

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 63-31782
Date Received: 8/3/1989
Receipt No: X777777
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

VAN ESS DAIRY LLC Phone: (208)585-3288
26956 CEMETERY RD
MIDDLETON ID USA 83644

2. Date of Priority: 05/09/1977

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	02W	19	NW NW 1	CANYON	
05N	02W	19	NW NW 1	CANYON	
05N	02W	19	SW NW 2	CANYON	

5. Description of diverting works:

All three wells have 5.5 Hp submersible pump. Each well is approximately 120 feet deep. Depth to water in the northern two wells is estimated to be 50 feet. Depth to water in the southern well is estimated to be 30 feet. The system includes distribution pipelines to stock tanks and dairy equipment.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.26	48.5
COMMERCIAL	01/01	12/31	0.11	20.8

7. Total Quantity Appropriated is:
0.37 C.F.S. and/or 69.3 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	02W	19	NW	NW	1	COMMERCIAL
			SW	NW	2	COMMERCIAL
			NW	NW	1	STOCKWATER
			SW	NW	2	STOCKWATER

11. Place of use in counties: CANYON

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

13. Other Water Rights Used:

14. Remarks:

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-31723.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

After specific notification by the Department, the right holder shall measure the diversion or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

The total instantaneous diversion of water from all points of diversion under Rights 63-31782 and 63-31784 shall not exceed 0.41 cfs, nor total combined annual volume of 75.7 af.

Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.

Right 63-31784 is also diverted through the points of diversion described above.

15. Basis of Claim: License

WATER RIGHT NO. 63-31782
As Modified by Transfer No. 70872

In accordance with the approval of Transfer No. 70872, Water Right No. 63-31782 is now described as follows.

Right Holder: VAN ESS DAIRY LLC
 26956 CEMETERY RD
 MIDDLETON ID 83644

Priority Date: May 09, 1977

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
COMMERCIAL	01/01	to 12/31	0.11 CFS	20.8 AF
STOCKWATER	01/01	to 12/31	0.26 CFS	48.5 AF
			0.37 CFS	69.3 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L1 (NWNW)	Sec. 19 Twp 05N	Rge 02W ADA County
GROUND WATER	L1 (NWNW)	Sec. 19 Twp 05N	Rge 02W ADA County
GROUND WATER	L2 (SWNW)	Sec. 19 Twp 05N	Rge 02W ADA County

Canyon

PLACE OF USE: COMMERCIAL, same as Stockwater

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
05N 02W 19	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
						X	X										
						L1	L2										

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. After specific notification by the Department, the right holder shall measure the diversion or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.

WATER RIGHT NO. 63-31782
As Modified by Transfer No. 70872

CONDITIONS OF APPROVAL

6. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
7. The total instantaneous diversion of water from all points of diversion under Rights 63-31782 and 63-31784 shall not exceed 0.41 cfs, nor total combined annual volume of 75.7 af.
8. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.
9. Right 63-31784 is also diverted through the points of diversion described above.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 22nd day of March, 2004



Chief, Water Allocation Bureau

Should questions arise during the processing of this application please contact:
Steven Hannula ERO Resources Corp. (208) 373-7983

RECEIVED

JUN 19 2003

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of applicant VanEss Dairy, LLC

Phone (208) 585-3288

Post Office address 26956 Cemetery Road, Middleton, ID 83644

A. Purpose of Transfer

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☒ Change nature of use ☒ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes To supply an existing dairy facility with stockwater and commercial water. No expansion of the dairy will take place.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>63-8796</u>	<u>5/9/1977</u>	<u>0.37 / 48.5</u>	<u>Stockwater</u>	<u>1/1 to 12/31</u>
<u>63-8796</u>	<u>5/9/1977</u>	<u>0.37 / 20.8</u>	<u>Commercial</u>	<u>1/1 to 12/31</u>
<u>63-9972</u>	<u>1/21/1983</u>	<u>0.044 / 4.5</u>	<u>Stockwater</u>	<u>1/1 to 12/31</u>
<u>63-9972</u>	<u>1/21/1983</u>	<u>0.044 / 1.9</u>	<u>Commercial</u>	<u>1/1 to 12/31</u>

2. Total amount of water being transferred 0.414 cubic feet per second and/or 75.7 acre-feet per annum.
3. Source of water Groundwater tributary to NA
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
1		NW	NW	19	5N	2W	CANYON	
1		NW	NW	19	5N	2W	CANYON	
2		SW	NW	19	5N	2W	CANYON	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
5N	2W	19						S/C	S/C										N/A

Total acres N/A

PART 1**6. General Information:**

- a. Description of diversion system: All three wells have a 5.5 hp submersible pump. Each well is approximately 120 feet deep. Depth to water in the northern two wells is estimated to be 50 feet. Depth to water in the southern well is estimated to be 30 ft. The system includes distribution pipelines to stock tanks and dairy equipment.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? ____ Yes XX No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: The lands now irrigated are being retired and will be developed into a residential subdivision.
- d. Remarks: Please see attached

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____
And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 20____.

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-8796

Priority: May 9, 1977

Amount: 1.05 CFS 306.0 AFA

This is to certify, that FRANK N. HAM
WYOMA HAM

4415 N. LOCUST GROVE
MERIDIAN, ID 83642

has complied with the terms and conditions of the permit issued pursuant to Application for Permit dated May 9, 1977, and has submitted proof to the Department of Water Resources on May 13, 1982, that water has been applied to a beneficial use; an examination by the Department indicates that the works have a diversion capacity of 1.05 cfs of water from a GROUNDWATER source and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Irrigation	03/15 to 11/15	1.05 cfs	306.0 afa
<u>LOCATION OF POINT OF DIVERSION(S):</u>		NWNE, Sec. 31, Township 4N, Range 1E Ada County	
<u>PLACE OF USE:</u> Irrigation			

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
4N	1E	31	NWNE 15	SWNE 7	NENW 29	SENE 17	68
Total number of acres irrigated:							68

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 13th day of April, 1988.

RECEIVED

JUL 06 1988

Director

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
 No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. Amount 0.37 / 107.1 for IRRIGATION purposes from 3/15 to 11/15 (0.37 / 69.3 afa consumptive portion)
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Points of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NE	31	4N	1E	ADA	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	1E	31		15	7		1.8												23.8

Total acres 23.8

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. Amount 0.68 / 198.9 for IRRIGATION purposes from 3/15 to 11/15
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 Amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Points of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NE	31	4N	1E	ADA	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	1E	31					27.2			17									44.2

Total acres 44.2

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-09972

Priority: December 9, 1983

Maximum Diversion Rate: 0.60 CFS
Maximum Diversion Volume:¹ 135.0 AF

This is to certify, that FRANK N. HAM
WYOMA HAM

4415 N. LOCUST GROVE
MERIDIAN, ID 83642

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 21, 1983; and has submitted Proof of Beneficial Use on January 17, 1989. An examination indicates that the works have a diversion capacity of 2.490 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	0.60 CFS	135.0 AF

LOCATION OF POINT(S) OF DIVERSION:

NWNE , Sec. 31, Township 04N, Range 01E
ADA County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
04N	01E	31	SWNE	30		30
Total number of acres irrigated:						30

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.

MICROFILMED

SEP 18 1990

B-2 3"

PART 2 (63-9972)

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
 No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. Amount 0.044 / 9.9 for IRRIGATION purposes from 3/15 to 11/15 (0.044 / 6.4 afa consumptive portion)

(cfs/ac-ft)

Amount _____ for _____ purposes from _____ to _____

(cfs/ac-ft)

Amount _____ for _____ purposes from _____ to _____

(cfs/ac-ft)

2. Points of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NW	NE	31	4N	1E	ADA	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	1E	31			2.2														2.2

Total acres 2.2

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. Amount 0.556 / 125.1 for IRRIGATION purposes from 3/15 to 11/15

(cfs/ac-ft)

Amount _____ for _____ purposes from _____ to _____

(cfs/ac-ft)

Amount _____ for _____ purposes from _____ to _____

(cfs/ac-ft)

2. Points of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NW	NE	31	4N	1E	ADA	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	1E	31			27.8														27.8

Total acres 27.8

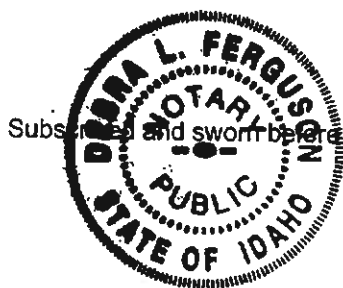
PART 3**B. CHANGES IN NATURE OF USE**

1.	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	<u>STOCKWATER</u>	<u>0.29 / 53</u>	_____	<u>1/1 to 12/31</u>
	<u>COMMERCIAL</u>	<u>0.124 / 22.7</u>	_____	<u>1/1 to 12/31</u>

2. Quantity and quality of return flows and location of discharge: The dairy facility is considered 100 percent consumptive and therefore no discharge will occur. All manure is exported from the facility. No wastewater is spread on property. Some wastewater is evaporated.

3. Describe effects on other water uses resulting from the proposed change: The water users nearby the FROM well will benefit for having less ground water diversion at the Stone Creek Turf Farm. Water users at the TO well will not experience any change since this is an existing dairy and that ground water levels are known to be stable in this area.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.



Subscribed and sworn before me this _____

18th

day of June

20 03

(Signature of Applicant)

(Notary Public)

My commission expires 10-31-07

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by KH Date 6/19/03 Protest filed by _____

Prelim. check by _____ Fee 25000

Receipted by KH Date 6/19/03 W030617

Published in _____ Copies of protest forwarded by _____

Pub. Dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

REMARKS

Stone Creek Turf Application for Transfer of Water Right Nos.

63-8796 and 63-9972

Applicant wishes to transfer a portion of water right nos. 63-8796 and 63-9972 to stockwater and commercial uses at a new Place Of Use (POU). The new POU (the Van Ess dairy) is in the W1/2NW Sec. 19 T5N R2W. The requested transfer will dry up 23.8 irrigated acres from 63-8796 and 2.2 irrigated acres from 63-9972.

Sections 3 and 7 of the applicant's affidavit (Tab 1 – attached) states that the property was a turf-growing operation. Based on the Allen & Brockway (1983) pasture (assumed to closely resemble turf grass) in the Boise area has an irrigation requirement of 2.91 acre-feet/acre. Therefore, to obtain the required 75.7 afa for commercial and stockwater operations, a total of 26 acres are being retired.

Idaho Code 42-222 requires IDWR to address the following components. The applicant's response follows each component.

Will There Be Injury to Other Water Users?

This transfer provides the correct amount of commercial and stockwater to the existing facility. No expansion of the dairy will occur. No new diversions or increased diversions will result. The current owners of the dairy purchased the facility with deficient water rights. This transfer will correct the problem.

The FROM well is located in Meridian. Ground water elevation maps from the Department of Water Resources show that ground water in Meridian is tributary to the Boise River. The water level change map shows that this area has fairly stable water levels; the map indicates approximately a 2-foot decline.

The TO well is located north of Middleton. Ground water in this vicinity is also tributary to the Boise River. The water level change map shows stable ground water levels in the area with approximately a 1-foot decline.

Transferring water from Meridian to Middleton will not change the amount of water in the Boise River. Also, ground water levels near the FROM well are stable and are not in a condition of large decline. This transfer will not injure ground water users or surface water users.

Is This in the Local Public Interest?

Yes. The existing facility has been operating for years. This transfer is only an administrative effort to ensure that the water rights of the facility are correct and sufficient in preparation for the upcoming Snake River Basin Adjudication. No changes in operations will result and therefore no local public interest issues should exist.

Also, the ground water diversions at the FROM well will be reduced, which is to the benefit of the nearby water users and therefore should be in the public interest.

Will There be any Effect on Local Agricultural Base?

This transfer is an administrative effort to ensure that the existing facility has the appropriate amount of water rights. The facility has been operating for years and no operational changes are planned with the approval of this transfer. The approval of this transfer will ensure that the existing facility can remain in operation and therefore continue its demand for local agricultural products.

DAILY FRESH WATER REQUIREMENT FOR DAIRY FACILITY

PAGE 1

VanEss

FOR: Van Ess
BY: Steven Hannula
DATE: 4/23/03

STOCKWATER VOLUME REQUIREMENT

TYPE OF ANIMAL	NUMBER	USE/DAY GAL/DAY	TOTAL GAL/DAY	TOTAL GAL/YEAR
MILKING COWS	1,130	35	39,550	14,435,750
DRY COWS	182	12	2,184	797,160
HEIFERS	400	12	4,800	1,752,000
TOTAL GALLONS			46,534	16,984,910

STOCKWATER ANNUAL VOLUME NEEDED (AFA) 52.12

COMMERCIAL VOLUME REQUIREMENT**WASH PEN ESTIMATES**

GPM PER NOZZLE	NUMBER OF NOZZLES	TIME PER USE(IN MINUTES)	NUMBER OF USES	TOTAL GAL/DAY	TOAL GAL/YEAR
0	0	0	0	0	0

MILKING PARLOR ESTIMATES

ITEM	GALS/OP	X'S/DAY	GALS/DAY	GALS/YEAR
BULK TANK	750	1	750	273,750
COW PREP	0	1	0	0
PIPELINES	500	2	1,000	365,000
PARLOR CLEANUP	2,000	2	4,000	1,460,000
OTHER	0	0	0	0
STALL BACKFLUSH	3	3,000	9,000	3,285,000
WASHPEN CLEANUP	0	0	0	0
TOTAL MILK PARLOR USE			14,750	5,383,750

BARN USE

ITEM	GALS/OP	X'S/DAY	GALS/DAY	GALS/YEAR
OTHER	0	0	0	0
MISTERS (SUMMER ONLY)	375	3	1,125	23,625
BARN FLUSH	2,000	2	4,000	1,460,000
TOTAL HOSPITAL BARN USE			5,125	1,483,625

MISCELLANEOUS USES

ITEM	GALS/OP	X'S/DAY	GALS/DAY	GALS/YEAR
TOWEL WASHING	50	5	250	91,250
EMPLOYEE SHOWERS & RESTROOMS	50	10	500	182,500
MAINTENANCE SHOP	500	1	500	182,500
TOTAL MISCELLANEOUS USES			1,250	456,250

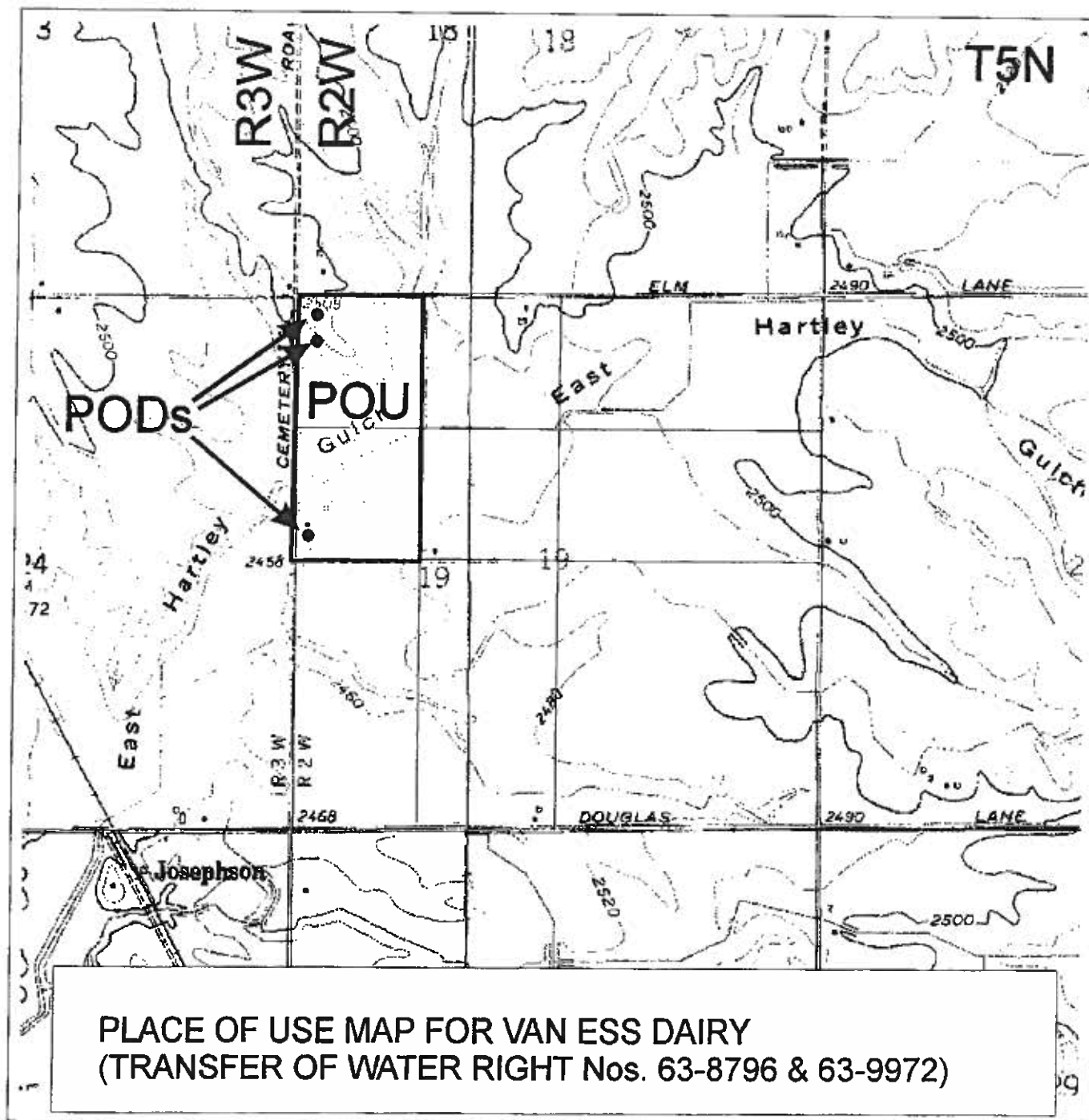
COMMERCIAL ANNUAL VOLUME NEEDED (AFA)

22.48

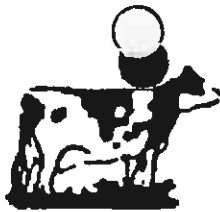
STOCK WATER VOLUME REQUIREMENT =	52.12
COMMERCIAL REQUIREMENT =	22.48
TOTAL VOLUME REQUIRED =	74.60

HISTORIC CONSUMPTIVE VOLUME PER ACRE = 2.9 ACRE FEET PER ACRE

NUMBER OF ACRES THAT NEED TO BE RETIRED = 26 ACRES



PLACE OF USE MAP FOR VAN ESS DAIRY
(TRANSFER OF WATER RIGHT Nos. 63-8796 & 63-9972)



VanEss Dairy

26956 Cemetery Rd.
Middleton, Idaho 83644
Dairy 585-3288 • Fax: (208) 585-2745

Mr. Gary Spackman
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

Re: Application for Transfer – Renata Ham & Van Ess Dairy

Dear Mr. Spackman:

As you know, we own the real property to which Renata Ham has proposed to transfer water right nos. 63-8796 and 63-9972.

The purpose of this letter is to advise the Department of Water Resources that we consent to and agree with the transfer and will cooperate in the transfer process. Upon completion of the transfer, the resulting water rights will change ownership to Van Ess Dairy, LLC.

Thank you for your kind consideration.

Sincerely,

VAN ESS DAIRY, LLC

Harvey Van Ess, Managing Member

INSTRUMENT NO. 200319420

Quit Claim Deed

FOR VALUE RECEIVED

Aaltje Van Ess who acquired title as Alice Van Ess, a married woman
does hereby convey, release, remise and forever quit claim unto

Van Ess Dairy, LLC, an Idaho limited liability company

whose address is: 26956 Cemetery Road Middleton, Idaho 83644

the following described premises, to wit:

See Exhibit "A" attached hereto and made a part hereof.

together with their appurtenances.

Dated: March 27, 2003

Aaltje Van Ess
Aaltje Van Ess

STATE OF WASHINGTON
COUNTY OF

On this 27th day of March in the year 2003, before me, a
Notary Public, personally appeared Aaltje Van Ess, personally
known to me or proven to me to be the person whose name(s) is
subscribed and acknowledged to me that they executed the same.

Georgene Bump
Notary Public for the State of Washington

Residing at: Thonwa

My Commission Expires: 3/22/2006



Exhibit "A"

PARCEL I

A part of Government Lot 1, Section 19, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

BEGINNING at the Northwest corner of said Lot 1 monumented with a rebar 5/8-inches in diameter; thence
North 89° 35' 00" East 497.78 feet along the North boundary of said Lot 1; thence
South 0° 05' 00" West 873.79 feet parallel with the West boundary of said Lot 1; thence
South 89° 16' 45" West 497.81 feet; thence
North 0° 05' 00" East 876.44 feet along the West boundary of said Lot 1 to the POINT OF BEGINNING.

PARCEL II

Government Lots 1 and 2 (being the West Half of the Northwest Quarter) of Section 19, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM

A part of Government Lot 1, Section 19, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

BEGINNING at the Northwest corner of said Lot 1 monumented with a rebar 5/8-inches in diameter; thence
North 89° 35' 00" East 497.78 feet along the North boundary of said Lot 1; thence
South 0° 05' 00" West 873.79 feet parallel with the West boundary of said Lot 1; thence
South 89° 16' 45" West 497.81 feet; thence
North 0° 05' 00" East 876.44 feet along the West boundary of said Lot 1 to the POINT OF BEGINNING.

REQUEST PIONEER - CALDWELL
BY Dee Fee 6-2

G. NOEL JONES
CANYON COUNTY RECORDER

2003 APR 2 PM 4 23

RECORDED

200319420

WARRANTY DEED

FOR VALUE RECEIVED

JAMES VAN ESS and AALTYE VAN ESS, husband and wife ("Grantors"), do hereby grant, bargain, sell and convey unto VAN ESS DAIRY, LLC, an Idaho limited liability company, whose current address is 26956 Cemetery Road, Middleton, Idaho 83644 ("Grantee"), the following described premises located in Ada County, Idaho, to-wit:

The real estate more particularly described in Exhibit A attached hereto and by this reference incorporated herein

To have and to hold the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that the premises are free and clear from all encumbrances, except current taxes and assessments, easements, rights of way, encumbrances, restrictions and reservations of record and that they will warrant and defend the quiet and peaceful possession of said premises by said Grantee, and its heirs and assigns forever, against all lawful claims whatsoever.

DATED: January 21, 1998.

James Van Ess
JAMES VAN ESS

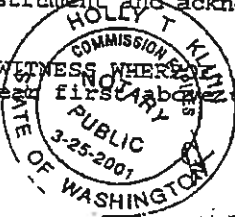
Aaltje Van Ess
AALTYE VAN ESS

STATE OF WASHINGTON)

County of Shoshone)

On the 21st day of January, 1998, before me, the undersigned notary public in and for said state, personally appeared JAMES VAN ESS and AALTYE VAN ESS, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Holly T. Quinn
Notary Public for Washington

Residing at: Meridian WA

My Commission Expires: 3-25-01

PARCEL I

STOOPING at the Northwest corner of said Lot 1 augmented with a slab 5/8-inches in diameter; thence

North 89° 35' 00" East 437.78 feet along the North boundary of said Lot 1; thence

South 0° 05' 00" West 873.79 feet parallel with the West boundary
of said Lot 1; thence

South 89° 15' 45" West 497.81 feet; thence

North 0° 05' 00" East 876.44 feet along the West boundary of said Lot 1 to the POINT OF BEGINNING.

PARCEL II

Government Lots 1 and 2 (being the West Half of the Northwest Quarter) of Section 19, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho.

EXCEPT THEREFROM

A part of Government Lot 1, Section 29, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

BEGINNING at the Northwest corner of said Lot 1 monumented with a stake
5/8-inch in diameter; thence

North 89° 35' 00" East 497.78 feet along the North boundary of said

South 0° 05' 00" West 373.73 feet parallel with the West boundary
of said Lot 1, Chenca

South 89° 16' 45" West 497.81 feet; thence
North 0° 05' 00" East 876.44 feet along the West boundary of said

Lot 1 to the POINT OF BEGINNING.

98 JUL 13 AM 10 58
HEDJ KERN
CANYON CREDIT ORDER
RAY
LME Sanglin
REQUEST
TYPE Food FEE 6.00
E. John B. Sullivan
Kalamazoo
J. M. Sullivan

98 JUL 13 AM 10 58

RECORDED

9825936

RECEIVED

AUG 08 2003

WATER RESOURCES
WESTERN REGION

WATER RIGHT PURCHASE AND SALE AGREEMENT

THIS WATER RIGHT PURCHASE AND SALE AGREEMENT ("Agreement") is entered into effective this 28th day of April, 2003 by and between Renata Ham, d/b/a Stone Creek Turf, a sole proprietorship (the "Seller"), whose address is 5125 Morningdale Dr., Boise, ID 83713, and VanEss Dairy, LLC (the "Buyer"), whose address is 26956 Cemetery Road, Middleton, Idaho 83644. In consideration of the sums to be paid by Buyer to Seller, and the mutual covenants herein contained, the parties hereby agree as follows:

RECITALS

1. Seller owns licensed ground water right nos. 63-8796 and 63-9972, more particularly described on Exhibit A. Water right nos. 63-8796 and 63-9972 are appurtenant to and have been beneficially used to irrigate 98 acres for which they are licensed in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ (the place of use for 63-8796); and in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ (the place of use for 63-9972), all in section 31, T4N, R1E, Boise Meridian in Ada County (the "Property"). The Property is more particularly described on Exhibit B.
2. Seller desires to sell to Buyer: a) the approximately 35 percent (23.8/68) portion of water right no. 63-8796 that is appurtenant to a total of 23.8 acres in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ (1.8 acres), the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ (15 acres), and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ (7 acres); and b) the approximately 7.3 percent (2.2/30) portion of water right no. 63-9972 that is appurtenant to 2.2 acres in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, all within the Property. These portions of the respective ground water rights are collectively referred to as the "Water Rights."
3. Buyer desires to purchase the Water Rights and transfer their points of diversion and places of use to Buyer's property in Canyon County, or otherwise use the Water Rights in a mitigation or similar plan to allow such water use on Buyer's property.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, and the covenants and conditions set forth below, Seller agrees to sell the Water Rights to Buyer, and Buyer agrees to purchase the same.

4. Purchase Price. The Purchase Price for the Water Rights is ~~REDACTED~~.

a. Non-refundable Earnest Money payment. Upon execution of this Agreement by Seller and Buyer, Buyer shall pay Seller [REDACTED] ([REDACTED] as a non-refundable earnest money payment ("Earnest Money"), which Earnest Money shall be applied to the Purchase Price at Closing. The Earnest Money shall be retained by Seller unless i) Seller refuses to close this transaction; or ii) any of Seller's representations contained in paragraph 10.a below are determined to be false and as a result thereof, Buyer terminates this Agreement.

b. Balance of purchase price. [REDACTED] being the Purchase Price less the Earnest Money, shall be due and payable to Seller at Closing.

5. Buyer responsible for water right transfer. Within thirty days after this Agreement is signed, Buyer shall file, with the Idaho Department of Water Resources ("Department"), an application to change or transfer the Water Rights to Buyer's place of use, proposed nature or time of use, and point of diversion or, in the alternative, an application for a new ground water permit in which the retirement or other approved use of the Water Rights will serve a mitigation or similar purpose (collectively, "Transfer") and thereafter shall diligently pursue the Transfer at Buyer's sole cost. Buyer shall provide Seller a copy of the Transfer application promptly upon its filing. Upon filing the Transfer, the Water Rights no longer will be diverted from the well on Seller's property or placed to beneficial use by Seller unless Buyer agrees in writing that it can be so used on an interim basis during the pendency of the Transfer.

6. Seller to cooperate with Buyer's Transfer efforts. At Buyer's request, Seller shall cooperate with Buyer in Buyer's pursuit of such Transfer, and shall provide Buyer with any information Seller has concerning the Water Rights that Buyer may reasonably request in pursuit of the Transfer; provided, that if responding to such request will require Seller to incur attorney or consultant fees or costs, the following conditions shall apply:

a. Seller shall provide Buyer a written estimate of such fees and costs and shall not be obligated to provide a response until Seller receives from Buyer a written approval of such fees and costs and a commitment from Buyer to pay them directly or reimburse Seller for Seller's payment of them. Once Seller has received such approval, Seller shall provide the response to the extent of the fees and costs covered in the approval.

b. Seller shall forward to Buyer all bills for such fees and costs within thirty days after Seller receives invoices for such expenses from a consultant or attorney, and shall inform Buyer whether Seller has paid these invoices or, in the alternative, is forwarding them to Buyer for payment.

c. Within thirty days after Buyer receives them, Buyer shall either pay such invoices directly or reimburse Seller for Seller's payment of them.

7. Closing. Closing shall occur no later than the earlier of: a) ten days after the final, unappealable approval of the Transfer ("Transfer approval"), or b) 12 months after the date of this Agreement. At the Closing:

a. Seller shall deliver to Buyer: i) an executed and acknowledged Water Right Grant Deed in the form of the specimen attached to this Agreement as Exhibit C; ii) all documentation, including appropriate deeds, leases, and assignments, confirming Seller's ownership of the Water Rights and its entitlement to convey them to Buyer; iii) an executed and acknowledged Notice of Change of Ownership confirming Buyer's ownership of the Water Rights and the assignment of the appropriate portion of the Snake River Basin Adjudication Claim for the Water Rights; and iv) such other documents as Buyer may reasonably request within thirty days prior to Closing to confirm Buyer's ownership of the Water Rights or their transferability. Seller shall make best efforts to provide all documents referenced in item ii of this paragraph within 10 days after the date of this Agreement.

b. Buyer shall deliver to Seller the balance of the Purchase Price by means of a cashier's check or other means of payment acceptable to Seller. Buyer shall have responsibility for recording or filing the Grant Deed and Assignment and other documents with the county recorder, the Idaho Department of Water Resources, or any other entities Buyer deems appropriate.

8. Failure to close; Buyer's and Seller's elections. If the Transfer approval does not occur within 12 months after this Agreement, Buyer at its option may either proceed to closing within 20 days after such 12-month deadline or terminate this Agreement by written notice and forfeit its Earnest Money. If Buyer fails to close the transaction within such 20 days after the 12-month deadline or otherwise breaches this Agreement, in addition to any other remedies Seller might have, Seller at its option may terminate this Agreement and retain the Earnest Money. If this Agreement is terminated by whatever means, Buyer, at its cost, shall forthwith withdraw and cancel the Transfer and take any steps necessary to ensure that the Department cancels, reverses or otherwise nullifies the Transfer application process and any Transfer approval, and such obligations shall survive the termination.

9. Extension of closing on certain conditions. If the transfer approval has not occurred within eleven months after the date of this Agreement, Buyer shall have

the option of extending the Closing for up to six additional months upon these terms:

a. Buyer shall, on or before five working days after such eleven-month date, notify Seller in writing of Buyer's intent to extend the closing date, in one-month increments, up to six additional months, and enclose with such notice the extension payment as set forth in subparagraph 9.b, below.

b. Buyer shall pay Seller [REDACTED] for each month of extension, one-third of which shall be considered an addition to the Earnest Money and shall apply to the purchase price, two thirds of which shall not apply to the purchase price and shall be retained by Seller as consideration for the extension. The extension shall not be effective unless Seller has received both the Buyer's notice and the extension payment within the time period specified above.

c. At the end of such extension period, the same provisions regarding closing as are specified in paragraph 8, above, shall apply, except that the "12-month deadline" specified in that paragraph shall be such deadline as extended, and the amount of Earnest Money credited to the purchase price shall be adjusted as set forth in this paragraph 9.

10. Representations and Warranties.

a. Seller hereby represents and warrants that:

i. The Water Rights have been beneficially used as the sole water source to irrigate the Property;

ii. The Property no longer will be irrigated by the Water Rights after the date of this Agreement, subject to the provision for interim use in paragraph 5, above;

iii. Seller is the owner of the Water Rights and has not conveyed, mortgaged, or pledged the Water Rights to any other person or entity;

iv. Seller has not engaged or dealt with any broker or finder in connection with the sale of the Water Rights;

v. Seller has the legal power, right and authority to enter into this Agreement and to perform Seller's obligations hereunder;

vi. Claims have been filed for the Water Rights in the Snake River Basin Adjudication, but Seller makes no representation or warranty regarding the outcome of that proceeding as it might affect the Water Rights;

vii. The Water Rights have been placed to continual beneficial use on the Property, and Seller has no knowledge of any continuous five-year period of nonuse of the Water Rights; and

viii. Seller makes no other guarantees or warranties as to the Water Rights, their yields upon transfer, or transferability. Buyer understands and agrees that the purchase price set forth above will remain the same regardless of the amount of water Buyer ultimately is allowed to divert and place to beneficial use under the Transfer; that the amount of water could be less than the face value of the Water Rights; and that, should it approve the Transfer, the Department may impose conditions on the use of the Water Rights.

b. Buyer hereby represents and warrants that:

i. Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder; and

ii. Buyer has not engaged any broker or finder in connection with the purchase of the Water Rights.

11. Remedies on Default. If either party breaches this Agreement, the non-breaching party shall be entitled to all remedies available at law or in equity.

12. Notices:

Seller: Renata Moon
5125 Morninggale Drive
Boise, ID 83713

Buyer: VanEss Dairy, LLC
Attn: Harvey VanEss
26956 Cemetery Road
Middleton, Idaho 83644

13. General Provisions.

a. This Agreement contains the entire agreement between the parties related to the purchase and sale of the Water Rights and all prior or

contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein.

b. No modification, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing and signed by both parties.

c. If either party commences litigation for the judicial interpretation, enforcement or rescission of this Agreement, the prevailing party shall be entitled to its reasonable attorney fees and costs.

d. Time is of the essence to this Agreement. In particular, the requirement that Closing must occur within 12 months (or within up to 18 months if Buyer purchases an extension pursuant to paragraph 9) is a central and material term, and either party's failure to close within the applicable time period, subject to the provisions of paragraphs 8 and 9, above, shall be a breach of this Agreement.

e. All obligations referred to herein that reasonably are to be performed, or may be performed, after Closing, and all representations and warranties contained herein, shall survive the Closing and delivery of Seller's Water Right Grant Deed and Assignment.

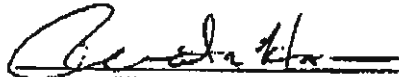
f. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective heirs, representatives, successors and assigns.

g. All notices to be given to the parties shall be in writing, delivered in hand, or by U.S. Mail, postage pre-paid directed to such parties address as stated above unless such party shall have directed in writing that notice be sent to a different address.

h. This Agreement may be executed in counterparts.

IN WITNESS WHEREOF, this Agreement has been executed by the parties, in the State of Idaho, as of the date set forth above.

SELLER:


Renata Ham
Stone Creek Turf

BUYER:

By: 
VanEss Dairy LLC

imagery - Summer 2000

VanEx 2.0A
Cable 10A
65-8796
Lico 1FA
Pinto 7.5A
Munoz 1A

62-10566

VanEx 2.2A

VanEx 7.2A

63-0972

31

T04N R01E

No. W 5023	Due no later than November 30, 2002 Annual Report Form		2. Registered Agent and Office Name																		
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address - Complete in this box, if applicable VAN ESS DAIRY, LLC HARVEY VAN ESS 26956 CEMETERY RD MIDDLETON, ID 83644		HARVEY VAN ESS 26956 CEMETERY RD MIDDLETON, ID 83644 3. New Registered Agent Signature																		
4. Limited Liability Companies: Enter Names and Addresses of Managers. <table border="1"> <thead> <tr> <th>Office held</th> <th>Name</th> <th>Street or P.O. Address</th> <th>City</th> <th>State</th> <th>Zip</th> </tr> </thead> <tbody> <tr> <td></td> <td>Harvey VanEss</td> <td>26956 Cemetery Rd</td> <td>Middleton</td> <td>Id</td> <td>83644</td> </tr> <tr> <td></td> <td>Lisa VanEss</td> <td>26956 Cemetery Rd</td> <td>Middleton</td> <td>Id</td> <td>83644</td> </tr> </tbody> </table>				Office held	Name	Street or P.O. Address	City	State	Zip		Harvey VanEss	26956 Cemetery Rd	Middleton	Id	83644		Lisa VanEss	26956 Cemetery Rd	Middleton	Id	83644
Office held	Name	Street or P.O. Address	City	State	Zip																
	Harvey VanEss	26956 Cemetery Rd	Middleton	Id	83644																
	Lisa VanEss	26956 Cemetery Rd	Middleton	Id	83644																
5. Organized Under the Laws of: IDAHO W 5023	6. Signature <u>Lisa VanEss</u> Date <u>9-23-02</u> Name (Typed or Printed) <u>Lisa VanEss</u> Title <u>owner</u>																				

Issued 09/03/2002

Do Not Tape or Staple

07/06/2006

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

RIGHT NUMBER: 63-31782

NAME AND ADDRESS: VAN ESS DAIRY LLC
26956 CEMETERY RD
MIDDLETON ID 83644

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.370 CFS
69.300 AFY

PRIORITY DATE: 05/09/1977

POINT OF DIVERSION:

T05N R02W S19 NWNW Lot 1 Within CANYON County

T05N R02W S19 NWNW Lot 1 Within CANYON County

T05N R02W S19 SWNW Lot 2 Within CANYON County

TWO POINTS OF DIVERSION LOCATED IN T05N, R02W, S19, NWNW,
LOT 1.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.260 CFS 48.50 AFY
COMMERCIAL	01/01 12/31	0.110 CFS 20.80 AFY

PLACE OF USE: STOCKWATER Within CANYON County

T05N R02W S19 Lot 1 NWNW

T05N R02W S19 Lot 2 SWNW

COMMERCIAL Within CANYON County

T05N R02W S19 Lot 1 NWNW

T05N R02W S19 Lot 2 SWNW

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 - License

07/06/2006

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

The total instantaneous diversion of water from all points of diversion under Rights 63-31782 and 63-31784 shall not exceed 0.41 cfs, nor total combined annual volume of 75.7 af.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

Right 63-31784 is also diverted through the points of diversion described above.

Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.

Failure of the right holder to comply with the conditions of Transfer No. 70872 is cause for the Director to rescind approval of the transfer.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-31723.

After specific notification by the Department, the right holder shall measure the diversion or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.

Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

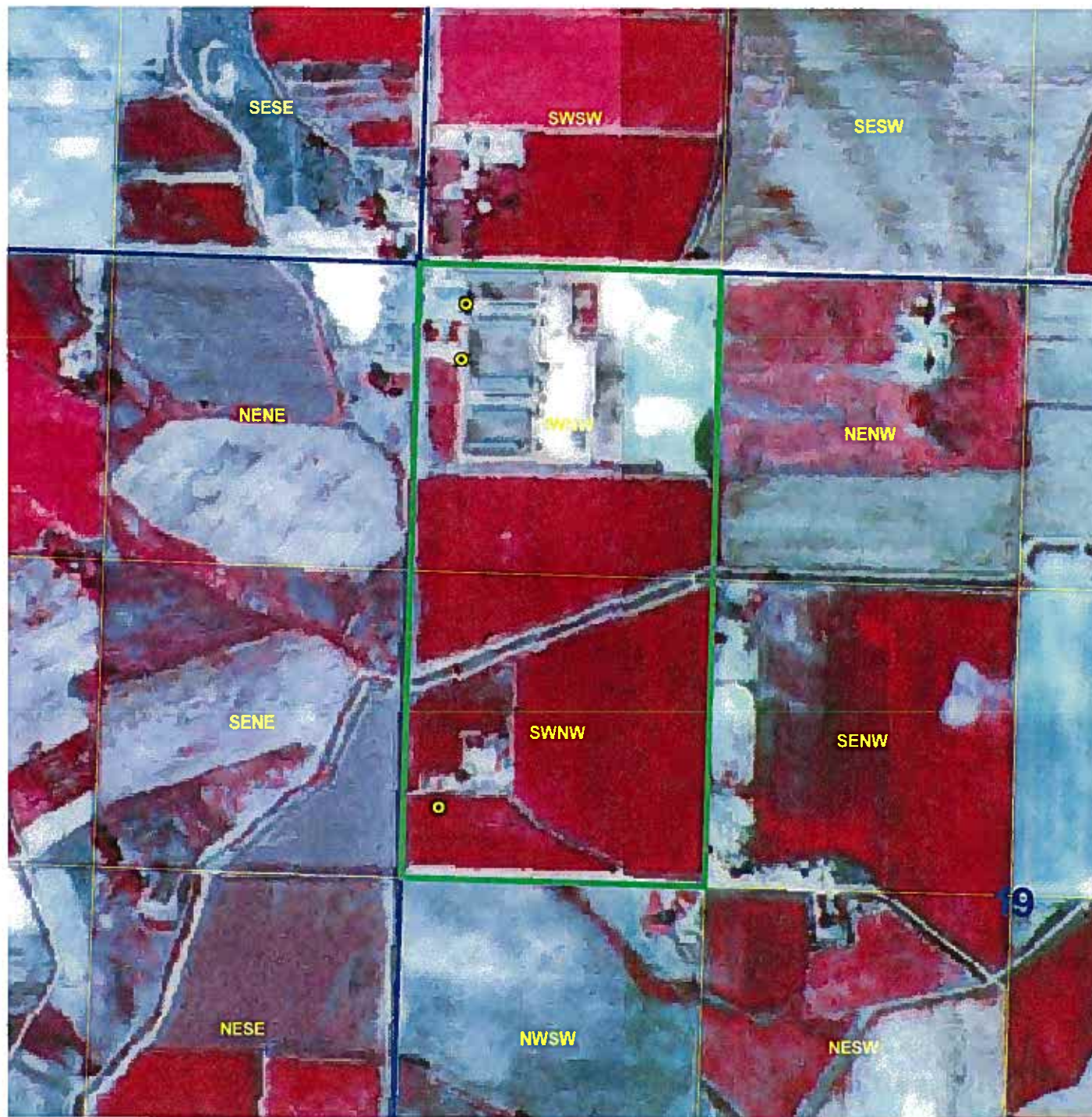
The right holder shall accomplish the change authorized by Transfer No. 70872 within one (1) year of the date of the approval.



Idaho Department of Water Resources

63-31782 & 63-31784

T05N R02W S19



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



500 0 500 1000 Feet

IDWR
Prepared by: Sandy Egbert
Date: July 6, 2006
1987 NAAP Photography

Adjudication Recommendation Report 63-31782 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	FRANK N HAM 4415 N LOCUST GROVE MERIDIAN, ID 83642 (208)888-4263
Original Owner	SHELDON G HAM 11955 W MESQUITE DR BOISE, ID 83704
Original Owner	WYOMA HAM 4415 N LOCUST GROVE MERIDIAN, ID 83642 (208)888-4263
Original Owner	RENATA HAM 5125 N MORNINGGALE BOISE, ID 83713
Current Owner	VAN ESS DAIRY LLC 26956 CEMETERY RD MIDDLETON, ID 83644 (208)585-3288

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.260 CFS	48.50 AF
COMMERCIAL	01/01 to 12/31	0.110 CFS	20.80 AF
	Total Diversion:	0.370 CFS	69.30 AF

GROUND WATER CANYON County	L1 (NW1/4NW1/4)	Sec. 19, Twp 05N, Rge 02W, B.M.
GROUND WATER CANYON County	L2 (SW1/4NW1/4)	Sec. 19, Twp 05N, Rge 02W, B.M.
GROUND WATER CANYON County	L1 (NW1/4NW1/4)	Sec. 19, Twp 05N, Rge 02W, B.M.

Place of Use
STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-31782 V1

05N 02W 19			X	X			
			L 1	L 2			

COMMERCIAL

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	02W	19						X	X										
								L 1	L 2										

Conditions of Approval:

1. WB4 The total instantaneous diversion of water from all points of diversion under Rights 63-31782 and 63-31784 shall not exceed 0.41 cfs, nor total combined annual volume of 75.7 af.
2. T17 Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
3. F02 TWO POINTS OF DIVERSION LOCATED IN T05N, R02W, S19, NWNW, LOT 1.
4. X36 Right 63-31784 is also diverted through the points of diversion described above.
5. 106 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.
6. T08 Failure of the right holder to comply with the conditions of Transfer No. 70872 is cause for the Director to rescind approval of the transfer.
7. P21 THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-31723.
8. 01Q After specific notification by the Department, the right holder shall measure the diversion or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
9. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
10. T07 The right holder shall accomplish the change authorized by Transfer No. 70872 within one (1) year of the date of the approval.
11. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:Comments:

1. Iharris 4/6/2004 Transfer 70872

Comment: This right was amended per Transfer 70872 approved 3/22/04.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-31782 V1

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: And
 Water District Number:
 Generic Max Rate Per Acre: 0.02
 Generic Max Volume Per Acre: 4.5
 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			10/27/2003	lharris	Active
Priority Date	7/6/2006 12:20:37 PM	segbert			Active
POD	7/6/2006 12:21:00 PM	segbert			Active
Source	7/6/2006 12:22:52 PM	segbert			Active
POU	7/6/2006 12:23:09 PM	segbert			Active
Use	7/6/2006 12:25:27 PM	segbert			Active
Season	7/6/2006 12:30:09 PM	segbert			Active
Quantity	7/6/2006 12:30:37 PM	segbert			Active
Summary			07/06/2006	segbert	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Summary	10/27/2003 11:59:22 AM	lharris	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture?
POD	7/6/2006 12:21:58 PM	segbert	Updated shape
Season	7/6/2006 12:30:10 PM	segbert	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a Period of Use? (Yes) 5. Can the claimed Period of Use be verified using the water right file? (No) 14. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31782 V1

Quantity	7/6/2006 12:30:37 PM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (Yes) 8. Does the parent right have an annual diversion volume limit? (No) 10. Is a irrigation a purpose of use? (No) 12. Is a Quantity remark or condition required? Description for Question 10 - per transfer
POD	7/6/2006 12:21:01 PM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file? (No) 10. Is a POD remark and/or condition required?
POD	7/6/2006 12:22:19 PM	segbert	Updated shape
Source	7/6/2006 12:22:53 PM	segbert	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
POU	7/6/2006 12:24:21 PM	segbert	Updated shape for Active POU
Summary	7/6/2006 12:38:22 PM	segbert	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (No) 5. 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? (Yes) 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	7/6/2006 12:20:38 PM	segbert	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

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POD	7/6/2006 12:22:35 PM	segbert	Updated shape
POU	7/6/2006 12:23:09 PM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (No) 14. Is a POU remark and/or condition required?
POU	7/6/2006 12:24:37 PM	segbert	Updated shape for Active POU
Use	7/6/2006 12:25:27 PM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (No) 13. Is a Purpose of Use remark and/or condition required?

Water Supply Bank:

Adjudication Claim Report 63-31782

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	VAN ESS DAIRY LLC 26956 CEMETERY RD MIDDLETON, ID 83644 (208)585-3288
Original Owner	SHELDON G HAM 11955 W MESQUITE DR BOISE, ID 83704

Priority Date: 05/09/1977 ✓
Basis: License ✓
Status: Active ✓

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
COMMERCIAL ✓	01/01 to 12/31	0.110 CFS ✓	20.80 AF ✓
STOCKWATER ✓	01/01 to 12/31	0.260 CFS ✓	48.50 AF ✓
	Total Diversion:	0.370 CFS ✓	69.30 AF ✓

GROUND WATER CANYON County	L1 (NW1/4NW1/4)	Sec. 19, Twp 05N, Rge 02W, B.M.
GROUND WATER CANYON County	L1 (NW1/4NW1/4)	Sec. 19, Twp 05N, Rge 02W, B.M.
GROUND WATER CANYON County	L2 (SW1/4NW1/4)	Sec. 19, Twp 05N, Rge 02W, B.M.

COMMERCIAL

[illegible][illegible]

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 63-31782

Conditions of Approval:

1. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
2. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
3. 01Q After specific notification by the Department, the right holder shall measure the diversion or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
4. X36 Right 63-31784 is also diverted through the points of diversion described above.
5. T09 Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
6. WB4 The total instantaneous diversion of water from all points of diversion under Rights 63-31782 and 63-31784 shall not exceed 0.41 cfs, nor total combined annual volume of 75.7 af.
7. 106 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.
8. T17 Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
9. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
10. P21 THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-31723.

Remarks:Comments:

1. pskaggs 3/22/2004 11:05:00 AM Transferred Right
Comment: This is now an approved transfer, transfer number = 70872

Dates and Other Information:

Claim Received Date: 8/3/1989
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 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>
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Verification Log:

Idaho Dept. of Water Resources Place of Use Comparison Report

[illegible]

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-8796

Priority: May 9, 1977

Amount: 1.05 CFS 306.0 AFA

This is to certify, that FRANK N. HAM
WYOMA HAM

4415 N. LOCUST GROVE
MERIDIAN, ID 83642
has complied with the terms and conditions
of the permit issued pursuant to Application for Permit dated May 9, 1977, and
has submitted proof to the Department of Water Resources on May 13, 1982, that
water has been applied to a beneficial use; an examination by the Department indicates
that the works have a diversion capacity of 1.05 cfs of water from a GROUNDWATER
source and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Irrigation	03/15 to 11/15	1.05 cfs	306.0 afa

LOCATION OF POINT OF DIVERSION(S): NWNE, Sec. 31, Township 4N, Range 1E
Ada County

PLACE OF USE: Irrigation

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
4N	1E	31	NWNE 15	SWNE 7	NEENW 29	SEENW 17	68

Total number of acres irrigated: 68

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 1st day
of April, 1988.

NOTARIAL SEAL

Director

JUL 06 1988

EXHIBIT

PAGE

OF

Exhibit A to Water Right Grant Deed

29 Ac

4.6 P.D.

A63-8796 15 Ac
P.U.

C567

29.2

17 Ac.

7 AC.

C201

29 A

29 A

A

10.6

C92

C90

C201

A

3.0

B

5.8

MICROFILM