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Attorneys for Claimants, Mary Ellen Drashner and Kathryn Allred Gardner

RECEIVED
OCT 16 2008
DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA)
Case No. 39576) Subcase No. 37-4375
AFFIDAVIT OF ROBERT GARDNER
_____)

STATE OF IDAHO)
County of Blaine) ss

ROBERT GARDNER, being first duly sworn upon his oath, declares as follows:

1. I was born in 1939 and have been a resident of Blaine County, Idaho all of my life.
2. In 1961, I married Kathryn Gardner. Prior to then I had helped her father, Howard Allred, to irrigate the property Kathryn and her sister, Mary Ellen, had inherited from their grandfather located at the mouth of the Cold Springs Canyon in Blaine County, Idaho. I was told that Kathryn's grandfather had used this property as a staging area and grazing for his band of sheep which he used to run from his ranch in Gannett, Idaho. Although Kathryn's family no longer raised sheep, they continued to irrigate the property to keep it green and allow it to be used for grazing by other bands of sheep which traveled through the county in the spring and fall.

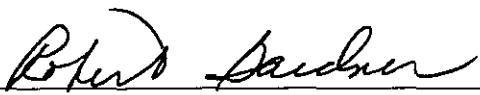
3. After Kathryn's father passed away I continued to irrigate the property for the same

AFFIDAVIT OF ROBERT GARDNER - 1
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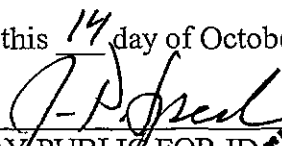
purposes up until the time it was sold to St. Luke's Wood River Medical Center in April, 1998. The property was flood irrigated when I first helped Kathryn's father in the 1950's and I continued that method of irrigation until the property was sold. A series of small ditches was located all across the property. I would direct water into a ditch by simply piling up dirt using or using canvas dams and a shovel. Water came from several springs on the property as well as out of the large pond. The springs and pond are marked on the aerial photo attached as Exhibit A. The pond was fed by water from the springs and I estimate it was approximately one (1) acre in surface area and averaged about three (3) to four (4) feet in depth. The land that was consistently irrigated during all of this time is outlined in black on the photo and I estimate its area as approximately twenty-five (25) acres. I have been a rancher and farmer all of my life and I estimate that the amount of water I was diverting from the springs and pond through the ditches was approximately 25 to 40 inches. This amount of water was required to raise the pasture grass and keep the property green using those flood irrigation methods.

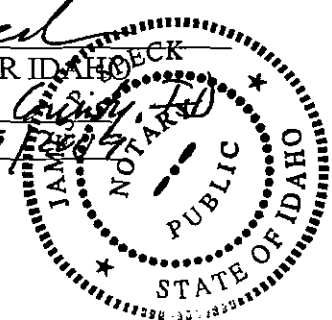
4. The statements in this affidavit are based upon my own personal knowledge and observations and conversations I had with my father-in-law.

DATED this 14 day of October, 2008.


ROBERT GARDNER

SUBSCRIBED AND SWORN TO before me this 14 day of October, 2008.


NOTARY PUBLIC FOR IDAHO
Residing at: Blaine, Quinsy, ID
Comm. Expires: 1/29/2009



CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of October, 2008, I served a true and correct copy of the within and foregoing document upon the attorney named below in the manner noted:

Albert P. Barker
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Attorneys for Tom O'Gara, John Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Gerald Bashaw and Pepin Corso-Harris

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James P. Speck

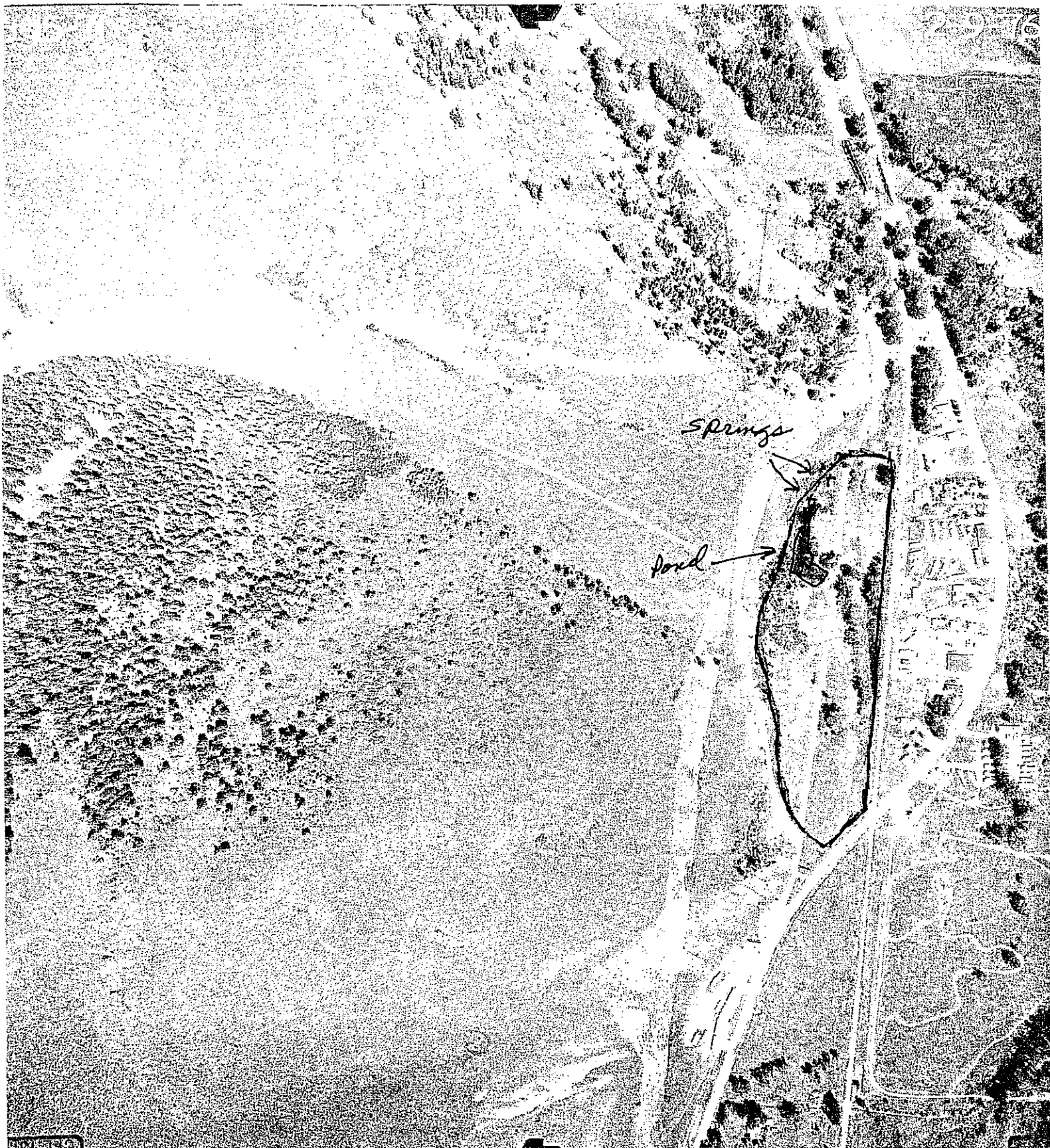


EXHIBIT A