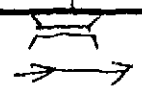
R 2 E



Scale: 2 inches equal 1 mile.



PLACE OF USE



DIVERSION DAM

DITCH

RESERVOIR

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

MICROFILMED

AUG 21 1992

State of Idaho)
County of ADA) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Spring Valley Lumber Co Inc
Calvin M. Halperin
(Claimant)

Sworn to before me this 16TH day of JULY

1986

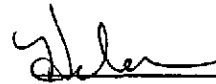
FROM Helen Harrington-Thomson

DATE 9-18-89

TO Roberta Garrett

SUBJECT Statutory Claim 63-5387
Incorrect Data Entry.

The above referenced claim was entered into the computer as Irrigation and domestic. The correct uses are irrigation and stockwater.



SIGNATURE

cc. A63-05387

MICROFILMED

AUG 21 1992

Date Received

RECEIVED
SEP 19 1989

State of Idaho
Department of Water Resources

REQUEST FOR EXTENSION OF TIME
TO FILE ADJUDICATION CLAIM(S)

Department of Water Resources
Western Regional Office

The Idaho Department of Water Resources will consider this form as a request that the claimant be granted an additional period of time in which to file claim(s) beyond the 90 days allowed by Section 42-1409(10), Idaho Code.

Spring Valley Livestock Co. Inc.
Name of Claimant

P.O. Box 9
Post Office Address

Star Idaho 83669
City, State, Zip Code

Boise
County(s) where Place of Use is located

May 19, 1989
Date Claim Originally Due

domestic
Identify water right(s) for which extension is requested

State reason(s) why an extension of time is requested:

Point of diversion is in Ada County and this residence is just across the Ada-Boise County line on the Boise County side. I thought I had to file on point of diversion - not place of use.

Claimant requests an extension to Sept 18, 1989.

We have made an appointment for 9-18-89

[Signature]
Signature

[Signature]
Title

Measures Spring Valley Livestock Co., Inc.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

The above request for extension of time is hereby

X granted denied,
and the filing deadline extended to 9/18, 1989.

Signed this 16 day of September, 1989.

MICROFILMED

AUG 21 1992

[Signature]
Director or his designated agent

DAVID B. SHAW

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

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-05387

2007 JAN 25 PM 2 20

NAME AND ADDRESS: FIRST AMERICAN TITLE INSURANCE
TRUST N08562
FOR BENEFIT OF SUNCOR IDAHO
485 E RIVERSIDE DR
EAGLE, ID 83616

SOURCE: WILLOW CREEK TRIBUTARY: BOISE RIVER

QUANTITY: 1.01 CFS

PRIORITY DATE: 11/15/1890

POINT OF DIVERSION: T06N R02E S31 NESE Within Boise County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.00 CFS
	Stockwater	02-01 TO 12-01	0.01 CFS

PLACE OF USE: Irrigation Within Boise County
T05N R02E S06 NESW 3.0 NWSE 2.0
SWSE 31.0
36.0 Acres Total

Stockwater Within Boise County
Same as Irrigation

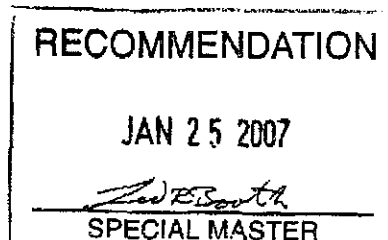
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE, I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



FILED
TWIN FALLS CO., IDAHO
2007 JAN 25 PM 2 19

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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND CONCLUSIONS
	)	OF LAW
	)	
	)	FOR WATER RIGHT 63-5387

I. FINDINGS OF FACT

A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On April 21, 2006, Bob Taunton of Avimor LLC, through their attorney Albert Barker, filed an objection to the *Director's Report*, asserting that the ownership and the priority date were incorrectly recommended. On January 23, 2007, the parties the subcase filed a *Standard Form 5 – Stipulated Elements of a Water Right*, which resolved the objection. The Idaho Department of Water Resources concurred with the stipulation.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Forms 5*, IT IS RECOMMENDED that water right 63-5387 be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

Dated January 24, 2007.



Theodore R. Booth
Special Master
Snake River Basin Adjudication

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

2007 JAN 25 PM 2 20

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 ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

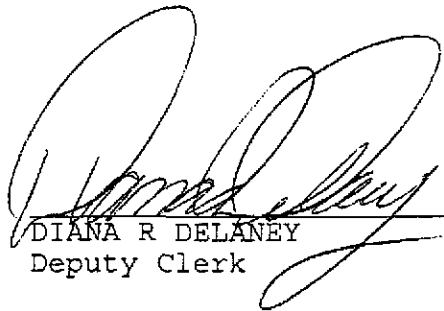
Water Right(s): 63-05387

On January 25, 2007, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED January 25, 2007.


DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - 5TH JUDICIAL DISTRICT
TWIN FALLS CO., IDAHO
FILED _____

2007 JAN 25 PM 2 20

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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 63-05387

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on January 25, 2007, with sufficient first-class postage prepaid to the following:

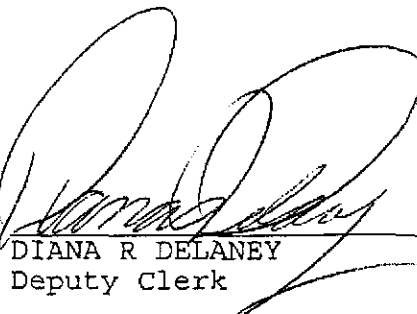
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

AVIMOR LLC

Represented by:
ALBERT P. BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

FIRST AMERICAN TITLE INSURANCE
TRUST N08562
FOR BENEFIT OF SUNCOR IDAHO
485 E RIVERSIDE DR
EAGLE, ID 83616

CERTIFICATE OF MAILING



DIANA R DELANEY
Deputy Clerk

PAGE 1
01/25/07

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	)	Subcase No. 63-5387
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT(s)/OBJECTOR(s):
Avimor, LLC

	1-23-07
Albert P. Barker	Date
Attorney for Claimants/Objectors	

STANDARD FORM 5 – 63-5387

IDWR Concurrence:

Sandy Egbert
Sandy Egbert
GIS Specialist

1-19-07
Date

Nicholas B. Spender
Nicholas B. Spender
Deputy Attorney General
Attorney for IDWR

1-22-07
Date

CERTIFICATE OF MAILING

I certify that on 1-23, 2007, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, 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

Hand-delivered

2. Copies to:

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

Hand-delivered

IDWR Repository
P.O. Box 83720
Boise, ID 83720

Becky Hawley
Signature of person or attorney mailing the form

SF5 Right No. 63-5387

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-5387

NAME AND ADDRESS:

FIRST AMERICAN TITLE INSURANCE CO
TRUST N08562
FOR BENEFIT OF SUNCOR IDAHO LLC
485 E RIVERSIDE DR
EAGLE ID 83616

SPRING VALLEY LIVESTOCK CO INC
PO BOX 9
STAR ID 83669

SOURCE:

Source:
WILLOW CREEK

Tributary:
BOISE RIVER

QUANTITY: 1.010 CPS

PRIORITY DATE: 11/15/1890
02/01/1964

POINT OF DIVERSION:

T06N R02E S31 NESE
Within BOISE County

PURPOSE AND
PERIOD OF USE:

Purpose of use	Period of use:	Quantity:
IRRIGATION	03/15 11/15	1.000 CPS
STOCKWATER	02/01 12/01	0.010 CFS

PLACE OF USE:

IRRIGATION within BOISE County
T05N R02E S06 NESW 3.0
T05N R02E S06 NWSE 2.0
T05N R02E S06 SWSE 31.0
STOCKWATER Same As IRRIGATION
36 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
Stockwater use is for 400 range cattle.

SF5 Right No. 63-5387

In Re SRBA	)	Subcase No. 63-5387
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

1

IDWR Concurrence:

Sandy Egbert
Sandy Egbert
GIS Specialist

1-19-07
Date

Nicholas B. Spender 1-22-07
Nicholas B. Spender
Deputy Attorney General
Attorney for IDWR

CERTIFICATE OF MAILING

I certify that on 1-23, 2007, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, 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

Hand-delivered

2. Copies to:

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

Hand-delivered

IDWR Repository
P.O. Box 83720
Boise, ID 83720

Becky Hawley
Signature of person or attorney mailing the form

SF5 Right No. 63-5387

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-5387

NAME AND ADDRESS:

FIRST AMERICAN TITLE INSURANCE CO
TRUST N08562
FOR BENEFIT OF SUNCOR IDAHO LLC
485 E RIVERSIDE DR
EAGLE ID 83616

SPRING VALLEY LIVESTOCK CO-INC
PO BOX 9
STAR ID 83669

NBS
AMB

SOURCE:

Source:
WILLOW CREEK

Tributary:
BOISE RIVER

QUANTITY: 1.010 CFS

PRIORITY DATE: 11/15/1890

02/01/1964

POINT OF DIVERSION:

T06N R02E S31 NESE
Within BOISE County

PURPOSE AND PERIOD OF USE:	Purpose of use	Period of use:	Quantity:
	IRRIGATION	03/15 11/15	1.000 CFS
	STOCKWATER	02/01 12/01	0.010 CFS

PLACE OF USE: IRRIGATION within BOISE County
T05N R02E S06 NESW 3.0
T05N R02E S06 NWSE 2.0
T05N R02E S06 SWSE 31.0
STOCKWATER Same As IRRIGATION
36 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
Stockwater use is for 400 range cattle.

SF5 Right No. 63-5387

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

- Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s)	Adjudication Claim No(s)	Split	Water Right No(s)	Adjudication Claim No(s)	Split
<u>63-5386</u>	_____	_____	_____	_____	_____
<u>63-5387</u>	_____	_____	_____	_____	_____
<u>63-18974</u>	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

- The following **REQUIRED** information must be submitted with this form:

- The appropriate **FILING FEE**. See instructions for fee amounts.
- A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

- Name and Address of Former Owner/Claimant(s) Spring Valley Livestock Co Inc
- New Owner/Claimant(s) PO Box 9, Star, Idaho 83669
First American Title Insurance Company Trust N08562
for benefit of SunCor Development Co Idaho LLC,
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or Successor to SunCor Development Company.
- New Mailing Address 485 E. Riverside Dr.
- City, State and ZIP Code Eagle, Idaho 83616
- New Telephone Number (208) 939-0343
- Date you acquired the property July 24, 2003

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) Stinson Idaho, Inc.
(include title if applicable) by Robert G. Taunton
its President
as second Beneficiary
under First American Title Insurance
Company Trust NO 8562

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

For Office Use Only

Received by _____	Date _____	Fee <u>N/A</u>
Received by _____	Date _____	Receipt No. _____
Processed by <u>Jef</u> AJ	Date <u>1-19-07</u>	WR _____ Date _____



*First American
Title Insurance Company*

JOHN KENNEDY GRAHAM
REGIONAL COUNSEL

November 1, 2006

Bob Taunton
SunCor Idaho, LLC
485 East Riverside Drive, Suite 300
Eagle, ID 83616

RE: First American Title Insurance Company Trust Number 8562

Dear Mr. Taunton:

Please be advised that SunCor Development Company, an Arizona Corporation, is the second beneficiary under the above referenced trust.

Under the Declaration of Covenants, Conditions and Restrictions dated January 23, 2006 SunCor Idaho, LLC as the successor and assignee of SunCor Development Company was granted the right by either AR Boise, LLC or SRV Trust a perpetual easement and exclusive and unrestricted right to develop and locate within SRV property or ARB properties water wells and water distribution systems and to secure water rights within the SRV property and the ARB properties including the placement of a certain number of wells.

If you have any questions, please feel free to contact me.

Sincerely,

John K. Graham
Regional Counsel

JKG:hg

4801 E. Washington, Suite 120, Phoenix, AZ 85034
TEL 602.685.7670 • TOLL FREE 800.523.5338 • FAX 602.685.7680
www.firstam.com

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Recording Requested By and
When Recorded Return to:

First American Title Insurance Company
4801 East Washington Street
Phoenix, AZ 85034
Phone: (602) 685-7000

Instrument # 191847

IDAHO CITY, BOISE COUNTY, IDAHO

2003-07-25

03:24:18, No. of Pages: 12

Recorded for: PIONEER TITLE

RORA A. CANDY

Fee: \$6.00

Ex-Officio Recorder Deputy

Index to: DEEDS

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

SPECIAL WARRANTY DEED

(SPRING VALLEY-BOISE)

THIS SPECIAL WARRANTY DEED made this 24th day of July, 2003, between SPRING VALLEY LIVESTOCK COMPANY, INC., an Idaho corporation ("Grantor"), and FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as TRUSTEE OF THE DUAL BENEFICIARY TRUST CREATED PURSUANT TO THE SUBDIVISION TRUST AGREEMENT DATED OCTOBER 8, 2003, as amended ("Grantee"), as said Subdivision Trust Agreement was entered into between Grantor, Grantee and SUNCOR DEVELOPMENT COMPANY, an Arizona corporation ("SunCor"), as Second Beneficiary thereunder, and together with the Contribution Agreement executed contemporaneously therewith by Grantor and SunCor, is evidenced by a Memorandum of Agreements recorded October 22, 2002, as Instrument No. 187819, Official Records of Boise County (all rights, title and interest of SunCor under said Subdivision Trust Agreement and said Contribution Agreement having been assigned by SunCor to SPRING VALLEY DEVELOPMENT LLC, an Idaho limited liability company ["SV Development"]), witnesseth:

That Grantor, for and in consideration of the sum of Ten Dollars and No Cents (\$10.00), and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, does, by these presents, convey unto Grantee and its successors and assigns forever upon and pursuant to the terms of the aforementioned Subdivision Trust Agreement and the Contribution Agreement, all the following described real estate situated in the County of Boise, State of Idaho.

SEE SCHEDULE I ATTACHED HERETO AND
INCORPORATED HEREIN.

Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, the rents, issues and profits thereof, including all water rights, permits and licenses appurtenant thereto; and all estate, right, title and interest in and to the property, as well in law as in equity, except as expressly provided otherwise herein. To have

and to hold, all and singular the above-described premises together with the appurtenances unto Grantee and its successors and assigns forever.

SUBJECT TO the provisions of the aforementioned Subdivision Trust Agreement and the Contribution Agreement which govern the duties and responsibilities of Grantor, Grantee and SV Development and survive the recording of this deed, and those exceptions to title set forth in SCHEDULE II attached hereto and made part hereof, Grantor makes no covenants or warranties with respect to title, express or implied, other than that previous to the date of this instrument, Grantor has not conveyed the same estate, or any right, title or interest therein, to any person other than Grantee and that such estate is at the time of the execution of this instrument free from encumbrances done, made or suffered by the Grantor, or any person claiming under Grantor.

GRANTOR:

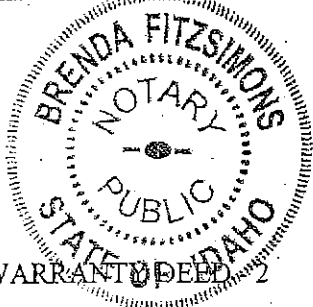
SPRING VALLEY LIVESTOCK COMPANY,
INC, an Idaho corporation

By *Colin McLeod III*
Its *per*

STATE OF IDAHO)
) ss.
County of Ada)

On this 24 day of July, 2003, before me, Brenda Fitzsimons, a Notary Public in and for said State, personally appeared Colin McLeod III, known to me to be President of SPRING VALLEY LIVESTOCK COMPANY, INC., the corporation that executed the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.



Brenda Fitzsimons
Notary Public for the State of Idaho
Residing at Caldwell
My commission expires 11-16-2008

SCHEDULE I

Legal Description

Roylance & Associates P.A.

391 W. State Street, Suite E, Eagle, Idaho 83616

Engineers • Surveyors • Landplanners

Telephone (208) 939-2824 Fax (208) 939-2855

July 24, 2003

Project No: 2408

Legal Description

Suncor Development Company

Spring Valley Livestock Company properties in Boise County

A tract of land located in Township 5 North, Range 1 East, Boise Meridian, Boise County, Idaho described as follows:

In Section 1, the portions of the Northeast One Quarter which lie within Boise County including Government Lots 1 and 2, and;

AND ALSO

A tract of land located in Township 6 North, Range 2 East, Boise Meridian, Boise County, Idaho described as follows:

In Section 7, the East One Half of the Southwest One Quarter, and Government Lots 3, 4, 10, and 11, and;

~~In Section 14, the South One Half of the Southwest One Quarter, and;~~

~~In Section 15, the South One Half, and;~~

A parcel of land situated in the Southeast One Quarter of the Southeast quarter of Section 17, Township 6 North, Range 2 East, Boise Meridian, Boise County, Idaho, as shown on the Record of Survey filed under Instrument No. 167338 in the Office of the Boise County Recorder, Idaho City, Idaho, said parcel being described as follows:

Beginning at an iron pin with an aluminum cap marking the Southeast corner of said Section 17,

Thence along the East boundary of said Section 17 North $00^{\circ}33'29''$ East a distance of 595.84 feet to a point on a curve on the Easterly right of way boundary of old Highway 55, FAP F. 129-(13),

Thence along the said Easterly right of way boundary along the arc of a curve to the right having a radius of 722.96 feet, a central angle of $06^{\circ}37'36''$, a length of 83.62 feet and a long chord which bears South $29^{\circ}27'18''$ West a distance of 83.57 feet to a point of spiral curve,

Thence continuing along the arc of a spiral curve to the right having a long chord which bears South $37^{\circ}37'26''$ West a distance of 169.50 feet to a point of tangent;

Thence South $40^{\circ}16'06''$ West a distance of 220.75 feet to a point of spiral curve,

Thence continuing along the arc of a spiral curve to the left having a long chord which bears South $37^{\circ}56'40''$ West a distance of 130.15 feet to a point of curve,

Thence continuing along the arc of a curve to the left having a radius of 419.52 feet, a central angle of $17^{\circ}08'36''$, a length of 125.52 feet and a long chord which bears South $24^{\circ}09'05''$ West a distance of 125.06 feet to a point on the South boundary of said Section 17,

Thence along the said South boundary, South $89^{\circ}30'00''$ East a distance of 412.67 feet, to the point of beginning.

In Section 18, the West One Half of the Northeast One Quarter, the East One Half of the Northwest One Quarter, the Northeast One Quarter of the Southwest One Quarter and Government Lots 1, 2, 3 and 4, and;

In Section 19, the Southeast One Quarter, the South One Half of the Northeast One Quarter and the Southwest One Quarter, and;

All of Section 20, Except that portion thereof lying within the following:

A tract of land situated in the Northeast quarter of Section 20 and the Southeast quarter of the Southeast quarter of Section 17, all in Township 6 North, Range 2 East, Boise Meridian, Boise County, Idaho, said tract being described as follows:

Commencing at a steel pin set to mark the Southwest corner of said Section 17,

Thence along the Southerly line of said Section 17 South $89^{\circ}10'42''$ East a distance of 2624.35 feet to a found stone monumenting the South quarter corner of said Section 17;

Thence continuing along the Southerly line of said Section 17 South $89^{\circ}30'00''$ East a distance of 1279.86 feet to a steel pin, said steel pin being the point of beginning;

Thence leaving the Southerly line of said Section 17 and following an existing fence South $00^{\circ}01'36''$ West a distance of 1397.07 feet to a steel pin on the Westerly right of way of old Highway 55,

Thence following the Westerly right of way of old Highway 55 the following courses and distances:

Thence North $00^{\circ}00'00''$ East a distance of 152.83 feet along the arc of a non-tangent circular curve to the right, said curve having a radius of 722.96 feet, a central angle of $12^{\circ}06'43''$, a chord bearing of North $53^{\circ}01'44''$ East and a chord distance of 152.54 feet to a steel pin,

Thence along the arc of a spiral curve to the right, said spiral having a long chord bearing of North $63^{\circ}56'27''$ East and a chord distance of 169.52 feet to a right-of-way monument;

Thence North $66^{\circ}35'06''$ East a distance of 83.38 feet to a right-of-way monument;

Thence along the arc of a spiral curve to the left, said spiral having a long chord bearing of North $64^{\circ}29'08''$ East and a chord distance of 132.25 feet to a steel pin,

Thence North $00^{\circ}00'00''$ East a distance of 641.23 feet along the arc of a circular curve to the left, said curve having a radius of 486.62 feet, a central angle of $75^{\circ}30'00''$, a chord bearing of North $22^{\circ}05'06''$ East and a chord distance of 395.83 feet to a steel pin,

Thence along the arc of a spiral curve to the left, said spiral having a long chord bearing of North $20^{\circ}18'55''$ West and a chord distance of 132.23 feet to a right-of-way monument,

Thence along the arc of a spiral curve to the right, said spiral having a long chord bearing of North $19^{\circ}45'14''$ West and a chord distance of 169.62 feet to a steel pin,

Thence North 00°00'00" West a distance of 302.58 feet along the arc of a circular curve to the right, said curve having a radius of 719.52 feet, a central angle of 24°05'40", a chord bearing of North 02°49'21" West and a chord distance of 300.35 feet to a point,
Thence North 00°00'00" East a distance of 295.09 feet along the arc of a circular curve to the right, said curve having a radius of 719.52 feet, a central angle of 23°29'54", a chord bearing of North 20°58'26" East and a chord distance of 293.03 feet to a steel pin,
Thence along the arc of a spiral curve to the right, said spiral having a long chord bearing of North 37°36'26" East and a chord distance of 169.62 feet to a right of way monument;
Thence North 40°16'06" East a distance of 220.75 feet to a steel pin,
Thence along the arc of a spiral curve to the left, said spiral having a long chord bearing of North 37°57'25" East and a chord distance of 130.27 feet to a steel pin,
Thence North 00°00'00" East a distance of 303.89 feet along the arc of a circular curve to the left, said curve having a radius of 422.96 feet, a central angle of 41°10'00", a chord bearing of North 12°11'06" East and a chord distance 297.40 feet to a steel pin,
Thence along the arc of a spiral curve to the left, said spiral having a long chord bearing of North 13°35'13" West and a chord distance of 130.27 feet to a right-of-way monument,
Thence North 15°53'54" West a distance of 2.38 feet to a right-of-way monument,
Thence along the arc of a spiral curve to the right, said spiral having a long chord bearing of North 13°15'14" West and a chord distance of 169.50 feet to a steel pin,
Thence North 00°00'00" West a distance of 43.29 feet along the arc of a circular curve to the right, said curve having a radius of 722.96 feet, a central angle of 03°25'52", a chord bearing of North 06°40'58" West and a chord distance of 43.29 feet to a point on the Northerly line of the Southeast quarter of the Southeast quarter of said Section 17,
Thence leaving said Westerly right-of-way and following the Northerly line of the Southeast quarter of the Southeast quarter of said Section 17 North 89°20'25" West a distance of 981.45 feet to a steel pin monumenting the Northwest corner of the said Southeast One Quarter of the Southeast One Quarter,
Thence along the Easterly line of the said Southeast One Quarter of the Southeast One Quarter South 00°14'18" West a distance of 1313.12 feet to a steel pin monumenting the Southeast corner of the Southeast One Quarter of the Southeast One Quarter,
Thence North 89°30'00" West a distance of 7.16 feet to a steel pin, said pin being the point of beginning.

And Except that portion conveyed to the State of Idaho by the Deed recorded under Instrument No. 126533.

~~In Section 21, the South One Half, the Northeast One Quarter, the South One Half of the Northwest One Quarter and the Northwest One Quarter of the Northwest One Quarter, and;~~

~~All of Section 22, and;~~

~~In Section 23, the North One Half and the Southwest One Quarter, and;~~

~~All of Section 27, and;~~

In Section 28, the North One Half, the North One Half of the South One Half and the Southeast One Quarter of the Southeast One Quarter, and;

All portions of Section 29, **Except** those portions conveyed to the State of Idaho by the Deeds recorded under Instrument No's 116461 and 126533.

All portions of Section 30, **Except** that portion thereof conveyed to the State of Idaho by the Deed recorded under Instrument No. 116461.

In Section 31, the East One Half, the East One Half of the Southwest One Quarter, the East One Half of the Northwest One Quarter, and Government Lots 2, 3, and 4, **Except** that portion conveyed to the State of Idaho by the Deed recorded under Instrument No. 116461.

In Section 32, the North One Half, the Southwest One Quarter, the North One Half of the Southeast One Quarter and the Southwest One Quarter of the Southeast One Quarter, and;

In Section 33, the West One Half of the West One Half, and the Southeast One Quarter of the Southwest One Quarter, and;

~~In Section 34, the East One Half and the East One Half of the Northwest One Quarter, and;~~

~~In Section 35, the South One Half of the Southwest One Quarter and the Northeast One Quarter of the Southwest One Quarter.~~

AND ALSO

A tract of land located in Township 5 North, Range 2 East, Boise Meridian, Boise County, Idaho described as follows:

In Section 4, Government Lots 1, 2 and 3, the South One Half of the Northeast One Quarter, the Southwest One Quarter and the South One Half of the Northwest One Quarter, and;

In Section 5, Government Lots 2, 3 and 4, the South One Half of the North One Half and the South One Half, and;

63-5357 In Section 6, all portions which lie within Boise County including but not limited to that portion of abandoned highway right of way as evidenced by Instrument No. 134123, **Except** those portions conveyed for road right-of-way by deeds recorded under Instrument Numbers 46769 and 116461.

In Section 7, all portions which lie within Boise County, and;

In Section 8, the North One Half of the Northwest One Quarter, the Southeast One Quarter of the Northwest One Quarter, the South One Half of the Northeast One Quarter, the Northeast One Quarter of the Northeast One Quarter, the East One Half of the Southeast One Quarter, those portions of the Southwest One Quarter of the Southeast One Quarter and the Southwest One Quarter lying in Boise County, and;

In Section 9, the North One Half of the Northwest One Quarter and the West One Half of the Northeast One Quarter, and;

~~In Section 10, the East One Half of the Northeast One Quarter, the Southwest One Quarter of the Northeast One Quarter, the South One Half of the Southeast One Quarter, the Northwest One Quarter of the Southeast One Quarter, and the Southeast One Quarter of the Southwest One Quarter, and;~~

~~In Section 14, the South One Half of the South One Half, and;~~

~~In Section 15, the North One Half of the Northeast One Quarter, the South One Half of the Northwest One Quarter, the Northeast One Quarter of the Northwest One Quarter and the Southwest One Quarter, and;~~

~~In Section 16, the Southeast One Quarter of the Southeast One Quarter, and;~~

In Sections 17, those portions of the North One Half of the Northeast One Quarter which lie within Boise County, and;

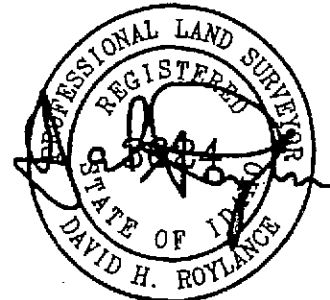
~~In Sections 21 and 22, all those portions which lie within Boise County, and;~~

~~In Section 23, the North One Half, the North One Half of the Southeast One Quarter and the North One Half of the Southwest One Quarter and the Southeast One Quarter of the Southeast One Quarter, and;~~

~~In Section 24, the Northwest One Quarter.~~

Subject to all existing easements and rights-of-way, recorded or prescriptive.

Prepared By: ROYLANCE & ASSOCIATES P.A.
391 W. STATE STREET, SUITE E
EAGLE, IDAHO 83616
208-939-2824
208-939-2855 (FAX)



7-24-03

229968

Recording Requested By and
When Recorded Return to:

First American Title Insurance Company
4801 East Washington Street
Phoenix, AZ 85034
Phone: (602) 685-7000

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 07/25/03 03:53 PM
DEPUTY Bonnie Oberbillig
RECORDED-REQUEST OF
Pioneer
AMOUNT 54.00

18



(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

SPECIAL WARRANTY DEED

(SPRING VALLEY-ADA)

THIS SPECIAL WARRANTY DEED made this 24th day of July, 2003, between SPRING VALLEY LIVESTOCK COMPANY, INC., an Idaho corporation ("Grantor"), and FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as TRUSTEE OF THE DUAL BENEFICIARY TRUST CREATED PURSUANT TO THE SUBDIVISION TRUST AGREEMENT DATED OCTOBER 8, 2003, as amended ("Grantee"), as said Subdivision Trust Agreement was entered into between Grantor, Grantee and SUNCOR DEVELOPMENT COMPANY, an Arizona corporation ("SunCor"), as Second Beneficiary thereunder, and together with the Contribution Agreement executed contemporaneously therewith by Grantor and SunCor, is evidenced by a Memorandum of Agreements recorded October 22, 2002, as Instrument No. 102121552, Official Records of Ada County (all rights, title and interest of SunCor under said Subdivision Trust Agreement and said Contribution Agreement having been assigned by SunCor to SPRING VALLEY DEVELOPMENT LLC, an Idaho limited liability company ["SV Development"]), witnesseth:

That Grantor, for and in consideration of the sum of Ten Dollars and No Cents (\$10.00), and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, does, by these presents, convey unto Grantee and its successors and assigns forever upon and pursuant to the terms of the aforementioned Subdivision Trust Agreement and the Contribution Agreement, all the following described real estate situated in the County of Ada, State of Idaho.

SEE SCHEDULE I ATTACHED HERETO AND
INCORPORATED HEREIN.

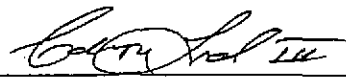
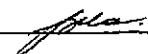
Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, the rents, issues and profits thereof, including all water rights, permits and licenses appurtenant thereto; and all estate, right, title and interest in and to the property, as well in law as in equity, except as expressly provided otherwise herein. To have

and to hold, all and singular the above-described premises together with the appurtenances unto Grantee and its successors and assigns forever.

SUBJECT TO the provisions of the aforementioned Subdivision Trust Agreement and the Contribution Agreement which govern the duties and responsibilities of Grantor, Grantee and SV Development and survive the recording of this deed, and those exceptions to title set forth in SCHEDULE II attached hereto and made part hereof, Grantor makes no covenants or warranties with respect to title, express or implied, other than (i) that previous to the date of this instrument, neither Grantor nor Grantor's immediate predecessor in interest (Colin McLeod III and Teresa McLeod, husband and wife) have conveyed the same estate, or any right, title or interest therein, to any person other than Grantee and (ii) that such estate is at the time of the execution of this instrument free from encumbrances done, made or suffered by Grantor or Grantor's immediate predecessor in interest, or any person claiming under Grantor or Grantor's immediate predecessor in interest.

GRANTOR:

SPRING VALLEY LIVESTOCK COMPANY,
INC, an Idaho corporation

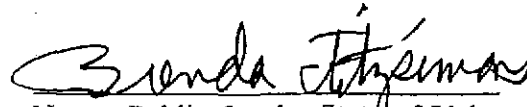
By 
Its 

STATE OF IDAHO)
) ss.
County of Ada)

On this 24 day of July, 2003, before me, Brenda Fitzsimons Notary Public in and for said State, personally appeared Colin McLeod III, known to me to be President of SPRING VALLEY LIVESTOCK COMPANY, INC., the corporation that executed the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.




Notary Public for the State of Idaho
Residing at Caldwell
My commission expires 11-16-2008

SCHEDULE I

Legal Description

14
ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 06/04/04 02:41 PM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Pioneer
AMOUNT 42.00



Recording Requested By and
When Recorded Return to:

First American Title Insurance Company
4801 East Washington Street
Phoenix, AZ 85034
Phone: (602) 685-7000

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

SPECIAL WARRANTY DEED

(SPRING VALLEY-ADA)

(OMITTED PARCEL IN SECTION 1, T5N R1E)

THIS SPECIAL WARRANTY DEED made this 26th day of February, 2004, between SPRING VALLEY LIVESTOCK COMPANY, INC., an Idaho corporation ("Grantor"), and FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as TRUSTEE OF THE DUAL BENEFICIARY TRUST CREATED PURSUANT TO THE SUBDIVISION TRUST AGREEMENT DATED OCTOBER 8, 2003, as amended ("Grantee"), as said Subdivision Trust Agreement was entered into between Grantor, Grantee and SUNCOR DEVELOPMENT COMPANY, an Arizona corporation ("SunCor"), as Second Beneficiary thereunder, and together with the Contribution Agreement executed contemporaneously therewith by Grantor and SunCor, is evidenced by a Memorandum of Agreements recorded October 22, 2002, as Instrument No. 102121552, Official Records of Ada County (all rights, title and interest of SunCor under said Subdivision Trust Agreement and said Contribution Agreement having been assigned by SunCor to SUNCOR IDAHO, LLC, an Idaho limited liability company ["SunCor Idaho"]), witnesseth:

That Grantor, for and in consideration of the sum of Ten Dollars and No Cents (\$10.00), and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, does, by these presents, convey unto Grantee and its successors and assigns forever upon and pursuant to the terms of the aforementioned Subdivision Trust Agreement and the Contribution Agreement, all the following described real estate situated in the County of Ada, State of Idaho.

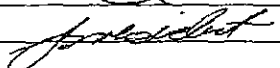
SEE SCHEDULE I ATTACHED HERETO AND
INCORPORATED HEREIN.

Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, the rents, issues and profits thereof, including all water rights, permits and licenses appurtenant thereto; and all estate, right, title and interest in and to the property, as well in law as in equity, except as expressly provided otherwise herein. To have and to hold, all and singular the above-described premises together with the appurtenances unto Grantee and its successors and assigns forever.

SUBJECT TO the provisions of the aforementioned Subdivision Trust Agreement and the Contribution Agreement which govern the duties and responsibilities of Grantor, Grantee and SunCor Idaho and survive the recording of this deed, and those exceptions to title set forth in SCHEDULE II attached hereto and made part hereof, Grantor makes no covenants or warranties with respect to title, express or implied, other than that previous to the date of this instrument, Grantor has not conveyed the same estate, or any right, title or interest therein, to any person other than Grantee and that such estate is at the time of the execution of this instrument free from encumbrances done, made or suffered by the Grantor, or any person claiming under Grantor.

GRANTOR:

SPRING VALLEY LIVESTOCK COMPANY,
INC, an Idaho corporation

By 
Its 

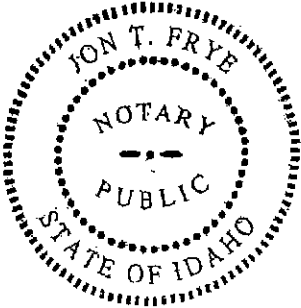
STATE OF IDAHO)

County of Canyon)

) ss.

On this 26th day of February, 2004, before me, Jon T. Frye,
a Notary Public in and for said State, personally appeared Colin McLeod III,
known to me to be the president of SPRING VALLEY LIVESTOCK
COMPANY, INC., the corporation that executed the within instrument or the person who
executed the instrument on behalf of said corporation, and acknowledged to me that such
corporation executed the same.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this
certificate first above written.



Jon T. Frye
Notary Public for the State of Idaho
Residing at Caldwell, Idaho
My commission expires 10-30-2007

SCHEDULE I

Legal Description

Roylance & Associates P.A.

391 W. State Street, Suite E, Eagle, Idaho 83616

Engineers • Surveyors • Landplanners

Telephone (208) 939-2824 Fax (208) 939-2855

August 21, 2003

Project No: 2408

Legal Description

Suncor Development Company

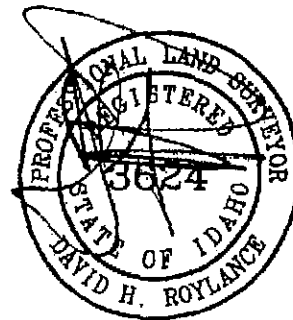
Spring Valley Livestock Company property in Ada County

A tract of land located in Township 5 North, Range 1 East, Boise Meridian, Ada County, Idaho described as follows:

In Section 1, the East One Half of the Southeast One Quarter.

Subject to all existing easements and rights-of-way, recorded or prescriptive.

Prepared By: ROYLANCE & ASSOCIATES P.A.
391 W. STATE STREET, SUITE E
EAGLE, IDAHO 83616
208-939-2824
208-939-2855 (FAX)



E-21-03

Roylance & Associates P.A.

391 W. State Street, Suite E, Eagle, Idaho 83616

Engineers • Surveyors • Landplanners

Telephone (208) 939-2824 Fax (208) 939-2855

July 22, 2003

Project No: 2408

Legal Description

Suncor Development Company

McLeod Properties located in Ada County

~~A tract of land located in Township 5 North, Range 1 West, Boise Meridian, Ada County, Idaho described as follows:—~~

~~In Section 13, the Northeast One Quarter, the Southeast One Quarter of the Northwest One Quarter and the South One Half of the Southwest One Quarter, and;—~~

~~In Section 14, the North One Half of the Northeast One Quarter, the Southeast One Quarter of the Northeast One Quarter, the South One Half of the Northwest One Quarter, the North One Half of the Southeast One Quarter, the Southwest One Quarter of the Southeast One Quarter and the Northeast One Quarter of the Southwest One Quarter, and;—~~

~~In Section 22, the Southeast One Quarter of the Northeast One Quarter and the Northeast One Quarter of the Southeast One Quarter, and;—~~

~~In Section 26, the Northwest One Quarter of the Northwest One Quarter, and;—~~

~~In Section 27, the Northeast One Quarter of the Northeast One Quarter.——~~

~~AND ALSO—~~

A tract of land located in Township 5 North, Range 1 East, Boise Meridian, Ada County, Idaho described as follows:

In Section 1, those portions of Government Lot 1, the South One Half of the Northeast One Quarter lying in Ada County, the West One Half of the Southeast One Quarter and the Southeast One Quarter of the Southwest One Quarter.

In Section 3, the East One Half of the Southwest One Quarter and the Southeast One Quarter and;

In Section 4, the South One Half and the South One Half of the Northwest One Quarter and;

In Section 5, the Northeast One Quarter of the Southeast One Quarter and;

~~In Section 7, Government Lot 4 and;——~~

In Section 8, the South One Half of the Northeast One Quarter, the East One Half of the Northwest One Quarter, the North One Half of the Southwest One Quarter and the Southwest One Quarter of the Southwest One Quarter and;

In Section 10, the Southeast One Quarter of the Northeast One Quarter, and;

In Section 11, the South One Half of the Northwest One Quarter, and;

In Section 12, the Northeast One Quarter of the Northwest One Quarter and the Northwest One Quarter of the Northeast One Quarter, and;

In Section 17, the Northwest One Quarter, the North One Half of the Southwest One Quarter, and;

~~In Section 18, Government Lots 1 and 2, and;~~

~~In Section 19, Government Lots 1 and 2;~~

~~AND ALSO~~

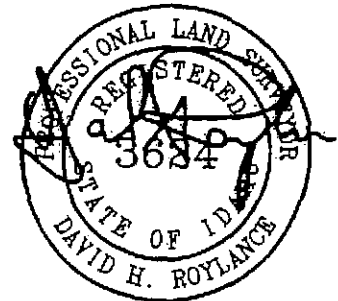
~~A tract of land located in Township 5 North, Range 2 East, Boise Meridian, Ada County, Idaho described as follows:~~

~~In Section 21, all the portions which lie within the Northwest One Quarter of the Northeast One Quarter of Ada County;~~

~~Except that portion conveyed to Ada County for Healy Toll Road by deed recorded under Instrument Number 19780 in Book 74 of Deeds, Page 254, records of Ada County, Idaho.~~

Subject to all existing easements and rights-of-way, recorded or prescriptive.

Prepared By: ROYLANCE & ASSOCIATES P.A.
391 W. STATE STREET, SUITE E
EAGLE, IDAHO 83616
208-939-2824
208-939-2855 (FAX)



7-24-03

Roylance & Associates P.A.

391 W. State Street, Suite E, Eagle, Idaho 83616

Engineers • Surveyors • Landplanners

Telephone (208) 939-2824 Fax (208) 939-2855

July 24, 2003
Project No: 2408

Legal Description
Suncor Development Company
Spring Valley Livestock Company properties in Ada County

~~A tract of land located in Township 5 North, Range 1 West, Boise Meridian, Ada County, Idaho—
described as follows:—~~

~~In Section 10, the East One Half of the Southeast One Quarter, and;—~~

~~In Section 14, the Southwest One Quarter of the Northeast One Quarter, the North One Half of
the Northwest One Quarter and the Southeast One Quarter of the Southwest One Quarter, and;—~~

~~In Section 15, the Northeast One Quarter of the Northeast One Quarter.—~~

AND ALSO

A tract of land located in Township 5 North, Range 1 East, Boise Meridian, Ada County, Idaho
described as follows:

In Section 1, the South One Half of the Northwest One Quarter, the North One Half of the
Southwest One Quarter, the Southwest One Quarter of the Southwest One Quarter, and the West
One Half of the Southeast One Quarter, Government Lots 3 and 4 and the portion of Government
Lot 2 lying in Ada County,

Except that portion conveyed to the State of Idaho for public road by deed recorded under
Instrument No. 127565 in Book 182 of Deeds, Page 23.

In Section 2, the South One Half of the Northwest One Quarter, the South One Half and
Government Lots 3 and 4, and;

In Section 3, the South One Half of the Northeast One Quarter, the Southeast One Quarter of the
Northwest One Quarter and Government Lots 1, 2, 3 and 4, and;

In Section 4, the Southeast One Quarter of the Northeast One Quarter and Government Lots 1
and 4, and;

In Section 5, the South One Half of the Northeast One Quarter and Government Lots 1 and 2,
and;

In Section 7, the Southwest One Quarter of the Southeast One Quarter and the Southeast One
Quarter of the Southwest One Quarter, and;

In Section 8, the Southeast One Quarter of the Southeast One Quarter, and;

In Section 9, the Northwest One Quarter, the South One Half, the North One Half of the

Northeast One Half and the Southwest One Quarter of the Northeast One Quarter, and;

In Section 10, the Southwest One Quarter, and;

In Section 11, the North One Half of the Northeast One Quarter, and;

In Section 12, the South One Half, the West One Half of the Northwest One Quarter, the Southeast One Quarter of the Northwest One Quarter, the East One Half of the Northeast One Quarter and the Southwest One Quarter of the Northeast One Quarter,

Except from the Southwest One Quarter of the Southwest One Quarter of said Section 12, a one acre parcel for a school house lot reserved in Sheriff's Deed recorded under Instrument No. 143440 in Book 183 of Deeds, page 171.

In Section 13, the North One Half, the Southeast One Quarter and the North One Half of the Southwest One Quarter, and;

In Section 18, ~~the East One Half of the Northwest One Quarter, the East One Half of the Southwest One Quarter, the West One Half of the Northeast One Quarter, The Southeast One Quarter of the Northeast One Quarter and the Southeast One Quarter,~~ and;

~~In Section 19, the Northeast One Quarter, the Southeast One Quarter and the East One Half of the Northwest One Quarter, and;~~

~~In Section 20, the West One Half of the Southwest One Quarter and the Southwest One Quarter of the Northwest One Quarter, and;~~

In Section 24, the North One Half of the Northeast One Quarter.

AND ALSO

A tract of land located in Township 5 North, Range 2 East, Boise Meridian, Ada County, Idaho described as follows:

In Section 6, all portions which lie within Ada County,

Except that portion conveyed to the State of Idaho for public road by deed recorded under Instrument No. 127565 in Book 182 of Deeds, Page 23.

And except that portion conveyed to the State of Idaho by deed recorded under Instrument No. 191535 in Book 235 of Deeds, Page 542. **And except** that portion conveyed to the State of Idaho by deed recorded under Instrument No. 8514764.

In Section 7, all portions which lie within Ada County,

Except that portion conveyed to the State of Idaho by deed recorded under Instrument No. 160917 in Book 208 of Deeds, Page 611.

And except that portion conveyed to the State of Idaho by deed recorded under Instrument No. 191535 Book, Page 542.

And except that portion conveyed to the State of Idaho by deed recorded under Instrument No. 8514764.

In Section 8, those portions of the Southwest One Quarter and the Southwest One Quarter of the Southeast One Quarter lying in Ada County, and;

In Section 17, the West One Half of the West One Half, the Southeast One Quarter of the South West One Quarter, ~~the South One Half of the Southeast One Quarter, the Northwest One Quarter of the Southeast One Quarter,~~ the Northeast One Quarter of the Northwest One Quarter and those portions of the North One Half of the Northeast One Quarter lying in Ada County, and;

All of Section 18, Except that portion conveyed to the State of Idaho for public road by deed recorded under Instrument No. 127564 in Book 182 of Deeds, Pages 21 and 22.

And except that portion conveyed to the State of Idaho by deed recorded under Instrument No. 160917 in Book 208 of Deeds, Page 611.

And except that portion conveyed to the State of Idaho by deed recorded under Instrument No. 610585.

And except that portion conveyed to the State of Idaho by deed recorded under Instrument No. 8514764.

In Section 19, the North One Half of the Northeast One Quarter, ~~the East One Half of the Southeast One Quarter,~~ the East One Half of the Northwest One Quarter and Government Lot 1,

Except that portion conveyed to the State of Idaho for a right-of-way for a Public Highway by deed recorded under Instrument No. 160903 in Book 208 of Deeds, Page 595.

And except that portion conveyed to the State of Idaho by deed recorded under Instrument No. 160917 in Book 208 of Deeds, Page 611.

And except that portion conveyed to Ada County for Healy Toll Road by deed recorded under Instrument No. 19780 in Book 74 of Deeds, Page 254.

And except that portion conveyed to the State of Idaho by deed recorded under Instrument No. 610585. And except that portion conveyed to the State of Idaho by deed recorded under Instrument No. 645947.

~~All of Section 20, Except that portion conveyed to Ada County for Healy Toll Road by deed recorded under Instrument No. 19780 in Book 74 of Deeds, Page 254.~~

~~In Section 21, the South One Half, the Northwest One Quarter, and the Southwest One Quarter of the Northeast One Quarter, and all the portions in the East One Half of the Northeast One Quarter lying in Ada County,~~

~~Except that portion conveyed to School District No. 50 by deed recorded under Instrument No. 58453 in Book Of Deeds, Pages 161 and 162.~~

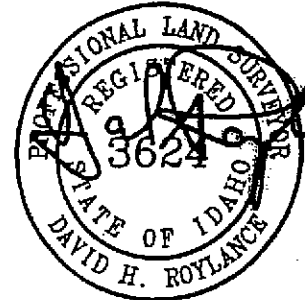
~~And except that portion conveyed to Ada County for Healy Toll Road by deed recorded under Instrument No. 19780 in Book 74 of Deeds, Page 254.~~

~~In Section 22, all portions which lie within Ada County, and;~~

~~In Section 27, the Northwest One Quarter of the Northwest One Quarter, and;~~
~~In Section 28, the North One Half of the North One Half, and;~~
~~In Section 29, the North One Half of the Northwest One Quarter, and;~~
~~In Section 30, the North One Half of the Northeast One Quarter, the Southeast One Quarter of~~
~~the Northeast One Quarter and the East One Half of the Northwest One Quarter and Government~~
~~Lot 2,~~
~~Except that portion conveyed to Ada County for Healy Toll Road by deed recorded under~~
~~Instrument No. 19780 in Book 74 of Deeds, Page 254.~~

Subject to all existing easements and rights-of-way, recorded or prescriptive.

Prepared By: ROYLANCE & ASSOCIATES P.A.
391 W. STATE STREET, SUITE E
EAGLE, IDAHO 83616
208-939-2824
208-939-2855 (FAX)



7-24-03

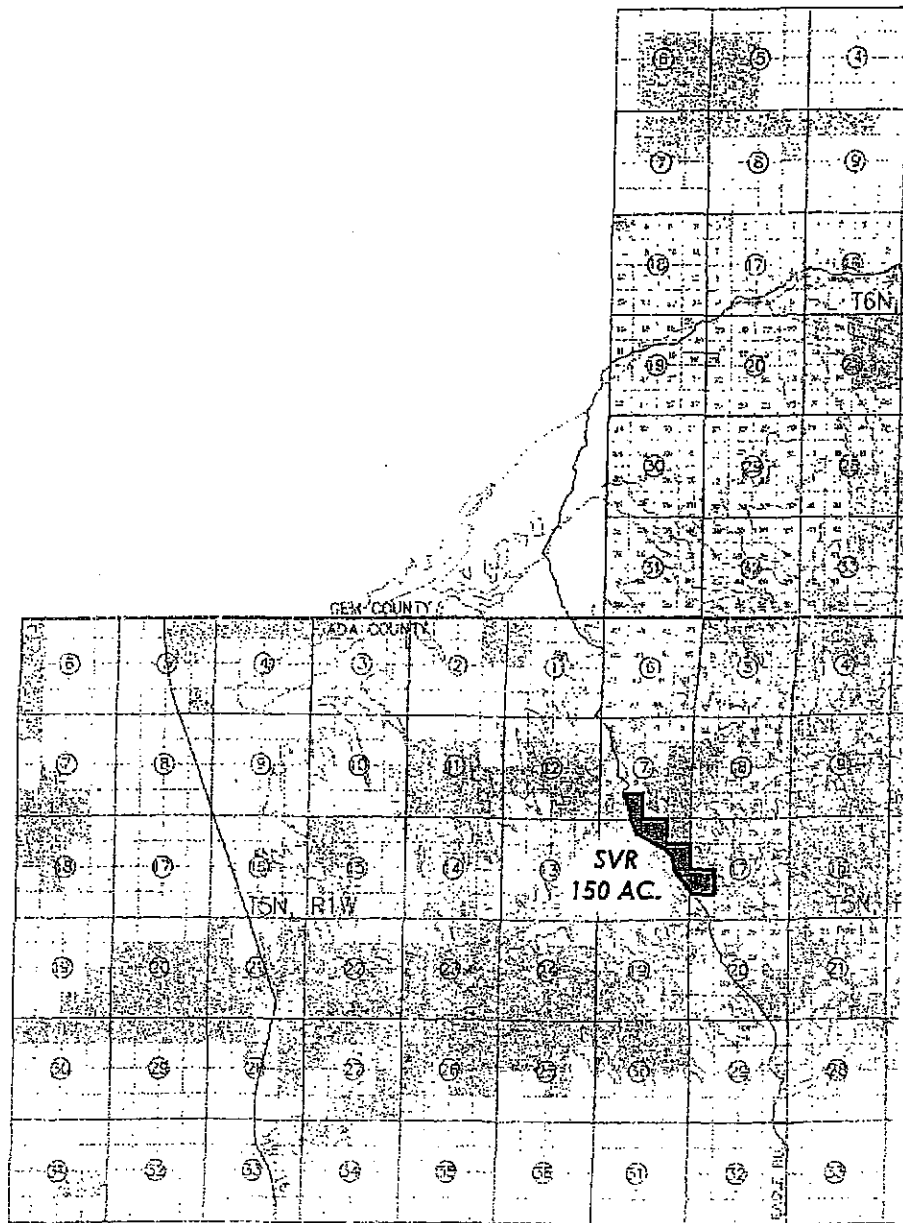


EXHIBIT "D"


 GREEY PICKETT
 Land Surveyors and Engineers, Inc.
 Scale: 1" = 4000'

EXHIBIT D-1

WILLOW CREEK PROPERTY

All portions of the following parcels located northeast of Willow Creek Road in Ada County, Idaho:

SE1/4SW1/4 of Section 7, T5N, R1W, Boise Meridian, Ada County, Idaho

NW1/4SW1/4 of Section 17, T5N, R1W, Boise Meridian, Ada County, Idaho

NE1/4SE1/4, SE1/4NE1/4, NW1/4NE1/4, NE1/4NW1/4 of Section 18, T5N, R1W, Boise Meridian, Ada County, Idaho

RECEIVED

APR 24 2006

DEPARTMENT OF
JUDICIAL SERVICES

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

In Re SRBA

)

A. Subcase 63-5387

(Insert water right number)

)

Case No. 39576

)

STANDARD FORM 1

)

OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

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

Name & Address of Attorney, if any:

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

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

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

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

1. ☒ **Name and Address**

Should be: Avimor, LLC., 485 E. Riverside Drive, Eagle, ID 83616

2. ☐ **Source**

Should be:

3. ☐ **Quantity**

Should be:

4. ☒ **Priority Date**

Should be: 1890

5. ☐ **Point of Diversion**

Should be:

6. ☐ **Instream Flow Beginning and Ending Point**

Should be:

7. ☐ **Purpose(s) of Use**

Should be:

8. ☐ **Period of Year**

Should be:

9. ☐ **Place of Use**

Should be:

10. ☐ **I object because:**

☐ This water right Should not exist.

☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S):

See attached memo and Affidavits of Mike Wardle, Eldon "Red" Ward, and Steve Givens.

F. VERIFICATION (must be completed)

State of IDAHO)
)ss.
County of ADA)

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

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

(Signature of person filing objection)

Albert P. Barker
(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

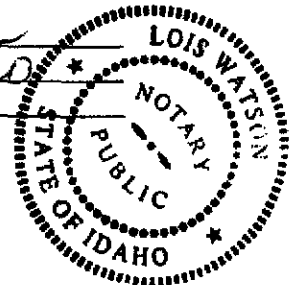
Ada April 20, 2006

Notary Public for Ada County, Idaho

Residing at:

My Commission Expires:

12/08



INSTRUCTIONS FOR MAILING

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

G. CERTIFICATE OF MAILING

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

1. Original to:

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

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

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

3. Copies to:

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

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

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

Signature of objector or attorney
mailing on Objector's behalf

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

Attorneys for Avimor, LLC

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

In Re SRBA

Case No. 39576

)
) Subcase Nos. 63-5386 and 63-5387
)
)

) **AVIMOR, LLC'S MEMORANDUM**
) **IN SUPPORT OF OBJECTION**
)
)

COMES NOW, Avimor, LLC, by and through its attorneys of record, Barker, Rosholt & Simpson, LLP, and hereby enters this MEMORANDUM IN SUPPORT OF OBJECTION. In its recommendations for water right claim nos. and 63-5386 and 63-5387, the Department of Water Resources (hereinafter "Department") recommended a priority date of February 1, 1964 – instead of February 1, 1880, as claimed by the original claimant, Spring Valley Livestock Co. (hereinafter "SVLC"). The Department's decision appears to be based upon 1964 aerial photos as the only evidence it had of beneficial use. However, given the long history of agricultural use and settlement of the property where the water rights are used, and the statements of long-time ranch employees, the priority date for 63-5386 should be 1883 and the priority date for 63-5387 should be 1890.

STATEMENT OF FACTS

On March 18, 1987, the Spring Valley Livestock Co., Inc. (hereinafter "SVLC"), owned and operated by the McLeod family – beginning when Colin McLeod purchased the property in 1916 – filed a claim for water right nos. 63-5386 and 63-5387 seeking 2.02 cfs and 1.01 cfs, respectively, for irrigation and stock water purposes with a priority date of February 1, 1880. *See Affidavit of Michael D. Wardle in Support of Avimor, LLC's Memorandum in Support of Objection* (hereinafter "*Wardle Aff.*") Exs. A & B. SVLC is the predecessor in interest to Avimor, LLC of the Spring Valley Ranch – the land in question. *See Wardle Aff.*, ¶¶ 11-12, Ex. I. The Department recommended that the priority date on this right be March 15, 1964 with the owner of the right being Spring Valley Livestock Company, Inc. This late priority date fails to consider the history of appropriation and beneficial water use on the property. The owner should also reflect the transfer of the property to Avimor, LLC.

The Department justified the March 15, 1964 priority date based on 1964 aerial photos showing that the land was irrigated at that time. While this is correct, the Department failed to obtain and consider evidence from earlier time periods. The McLeod family, the owners of SVLC, originally purchased the property in 1916, "Together with all irrigation ditches or laterals or water rights therein belonging or in any wise appertaining thereto." *Id.* Ex. A; *see also* Ex. B. This added notation to the deed demonstrates that water usage and water rights were established on this property prior to 1916.

The history of settlement in the Spring Valley Ranch began much earlier than 1916. The land irrigated by Spring Valley Creek (63-5386) was originally acquired by patent from the United States in 1883. On December 10, 1883, Llewellyn Argabright purchased the east ½ of the NW ¼ and the west ½ of the NE ¼ of Section 18, Township 5N, Range 2E. *Id.* at Ex. C.

Next, on April 23, 1889, Llewellyn Argabright purchased the east ½ of the SW ¼ and the west ½ of the SE ¼ of Section 18, Township 5N, Range 2E. *Id.* Ex. F. Thus, the land irrigated by water right 63-5386 should have a water right of 1883.

The land irrigated by Willow Creek (63-5387) was obtained from the United States. That year Charles Hurt acquired the SE ¼ of the NW ¼ and the west ½ of the NE ¼ of Section 7, and the SW ¼ of the SE ¼ of Section 6, Township 5N, Range 2E. *Id.* Ex. G. In 1896, William Hurt purchased the east ½ of the SE ¼, the NW ¼ of the SE ¼, and the NE ¼ of the SW ¼ of Section 6, Township 5N, Range 2E. *Id.* Ex. H. The Willow Creek water right 63-5387 should have a 1890 priority date, reflecting the purchase of this property.

While the date of original settlement of the area is unclear, what is clear is that in the 1880's the Spring Valley Ranch area was a thriving community.

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

Id. Ex. D (emphasis added); *see also Id.* Ex. E (1897 USGS map indicating showing community of Howell).

The McLeod family, in association with W.J. Hodgson, acquired the following property on October 4, 1916: (1) the east ½ of each of the SW ¼, Section 6, the NW ¼ and SW ¼ of Section 7, and the NW ¼ and SW ¼ of Section 18; (2) the SW ¼ of the SW ¼ of Section 6; and (3) the west ½ of each of the NE ¼ and SE ¼ of Section 7, and the NE ¼ and SE ¼ of Section 18 – all in Township 5N of Range 2E. *See Id.* Ex. A. On November 16, 1917, Colin McLeod acquired W.J. Hodgson's interest in the property. *See Id.* Ex. B. Each of these transfers included

expressly all water rights, irrigation ditches and laterals. *Id.* Exs. A & B. This purchase included land irrigated with water rights nos. 63-5386 and 63-5387.

The McLeod family ran the ranch for until it was purchased by Avimor, LLC, in 2003. *See Id.*, ¶ 11. Throughout those years, the McLeod's had a number of ranch managers, and their family members, who became personally familiar with the irrigation system. Steve Givens' grandfather, Guy Givens, ran the Spring Valley Ranch from 1931 through 1942. Steve spoke often with his father, Orin Givens, and grandfather about life on the ranch. *See Affidavit of Steve Given.* Steve's father and grandfather spoke about working in the hayfields and with the irrigation system on the property. *Id.* Guy Givens informed Steve Givens that the McLeods raised alfalfa seed when he first started work in 1931. *Id.* Steve Givens has authenticated family photos taken in the early 1930's which depict the ranch house, barn and neighboring fields. *Id.* Exs. A-C.

Eldon "Red" Ward worked on the Spring Valley Ranch as a farm worker and/or manager from 1945 through 1977. *See Affidavit of Eldon "Red" Ward.* Speaking of the surface water irrigation system from Spring Valley Creek, Ward remembers that:

Surface water was used to irrigate the area north of the ranch headquarters and the central part of the valley from diversions on Willow Creek and Spring Valley Creek. There was a concrete head gate in the Spring Valley Creek before the Soil Conservation District installed the structures now in the creek. This occurred in the mid-1950's.

I recall speaking with Colin McLeod about the Spring Valley Creek diversion. He informed me that the diversion was in use long before I started working at the ranch in 1945.

Id.

ARGUMENT

I. Water has Been used to Irrigate the Land of Spring Valley Ranch Since the late 1800's. The Priority Date for Water Right 63-5386 Should be 1883 and for Water Right 63-5387 Should be 1890.

The Director's recommendation of a priority date of February 1, 1964 should be rejected.

The priority date will be set at the date that a claimant shows that the water was first diverted and placed to a beneficial use. See I.C. § 42-106; *Rabido v. Furey*, 33 Idaho 56, 190 P. 73 (1920).

Given the history of the area, the date must be at least January 7, 1896.

The property in Section 6, wherein water right 63-5387 is beneficially used, was originally settled in 1890 (southern portion) by Charles Hurt and 1896 (northern portion) by William Hurt. See *Wardle Aff.* Exs. G & H. The property in Section 18 irrigated from Spring Valley Creek was acquired as farm and ranch ground in 1883. Further, the Spring Valley Ranch area, formerly known as Howell, was a "thriving community" by *at least* 1890. See *Wardle Aff.* Ex. D. At that time, it is known that there was a "general store, blacksmith shop and post office," in addition to the "main house." *Id.* How could anyone maintain a "thriving community" or settle on the land without water? In fact, it would have been imperative that water be diverted to the Spring Valley Ranch area, and specifically the areas in Section 6 covered by this water right, no later than January 7, 1896 – when the last portion of the property was purchased by William Hurt.

Furthermore, the irrigation system and associated water rights had long been in place when Colin McLeod first acquired the property in 1916. *Id.* at Exs. A & B. In fact, the indenture transferring the property to Colin McLeod signed recognized the existence of "irrigation ditches or laterals or water rights" on the property. *Id.* Red Ward, a ranch manager

on Spring Valley Ranch for over 30-years, recalls that not only was the diversion system, diverting water from Spring Valley Creek, in place when he started in 1945, but Colin McLeod personally informed him that the diversion system was there "from the beginning." *See Ward Aff.* As such, given the history of the land in question, the priority date of diversions should be January 1, 1890.

II. Title to the water right should be in Avimor, LLC.

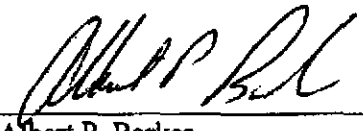
On July 27, 2003, Avimor, LLC, as beneficiary to a trust, acquired interest in the property in question along with all water rights. *See Wardle Aff.*, ¶ 11. SunCor Idaho is now Avimor, LLC. *Id.*, ¶ 12, Ex. I. Since SVLC no longer has any interest in this water right, title should be in Avimor, LLC.

CONCLUSION

Water has been diverted and beneficially used on the portions of Section 6 in question since at least January 7, 1896 when the area was a "thriving community" and after Charles and William Hurt had acquired and settled on the land. Therefore, the priority date recommended by the director should be rejected and the priority date for the Willow Creek water right 63-5387 should be 1890 and the priority date for the Spring Valley Creek water right 63-5386 should be 1884.

Dated this 20th day of April, 2006.

BARKER ROSHOLT & SIMPSON, LLP



Albert P. Barker

CERTIFICATE OF SERVICE

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

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Environmental & Nat'l Resources Div.
550 W. Fort Street, MSC 033
Boise, ID 83724

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

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Albert P. Barker

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

Attorneys for Avimor, LLC

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

In Re SRBA

Case No. 39576

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

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

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

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

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

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

DATED THIS 20th day of April, 2006.



Michael D. Wardle

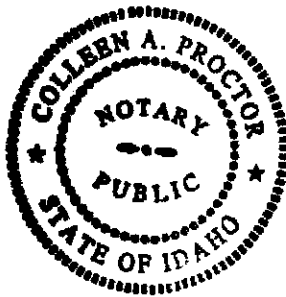
STATE OF IDAHO)

) ss.

County of Ada)

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

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



Colleen A. Proctor

NOTARY PUBLIC FOR IDAHO

Residing at: Boise, Idaho

My commission expires: 8-15-09

CERTIFICATE OF SERVICE

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

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

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Albert P. Barker

A

This Indenture, Made this Fourth day of October
in the year of our Lord one thousand nine hundred and Sixteen between

W. C. Cleveland and Nettie J. Cleveland, husband and wife
John Orshol and Benedicta Orshol, husband and wife

of Boise County of Ada State of Idaho
the parties of the first part, and

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

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

Witnesseth. That the said parties of the first part, for and in consideration of the sum of One dollar and other good and valuable considerations ~~Ballance~~ lawful money of the United States of America, to them in hand paid, by the said parties of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said parties of the second part, and to their heirs and assigns forever, all the following described real estate, situated in Ada County, State of Idaho, to-wit:

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

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

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

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

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

Signed, Sealed and Delivered in the Presence of

W. S. Caldwell

W. C. Cleveland
Nettie J. Cleveland
John Archabal
Benedicta Archabal



State of Idaho,

County of Ada ss.

On this 10th day of October in the year 1912, before me,

W. S. Caldwell

a Notary Public

in and for said County, personally appeared W. C. Cleveland and Nettie J. Cleveland, husband and wife, and John Archabal and Benedicta Archabal, husband and wife. known to me to be the persons whose names subscribed to the within instrument, and acknowledged to me that they executed the same.

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

W. S. Caldwell

Notary Public for Idaho residing at Boise, Idaho.

B

This Indenture, Made this sixteenth day of November

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

W. J. Hodgson

of Caldwell County of Canyon State of Idaho

the part of the first part, and Colin McLeod

of Caldwell County of Canyon State of Idaho

the part Y of the second part,

Witnesseth, That the said part of the first part, for and in consideration of the sum of Forty-three thousand six hundred twenty-eight \$ 66/100 (\$ 43628.66 Dollars, lawful money of the United States of America, to ~~the~~ in hand paid by the said part Y of the second part, the receipt whereof is hereby acknowledged, ha. ~~Y~~ granted, bargained, sold and conveyed, and by these presents do... grant, bargain, sell and convey unto the said part Y of the second part, and to his heirs and assigns forever, all those piece s or parcel a of land situate, lying and being in Ada County of Ada and State of Idaho, and particularly described as follows, to wit:

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

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

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

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

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

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

.....to the said part. y... of the second part, which
note. 1st. in words and figures following, to wit:

\$ 43628.86

Caldwell, Idaho, November 16, 1917

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

Colin McLeod or order,

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

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

No. W. J. Hodgson

Due. Nov. 16, 1918

P. O. Caldwell, Idaho *W. J. Hodgson*

And these Presents shall be Void if such payment..... be made. But in case default shall be
made in the payment of said principal sum..... of money or any part thereof as provided in said
note....., or if the interest be not paid as therein specified, then and from thenceforth it shall be op-
tional with the said part. Y... of the second part, ... h. 1st. executors, administrators or assigns, to
consider the whole of said principal sum..... expressed in said note..... as immediately due and
payable, although the time expressed in said note..... for the payment thereof shall not have arrived;
and immediately to enter into and upon all and singular the above described premises, and to sell and
dispose of the same

15

Argabright
to
Stell

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

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

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

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

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

Signed sealed & delivered
in the presence of
John S. Gray.

L. H. Argabright [Seal]

Territory of Idaho
County of Ada

On this Tenth day of December A.D. one thousand eight hundred and eighty three personally appeared before me John S. Gray a Notary Public in and for the County of Ada Ellwellm Argabright

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

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



John S. Gray
Notary Public

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

B. S. Crickett
Recorder

The United States of America,

To all to whom these presents shall come, Greeting:

CERTIFICATE

No. 607

Territory

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

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

according to the provisions of the Act of Congress of the 26th of April, 1820, entitled "An Act making further provision for the sale of the Public Lands," and the acts supplemental thereto for the east half of the north-west quarter and the west half of the north-east quarter of section eighteen in township five north of range two east of Boise Meridian in Idaho Territory containing one hundred and sixty acres

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

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

and to his heirs, the said Tract above described To have and to hold for ever, together with all the rights, privileges, immunities, and appurtenances, of whatever nature, thereto belonging, unto the said *Llewellyn Argabright*

and to his heirs and assigns forever, subject to any vested and unvested water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law.

In testimony whereof, *Chester A. Arthur*

President of the

United States of America, has caused these letters to be signed, sealed, and the Great Seal of the United States to be hereunto affixed.

CERTIFIED

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

MAR 03 2004

BUREAU OF LAND MANAGEMENT

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

Chester A. Arthur

S. W. Clark

Wm. H. Crook Secretary
Recorder of the General Land Office

CERTIFICATE

No. 607

has deposited

at

Boise City

Idaho Territory

whereby it appears

that full payment

has been made by

the said

Llewellyn Argabright

according to the

provisions of the

Act of Congress

of the 26th of

April, 1820,

entitled "An Act

making further

provision for the

sale of the Public

Lands," and the

acts supplemental

thereto for the

east half of the

north-west quarter

and the west half

of the north-east

quarter of section

eighteen in township

five north of range

two east of Boise

Meridian in Idaho

Territory containing

one hundred and

sixty acres

according to the

provisions of the

Act of Congress

of the 26th of

April, 1820,

entitled "An Act

making further

P

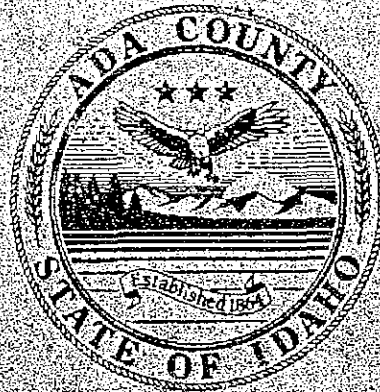
ADA COUNTY HISTORIC RESOURCES: A RECONNAISSANCE SURVEY



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

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

August 1989



BOARD OF ADA COUNTY COMMISSIONERS

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

ADA COUNTY HISTORIC PRESERVATION COUNCIL

Robert M. Aldridge, Chairman
John R. Browe, Vice-Chairman
David Bagnard
Janet Harrison Carver
Dan N. Magleby

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

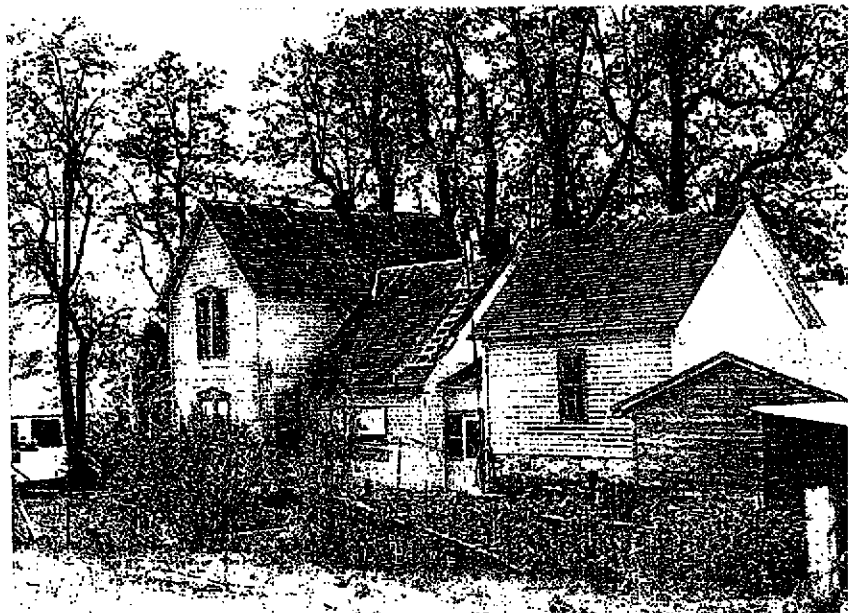
The Spring Valley Ranch (Field No.'s 32-34) area located on the northern edge of the county apparently was a thriving community (once known as Howell) boasting a general store, blacksmith shop and post office. Remnants of an old road which extended to Pearl are still visible to the east of the main house.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

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

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

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

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





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17

Argabright. This Indenture, made the 23^d day of April in the year of our Lord
 William Argabright one thousand eight hundred and eighty nine Between Elewellyn Argabright
 William Argabright and Belle Argabright his wife of Spring Valley Ada County Idaho
 Territory Parties of the first part and Benjamin H. Williams of same County and Territory

Parties of the second part Witnesseth That the said parties of the first part found
 in consideration of the of Eight Hundred Dollars lawful money of the
 United States of America, to them in hand paid by the parties of the
 second part, the receipt whereof is hereby acknowledged, do by these
 presents grant, bargain sell convey and confirm unto the said
 parties of the second part, and to their heirs and assigns forever all that
 piece and parcel of land situate and being in the County of Ada
 and Territory of Idaho, bounded and described as follows, to wit:
 The East half (1/2) of the Southeast Quarter (1/4) and the West half (1/2) of
 the Southeast Quarter (1/4) of Section Eighteen in Township Five
 North of Range Two (2) East of Boise Meridian in Idaho Territory
 containing one hundred and fifty acres according to the Official
 Plat of the Survey of the said lands returned to the General Land Of-
 fice by the Surveyor General. Together with all and singular the
 tenements hereditaments and appurtenances thereto belonging or in any
 wise appertaining, and the rents issues and profits thereof, To have and to
 hold, and singular the above mentioned and described premises together
 with the appurtenances unto the said parties of the second part and
 to their heirs and assigns forever. And the said parties of the first part and
 their heirs, the said premises in the quiet and peaceable possession
 of the said parties of the second part their heirs and assigns, against the
 said parties of the first part, and their heirs, and against all and every
 person and persons whomsoever, lawfully claiming or to claim
 the same, shall and will warrant and by these presents forever defend
 In Witness Whereof, the said parties of the first part have here-
 unto set their hands and seals the day and year first above written
 signed, sealed, and delivered in the Presence of
 of S. B. Mason
 Oliver Thurman
 Elewellyn Argabright
 Belle Argabright

Territory of Idaho

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

S.B. Mann

County Recorder.

Recorded at request of E. W. Williams Apr. 24th 1889 at 10 a.m.

S.B. Mann

Recorder

5

This Indenture, Made the Thirtieth day of September in the year
 To our Lord one thousand eight hundred and ninety, between
 Charles Hurt and Phoebe Hurt, his wife of Ada County, Idaho,
 parties of the first part, and William Howell, Sanford W. Carhart
 and Almon M. White of Ada County, Idaho, the parties of the
 second part, Witnesseth, That the said parties of the first part,
 for and in consideration of Twentyseven hundred & fifty Dollars
 lawful money of the United States of America, to them in hand
 paid by the said parties of the second part, the receipt whereof is
 hereby acknowledged, have granted, bargained and sold and by
 these presents do grant, bargain, sell, convey and confirm unto the
 said parties of the second part, and to their heirs and assigns forever
 all the following described real estate, to-wit: The Southeast quarter
 of the Northwest quarter, and the West half of the Northwest quarter
 of Section Seven, and the Southwest quarter of the Southeast
 quarter of Section Six in Township five North of Range Two East of
 Boise Meridian, situate, lying and being in Ada and Boise Counties
 in the State of Idaho, and containing one hundred and sixty
 acres, also all right, title and interest in and to all springs,
 water ditches, reservoirs and streams, which the said parties of
 the first part have used for the irrigation of said lands
 and for home or domestic purposes.
 Together with all and singular the tenements, hereditaments and
 appurtenances thereto belonging or in anywise appertaining, and
 the reversion and reversions, remainder and remainders, rents, issues
 and profits thereof and also all estate, right, title, interest in and
 to the said property, possession, claim and demand whatsoever,
 as well in law as in equity, of the said parties of the first part,
 of in or to the said premises, and every part and parcel thereof,
 with the appurtenances, to have and to hold, all and singular
 the above mentioned and described premises, together with the
 appurtenances, unto the parties of the second part, and to their
 heirs and assigns forever. And the said parties of the first
 part, and their heirs, the said premises in the quiet and peace-
 able possession of the said parties of the second part, their heirs
 and assigns against the said parties of the first part and their
 heirs and against all and every person and persons whosoever,
 lawfully claiming or to claim the same shall and will

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now and by these presents forever defend.
 On Witness Whereof, the said parties of the first part have hereunto set their
 hands and seals the day of the year first above written.
 Signed Sealed and Delivered in the presence of) Charles Hunt Seal
 T. D. Cahalan.) Phoebe Hunt Seal

State of Idaho }
 County of Ada }

On this 13th day of September 1890, before me, Chas. A. Clark
 a Notary Public in and for said County, personally appeared Charles Hunt
 and Phoebe Hunt, his wife, known to me to be the persons whose names
 are subscribed to the within instrument, and acknowledged to me that
 they executed the same, and the said Phoebe Hunt, above described as
 a married woman, upon an examination without the hearing of her
 husband, I made her acquainted with the contents of the instrument
 and thereupon she acknowledged to me that she executed the same
 and that she does not wish to retract such execution, On Witness Whereof
 I have hereunto set my hand and official seal on this day
 of Seal and year in this certificate above written

Chas. A. Clark
 Notary Public

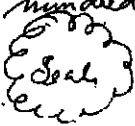
Recorded at request of Wm. Howell Sept. 13th 1890 at 40 min past 4 P. M.
 S. B. Mann
 Recorder

Homestead certificate
No. 413
Applicant 111

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

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

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



By the President Grover Cleveland
By Mr. McKean

Secretary

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

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III

718801

Form 1810-2
(July 1965)
(Replaces 4-1974)

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

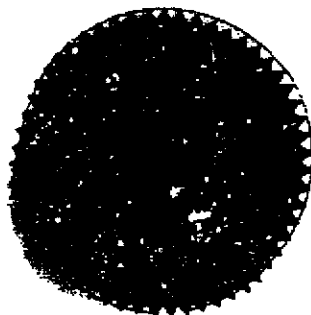
49-1-32
Idaho Title Co.
True Copy
Date JUN 20 1969

CLARENCE A. PLATING

BY *Clarence A. Plating*
1st Deputy

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

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



D

William C. Keiter
(Certifying Officer)
William C. Keiter

18/537

The United States

To all to whom these presents

Homestead Certificate No. 1019

Applications 1917 and 2722

in the General Land Office of the

the Register of the Land Office at

1917, pursuant to the Act of Congress

passed March 3rd 1879 to extend the

the act supplemental thereto, the

act of March 3rd 1879 and duly

the East half of the South East quarter

South East quarter and the North

quarter of Section 10 in Township

of Range 10 East in State of

according to the official Plat of

to the General Land Office by the

Now know ye, that there is, therefore

in the said William Mount

to have and to hold the said tract

moreover thereof, unto the said

and assigns forever; subject to

water rights for mining, agriculture

pasture, and rights to water

rights, such water rights, and

held by the local custom

also subject to the right

tract and removal therefrom

to penetrate or intersect

by law. And these presents

South East quarter and

quarters of Section 10 in

East of the above

ditches or canals

United States

Department of the Interior

United States

Patent, and

affirmed

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2. all to inform these payments shall come to

Proc. cited. Reaffirmed No. 1019.

Ref. J. L. L. 1987, no. 2, 3722. Phonax Hand Hand

ii. the Secretary's office of the United States Department of the Interior

11. Register of the Land Office at Boise City, Idaho, containing

1872. - returned to N. York of Congress appointed 20th March 1872

James Thompson, Esq. of Natural. Bodies on the Public Account

...and supplemental Acts, its claim of Nationality.

...and ... in conformity, ...

on the half of the lower end quarter, the lower end quarter
is the same as the upper end quarter of the lower end quarter.

about half quarter and the North East quarter of the Township
about half quarter and the North East quarter of the Township

located about 10 miles west in Township five North of Range one
and contains one hundred and twenty

... have needed in school. For training our hands and setting
... the L. P. R. Bureau of the railroad

to be official Post of the Survey of the ~~road~~ road
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to be official Post of the Survey of the road

to the General Land office by the Surveyor General

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... to the said William Hunt the tract of land ...

1. I have and I told the said boat of ~~land~~ the
said William Hunt and to the

has no effect, as to the said William Lloyd.

and a single feature; subject to any mutual
multilateral manufacturing

... right to know mine, - geological. meaning

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to read, by the local customs, laws, and

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by 1820. And there is evidence for
the first quarter and the North East

Locust, Casiquarre and the North
of the section six in Township

9.11 notes of Section D-2 on following

East of the above described section
 100 yds. constructed by the

details of Canada's conservation
 of the Yukon.

United States.
J. C. McLaughlin, V. P.

D. Testimony of W. H. H. H.
in the State of Massachusetts

United States of America
President and the Vice President

Patent, and the undersigned
affidavit.

affixed.

Thuen anders sagt
B. ist. ~~...~~

...as they provide on the East by the "Laclede" and the "1661" mining claims; and "Yellow Metal" mining claim extends 300 linear feet on each side of the middle of the vein or lode thereof. Together with all the dips, spurs and angles, and also all the metals, ore, gold and silver bearing quartz, rock and earth therein, and all the rights, privileges and franchises that in said vein, lode, and appurtenant, or otherwise lawfully had and enjoyed, and also all and singular the tenements, hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the rents, issues and profits thereof.

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

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

Witnessed, sealed and delivered	J. J. Blake	Deed?
in the presence of	Wm. Thompson	Deed?
W. South Neal	W. D. Stevens	Deed?
		Deed?

State of Iowa, }
County of Davis, }
On this 21st day of December 1890, before me
W. South Neal, a Notary Public in and for said County, personally appeared J. J. Blake, W. D. Stevens and Wm. Thompson known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me, that they executed the same. In testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(Deed?) W. South Neal.
Notary Public.

State of Iowa, }
County of Davis, }
I hereby certify that this instrument was
filed for record at the request of W. D. McHenry at 2:45 o'clock
P. M. this 7 day of Jan 1891.

W. F. C. Osmington
Ex. officio Recorder

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FILED EFFECTIVE



**ARTICLES OF AMENDMENT TO
ARTICLES OF ORGANIZATION
LIMITED LIABILITY COMPANY**

2006-07-27 10:57

(Instructions on back of application)

1. The name of the limited liability company is:

SunCor Idaho, LLC

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

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

July 22, 2003

COMPLETE ONLY THE APPLICABLE ITEMS

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

Avimor, LLC

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

☐ Manager(s) ☐ Members

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

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

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

Signature: *DBW*
 Typed Name: Duane S. Black
 Capacity: Executive Vice President & COO
 By: SunCor Development Company,
 Its: Sole Member

Secretary of State use only

IDAHO SECRETARY OF STATE
 03/07/2006 05:00
 CL: 14639 CT: 176891 IN: 941697
 1 0 38.00 = 30.00 DRAIN AMEN 1 2
 1 0 28.00 = 20.00 EXPDITE C 1 3

W25199

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

Attorneys for Avimor, LLC

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

In Re SRBA

Case No. 39576

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

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

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

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

DATED THIS ____ day of April, 2006.


Steve Givens

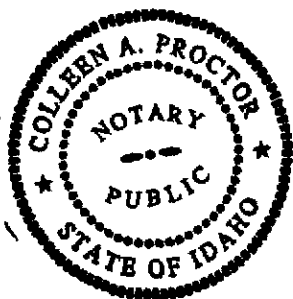
STATE OF IDAHO

)
) ss.
)

County of Ada

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

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



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

CERTIFICATE OF SERVICE

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

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

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

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

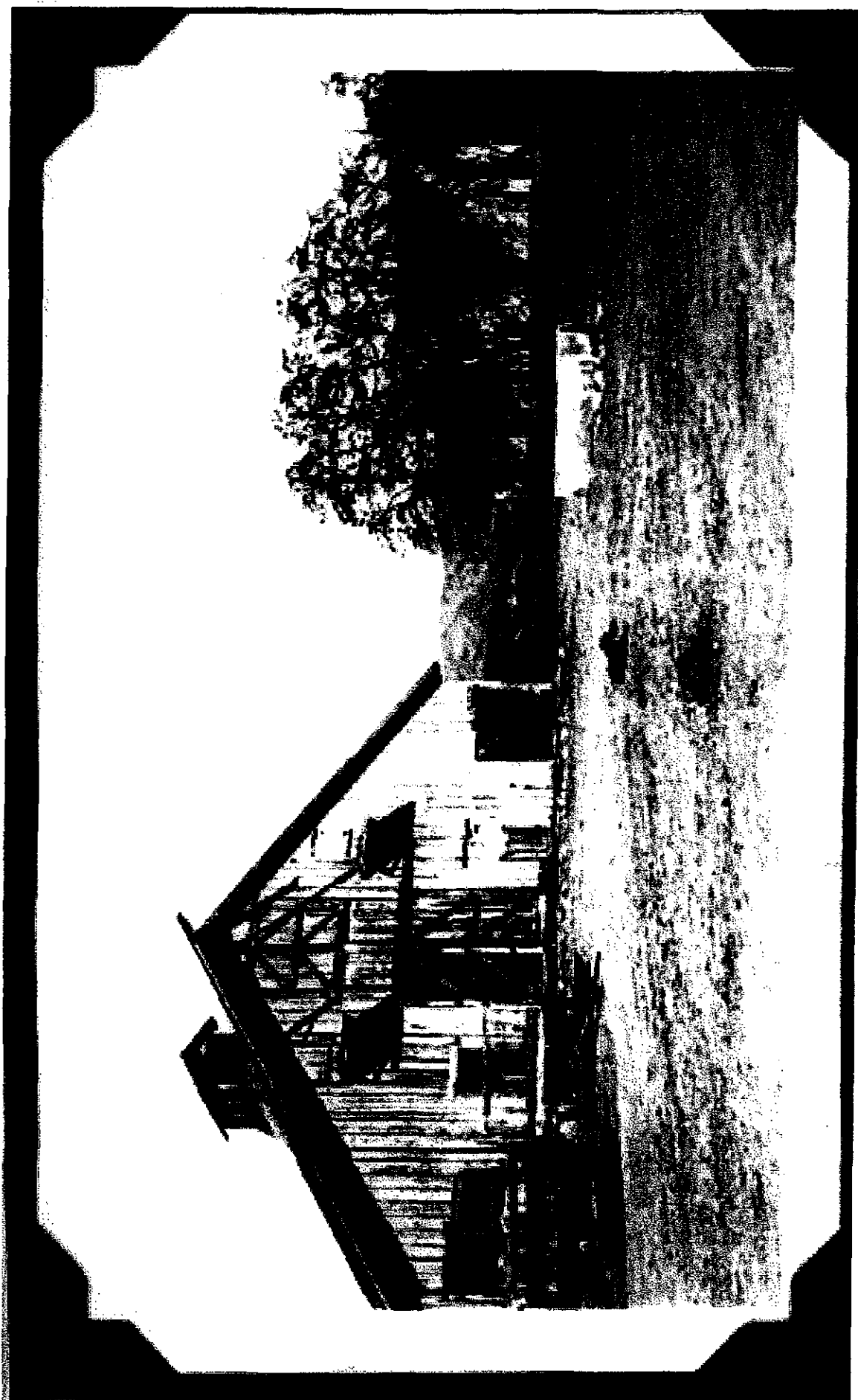
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

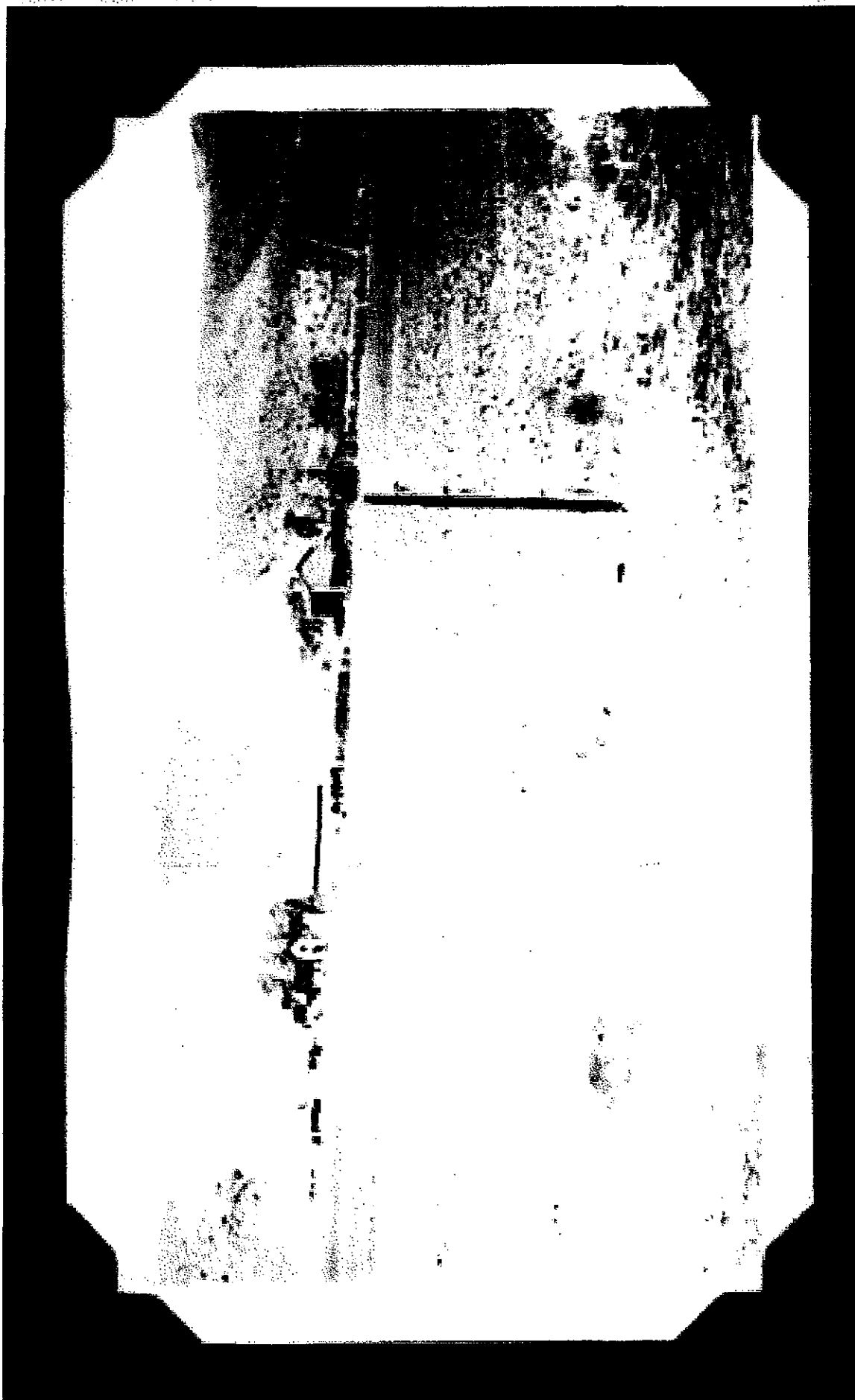
Chief, Natural Resources Division
Office of Attorney General
P.O. Box 44449
Boise, ID 83711-4449

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



Albert P. Barker







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

Attorneys for Avimor, LLC

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

In Re SRBA

Case No. 39576

)
) Subcase No. 63-5386, 63-5287 & 63-
) 18974
)
) **AFFIDAVIT OF ELDON "RED"**
) **WARD IN SUPPORT OF AVIMOR,**
) **LLC'S MEMORANDUM IN**
) **SUPPORT OF OBJECTION**
)

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

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

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

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

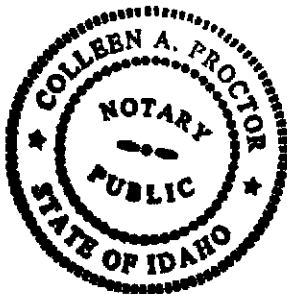
DATED THIS ___ day of April, 2006.

Eldon Red "Ward"
Eldon "Red" Ward

STATE OF IDAHO)
County of Ada) ss.

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

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



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

CERTIFICATE OF SERVICE

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

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

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

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

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

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Albert P. Barker

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES



CLAIM TO A WATER RIGHT

Department of Water Resources

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Spring Valley Livestock Co, Inc. % Colen McLeod Jr.
(Name of Claimant)
2005 South Caldwell, Idaho 83605 Telephone No. 459-2633
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 1880

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Willow Creek tributary to Boise River

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity	(cfs, af)	(Domestic, Irrigation, Stock, Etc.)	Period of Use From	To
Quantity <u>1.00</u> cfs		Use <u>Irrigation</u>	Period of Use From <u>Feb 1</u>	To <u>Dec 1</u>
Quantity <u>.01</u> cfs		Use <u>Stock</u>	Period of Use From <u>Feb 1</u>	To <u>Dec 1</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

(4) 1.01 cfs TOTAL QUANTITY USED.
(cfs, af)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
SW 1/4 SE 1/4 Sec. 31 Twp 6 N Rge. 2 E B.M., County of Boise
Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Wooden headgate: 24' x 36" located in Willow Creek with a mile of ditch 18" wide by 12" deep going to the main ranch, irrigating field below.

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTAL
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
5N	2E	6									2.9						1.530.0		35.0

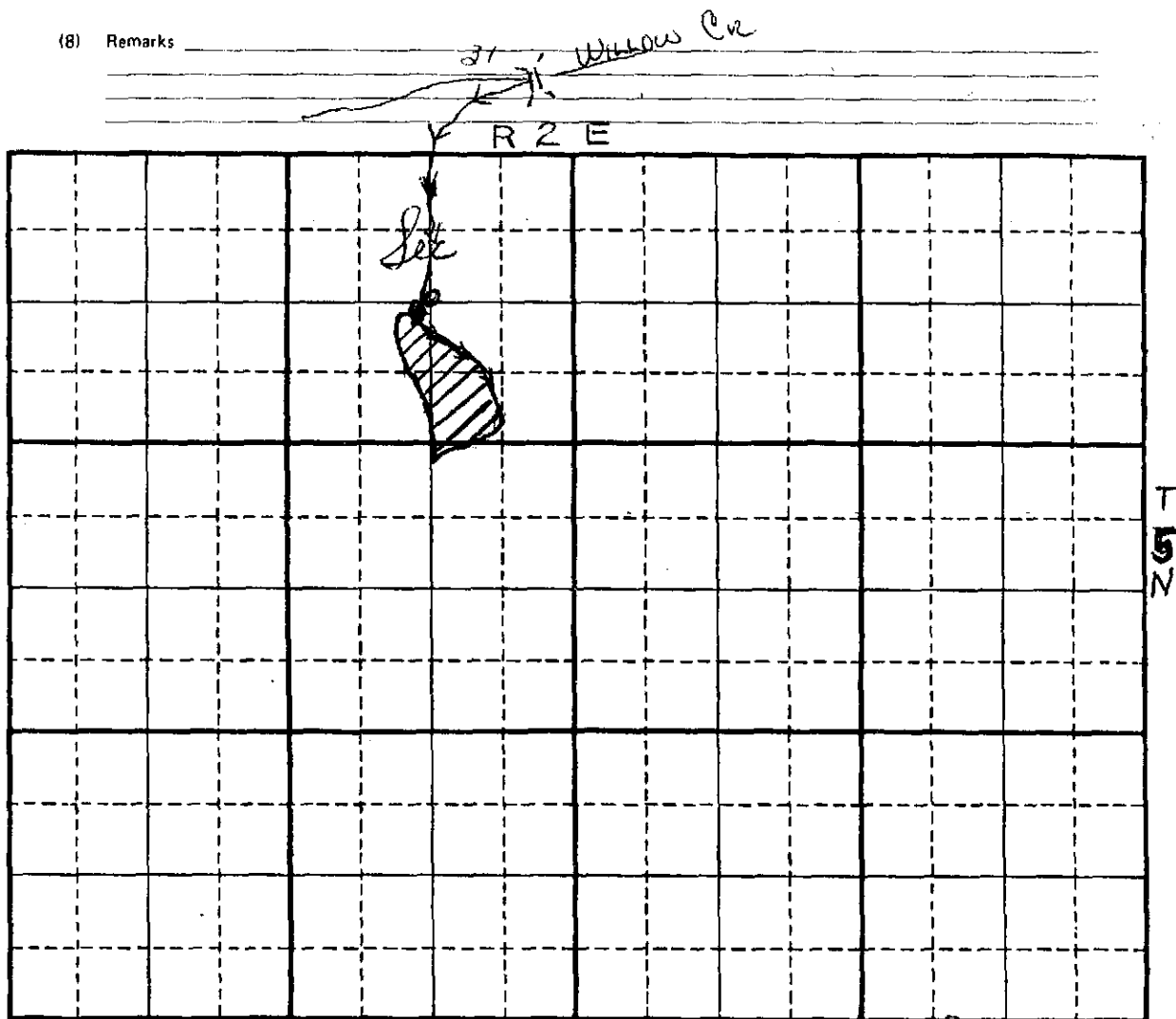
No. of acres 35.0

B) If water is used for other than irrigation, fully describe that use, being as specific as possible:
Water is used to water 400 mother cows and their calves during the time specified above. There is a million gallon storage pond at the head of the field for stock water and the Bureau of Land Management uses the water for fire suppression.

NOTE: Include here the type and number of stock watered: 400 head of cows and calves

(7) If you are claiming water as a member of an organization, list name of organization: n/a

(8) Remarks



State of Idaho

County of

ADA

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 16th day of JULY

Notary Public
Residing at

Boise, Ida

My commission expires

3-18-87

FOR DEPARTMENT USE ONLY

Received by

Date

Exception filed by:

Forwarded to

Date

Prelim. check by

Date

Exception filed by:

Forwarded to

Date

430.00 fee received by

Date

Exception filed by:

Forwarded to

Date

Published in The Idaho World

Dates 9/17 & 9/24/86

05/18/2005

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

RIGHT NUMBER: 63-5387

NAME AND ADDRESS: SPRING VALLEY LIVESTOCK CO INC
PO BOX 9
STAR ID 83669

SOURCE: WILLOW CREEK

TRIBUTARY: BOISE RIVER

QUANTITY: 1.010 CFS

PRIORITY DATE: ~~02/01/1964~~ 11-15-1890

POINT OF DIVERSION:

T06N R02E S31 NESE Within BOISE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

1.000 CFS

STOCKWATER

02/01 12/01

0.010 CFS

PLACE OF USE: IRRIGATION Within BOISE County

T05N R02E S06 NESW 3.0

T05N R02E S06 NWSE 2.0

T05N R02E S06 SWSE 31.0

STOCKWATER same as IRRIGATION

36 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: Beneficial Use

Stockwater use is for 400 range cattle.

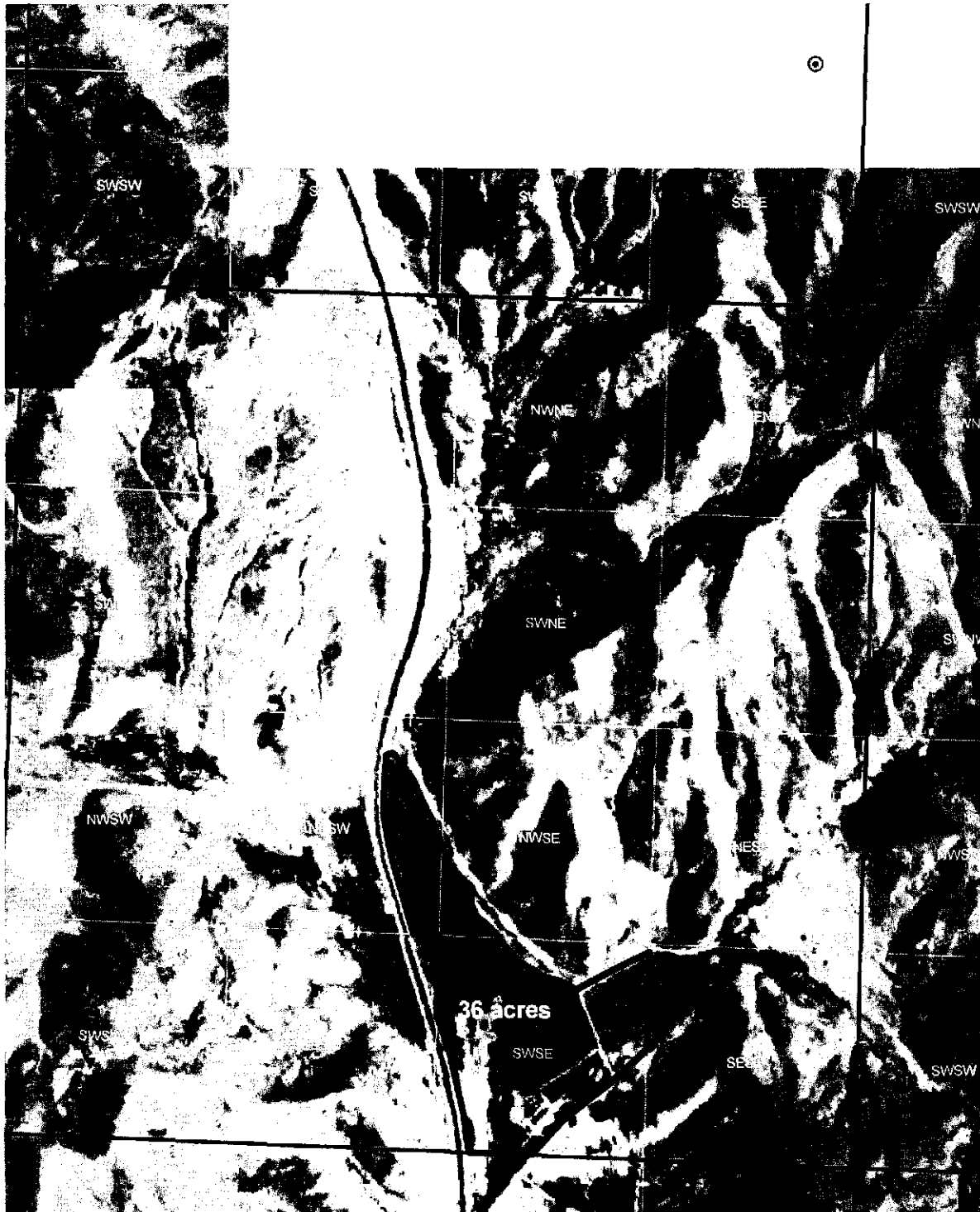
Water Right 63-5387

SCANNED
OCT 05 2006

Idaho Department of Water Resources

63-5387

T05N R02E S6



- ⊙ Point of Diversion
- ▭ Place of Use
- ▭ Sections
- ▭ Quarter Quarter



IDWR

Prepared by: Sandy Egbert

Date: 5-18-05

1987 NAPP Photography

600 0 600 1200 1800 2400 Feet

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-5387 V1

WATER RIGHT NUMBER: 63-5387 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	SPRING VALLEY LIVESTOCK CO INC C/O COLEN MC LEOD JR 2005 S 10TH AVE CALDWELL, ID 83605
Current Owner	SPRING VALLEY LIVESTOCK CO INC PO BOX 9 STAR, ID 83669 (208)286-7975

Priority Date: 02/01/1964

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
WILLOW CREEK	BOISE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	1.000 CFS	
STOCKWATER	02/01 to 12/01	0.010 CFS	
	<u>Total Diversion:</u>	1.010 CFS	

Location of Point(s) of Diversion

WILLOW CREEK	NE1/4SE1/4	Sec. 31, Twp 06N, Rge 02E, B.M.
BOISE County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
05N	02E	6									3.0					2.0	31.0		36.0

Total Acres: 36

STOCKWATER same as IRRIGATIONConditions of Approval:

1. X02 Stockwater use is for 400 range cattle.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-5387 V1

Comments:

1. segbert 5/18/2005 POD

Comment: The POD was GPSd and found to be in the NESE instead of the SWSE. The POD did not move it was claimed in the wrong QQ

2. segbert 5/18/2005 Conveyance Loss

Comment: Conveyance loss is .28 cfs. See conveyance loss form in file.

Dates and Other Information:

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

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Summary			04/14/2005	lharris	Active
Priority Date	5/18/2005 10:08:30 AM	segbert			Active
POD	5/18/2005 10:09:42 AM	segbert			Active
Source	5/18/2005 10:19:40 AM	segbert			Active
POU	5/18/2005 10:20:17 AM	segbert			Active
Use	5/18/2005 10:24:50 AM	segbert			Active
Season	5/18/2005 10:26:13 AM	segbert			Active
Quantity	5/18/2005 10:45:44 AM	segbert			Active
Summary			05/18/2005	segbert	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-5387 V1

Source	5/18/2005 10:19:40 AM	segbert	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required?
Season	5/18/2005 10:26:14 AM	segbert	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Summary	4/14/2005 9:08:42 AM	lharris	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed?
POD	5/18/2005 10:17:11 AM	segbert	Updated shape
Use	5/18/2005 10:24:50 AM	segbert	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required?
Quantity	5/18/2005 10:45:44 AM	segbert	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (Yes) 12. Is a Quantity remark or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-5387 V1

Summary	5/18/2005 10:50:48 AM	segbert	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
General	5/18/2005 10:08:31 AM	segbert	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - 1964 aerial photography
POD	5/18/2005 10:09:43 AM	segbert	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POU	5/18/2005 10:20:18 AM	segbert	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - 1964 photography

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-5387

WATER RIGHT NUMBER: 63-5387

Owner Type Name and Address
 Original Owner SPRING VALLEY LIVESTOCK CO INC
 C/O COLEN MC LEOD JR
 2005 S 10TH AVE
 CALDWELL, ID 83605
 Current Owner SPRING VALLEY LIVESTOCK CO INC
 PO BOX 9
 STAR, ID 83669
 (208)286-7975
 Priority Date: 02/01/1880 *8-1-1964* *No 1939 photographer*
 Basis: ~~Statutory Claim~~ *BU*
 Status: Active

<u>Source</u>	<u>Tributary</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
WILLOW CREEK	BOISE RIVER				
<u>Beneficial Use</u>					
IRRIGATION		2/01 to 12/01	<i>4-15 to 11-15</i>	4.000 CFS	<u> </u>
STOCKWATER		2/01 to 12/01		0.010 CFS	<u> </u>
<u>Total Diversion:</u>				1.010 CFS	

Location of Point(s) of Diversion

WILLOW CREEK ~~SW 1/4 SE 1/4~~ Sec. 31, Twp 06N, Rge 02E, B.M.
 BOISE County *NE SE*

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	02E	6									3.0					2.0	31.0		36.0

Total Acres: 36

STOCKWATER same as IRRIGATIONConditions of Approval:Remarks:Comments:Dates and Other Information:*400 range cattle*

*conveyance loss is .28 cfs
 see conveyance loss in file*

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-5387

WATER RIGHT NUMBER: 63-5387

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SPRING VALLEY LIVESTOCK CO INC C/O COLEN MC LEOD JR 2005 S 10TH AVE CALDWELL, ID 83605

Priority Date: 02/01/1880

Basis: Statutory Claim

Status: Active

<u>Source</u>	<u>Tributary</u>
WILLOW CREEK	BOISE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	2/01 to 12/01	1.000 CFS	
STOCKWATER	2/01 to 12/01	0.010 CFS	
	<u>Total Diversion:</u>	1.010 CFS	

Location of Point(s) of Diversion

WILLOW CREEK	SW1/4SE1/4	Sec. 31, Twp 06N, Rge 02E, B.M.
BOISE County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	02E	6									3.0						2.0	31.0	36.0

Total Acres: 36

STOCKWATER same as IRRIGATIONConditions of Approval:Remarks:

- General AC. IRR. = 35.0.

Comments:Dates and Other Information:

corrected

ESTIMATING CONVEYANCE LOSS

1/5/95



FIELD EXAMINER: _____

FIELD EXAM DATE: _____

FOR CLAIM(S) _____

FORMULA: $S = (W)(i)(0.0667)$

Where: S = Loss in CFS per Mile
W = The top width of the high water mark in feet
i = The loss rate in feet per day (see table)
0.0667 is a factor used to convert to CFS per mile

3:20 p.m.
Dec 19, 36

TABLE:	Type of Soil	Loss Rate i (Ft/Day)
	Medium clay loam.....	0.5 to 1.5
	Impervious clay.....	0.5
	Medium soils.....	1.0
	Somewhat pervious soils....	1.5 to 2.0
	Gravel.....	2.5 to 5.0

WORK SHEET

W = (4.5 FT) i = (3.5 FT/DAY) (0.0667)

S = 1.05 CFS/MILE

CONVEYANCE LOSS = (S) (LENGTH OF DITCH IN MILES)

CONVEYANCE LOSS = (1.05 CFS/MILE) (1.42 MILE)

CONVEYANCE LOSS = 1.49 CFS

TOP OF DITCH = W

MAP MEASUREMENT

Section 1 = _____

Section 2 = _____

Section 3 = _____

Total.... = _____

/2 or 3... = _____ = W

Length in Inches = _____ = A

Map Scale: _____ In. = 1 Mile = B

A/X : B/5,280 = Ft./5,280 = Mile

(use largest scale
map available.)

Receipt Details for ID C011422

Status	Adjustment Type	Version
	Adjusted Receipt	1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
9/8/1989 2:37:08 PM	9/8/1989	State	\$86.00	Check
Payer		SPRING VALLEY LIVESTOCK		

Account Information:

Check #	Account #	Credit Card Name	Authorization #
2840			
Card Expiration Date	Credit Card Transaction #		

Comment ADJUDICATION FEE

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$86.00	ADJUDICATION FEE	410162	9337	0	0	6490

Refund(s):

Amount	Payee	Date	Document Number
--------	-------	------	-----------------

Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
63	5387		\$86.00	Claim

Print Report

IDAHO DEPARTMENT OF WATER RESOURCES
 ADJUDICATION CLAIM POU REVIEW REPORT
 ADJUDICATION CLAIM NUMBER: 63-5387

04/14/2005

1

Right #	Type	Twp	Rge	Sec	QQ	Q	Lot	Purpose of Use	Acres/Total	Name
5387	Claim	05N	02E	6	NE	SW		IRRIGATION	3/36	SPRING VALLEY LIVESTOCK CO INC
5387	Water Right	05N	02E	6	NE	SW		IRRIGATION	3/36	SPRING VALLEY LIVESTOCK CO INC
5387	Claim	05N	02E	6	NW	SE		IRRIGATION	2/36	SPRING VALLEY LIVESTOCK CO INC
5387	Water Right	05N	02E	6	NW	SE		IRRIGATION	2/36	SPRING VALLEY LIVESTOCK CO INC
5387	Claim	05N	02E	6	SW	SE		IRRIGATION	31/36	SPRING VALLEY LIVESTOCK CO INC
5387	Water Right	05N	02E	6	SW	SE		IRRIGATION	31/36	SPRING VALLEY LIVESTOCK CO INC
18972	Water Right	05N	02E	6	SW	SE		STOCKWATER	/ decreased	SPRING VALLEY LIVESTOCK CO INC
18972	Water Right	05N	02E	6	SW	SE		DOMESTIC		SPRING VALLEY LIVESTOCK CO INC

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WESTERN REGION ADJUDICATION SECTION
CLAIM VERIFICATION FIELD EXAM SHEET
(Use with the ECVR)

CLAIM NO(s). A63-05387

1. No Change NAME IS SAME

NEW OWNER: _____

No Change ADDRESS

NEW ADDRESS: _____

2. No Change - DATE OF PRIORITY: Completed evidence submitted
Incomplete - Claimant should be asked during the exam when was water first used and submit proof of date of priority.

Priority date, per claimant, is: _____
(If the priority date, based on your exam, seems questionable, explain below.)

This information is being researched by Sun Cor ATT.

Did not get evidence of priority so the Priority

Date was advanced to 1964 which shows irrigation
on our 1964 photography.

3. No Change — SAME SOURCE

Source is different than that claimed:

Source found: _____

4. No Change — POINT OF DIVERSION 2318590 - 1403623

Point of diversion is different than the claim and/or new P/D's:

Township 6N Range 2E Section 31 1/4 1/4 NE 1/4 SE per GPS
Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____

5. No Change - DESCRIPTION OF DIVERTING WORKS

Incomplete description, list below:

Willow Creek is blocked by a dirt dam allowing the
water to enter the ditch.

6. No Change WATER USES

Different uses, (list uses found):

Use _____	From _____	To _____	Amount _____	CFS _____	AFA _____
Use _____	From _____	To _____	Amount _____	CFS _____	AFA _____
Use _____	From _____	To _____	Amount _____	CFS _____	AFA _____

7. No Change TOTAL VOLUME

Incomplete on claim, the total is, Amount _____ CFS _____ AFA _____

Changes found, the new total is, Amount _____ CFS _____ AFA _____

8. No Change - NON-IRRIGATION USES:

Changes Exam found:

Domestic # of homes: _____ Stock # _____ List types: _____

Additional comments: _____

9. No Change PLACE OF USE: (If changed, list below.)

Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____
Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____
Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____
Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____

Remarks: (Comments pertinent to field examination) See additional attachment

Need to determine legal land description for POD from
GPS data.

SYSTEM DIAGRAM INCLUDED

NA

Shown on GIS Layout

CK IF IN OFFICE EXAM
DATE EXAM CONDUCTED: _____

FIELD EXAMINER:

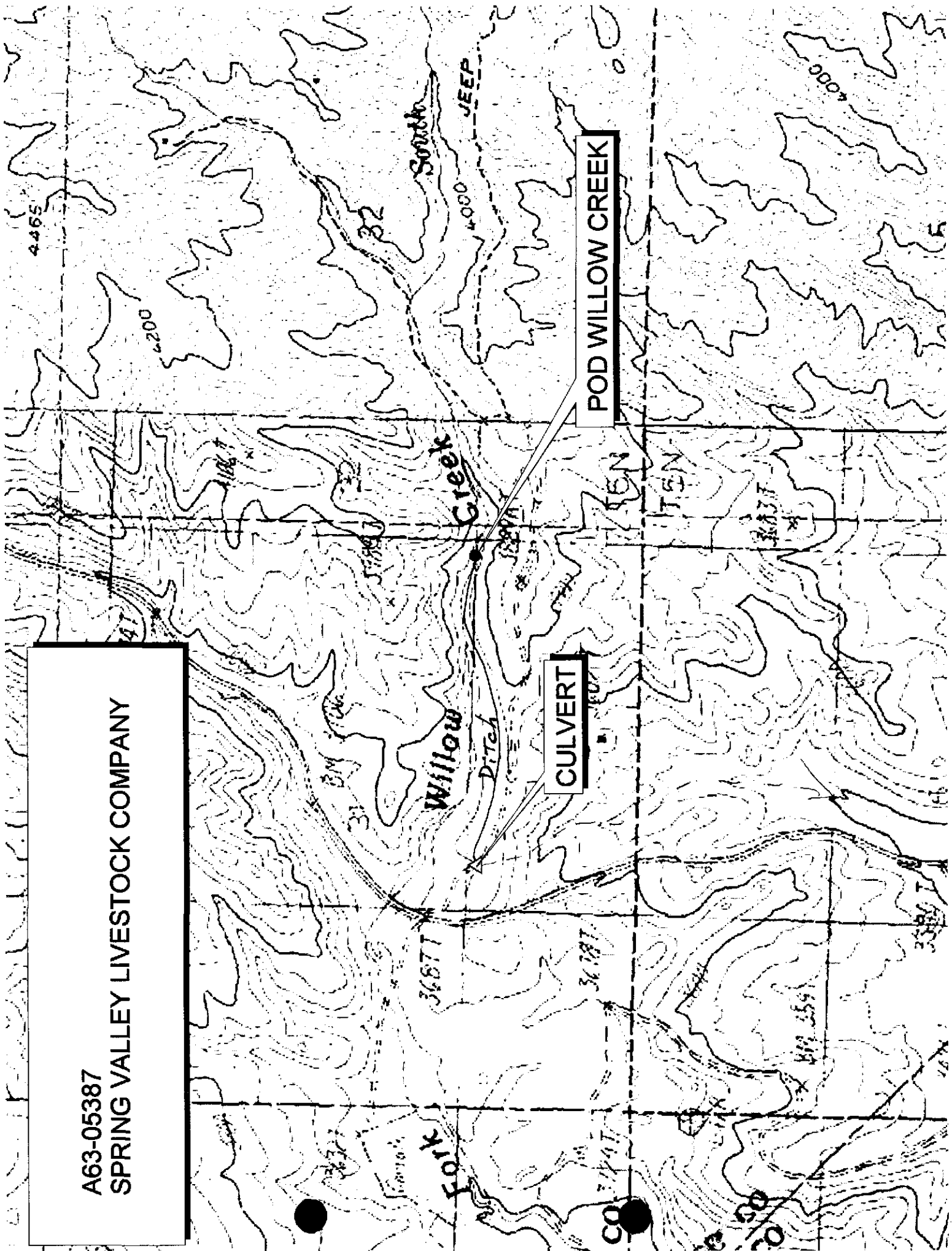
M. Gene Gibson
Print Name

M. Gene Gibson
Signature

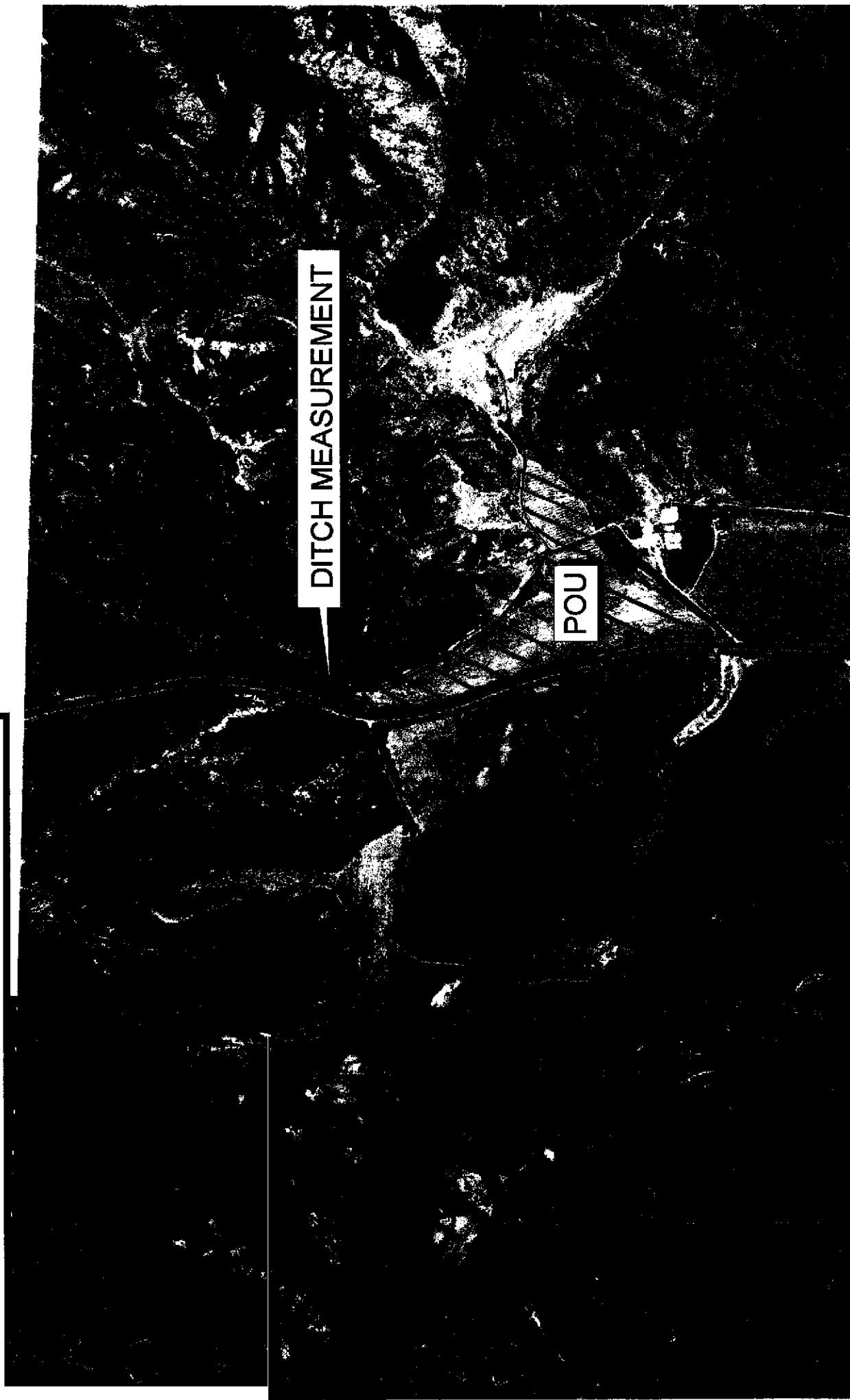
A63-05387
SPRING VALLEY LIVESTOCK COMPANY

CULVERT

POD WILLOW CREEK

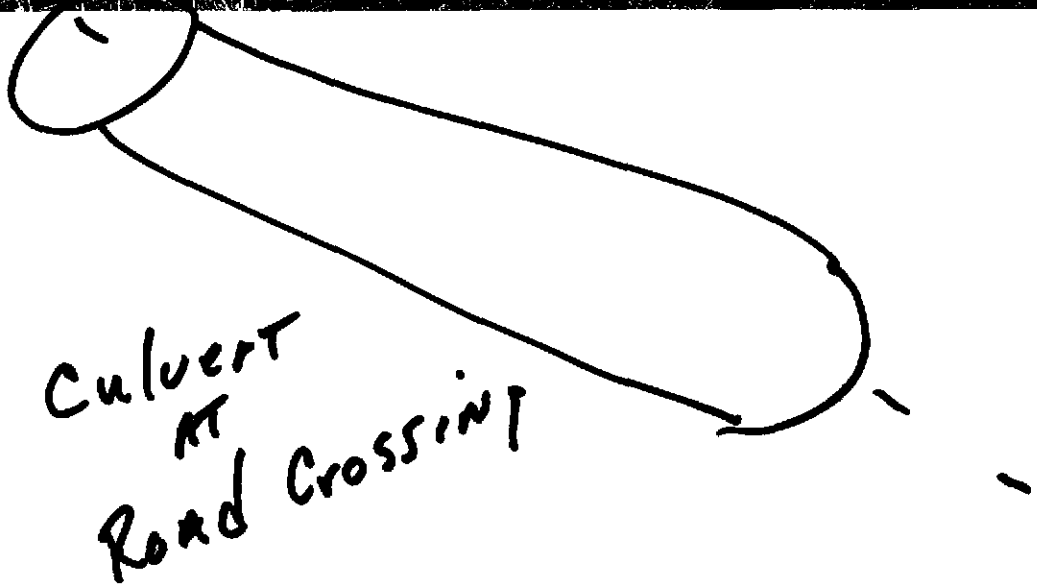


A63-05387
SPRING VALLEY LIVESTOCK COMPANY





W CREEK DITCH ON TOP OF RIDGE



Culvert
at
Road Crossing



MANNING EQUATION CHANNEL CAPACITY RESULTS

05-12-2004

File Number: A63-05387

Claimant: Spring Valley Livestock Company

Channel measured: Willow Creek Ditch

Date of measurement: 5/4/2004

Measurement location:

100 yards North of the Place of Use

Calculation prepared by: M. Gene Gibson

Comments about the measurement:

The results of the calculation are:

The length of the channel measured is 100 feet.

The upstream and downstream rod readings are 5.10 and 5.25 feet.

The channel cross section is 2.23 ft-sq.

The wetted perimeter is 4.92 feet.

The hydraulic radius is 0.45 feet.

The slope is 0.0015

The roughness coefficient is 0.0350

The flow velocity is 0.972 ft/sec.

The rate of flow is 2.16 cfs.

CROSS SECTION NUMBER 1

For File Number A63-05387 for the Willow Creek Ditch

Number	Rod Reading	Water Depth	Distance
1	0.00	0.00	0.00
2	0.25	0.25	0.50
3	0.50	0.50	1.00
4	0.80	0.80	1.50
5	0.85	0.85	2.00
6	0.85	0.85	2.50
7	0.50	0.50	3.00
8	0.40	0.40	3.50
9	0.30	0.30	4.00
10	0.00	0.00	4.50

The area for this cross section is 2.23 square feet
and the wetted perimeter is 4.92 feet.

Saxton, Craig

To: terimcled@aol.com
Subject: Water Rights 63-05386, 63-05387, and 63-18974

Hello Teri,

I found your files. I had them in a box waiting to give to an IDWR contractor to conduct a field exam. He will be in the office today and I will give him the files. I found the Ground water file as well.

The contractor's name is Gene Gibson. He is a former IDWR employee and is very good. He should be contacting you soon. In the mean time, I would work on the evidence of priority documentation that we spoke about. Gene can give you some guidance or I can too.

Besides the field exam to confirm beneficial use of the water, we need evidence of when it was first put to use from:

63-05386 - Spring Valley Ck - you claimed an 1880 priority date
63-05387 - Willow Ck - you claimed an 1880 priority date
63-18974 - Groundwater - you claimed an 1948 priority date

I realize it is hard to find evidence of these priority dates that are this old. Just get the most information that you can and we can adjust the recommendation as needed. Again, probably your best bet is to find someone that is an "old timer" that can supply or sign off on an affidavit that confirms the water was used at a particular date, and the extent it was used.

Keep in mind, that these recommendations will be sent to the Snake River Basin Adjudication court. After that is submitted, the recommendations will become public record and anyone else will have a chance to object to your recommendation. If an objection is made, for instance on the priority date, it will your responsibility to support it. So you want to try to find some sort of evidence that you are comfortable supporting if an objection occurs.

You can mail that information to me for review, or you can give it to Gene Gibson when he conducts a field exam.

Respectfully submitted,

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

MEMORANDUM

Date: 3/4/04

To: File

From: Craig L. Saxton

Subject: SRBA Claim 63-05306, 63-05387, and 63-18974

I spoke with Teri (Teresa) McCloud from Spring Valley Ranch at 286-7975. She had a question about an evidence of priority letter I sent her. I addressed her concerns, but I could not find the files to answer her specific questions. I got off the phone with her with the understanding that I would be calling her back or E-mailing her after I reviewed the files. What I found was that the files had already been set aside for Gene Gibson to do the field exam and that is why I couldn't find the file.

The claimant will be out of town till next week, but I will inform her via E-mail the situation. At this time, I plan on having Gene Gibson or Darwin Vander Stelt review this claim.

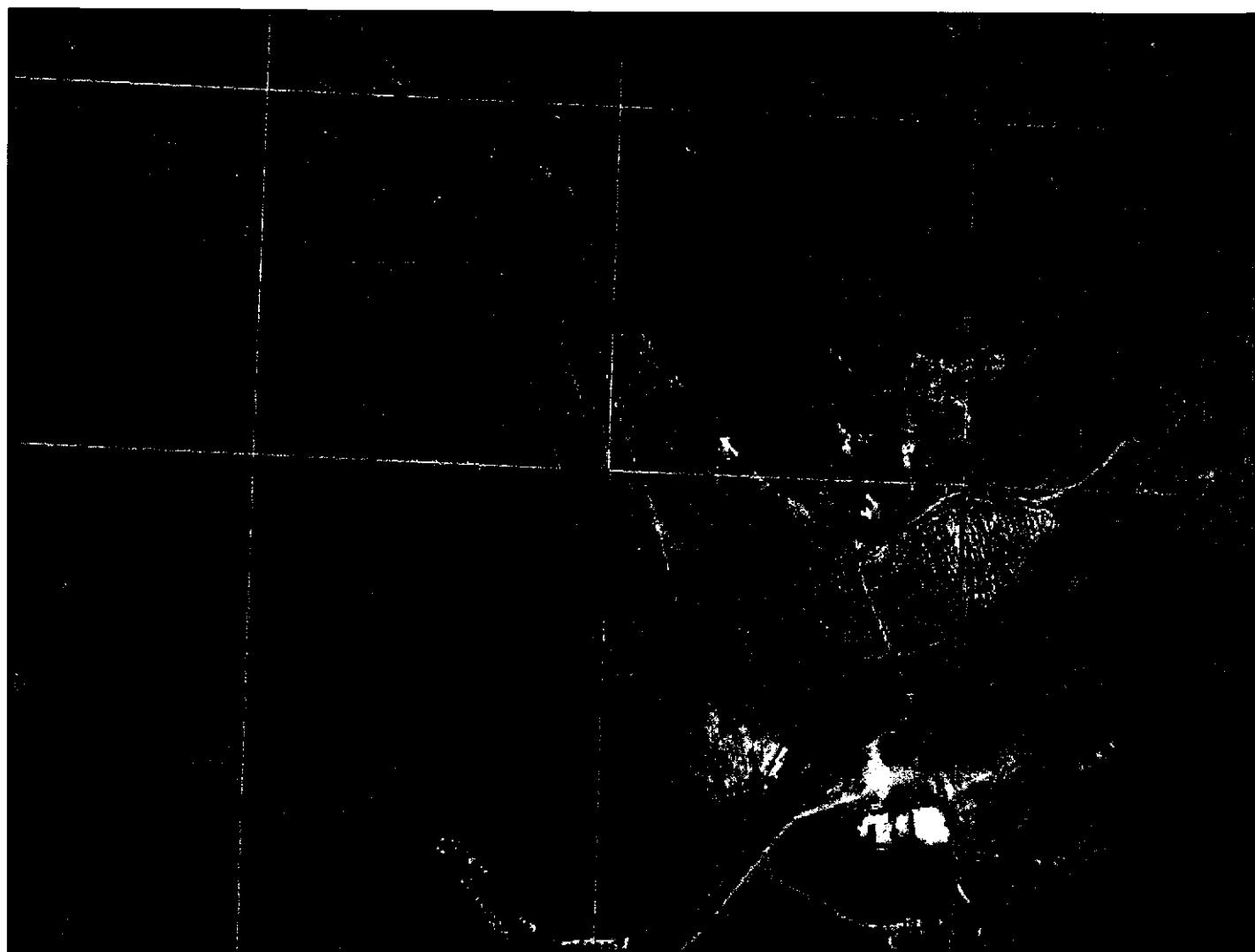
terimcleod@aol.com

42-381 50 SHEETS 5 SQUARE
42-382 100 SHEETS 5 SQUARE
42-389 200 SHEETS 5 SQUARE





POU location Map 2000 Photography 63-05387



1320

0

1320 Feet



⊙ Point of Diversion

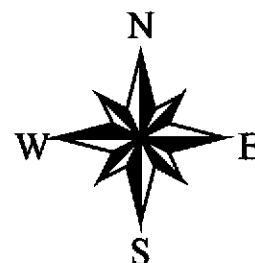
▭ Claimed POU

▭ Ada County Tax Lot Data

▭ Quarter Quarter Lines

▭ Section Lines

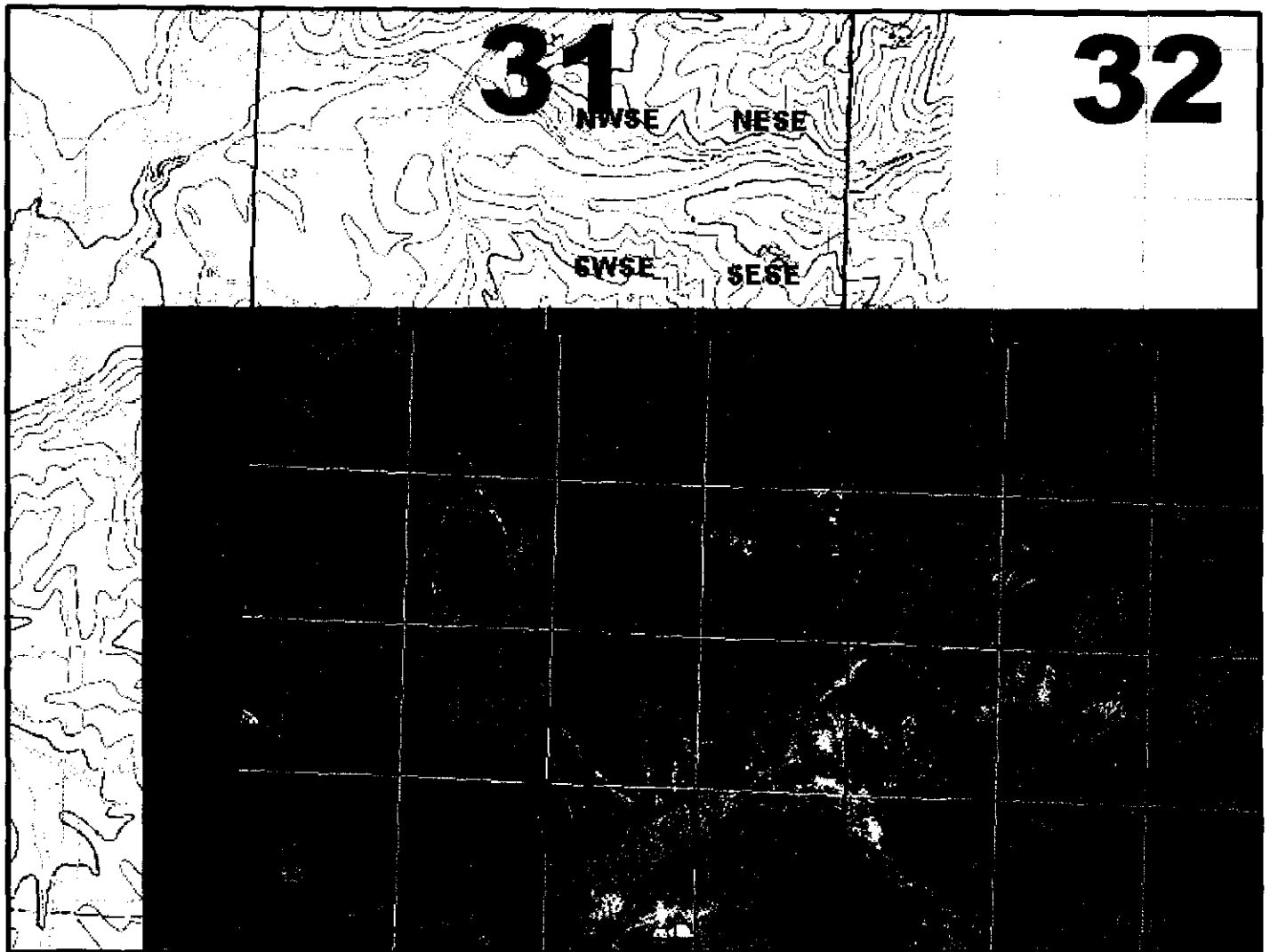
Total claimed Acres: 36.0



Prepared by: C. Saxton
Date: February 2004



POU location Map 2000 Photography 63-05387

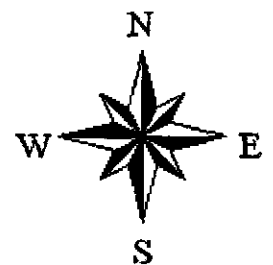


1320 0 1320 Feet



- ⊙ Point of Diversion
-  Claimed POU
-  Ada County Tax Lot Data
-  Quarter Quarter Lines
-  Section Lines

Total claimed Acres: 36.0



Prepared by: C. Saxton
Date: February 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 5, 2004

63-05386, 63-05387
SPRING VALLEY LIVESTOCK CO., INC.
PO BOX 9
STAR ID 83669

RE: EVIDENCE OF PRIORITY

Dear Claimant (s):

The Idaho Department of Water Resources has begun its water right review in Basin 63. The Notice(s) of Claim identified with the number shown above in the "address" label and at the "end" of this letter has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Notice. The date the water was first put to use, known as the priority date, has not been confirmed by a license, Decree, or Permit. For this reason, proof must be provided supporting the priority date. As the claimant, you are responsible for submitting the necessary proof to support the priority date.

It is important that each element of the Notice be substantiated. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "What Kind of Evidence is Required" and "Some examples of Documents Which May Be Evidence of the Priority Date".

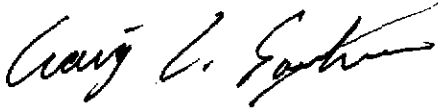
It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other items of the Notice have been or soon will be conducted by Department personnel.

.....
The Department can not recommend the Notice be decreed by the court if no evidence of a priority date is submitted.
.....

Please submit the documentation supporting the priority date by **March 5, 2004** **referencing all documents with the corresponding Notice number.** If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact me at (208) 334-2190.

In addition, a contractor employed by The Idaho Department of Water Resources may be contacting you to set up a filed exam in order to verify the elements of your water right.

Respectfully submitted,



Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Enclosure: Brochure on "Evidence of Priority"
 Notice of Claim 63-05386, 63-05387

63-05387 Spring Valley Livestock Co.
Source: Willow Creek

Other BU or Stat Claims

Gene - 63-5386 Spring Valley Creek

Gene - 63-18974 groundwater

Gene 63-31063 Spring

12-16-03

63-18972 PD'd Spring

63-22879 PD'd GW

63-22880 PD'd GW