

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 63-32023
Date Received: 12/30/2004
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

REALLEN, LLC Phone:
C/O RICHARD E. ALLEN
2878 S. BENECIA WAY
NAMPA ID USA 83686

2. Date of Priority: 03/01/1959

3. Source: GROUND WATER, GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
02N	03W	19	NE NE NE	CANYON	
02N	03W	19	SE NE NE	CANYON	

5. Description of diverting works:

Well (12 inch diameter steel casing 60 to 70 feet deep), pump, mainline and sprinklers.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/01	11/15	0.92	

7. Total Quantity Appropriated is:
0.92 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
02N	03W	20	NW	NE	IRRIGATION	15
			SW	NE	IRRIGATION	11
			NE	NW	IRRIGATION	15
			SE	NW	IRRIGATION	5
Section Acres						46
Total Acres						46

11. Place of use in counties: CANYON

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

13. Other Water Rights Used:

14. Remarks:

Water is commingled in a single pressurized sprinkler system irrigating 225 acres using groundwater and Wilder Irrigation District water (159.09 acres entitlement). Installation of the single, farmwide sprinkler system began in late 1976.

Prior to 1977 groundwater from this well was applied to land near the well within Wilder Irrigation District in exchange for canal water pumped onto the lands claimed herein. The pump applying water from the irrigation district to the lands listed herein was located in the NENW Sec. 20, T2N, R3W.

CHANGE IN OWNERSHIP LG 5-2-2006

15. Basis of Claim: Beneficial Use

RECEIVED
APR 24 2005
WATER RESOURCES
WESTERN REGION

Form 63-2053 (6 July, 2000)

**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.

1. 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.

<u>Water</u>	<u>Adjudication</u>		<u>Water</u>	<u>Adjudication</u>	
<u>Right No(s).</u>	<u>Claim No(s).</u>	<u>Split</u>	<u>Right No(s).</u>	<u>Claim No(s).</u>	<u>Split</u>
	A63-32022				
	A63-32023				

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

A. The appropriate **FILING FEE**. See instructions for fee amounts. **NO FILING FEE IS REQUIRED**

B. 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**.

C. 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**. **AN AERIAL PHOTO WAS SUBMITTED WITH SRBA CLAIMS 63-32022 and 63-32023.**

- | | | |
|----|--|---|
| 3. | Name and Address of Former Owner/Claimant(s) | David R. and/or Gayle Orcutt
16755 Deerflat Rd
Caldwell, ID 83605 |
| 4. | New Owner/Claimant(s) | REALLEN, LLC |
| | New Mailing Address | c/o Richard E. Allen |
| | City, State and ZIP Code | 2878 S. Benecia Way
Nampa, ID 83686 |
| | New Telephone Number | (208) 888-5511 |
| 5. | Date you acquired the property | March 01, 2005 |

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) Richard E Allen 2-28-06

(include title if applicable) Richard E. Allen, Owner, REALLEN, LLC

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 Rg
 Received by _____
 Processed by Rg AJ

Date 4-24-06
 Date _____
 Date 5-2-06

Fee 0
 Receipt No. _____
 WR _____ Date _____

APR. 13. 2005 2:38PM

NO. 938 P. 2/4

PN 83760

INSTRUMENT NO. 200510709

WARRANTY DEED

REC

FOR VALUE RECEIVED DAVID R. ORCUTT and GAYLE S. ORCUTT,
husband and wife

the Grantors, do hereby grant, bargain, sell and convey unto REALLEN, LLC

the Grantee, whose address is 2878 So. Benefa Way, Nampa, ID 83687

the following described premises, to-wit:

SEE ATTACHED LEGAL DESCRIPTION

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever; And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances; except for general taxes and assessments for the year 2005 and subsequent years, covenants, conditions, restrictions and easements of record; and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: March 1, 2005

DAVID R. ORCUTT

GAYLE S. ORCUTT

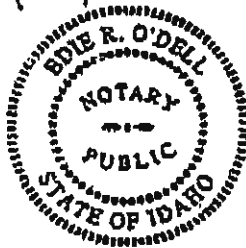
STATE OF IDAHO
COUNTY OF CANYON

On this 1st day of MARCH, 2005, before me, a notary public, personally appeared DAVID R. ORCUTT AND GAYLE S. ORCUTT, known or identified to me to be the person(s) who(se) name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

Notary Public

Residing at Nampa, ID

My commission expires: 4/17/2009



REQUEST
TYPE *WAL* FEE *900*

PIONEER - NAMP

CANYON COUNTY RECORDER
or *W. M. M. M.*

2005 MAR 1 PM 4 29

RECORDED

200510709

PIONEER TITLE COMPANY
OF CANYON COUNTY

100 10TH AVE SOUTH
NAMPA, IDAHO 83651

423 SOUTH KIMBALL
CALDWELL, ID 83605

APR. 13. 2005 2:38PM

NO. 938 P. 3/4

PN83760

The Northeast Quarter of the Northeast Quarter of Section 19, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM an easement for a private road in the width of 20 feet along the entire West side thereof.

AND

The West Half of the Northeast Quarter and all of the Northwest Quarter and the North Half of the Southeast Quarter of Section 20, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM all that portion lying North of the County road, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho.

FURTHER EXCEPTING THEREFROM

COMMENCING at the Northwest corner of said Section 20; thence North 89° 34' 33" East along the Northerly boundary of said West Half of the Northwest Quarter a distance of 1,077.34 feet, said point being the TRUE POINT OF BEGINNING; thence continuing along said Northerly boundary North 89° 34' 33" East a distance of 406.48 feet; thence South 00° 04' 10" West a distance of 20.98 feet; thence South 54° 05' 29" East a distance of 60.52 feet; thence South 60° 37' 51" East a distance of 68.55 feet; thence South 54° 25' 29" East a distance of 44.20 feet; thence South 37° 50' 41" East a distance of 25.17 feet; thence South 24° 55' 07" East a distance of 37.67 feet; thence South 19° 08' 14" East a distance of 225.79 feet; thence South 89° 34' 33" West parallel to the said Northerly boundary of the West Half of the Northwest Quarter a distance of 656.97 feet; thence North 00° 04' 10" East to a point on the said Northerly boundary of the West Half of the Northwest Quarter a distance of 385.01 feet, said point being the TRUE POINT OF BEGINNING.

AND FURTHER EXCEPTING THEREFROM

A parcel of land being the East 560 feet of the West Half of the Northeast Quarter lying South of Deer Flat Road and all of the North Half of the Southeast Quarter, Section 20, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho, said parcel being more particularly described as follows:

COMMENCING at the Brass Cap marking the Quarter corner common to Sections 17 and 20, Township 2 North, Range 3 West, Boise Meridian, Canyon County; thence North 89° 22' 00" East 2,640.00 feet to an Iron pin marking the corner common to said Sections 20 and 17, and Sections 16 and 21; thence South 00° 02' 23" East 2,649.26 feet to the Brass Cap marking the Quarter corner common to said Sections 20 and 21, said point being the POINT OF BEGINNING; thence South 00° 02' 25" East 1,324.79 feet to the Brass Cap marking the South One-

APR. 13. 2005 2:38PM

NO. 938 P. 4/4

Sixteenth corner common to said Sections 20 and 21; thence

South 89° 18' 45" West 2,635.86 feet to the Aluminum Cap marking the Center-South

One-Sixteenth corner of said Section 20; thence

North 00° 05' 33" West 1,325.64 feet to the Brass Cap marking the Center Quarter corner of said Section 20; thence

North 89° 19' 52" East 758.53 feet along the Latitudinal Centerline to an iron pin; thence

North 00° 52' 11" West 2,375.51 feet to the right-of-way of Deer Flat Road; thence

North 59° 38' 07" East 554.10 feet along said right-of-way to an iron pin on the

North line of said Section 20; thence

North 89° 22' 00" East 114.61 feet to an iron pin marking the East One-Sixteenth corner common to said Sections 17 and 20; thence

South 00° 04' 19" East 2,650.07 feet to an iron pin marking the Center-East One-Sixteenth corner of said Section 20; thence

North 89° 19' 52" East 1,318.53 feet to the POINT OF BEGINNING.

PARCEL II

COMMENCING at the Northwest corner of said Section 20; thence

North 89° 34' 33" East along the Northerly boundary of said West Half of the Northwest Quarter a distance of 1,077.34 feet, said point being the TRUE POINT OF BEGINNING; thence continuing along said Northerly boundary

North 89° 34' 33" East a distance of 406.48 feet; thence

South 00° 04' 10" West a distance of 20.98 feet; thence

South 54° 05' 29" East a distance of 60.52 feet; thence

South 60° 37' 51" East a distance of 68.55 feet; thence

South 54° 25' 29" East a distance of 44.20 feet; thence

South 37° 50' 41" East a distance of 25.17 feet; thence

South 24° 55' 07" East a distance of 37.67 feet; thence

South 19° 08' 14" East a distance of 225.79 feet; thence

South 89° 34' 33" West parallel to the said Northerly boundary of the West Half of the Northwest Quarter a distance of 656.97 feet; thence

North 00° 04' 10" East to a point on the said Northerly boundary of the West Half of the Northwest Quarter a distance of 385.01 feet, said point being the TRUE POINT OF BEGINNING.



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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 63-32023
Date Received: 12/30/2004
Receipt No: W032491
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DAVID R ORCUTT Phone: (208)459-4080
16755 DEERFLAT RD
CALDWELL ID USA 83605

GAYLE ORCUTT Phone: (208)459-4080
16755 DEERFLAT RD
CALDWELL ID USA 83605

2. Date of Priority: 03/01/1959

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
02N	03W	19	NE NE NE	CANYON	
02N	03W	19	SE NE NE	CANYON	

5. Description of diverting works:

Well (12 inch diameter steel casing 60 to 70 feet deep), pump, mainline and sprinklers.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/01	11/15	0.92	

7. Total Quantity Appropriated is:
0.92 C.F.S.

SCANNED

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of	1/4 Lot	Use	Acres
02N	03W	20	NW	NE	IRRIGATION	15
			SW	NE	IRRIGATION	11
			NE	NW	IRRIGATION	15
			SE	NW	IRRIGATION	5
					Section Acres	46
					Total Acres	46

11. Place of use in counties: CANYON

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

13. Other Water Rights Used:

14. Remarks:

Water is commingled in a single pressurized sprinkler system irrigating 225 acres using groundwater and Wilder Irrigation District water (159.09 acres entitlement). Installation of the single, farmwide sprinkler system began in late 1976.

Prior to 1977 groundwater from this well was applied to land near the well within Wilder Irrigation District in exchange for canal water pumped onto the lands claimed herein. The pump applying water from the irrigation district to the lands listed herein was located in the NENW Sec. 20, T2N, R3W.

15. Basis of Claim: Beneficial Use

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

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

RECEIVED
DEC 30 2004
WATER RESOURCES
WESTERN REGION

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

Date Received

Receipt Number

A63-32023

12-30-04

W032491

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant(s) David R. and/or Gayle Orcutt Phone (208) 459-4080
Mailing Address 16755 Deer Flat Rd. Caldwell, ID Zip 83607
2. Date of Priority (Only one (1) per claim) March 1, 1959
3. Source of water supply (a) Ground water
Which is tributary to (b) _____
4. a. Location of point of diversion is: Township 2N Range 3W Section 19,
NE ¼ of NE ¼ of NE ¼, Govt. Lot _____, B.M., County of Canyon
Additional points of diversion if any: SE NE NE, Sec. 19, T2N, R3W, (one well located near the line separating these 10 acre parcels).
b. If instream flow, beginning point of claimed instream flow is: N/A
Township _____ Range _____ Section _____, _____ ¼ of _____ ¼ of
_____ ¼, 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. Well (12 inch diameter steel casing 60 to 70 feet deep), pump,
mainline and sprinklers.

SCANNED

6. Water is claimed for the following purposes:

For **Irrigation** purposes from 3/1 to 11/15 (both dates are inclusive) amount 0.92 (cfs) or (acre feet)

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 0.92 (cfs) and/or (b) (acre feet)

8. Total consumptive use claimed is 161 acre feet per annum.

9. Non-irrigation uses; describe fully. (Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) N/A

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 ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	
2N	3W	20		15	11		15			5									46

Total number of acres irrigated

46

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

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

See remark 1

14. Remarks:

1) Water is commingled in a single pressurized sprinkler system irrigating 225 acres using ground water and Wilder Irrigation District water (159.09 acres entitlement). Installation of the single, farmwide sprinkler system began in late 1976.

2) Prior to 1977 ground water from this well was applied to land near the well within Wilder Irrigation District in exchange for canal water pumped on to the lands claimed herein. The pump applying water from the irrigation district to the lands listed herein was located was located in the NE NW Sec. 20 T2N R3W.

SCANNED

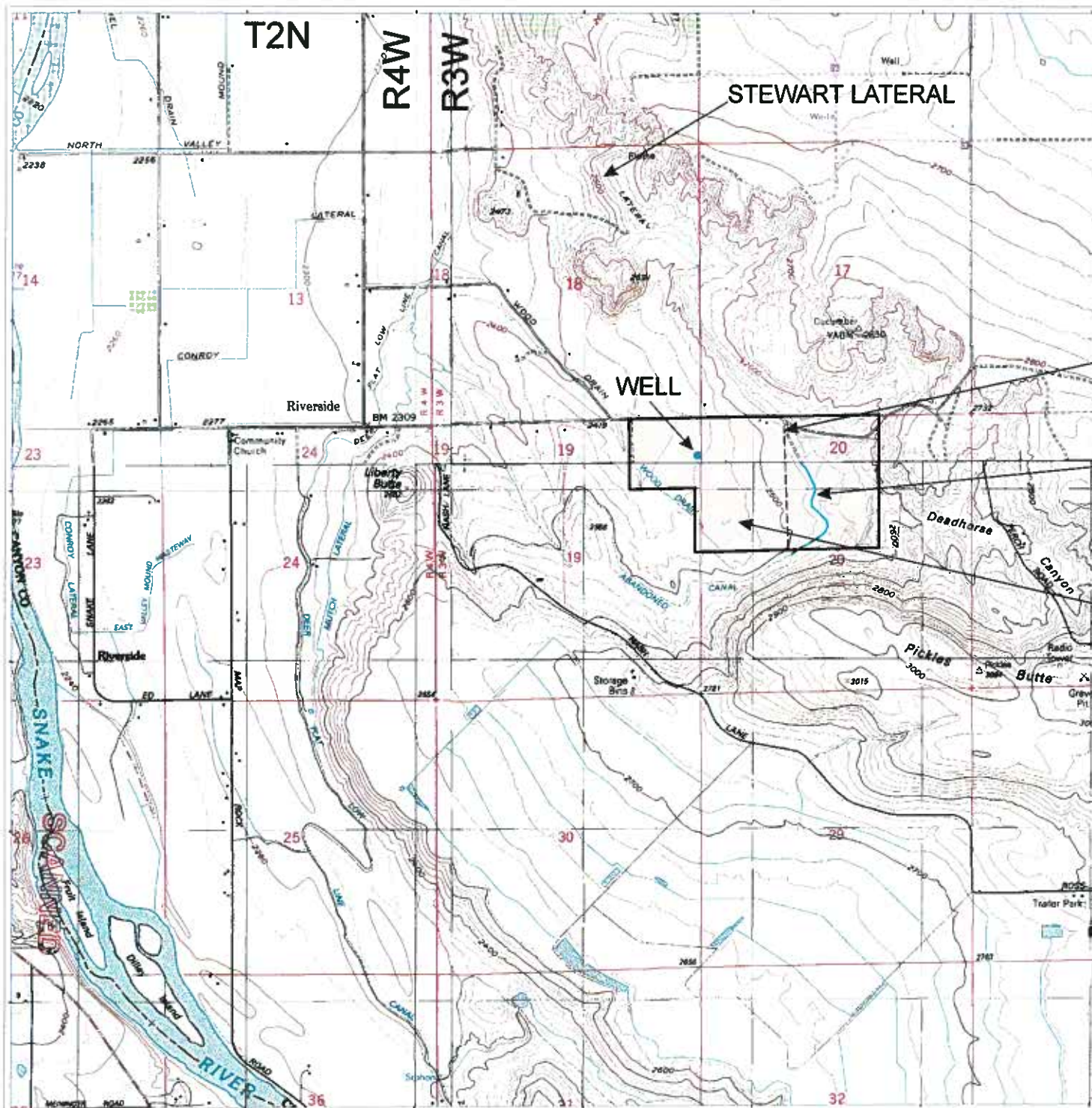
Last Name David and/or Gayle Orcutt Ident. Number

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

Scale: 2 inches equals 1 mile.

SCANNED

Last Name David and/or Gayle Orcutt Ident. Number _____



STEWART LATERAL

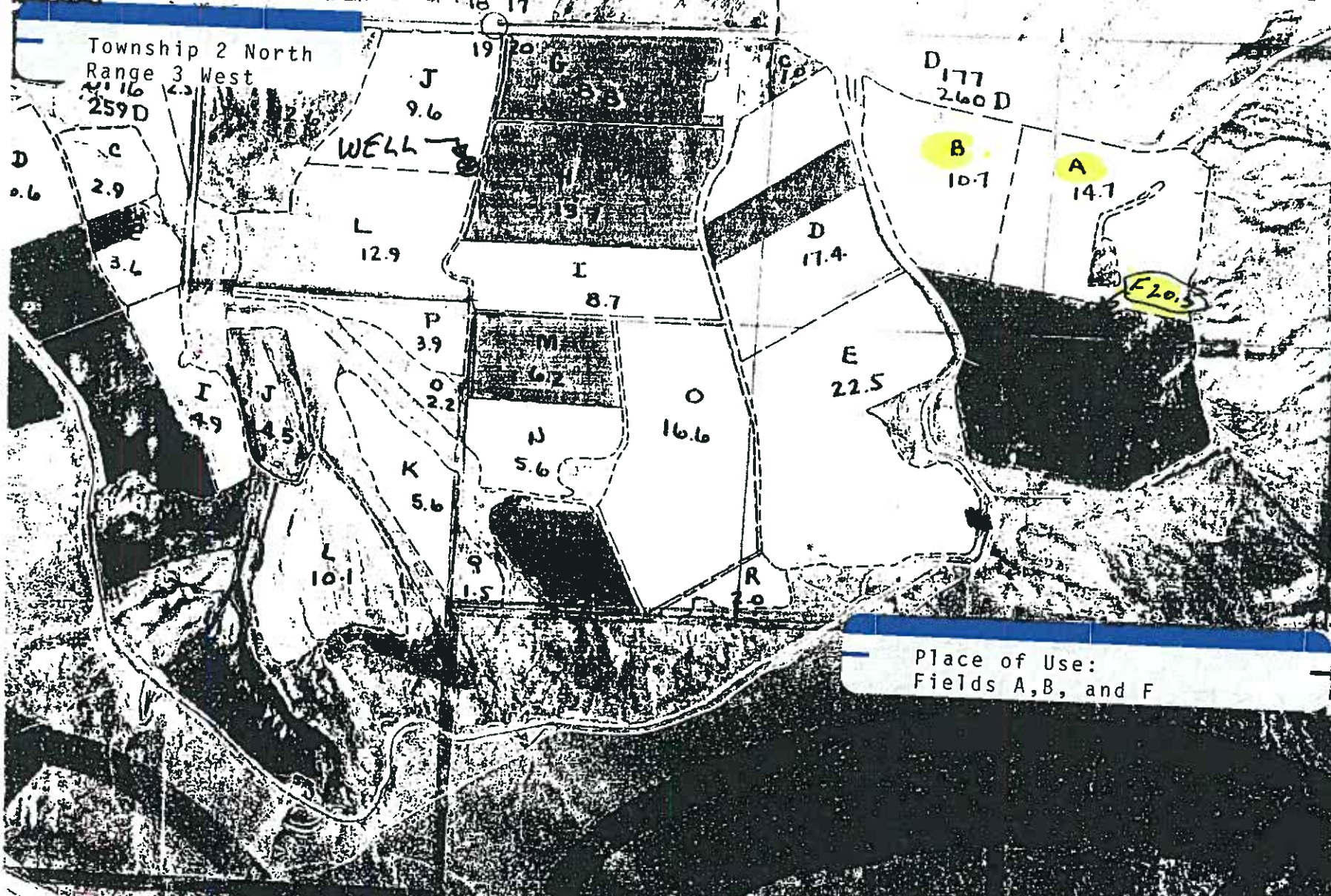
BURIED-PIPED CANAL

ABANDONED CANAL

ORCUTT IRRIGATED FARMLAND

WELL

FSA Photograph May 9, 1969
DHV - 1KK -282



September 15, 2004
Determination of irrigated acres for Orcutt claims

Assumptions:

1. New development occurred only outside of irrigation district boundaries.
2. The new development is the present development less the irrigation district entitlement for those 40-acre parcels within which new development occurred.
3. Present total irrigation on the farm is 225 acres. (This assumes that the presently irrigated acres for the three 40-acre parcels entirely within the District Boundary equals the District entitlement. This assumption checks out if the acreage is about 115 acres, which it appears to be.)
4. New development is $225 \text{ less } 159 = 66 \text{ acres}$

	NWNE 20	SWNE 20	NENW 20	SENE 20	Total
1987 and present	15	23	32	40	-----
Irrig Dist. Entitlement	0	0	17.4	26.7	-----
Added 1959 Priority	15	11	15	5	46
Added 1977 Priority	0	12	0	8	20

SCANNED

15. Basis of Claim Beneficial Use XX Posted Notice _____ License _____ Permit _____ Decree _____

If applicable provide IDWR Water Right Number _____

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." I/We do _____ do not XX wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments 4

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

Signature of Claimant(s) David R. Orcutt Date: December 30, 2004

Gayle Orcutt Date: December 30, 2004

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 30th day of December 2004.



Notary Public Joyce E. Angell

Residing at Boise, Idaho

My Commission Expires 7-29-2008

17. Notice of Appearance:

Notice is hereby given that I, **Josephine P. Beeman**, 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 Josephine P. Beeman

Address: Beeman & Associates, P. C.
409 West Jefferson Street
Boise, ID 83702
(208) 331-0950

Date: December 30, 2004

Z:\3041\6524

SCANNED

Last Name David and/or Gayle Orcutt Ident. Number _____

Timeline To Accompany SRBA Claims

1. July 4, 1957: Aerial photograph from Farm Services Administration in Salt Lake City, Utah. (DHV-2T-180) – shows no farming or irrigation on the 66 acres above the Stewart Lateral.
2. December 3, 1958: Marchbanks bought the property. (deed attached)
3. 1959-1960: Bob Gibbens, John Conroy, and Tom Conroy saw well in use during the Marchbanks ownership. Norman Svaty knew the Marchbanks son because of business ties. The son told him about the well and irrigation on the property. David Orcutt's affidavit establishes the exchange between Wilder Irrigation District water and the ground water use initiated by the Marchbanks. A pump was used to irrigate 46 acres above the canal in the W1/2NE1/4 and the E1/2NW1/4 Sec 20, T2N, R3W. The well was used to irrigate 46 acres located within the NE1/4NE1/4 Sec 19 and the NW1/4NW1/4 Sec 20, both in T2N, R3W. In effect, this increased the irrigation by 46 acres due to ground water use. By virtue of the availability of ground water to irrigate land near the well that had previously been irrigated from the canal, Wilder ID canal water under entitlement for the Marchbanks farm was freed up to be used on the 46 acres above the canal.
4. February 8, 1961: Marchbanks sold the property. (deed attached) The well was constructed while the Marchbanks owned the property as established in affidavits of Gibbens, Conroys, and Svaty. This deed showing that Marchbanks' ownership ended prior to 1963, affirms that the well was constructed and in use prior to the March 25, 1963 mandatory permit date for obtaining a ground water right.
5. July 6, 1964: Aerial photograph from Farm Services Administration in Salt Lake City, Utah. (DHV-1DD-138) - the photo shows the 46 acres above the canal to be actively cultivated or cropped.
6. May 9, 1969: Aerial photograph from Farm Services Administration in Salt Lake City, Utah. (DHV-1KK-282) Undated Farm Services Administration information (attached) shows additional irrigated land (46 acres) which is confirmed by the aerial photograph. This is the timeframe when Norman Svaty knew the Marchbanks son because of business ties.
7. April 2, 1973: The 1973 agreement mentions propane pump. Bob Gibbens' affidavit establishes that a propane pump was used for the well.
8. June 2, 1976: Norman Svaty and his business partner bought the property June 2, 1976. The 1976 agreement shows a pump and tractor for power which confirms a PTO pump for the well.

SCANNED

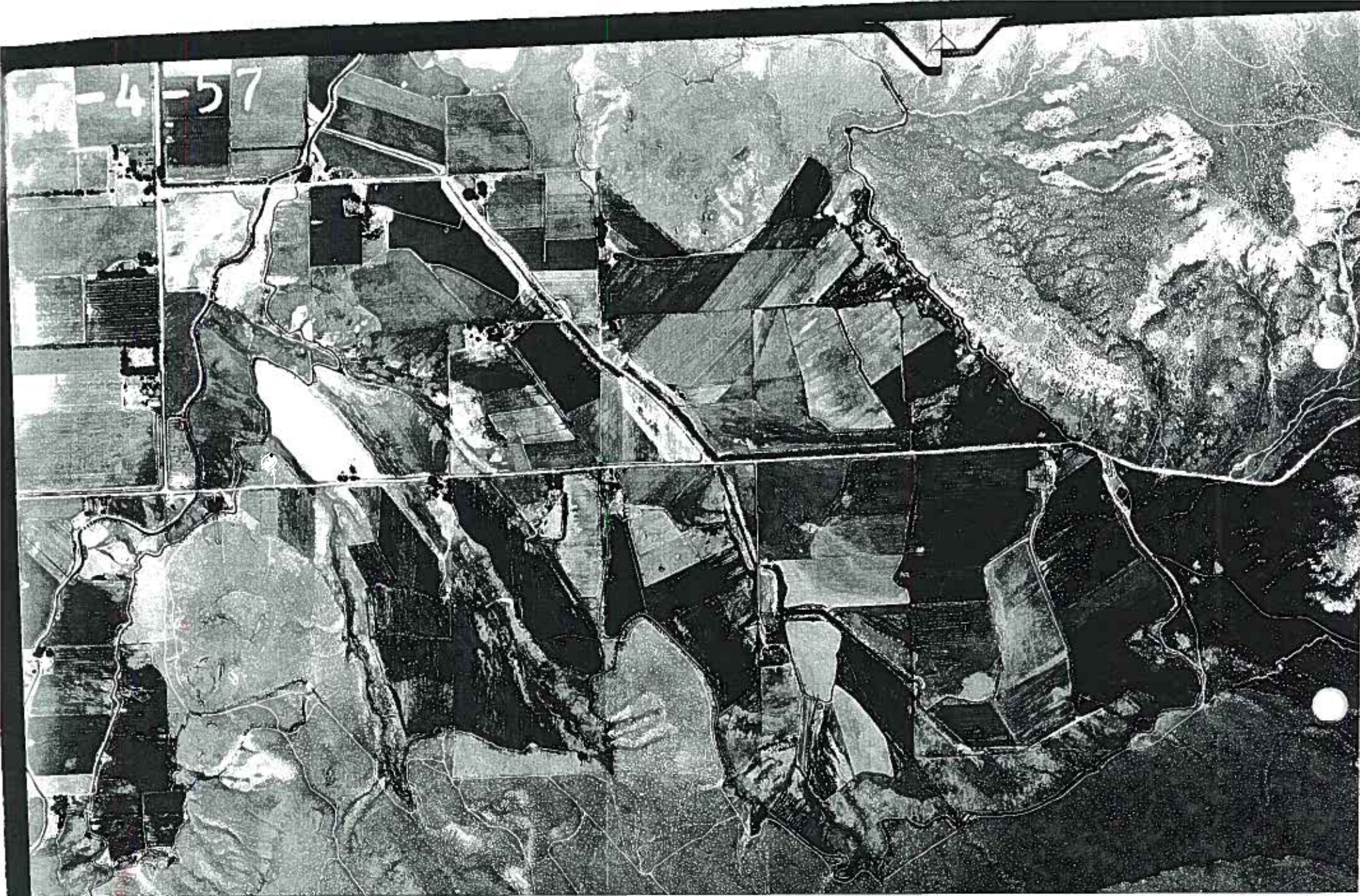
9. December 1976 to August 1994: The land was sold to Miles Thomas in December 1976 and was owned by the Miles Thomas Trust at the time Dave and Gayle Orcutt bought the property in August 1994.
10. November 1976 to present: David R. Orcutt affidavit emphasizes the burying of the canal, the leveling and squaring up of the fields, and the addition of 20 more acres of irrigation above the canal beginning in 1977. This activity over a period of years, culminated in the farm being served as it now is from a single turnout from the Stewart Lateral, into a reregulation pond, for pumping into a pressurized mainline that provides water in a single system to the entire 225 acres. This links the 20 acres added above the canal, beginning in 1977, to an exchange between ground water and the canal water.
11. 1987: IDWR Aerial photograph for SRBA shows the farm essentially as it is today.

Z:\3041\6453A

SCANNED

DAV-2T-180

— General Location of
Dave & Gayle Orcutt Farm



Page 2
from July 4, 1957
FSA Photo

HV-100-138

General Location of
Dave & Gayle Orcutt Farm



7-6-64

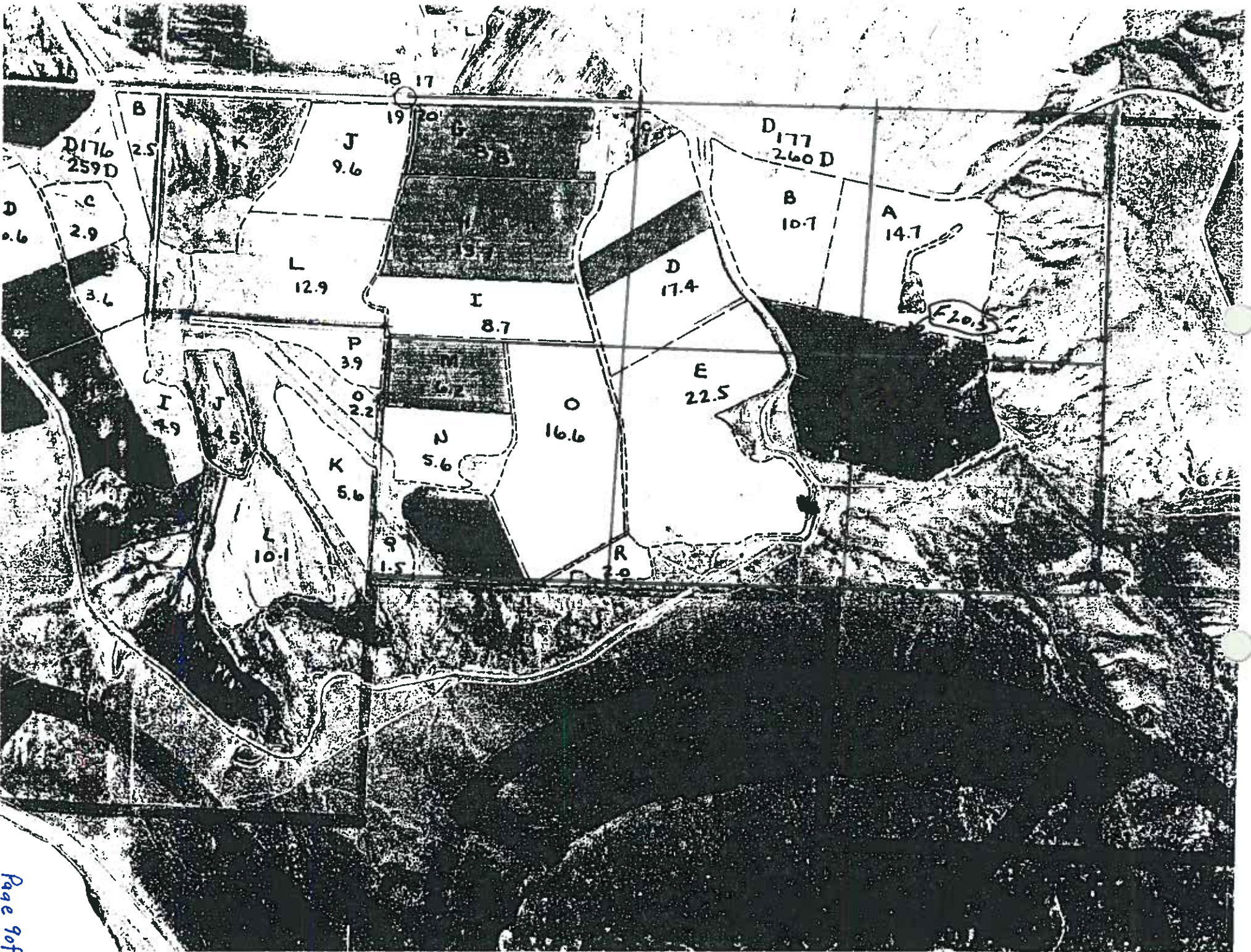
SCANNED

DL KK-282

— General Location of
Dave & Gayle Orcutt Farm



Page 2
from May 9, 1969
FSA Photo



SCANNED

General Location of
Dave & Gayle Orcutt Farm

INSTRUMENT NO. 78978

THIS INDENTURE, Made this 3rd day of December

in the year of our Lord one thousand nine hundred and fifty-eight, between

H. B. GIESE and ETHEL V. GIESE, husband and wife

of Nampa, County of Canyon, State of Idaho

the parties of the first part, and

MARION MARCHBANKS and VELMA MARCHBANKS, husband and wife

of Nampa, 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

TEN & NO/100- - - - - DOLLARS,

lawful money of the United States of America,

and other valuable considerations 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 of the following described real estate, situated in _____, County of Canyon, State of Idaho, to-wit:

NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 19, Township 2 North, Range 3 West of the Boise Meridian, Canyon County, Idaho. EXCEPTING THEREFROM an easement for a private road in the width of 20 feet along the entire West side thereof:

ALSO the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ and all of the NW $\frac{1}{4}$, and the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 20, Township 2 North, Range 3 West of the Boise Meridian, Canyon County, Idaho.

Together with all appurtenant water and ditch rights, subject to all rights of way for roads, ditches and canals along or upon said lands, and easements of record appertaining thereto.

Subject to all taxes, dues and assessments, including irrigation charges and assessments, levied and assessed from and after January 1, 1959.

798978

FILED

APR 25 8 32 AM '77

WATSON

C. Hunt

RECORDED

AT THE REQUEST OF

Guy McCarty

OF

Deed

FEE \$2.00

GRANTOR

Giese, H. B.

Ethel

GRANTEE

Marchbanks, Marion

Velma

RETURN TO

Deed

Record

Rt. #1 Box 121

Jerome, Idaho 83338

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part.

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 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.

SCANNED

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

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

H. B. Giese [Seal]

Ethel V. Giese [Seal]

[Seal]

[Seal]

STATE OF IDAHO

County of Canyon

On this _____ day of December in the year 19 58, before me
the undersigned _____, a Notary Public

in and for said State, personally appeared H. B. GIESE and ETHEL V. GIESE,
husband and 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.

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

Notary Public for the State of Idaho,
Residing at Nampa, Idaho

No. _____

WARRANTY DEED

-TO-

Dated _____, 19 _____

STATE OF IDAHO

County of _____ ss.

I hereby certify that this instrument was filed
for record at request of _____

at _____ minutes past _____ day
o'clock M., this _____, A. D. 19 _____
in my office, and duly recorded in Book _____
of _____ at page _____

Ex-Officio Recorder.

By _____ Deputy.

Fees, \$ _____

Mail to _____

SPRING-YORK COMPANY, Boise

INSTRUMENT NO 798979

THIS INDENTURE, made this 5th day of February, 1961,
 between MARION MARCBANKS and VELMA M. MARCBANKS, husband and wife,
 of Nampa, County of Canyon, State of Idaho
 the parties of the first part and ELMANTS H. TARP and ELSIE C. TARP, husband
and wife,
 County of Canyon, State of Idaho, of NAMPA,
 the parties of the second part,
 WITNESSETH, that the said parties of the first part, for and in consideration of the sum of
 lawful money of the United States of America _____ Dollars
 to them in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged,
 have granted, bargained, sold, and by these presents, do grant, bargain, sell and 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 Nampa, County of Canyon,
 State of Idaho, to-wit:

N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Sec. 19, Twp. 2 N, R. 3W, BM,
 Canyon County, Idaho, EXCEPTING therefrom, an
 easement for a private road in the width of 20
 feet along the entire west side thereof; Also
 the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ and all of the NW $\frac{1}{4}$ and the N $\frac{1}{2}$
 of SE $\frac{1}{4}$ of Sec. 20, Twp. 2N, R. 3W, BM, Canyon
 County, Idaho.

Together with all appurtenant water and ditch rights
 and subject to all rights of way for roads, ditches
 and canals along or upon said lands, and easement of
 record appertaining thereto.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereto belong-
 ing or in anywise appertaining, and the reversion and reversions, remainder and remainders, and rents, issues
 and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity
 of the said parties of the first part.

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 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 hereunto set their hands
 and seals, the day and year first above written.

Executed and Delivered in the Presence of

_____ } Marion Marcbanks [SEAL]
 _____ } Velma Marcbanks [SEAL]
 _____ [SEAL]
 _____ [SEAL]

SCANNED

STATE OF IDAHO,
County of Canyon } ss.

On this 9th day of February in the year 1967, before me
the undersigned, a Notary Public in and for said State, personally appeared
MARION MARCHBANKS and VELMA MARCHBANKS, husband and 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.



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

[Signature]
Notary Public for the State of Idaho,
Residing at Nampa, Idaho.

No. _____
WARRANTY DEED
(FORM No. 500)

TO

Dated _____, 19____
STATE OF IDAHO, } ss.

County of _____
I hereby certify that this instrument
was filed for record at request of _____

at _____ minutes past
o'clock M., this _____ day of
_____, 19____, in my
office, and duly entered in Book
of _____ at page _____

By _____
Ex-Officio Recorder,
Deputy.

Fees, \$ _____
Mail to _____

STEVENS DEED LAW FIRM, CO., PORTLAND, ORE.

798979

FILED

APR 25 8 32 AM '77

WALTER FRY

C Link

RECORDED

AT THE REQUEST OF

Ray McKey

OF

Donde

PER 200

GRANTOR

Marchbanks, Marion et al

GRANTEE

Taylor, Clementine H et al

RETURN TO

Deed

Received

St 41 Box 121

Jerome, ID 85338

UNNED

AGREEMENT

THIS AGREEMENT Made this 2nd day of April, 1973, by and between LEON MCKAY and GAY MCKAY, husband and wife, parties of the first part, hereinafter called the vendors, and FLOYD M. BLEDSOE and LOUISE BLEDSOE, husband and wife, parties of the second part, hereinafter called the purchasers, WITNESSETH:

1. The vendors, in consideration of \$150,000.00 to be paid as hereinafter provided, hereby agree to sell and convey, and the purchasers agree to purchase that certain tract of land situate in the County of Canyon, State of Idaho, to-wit:

The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 19, Twp. 2 North, Range 3 West, B.M., Canyon County, Idaho; EXCEPTING therefrom an easement for a private road in the width of 20 feet along the entire West Side thereof. And the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ and all of the NW $\frac{1}{4}$, and the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 20; Excepting therefrom all that portion lying North of the County road, Twp. 2 North, Range 3 West, B.M., Canyon County, Idaho. RESERVING unto vendors one-half of all mineral rights.

Together with all irrigation equipment including pump, pipe and sprinkler heads, also together with ~~grinder and mixer~~, metal granary, all now located on the above described property.

2. The purchasers, in consideration of the mutual promises and agreements of the vendors hereinafter set forth, agree as follows:

a. To pay the sum of \$150,000.00 to the vendors, which sum is to be paid as follows:

\$1,900.00 has been paid, receipt whereof is hereby acknowledged by vendors;

\$37,520.00, being \$37,143.00 principal balance and \$377.00 interest accrued to March 24, 1973 upon an agreement for the sale of real estate, by assigning and transferring to vendors all of their sellers right, title and interest in a certain agreement for the sale of real estate to Willie M. Hoagland and E. Vendera Hoagland, Erin Keith Hoagland and Donna B. Hoagland and Henry L. Hughes and Shirley D. Hughes dated September 5th, 1961, subsequently and on April 25, 1971 assigned by the buyers therein to Albert P. Helmick and Frieda K. Helmick, and

SCANNED

Robert L. Helmick and Shirley M. Helmick, together with all of their right, title and interest in the real estate described in a good and valid assignment to vendors herein, said assignment being executed contemporaneously herewith. In connection with said assignment, purchasers agree to furnish a policy of title insurance upon the execution of this agreement, showing good and marketable title to said real estate to be vested in purchasers herein, subject only to liens for taxes and assessments required to be paid by the purchasers in said agreement, and the regular printed exceptions of the title insurance company, and subject to the terms of said contract of sale.

\$4,000.00 by executing a promissory note payable to Giese Realty, Nampa, Idaho;

And the balance of \$106,580.00, together with interest thereon at the rate of 6½% per annum computed from March 28, 1973, payable as follows:

\$1,000.00 or more, plus interest accrued to date of payment on or before March 1, 1974, and \$1,000.00 or more plus interest accrued to date of payment on or before March 1, 1975;

\$11,000.00 or more on or before March 1, 1976, and \$11,000.00 or more on or before March 1st of each year thereafter until the entire amount of principal and interest has been paid in full; said \$11,000.00 payments to be credited first upon interest accrued to date of payment and the balance applied upon the principal.

It being mutually understood and agreed that purchasers shall have the privilege of paying additional amounts at any time, and interest shall accrue only upon the unpaid principal balance remaining from time to time.

b. To not permit any liens or encumbrances to attach against said premises, and to not permit waste upon said premises or suffer any to be done.

c. To pay all taxes and assessments of every kind and nature levied against said premises for the year 1973 and all subsequent years during the life of this agreement, and to pay the same when due and not to permit the same to become delinquent.

SCANNED

d. To insure said premises against loss by fire or hazard in an amount and with a company satisfactory with the vendors, and to keep said premises insured during the life of this agreement; said fire or hazard insurance policy or policies to have a loss payable clause attached thereto providing for payment in the event of loss as the interests of the parties may appear. It is understood that there is an existing fire or hazard insurance policy in effect upon said premises, and purchasers agree to reimburse vendors for the unearned premium thereon pro rated as of March 28, 1973. Said fire insurance policy to be placed in escrow as hereinafter provided and delivered to purchasers upon payment in full of the purchase price.

3. The vendors, in consideration of the aforesaid promises and agreements of the purchasers, agree as follows:

a. To deliver to purchasers a warranty deed conveying good and marketable title to the premises, free and clear of all encumbrances, including all taxes and assessments for the year 1972 and all prior years, and excepting such liens and encumbrances as may have been assumed by purchasers or caused by their acts or neglect; said deed to be executed contemporaneously herewith to be placed in escrow as hereinafter set forth and delivered to purchasers upon payment in full of the purchase price.

b. At the time final payment is made hereunder to furnish to purchasers a policy of title insurance insuring the title to said premises to be good and marketable and vested in the vendors, free and clear of all encumbrances, including taxes and assessments assessed against said property for the year 1972 and all prior years, and excepting such liens and encumbrances as may have been assumed by the purchasers or caused by their acts or neglect, and excepting the regular printed exceptions of the title insurance company.

SCANNED

4. It is mutually agreed and understood by and between the parties hereto as follows:

a. The title to any and all improvements placed upon said property shall immediately vest in the vendors, and in the event of a forfeiture of this agreement, any and all improvements which may have been made upon the premises shall inure to the benefit of the vendors, and such improvements shall be deemed a part of the real estate.

b. That time is strictly the essence of this agreement.

c. That possession of said premises shall be delivered to purchasers upon the execution of this agreement, and possession of said premises shall be in purchasers during the life of this agreement.

d. That the warranty deed, fire insurance policy, and an executed copy of this agreement shall be placed in escrow with the Idaho First National Bank, Nampa Branch, Nampa, Idaho, who is hereby constituted agent of the vendors to receive and receipt for all payments made hereunder, and upon payment in full of the amounts to be paid to the vendors, said escrow holder is hereby instructed to deliver said deed and all other papers held in escrow by them to the purchasers.

e. That all escrow fees shall be divided equally between vendors and purchasers.

f. In case the purchasers shall fail to make the payments aforesaid, or any of them, punctually and upon the strict terms and at the times limited, and likewise to conform and to complete all and each of the agreements and stipulations aforesaid

SCANNED

strictly and literally, without any failure or default, TIME BEING
OF THE ESSENCE OF THIS AGREEMENT, and vendors shall give to purchasers
X. 10. ~~thirty~~ ^{sixty} days notice in writing of their intention to declare a
J.M. forfeiture of this agreement, during which period purchasers shall
have the privilege of curing the matter in default; and in the event
said matter in default has not been cured within said ~~thirty~~ ^{sixty} day ^{to 11 P.M.}
period, then this agreement shall, upon the expiration of said
J.M. ~~thirty~~ ^{sixty} day period, be null and void, and all rights and interest
hereby created or existing in favor of the purchasers, their
heirs or assigns, or derived under this agreement shall utterly
cease and determine, and the premises hereby contracted shall
revert to and re-vest in vendors, their heirs or assigns, without
any right of purchasers of reclamation of compensation for moneys
paid or improvements made. Purchasers agree that in the event
of default and the necessity of vendors to send a notice of
forfeiture, that they will pay the necessary cost of preparing
and mailing said notice. It is further understood and agreed that
the foregoing remedy provided for vendors in the event of
default herein is not mandatory nor exclusive, but is merely an
additional optional remedy with vendors, and the vendors shall,
at all times, have the right to enforce this agreement by any
other method provided by law, in the event they do not elect to
use the remedy herein provided for.

g. All covenants and agreements herein contained
shall extend to and be binding upon the heirs, executors, admin-
istrators and assigns of the respective parties hereto.

SCANNED

h. It is expressly understood and agreed that purchasers herein are presently in possession of the premises hereby sold by virtue of a lease, and that upon the execution of this agreement, said lease is hereby terminated and null and void as to the parties hereto, and that purchasers' possession is by virtue of this agreement.

i. Purchasers herein understand that vendors are purchasing the property hereby sold to purchasers, and that vendors herein covenant and warrant to make all payments upon said contract of sale, and not to permit the same to become delinquent, and that in the event vendors fail to make said payments, purchasers shall have the right and privilege to make them and to receive credit for any payment so made upon the purchase price set forth in this agreement. It being expressly understood, however, that purchasers are not assuming said contract of sale and said contract of sale and obligation thereof are entirely that of vendors herein.

IN WITNESS WHEREOF, The parties hereto have hereunto set their hands.

Leon M. Kay

Vendors

Edgar M. Hilder

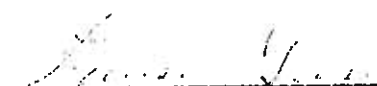
James B. Lee
Purchasers

SCANNED

STATE OF IDAHO, ;
) ss.
County of Canyon,)

On this 20th day of April, 1973, before me, the undersigned, a Notary Public in and for said State, personally appeared Leon McKay and Gay McKay, husband and wife, and Floyd M. Bledsoe and Louise Bledsoe, husband and wife, known to me to be the persons whose names are subscribed to the foregoing 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.



Notary Public for Idaho,
Residing at Nampa, Idaho.

AGREEMENT

THIS AGREEMENT, Made and entered into this 2nd day of June, 1976, by and between HAROLD BLEDSOE and ANITA BLEDSOE, husband and wife, parties of the first part, hereinafter called the vendors, and NORMAN G. FULLER and NORMAN SVATY, a partnership, parties of the second part, hereinafter called the purchasers, WITNESSETH:

1. The vendors, in consideration of \$200,000.00 to be paid as hereinafter provided, hereby agree to sell and convey, and the purchasers agree to purchase that certain tract of land situate in the County of Canyon, State of Idaho, to-wit:

The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 19, Twp. 2 North, Range 3 West, B.M., Canyon County, Idaho; EXCEPTING therefrom an easement for a private road in the width of 20 feet along the entire West side thereof. And the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and all of the NW $\frac{1}{4}$, and the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 20; Excepting therefrom all that portion lying North of the County road, Twp. 2 North, Range 3 West, B.M., Canyon County, Idaho. RESERVING unto vendors one-half of all mineral rights.

Together with all irrigation equipment, including pump, pipe and sprinkler heads, excepting the tractor presently used for power, which is reserved to the vendors, and including the metal granary, all situated upon the above described property.

2. The purchasers, in consideration of the mutual promises and agreements of the vendors hereinafter set forth, agree as follows:

a. To pay the sum of \$200,000.00 to the vendors, which sum is to be paid as follows:

\$10,000.00 cash which has been paid, receipt of which is hereby acknowledged by vendors;

\$40,000.00 on or before November 1st, 1976;

\$100,396.78 by assuming and paying according to the terms thereof the balance due upon a contract to purchase the above described premises in which contract Leon McKay and Gay McKay, husband and wife, are sellers, and Floyd M. Bledsoe and Louise Bledsoe, husband and wife, are purchasers

SCANNED

dated April 2nd, 1973, which contract was subsequently on the 3rd day of June, 1974 assigned to vendors herein by the purchasers therein.

And the balance of \$49,603.22, together with interest thereon at the rate of 7½% per annum computed from November 1st, 1976, shall be payable as follows:

\$5,000.00 on or before December 1st, 1977, and \$5,000.00 on or before December 1st of each year thereafter to and including December 1st, 1986, said payments to be applied first upon interest accrued to date of payment, and the balance applied upon the principal, the entire balance of principal and interest remaining unpaid shall be due and payable on or before December 1st, 1987.

It is mutually understood and agreed that purchasers shall be given the privilege of paying additional amounts at any time, and interest shall accrue only upon the unpaid principal balance remaining from time to time.

b. To not permit any liens or encumbrances to attach against said premises, and to not permit waste upon said premises or suffer any to be done.

c. To pay their pro-rata share of taxes and assessments levied against said premises for the year 1976, pro-rated as of November 1st, 1976, and to pay all taxes and assessments of every kind and nature levied against said premises for the year 1977 and all subsequent years during the life of this agreement, and to pay the same when due and not to permit the same to become delinquent.

d. To insure said premises against loss by fire or hazard in an amount and with a company satisfactory with the vendors, and to keep said premises insured during the life of this agreement; said fire or hazard insurance policy or policies to have a loss payable clause attached thereto providing for payment in the event of loss as the interests of the parties may appear. It is understood that there is an existing fire or hazard insurance policy in effect upon said premises, and purchasers agree to reimburse vendors for the unearned

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premium thereon pro-rated as of November 1st, 1976. It is further understood and agreed that said fire insurance policy or policies shall be held in escrow as provided in the McKay - Bledsoe escrow hereinbefore mentioned, to be delivered to purchasers upon payment in full of the amounts due under this agreement.

3. The vendors, in consideration of the aforesaid promises and agreements of the purchasers, agree as follows:

a. To pay their pro-rata share of taxes and assessments for 1976, pro-rated as of November 1st, 1976, and to pay all irrigation charges for 1976 and prior years.

b. To deliver to purchasers a warranty deed conveying good and marketable title to the premises, free and clear of all encumbrances, including all taxes and assessments for the year 1975 and all prior years, and excepting such liens and encumbrances as may have been assumed by purchasers or caused by their acts or neglect; said deed to be executed contemporaneously herewith to be placed in escrow as hereinafter provided and delivered to purchasers upon payment in full of the purchase price, including the balance due upon the McKay contract herein assumed by purchasers. That by executing this agreement, the vendors herein do hereby ASSIGN and TRANSFER, subject to payments as provided herein, to the purchasers herein all of their right, title and interest in that certain agreement whereby Leon McKay and Gay McKay sold to Floyd M. Bledsoe and Louise Bledsoe, and which was assigned by the said Floyd M. Bledsoe and Louise Bledsoe to the vendors herein, and The Idaho First National Bank, Nampa Branch, Nampa, Idaho is hereby instructed to receive the payments of the purchasers herein upon said contract assumed by them, and in the event the money due vendors herein is paid in full prior to payment in full of said McKay - Bledsoe contract, to place this agreement, which shall constitute the assignment thereof, and the warranty deed, with said McKay - Bledsoe escrow

and to deliver to the purchasers herein upon payment in full of all sums due thereunder all papers and deeds held by them in connection with said escrow.

c. At the time final payment is made hereunder, to furnish to purchasers a policy of title insurance insuring the title to said premises to be good and marketable and vested in the vendors, free and clear of all encumbrances, including taxes and assessments assessed against said property for the year 1975 and all prior years, and excepting such liens and encumbrances as may have been assumed by the purchasers or caused by their acts or neglect, and excepting the regular printed exceptions of the title insurance company. It being understood and agreed that by the provisions of the McKay - Bledsoe agreement hereinbefore mentioned, that said title insurance policy is to be furnished upon payment in full of the amounts due thereunder, which by subsequent assignments shall be furnished to purchasers herein, and shall constitute the furnishing of title insurance as provided herein.

4. It is mutually agreed and understood by and between the parties hereto as follows:

a. The title to any and all improvements placed upon said property shall immediately vest in the vendors, and in the event of a forfeiture of this agreement, any and all improvements which may have been made upon the premises shall inure to the benefit of the vendors, and such improvements shall be deemed a part of the real estate.

b. That time is strictly the essence of this agreement.

c. That possession of said premises shall be delivered to purchasers on or before November 1st, 1976, and possession of said premises shall be in purchasers during the life of this agreement; provided, however, that in the event it is impossible for vendors to

SCANNED

complete harvest of their 1976 corn crop upon said premises by November 1st, 1976, that vendors shall have a reasonable time after possession date to complete the harvest of said corn.

d. That the warranty deed, and an executed copy of this agreement shall be placed in escrow with The Idaho First National Bank, Nampa Branch, Nampa, Idaho, who is hereby constituted agent of the vendors to receive and receipt for all payments made hereunder, and upon payment in full of the amounts to be paid to the vendors herein, said escrow holder is hereby instructed to place said papers with the McKay - Bledsoe agreement, in the event the same has not been paid in full, to be delivered to purchasers herein, together with all papers held in said McKay escrow, upon payment in full by purchasers herein of the amounts due thereunder.

e. That all escrow fees shall be divided equally between vendors and purchasers.

f. Purchasers herein understand that the vendors in the contract hereby assigned, by virtue of which vendors herein are acquiring title, is being purchased by Leon McKay and Gay McKay, vendors in the contract hereby assigned, by virtue of a certain contract held in escrow by The Idaho First National Bank, Nampa Branch, Nampa, Idaho, in which agreement H. B. Giese and Ethel V. Giese are the vendors, and by virtue of sundry assignments by the purchasers in said agreement, was ultimately assigned to the said Leon McKay and Gay McKay, and presently has a principal balance thereon of \$9,771.90 payable \$5,000.00 on January 1st, 1977 and \$5,000.00 on January 1st, 1978, but that the purchasers herein are expressly not assuming the obligations under said contract, but are given the right and privilege in the event default is made in said agreement, to make the payments required to be made thereon

SCANNED

and receive credit upon proof of payment therefor upon the payments required to be made by them by this agreement.

g. In case the purchasers shall fail to make the payments aforesaid, or any of them, punctually and upon the strict terms and at the times limited, and likewise to conform and to complete all and each of the agreements and stipulations aforesaid, strictly and literally, without any failure or default, TIME BEING OF THE ESSENCE OF THIS AGREEMENT, said vendors shall give to purchasers 30 days' notice, in writing, of their intention to declare a forfeiture of this agreement, during which period purchasers shall have the privilege of curing the matter in default; and in the event said matter in default has not been cured within said 30 day period, then this agreement shall, upon the expiration of said 30 day period, be null and void, and whereupon purchasers shall immediately re-deliver possession of said premises to vendors, and all rights and interest hereby created or existing in favor of the purchasers, their heirs or assigns, or derived under this agreement shall utterly cease and determine, and the premises hereby contracted shall revert to and re-vest in the vendors, their heirs or assigns, without any right of purchasers of reclamation of compensation for moneys paid or improvements made. It is further understood and agreed that the foregoing remedy provided for vendors in the event of default herein is not mandatory nor exclusive, but is merely an additional optional remedy with vendors, and vendors shall, at any and all times, have the right to enforce this agreement by any other method provided by law, in the event they do not elect to use the remedy herein provided for. It is further mutually understood and agreed that in the event it becomes necessary for the vendors to declare a forfeiture of this agreement, the purchasers shall be liable to the vendors for all costs incurred by vendors in preparing and delivering said notice of default to purchasers.

SCANNED

h. It is mutually understood and agreed that all covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands.

Harold R. Bledsoe

Anita R. Bledsoe
Vendors

Norman G. Fuller

Norman Svaty
Purchasers

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

On this _____ day of June, 1976, before me, the undersigned, a Notary Public in and for said State, personally appeared Harold Bledsoe and Anita Bledsoe, and Norman G. Fuller and Norman Svaty, known to me to be the persons whose names are subscribed to the foregoing 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.

Notary Public for Idaho,
Residing at Nampa, Idaho.

SCANNED

Josephine P. Beeman #1806
BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, ID 83702
Phone: (208) 331-0950
Fax: (208) 331-0954
jo.beeman@beemanlaw.com

**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)
_____)

**AFFIDAVIT OF DAVID R. ORCUTT
IN SUPPORT OF SRBA CLAIMS
63-_____ AND 63-_____**

STATE OF IDAHO)
COUNTY OF OWYHEE) ss:

I, David R. Orcutt, after first being duly sworn upon oath, depose and state that:

(1) My name is Dave Orcutt. From November 1976 through the present, my wife Gayle S. Orcutt and I have lived on and farmed the property described as the place of use for SRBA Claims 63-_____ and 63-_____.

(2) On June 2, 1976, my father-in-law, Norman Svaty, and a business partner, Norman Fuller, purchased the property from Harold Bledsoe. At that time, Norman Svaty owned and operated Canyon Farms, Inc. The property was leased for farming to Canyon Farms, Inc. I was an employee of Canyon Farms, Inc. until it was sold in 1981. When Canyon Farms, Inc. was sold in 1981, I took over the farm lease and ultimately purchased the property from the Miles Thomas Trust in August 1994. Miles Thomas had purchased the property in December 1976, and the property was owned by the Miles Thomas Trust at the time of Dr. Thomas's death, until

my purchase in August 1994.

(3) At the time of the 1976 purchase, the well was visible on the property in the NE1/4NE1/4 Sec 19, T2N, R3W. It had a 12" diameter steel casing protruding about 14" above the ground. A pump was apparent in the well. There was a ditch used to carry the water from the well to irrigate the surrounding ground. By the looks of this ditch it easily irrigated 46 acres.

(4) The 46 acres that received water from the well are indicated on the map attached to this affidavit. The 46 acres are within the NE1/4NE1/4 Sec 19 and the NW1/4NW1/4 Sec 20, T2N, R3W.

(5) My wife and I moved to the property in November 1976, at which time the Stewart Lateral of the Wilder Irrigation District was an open ditch on the property. My recollection is that during the first winter I lived on the property, I helped Norman Svaty, my father-in-law, and the Wilder Irrigation District to tile (place underground) the Stewart Lateral through the property.

(6) The location of that buried tile is indicated on the map attached to this affidavit.

(7) When the Stewart Lateral was buried, it saved the Wilder Irrigation District time and money because it eliminated annual ditch cleaning, weeds, and gopher problems.

(8) Beginning in 1977, the property was leveled and a buried mainline was installed to serve 13 wheel lines. This increased the land we could irrigate and farm by 20 acres. Since that time to the present, we have farmed and irrigated 225 acres.

(9) Prior to the place being leveled, there was more than one tap from which water was delivered to the farm from the Stewart Lateral. I remember a tractor with a PTO pump above (to the east) of the Lateral near the center (north and south) of the place. From this pump, mainline laid eastward with several hand lines (maybe four (4)) extending out from the mainline.

These were used to water the acres above the Lateral. I remember picking up the pipe and moving it to the far southeast corner of the property so the ground could be leveled.

(10) Before the Stewart Lateral was tiled and the property was leveled and a buried mainline installed, there were 46 acres of irrigated property above the Stewart Lateral that could only have been irrigated by a pump from the Stewart Lateral. The location of the land for which water was pumped from the canal is in the W1/2NE/14 and the E1/2NW1/4 Sec 20, T2N, R3W.

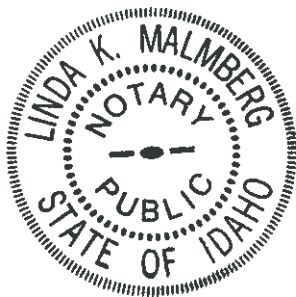
(11) As a result of tiling the Stewart Lateral, leveling the property, and installing a buried mainline, it was and has been possible to deliver water to the 225 acres by one headgate and a 75hp pump used to charge the 13-wheel line. The quantity of water available from the shares of the Wilder I.D. did not change as the number of acres irrigated increased.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 27th day of December 2004.


DAVID R. ORCUTT

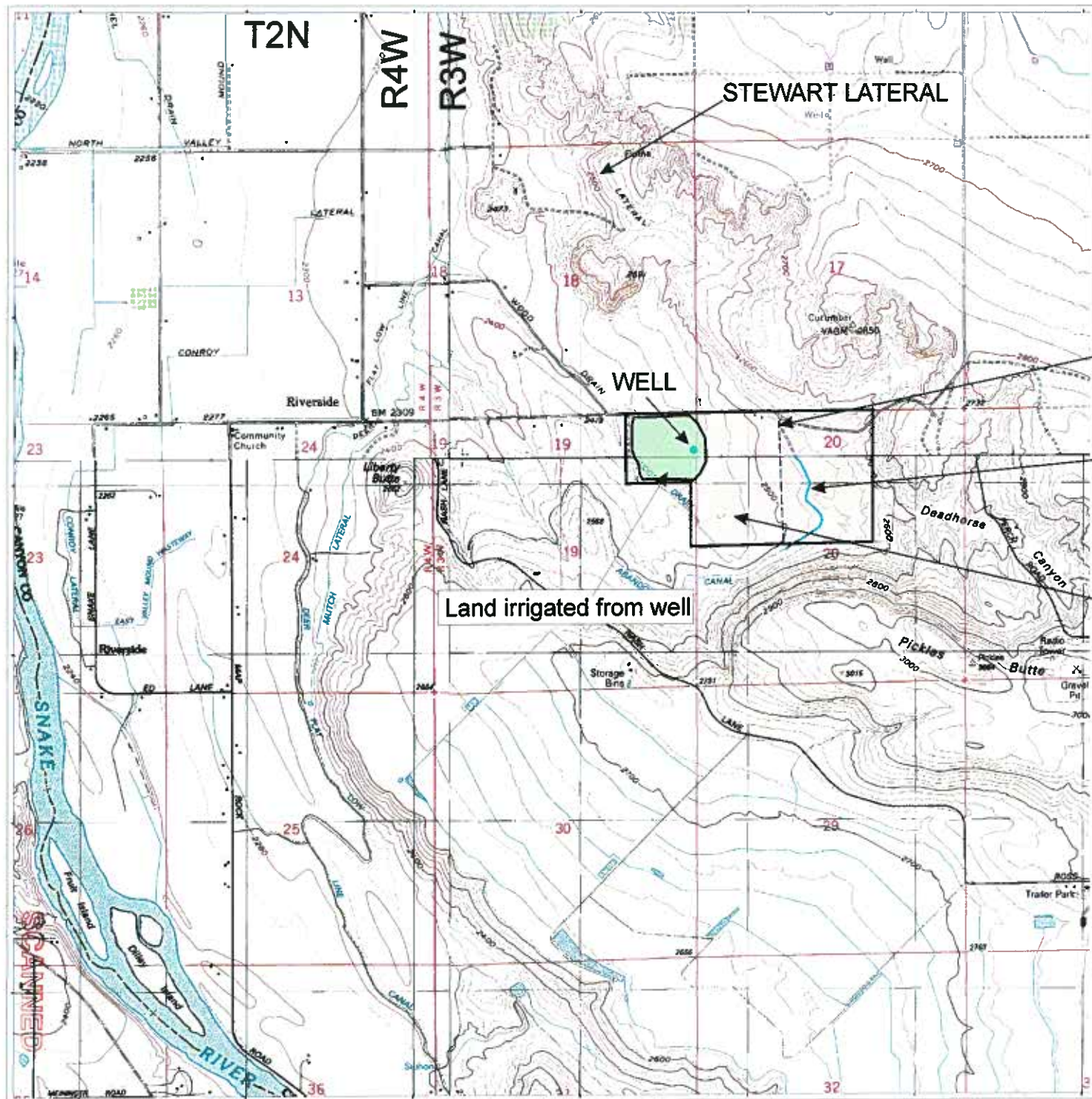
SUBSCRIBED AND SWORN before me on this 27 day of December 2004.




Notary Public for Idaho
Residing at Marsing, Idaho
Commission Expires: 9-28-05

Z:\3041\6483B

SCANNED



BURIED-PIPED CANAL

ABANDONED
CANAL

ORCUTT
IRRIGATED
FARMLAND

Josephine P. Beeman #1806
BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, ID 83702
Phone: (208) 331-0950
Fax: (208) 331-0954
jo.beeman@beemanlaw.com

**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) **AFFIDAVIT OF NORMAN SVATY**
) **IN SUPPORT OF SRBA CLAIMS**
) **63-_____ AND 63-_____**

STATE OF OREGON)
) ss:
COUNTY OF LANE)

I, Norman Svaty, after first being duly sworn upon oath, depose and state that:

- (1) My name is Norman Svaty.
- (2) From 1973 through 1981, I farmed in the Dry Lake area in Canyon County, Idaho.
- (3) On June 2, 1976, a business partner and I purchased the property that is now owned and farmed by my son in law and daughter, David R. Orcutt and Gayle S. Orcutt. In 1976, I also owned and operated Canyon Farms, Inc. and the property was leased for farming to Canyon Farms, Inc. until I sold Canyon Farms, Inc. in 1981.
- (4) In 1976, the well was visible on the property and had a 12" diameter and was located in the NENE of Section 19. As owner of the property, I researched the well and spoke with Norman Marchbanks who had lived on and farmed the property in 1959 and 1960 when the

SCANNED

well was installed. I was already acquainted with Mr. Marchbanks because we met as business associates in the early 1970s.

(5) When I bought the property in 1976, 46 acres of land near the well were being irrigated from the well. There was a Parma Water Lifter Pump in the well, and when used it pumped into an irrigation ditch to water this land. The land irrigated from the well was in the NE1/4NE1/4 Sec 19 and the NW1/4NW1/4 Sec 20, T2N, R3W.

(6) In exchange, another 46 acres of irrigated land on the east end of the property above the Stewart Lateral were being irrigated with water from the Wilder Irrigation District. I remember the pump, mainline, and hand lines used on this land above the Stewart Lateral. In 1976, it was planted to barley. The location of the 46 acres above the canal is the W1/2NE1/4 and the E1/2NW1/4 Sec 20.

(7) My daughter and son-in-law moved to the property in November 1976 while Dave Orcutt was an employee of Canyon Farms, Inc. and continued the irrigated farming of the property for Canyon Farms, Inc. They have lived there ever since, ultimately taking over the farm lease in 1981, and purchasing the property in 1994.

(8) In 1981, when Canyon Farms, Inc. was sold, I was involved in the lease of the property to David and Gayle Orcutt.

(9) The first crop on the property, under the lease to Canyon Farms, Inc., was in 1977.

(10) When I bought the property I could see the farm needed much improvement. During the winter of 1976-1977, Dave Orcutt, the Wilder Irrigation District, and I put in an underground tile which allowed the Stewart Lateral to be buried. The Wilder Irrigation District

SCANNED

was very happy someone wanted to help fix the Lateral going through the farm. It was hard to maintain and a waste of water for them. It has worked out very well for both parties.

(11) After the Lateral was tiled, we did a lot of leveling, put in a mainline for a wheel line sprinkler system, built a pond to pump out of, and improved the land. This increased by 20 acres the land farmed and irrigated above the original location of the Stewart Lateral. We grew wheat, beets, mint, and hay during these past years.

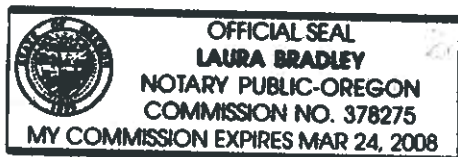
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 27 day of December 2004.



NORMAN SVATY

SUBSCRIBED AND SWORN before me on this 27 day of December 2004.





Notary Public for the State of OREGON
Residing at EUGENE, OR
Commission Expires: 24 MARCH 2008

Z:\3041\6482B

SCANNED

Josephine P. Beeman #1806
BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, ID 83702
Phone: (208) 331-0950
Fax: (208) 331-0954
jo.beeman@beemanlaw.com

**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	)	AFFIDAVIT OF BOB GIBBENS
_____	)	IN SUPPORT OF SRBA CLAIMS
		63-_____ AND 63-_____

STATE OF IDAHO)
) ss:
COUNTY OF OWYHEE)

I, Bob Gibbens, after first being duly sworn upon oath, depose and state that:

(1) My name is Bob Gibbens. My address is 17916 Elbow Lane, Caldwell, Idaho 83607, Phone No. 459-7373.

(2) From my birth in 1923 through the present, I have lived within one mile of the property currently owned and farmed by David R. Orcutt and Gayle S. Orcutt. As a result, I have been familiar with the Orcutt property and the general area for nearly eighty years.

(3) I knew Norm Marchbanks personally when he lived on and farmed the property now owned by the Orcutts. Norm Marchbanks' parents owned the property, but they did not live there or farm the property. I knew that Norm Marchbanks had a well drilled on the property, and

SCANNED

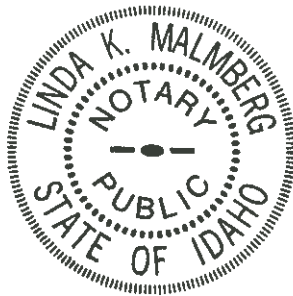
I saw the well in use for irrigation on the Marchbanks' property. In fact, I was aware that the well used a propane engine.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 27 day of December 2004.

Bob Gibbens
BOB GIBBENS

SUBSCRIBED AND SWORN before me on this 27 day of December 2004.



Linda K. Malmberg
Notary Public for Idaho
Residing at Marsing, Idaho
Commission Expires: 9-28-05

Z:\3041\6479B

Josephine P. Beeman #1806
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Fax: (208) 331-0954
jo.beeman@beemanlaw.com

**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	)	AFFIDAVIT OF JOHN CONROY
	)	IN SUPPORT OF SRBA CLAIMS
_____	)	63-_____ AND 63-_____

STATE OF IDAHO	)	
	)	ss:
COUNTY OF OWYHEE	)	

I, John Conroy, after first being duly sworn upon oath, depose and state that:

(1) My name is John Conroy. My address is 9537 Riverside Road, Caldwell, Idaho 83607, Phone No. 459-4808. My brother Tom Conroy lives next to me on Riverside Road.

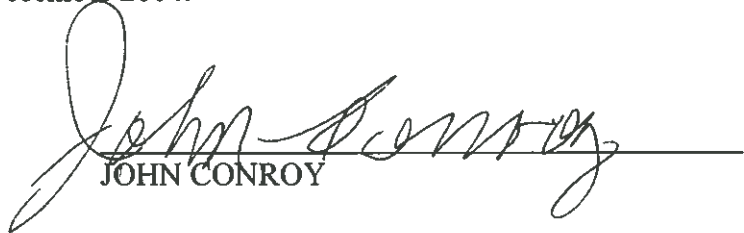
(2) My home is one mile from the property owned and farmed by David R. Orcutt and Gayle S. Orcutt. I was born and raised in the area where the Orcutts farm and have been acquainted with this property since the 1950s.

(3) I regularly use the road adjacent to the Orcutts' property.

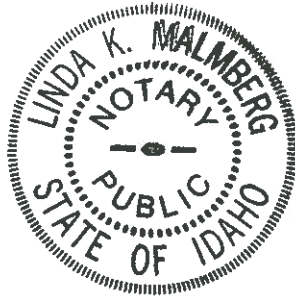
(4) In the early 1960s, I saw the well on what is now the Orcutts' property.

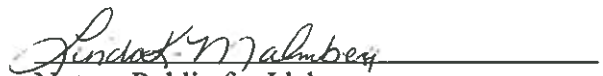
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 27 day of December 2004.


JOHN CONROY

SUBSCRIBED AND SWORN before me on this 27 day of December 2004.




Notary Public for Idaho
Residing at Marsing, Idaho
Commission Expires: 9-28-05

Z:\3041\6480A

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**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	)	AFFIDAVIT OF TOM CONROY
_____	)	IN SUPPORT OF SRBA CLAIMS
		63-_____ AND 63-_____

STATE OF IDAHO)
) ss:
COUNTY OF OWYHEE)

I, Tom Conroy, after first being duly sworn upon oath, depose and state that:

(1) My name is Tom Conroy. My address is 9369 Riverside Road, Caldwell, Idaho 83607, Phone No. 459-7105. My brother John Conroy lives next to me on Riverside Road.

(2) My home is one mile from the property owned and farmed by David R. Orcutt and Gayle S. Orcutt. I was born and raised in the area where the Orcutts farm and have been acquainted with this property since the 1950s.

(3) I regularly use the road adjacent to the Orcutts' property.

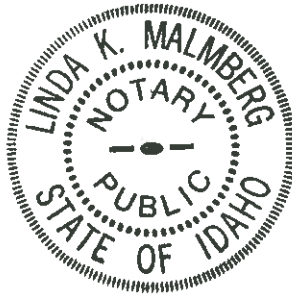
(4) In the early 1960s, I saw the well on what is now the Orcutts' property.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 27 day of December 2004.

Tom Conroy
TOM CONROY

SUBSCRIBED AND SWORN before me on this 27 day of December 2004.



Linda K Malmberg
Notary Public for Idaho
Residing at *Marsing*, Idaho
Commission Expires: *9-28-05*

Z:\3041\6481A

SCANNED

11/02/2006

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

RIGHT NUMBER: 63-32023

NAME AND ADDRESS: REALLEN, LLC
C/O RICHARD E. ALLEN
2878 S. BENECIA WAY
NAMPA ID 83686

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.920 CFS
207.000 AFY

PRIORITY DATE: 03/01/1959

POINT OF DIVERSION:

T02N R03W S19 SENENE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.920 CFS 207.00 AFY

PLACE OF USE: IRRIGATION Within CANYON County

T02N R03W S20	NWNE	15.00	T02N R03W S20	SWNE	11.00
T02N R03W S20	NENW	15.00	T02N R03W S20	SENW	5.00

46 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

Right No. 63-32022 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

Use of this right is combined with water from Wilder Irrigation District.



Idaho Department of Water Resources

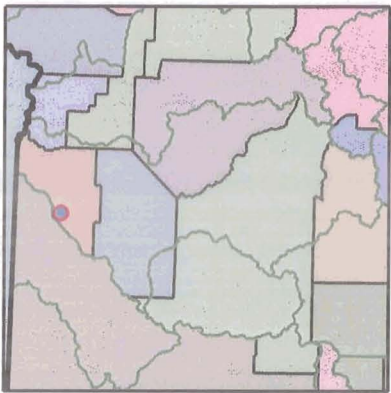
SRBA Recommendation:

63-32023

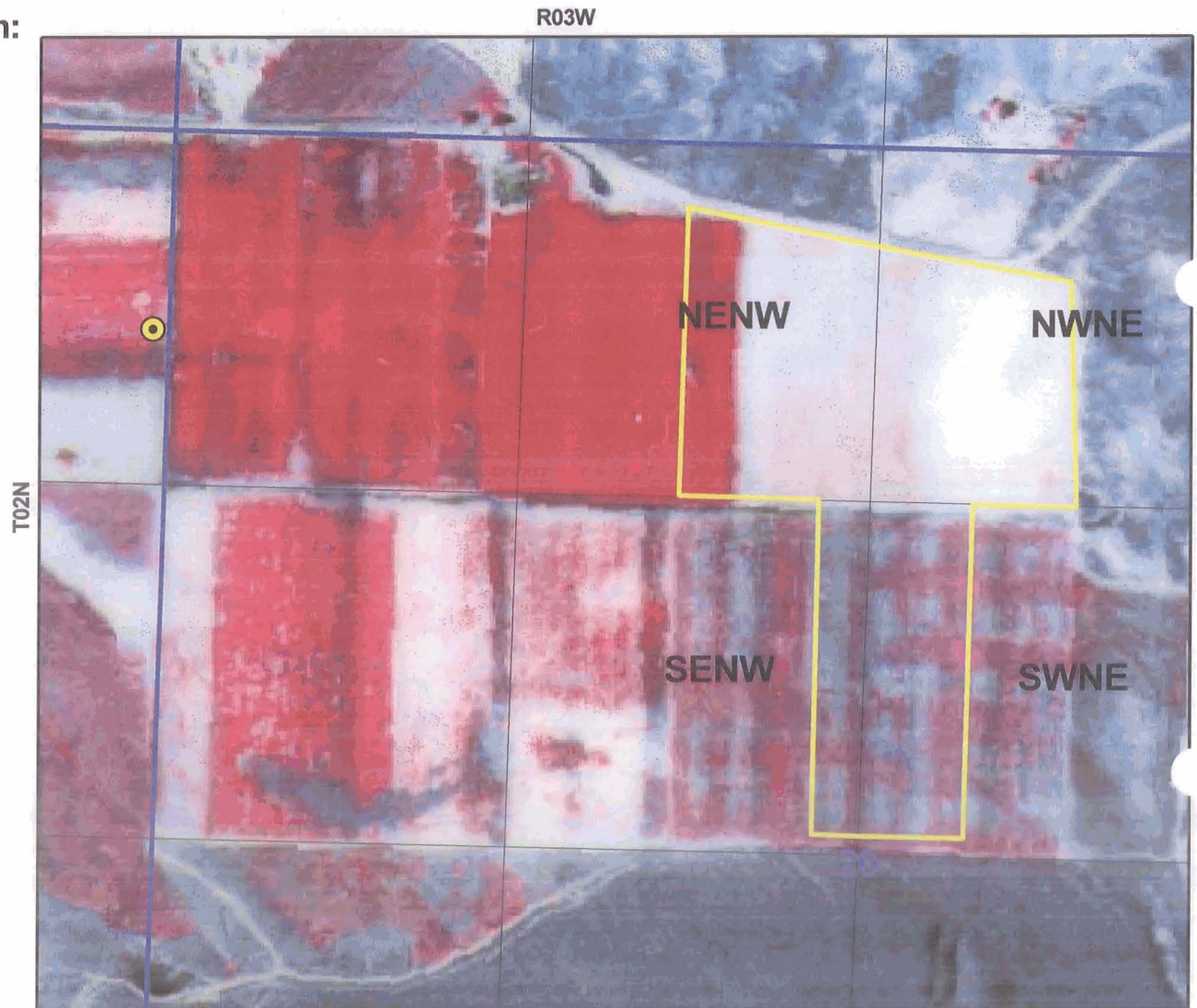
(Irrigation)

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Canyon County
IDWR Basin 63



0 0.3 0.6 Miles



Prepared by S. Egbert
On Wednesday, November 1, 2006
1987/88 Aerial Photography

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-32023 V1

WATER RIGHT NUMBER: 63-32023 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	GAYLE ORCUTT 16755 DEERFLAT RD CALDWELL, ID 83605 (208)459-4080
Current Owner	REALLEN, LLC C/O RICHARD E. ALLEN 2878 S. BENECIA WAY NAMPA, ID 83686
Original Owner	DAVID R ORCUTT 16755 DEERFLAT RD CALDWELL, ID 83605 (208)459-4080

Priority Date: 03/01/1959

Basis: Beneficial Use

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>
IRRIGATION	03/01 to 11/15	0.920 CFS	207.00 AF
	<u>Total Diversion:</u>	0.920 CFS	207.00 AF

Location of Point(s) of Diversion

GROUND WATER	SE1/4NE1/4NE1/4	Sec. 19, Twp 02N, Rge 03W, B.M.
CANYON 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	
02N 03W 20		15.0	11.0		15.0			5.0									46.0

Total Acres: 46

Conditions of Approval:

1. 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.
2. W59 Use of this right is combined with water from Wilder Irrigation District.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-32023 V1

Comments:

1. Igagnon 5/2/2006 CHANGE IN OWNERSHIP

Comment: THE DATA IN THE NAME FIELD HAS BEEN CHANGED TO SHOW THAT THIS RIGHT HAS AN OWNERSHIP CHANGE.

2. DSHAFF 10/31/2006 Copied from Claim Remarks

Comment: Water is commingled in a single pressurized sprinkler system irrigating 225 acres using ground water and Wilder Irrigation District water (159.09 acres entitlement). Installation of the single, farmwide sprinkler system began in late 1976.

Prior to 1977 ground water from this well was applied to land near the well within Wilder Irrigation District in exchange for canal water pumped onto the lands claimed herein. The pump applying water from the irrigation district to the lands listed herein was located in the NENW Sec. 20, T2N, R3W.

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:

Owner Name Connector: OR

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			02/21/2006	lharris	Active
Priority Date	11/1/2006 1:33:02 PM	segbert			Active
POD	11/1/2006 1:35:05 PM	segbert			Active
Source	11/1/2006 1:35:52 PM	segbert			Active
POU	11/1/2006 1:36:22 PM	segbert			Active
Use	11/1/2006 1:37:04 PM	segbert			Active
Season	11/1/2006 1:37:40 PM	segbert			Active
Quantity	11/1/2006 1:38:23 PM	segbert			Active
Summary			11/01/2006	segbert	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
----------------	------------------------	-----------------	-----------------

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-32023 V1

Summary	2/21/2006 2:58:34 PM	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	11/1/2006 1:35:05 PM	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?
General	11/1/2006 1:33:02 PM	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 of this water use 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 - affidavits in file
POD	11/1/2006 1:35:32 PM	segbert	Updated shape
POU	11/1/2006 1:36:22 PM	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?
Use	11/1/2006 1:37:04 PM	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?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-32023 V1

Source	11/1/2006 1:35:52 PM	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? (Yes) 11. Is a Source remark and/or condition required?
Season	11/1/2006 1:37:40 PM	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? (Yes) 18. Is a Period of Use remark and/or condition required?
Quantity	11/1/2006 1:38:23 PM	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? (Yes) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (Yes) 10. Is a irrigation a purpose of use? (No) 12. Is a Quantity remark or condition required?
Summary	11/1/2006 1:39:56 PM	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?
POU	11/1/2006 1:36:46 PM	segbert	Updated shape for Active POU

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-32023

WATER RIGHT NUMBER: 63-32023

Owner Type Name and Address
 Current Owner DAVID R ORCUTT
 16755 DEERFLAT RD
 CALDWELL, ID 83605
 (208)459-4080
 Current Owner GAYLE ORCUTT
 16755 DEERFLAT RD
 CALDWELL, ID 83605
 (208)459-4080

Priority Date: 03/01/1959 *see affidavits in file*
 Basis: Beneficial Use
 Status: Active

Source Tributary
 GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.920 CFS ✓	207 AF
	<u>Total Diversion:</u>	0.920 CFS ✓	

Location of Point(s) of Diversion

GROUND WATER NE1/4NE1/4NE1/4 Sec. 19, Twp 02N, Rge 03W, B.M. *.02 acres*
 CANYON County

GROUND WATER SE1/4NE1/4NE1/4 Sec. 19, Twp 02N, Rge 03W, B.M. *see GPS coordinates*
 CANYON County

1 POD per field stream

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	
02N	03W	20			15.0	11.0			15.0				5.0						46.0

Total Acres: 46

Conditions of Approval:

Wilder Irrigation

1. Water is commingled in a single pressurized sprinkler system irrigating 225 acres using groundwater and Wilder Irrigation District water (159.09 acres entitlement). Installation of the single, farmwide sprinkler system began in late 1976.

Prior to 1977 groundwater from this well was applied to land near the well within Wilder Irrigation District in exchange for canal water pumped onto the lands claimed herein. The pump applying water from the irrigation district to the lands listed herein was located in the NENW Sec. 20, T2N, R3W.

Field Exam Date 10/11/2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT

RECEIVED

OCT 12 2006

WATER RESOURCES
WESTERN REGION

Prior to Field Exam

- ☐ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☐ Check fees paid
- ☐ Well logs (if needed)
- ☐ Copy of topo or NAPP
- ☐ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☐ Check POD & POU overlap, see below – include overlapping right for exam
- ☐ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information is complete

Claim No(s) 63-32022 + 63-32023

Owner: David R. or Gayle Orcutt Phone No. (208) 459-4080

Current Address: 16755 Deerflat Rd, Caldwell, Id 83605

- ☐ No change NAME IS THE SAME
- ☒ NEW OWNER RE Allen LLC (Richard + Reva Allen)
- ☐ No change Address (208) 461-2154
- ☒ NEW ADDRESS 2878 S. Benecia Wy, Nampa, Id 83686
- ☒ How long owned property? 2005

Accompanied by: Tim Allen 455-7875 cell: (208) 941-3978

PRIORITY DATE 16755 Deerflat Rd, Caldwell, Id 83605 83607

- ☒ No change – Complete evidence submitted or not necessary
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: 63-32022 (3/1/1977), 63-32023 (3/1/1959)

(If priority date, based on your exam, seems questionable, explain below.)

Source: (2) groundwater Tributary to —

- ☒ No Change – SAME SOURCE
- ☐ Source found is different than claimed: —

POINT OF DIVERSION

- ☒ No change 63-32023 (except only one well is POD instead of 2)
- ☒ POD found is different than claimed: 63-32022 NWNWNW Sec 20 T2N R 3W
- ☒ If different, when did POD change? It has always been located here; + only one POD is included w/ this WR.

* 63-32023 is the only well utilized for irrigation. ¹

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID
A0002307		NW	NW	NW	20	2N	3W	Canyon	N43° 30.134' W116° 43.683'
A0002308		SE	NE	NE	19	2W	3W	Canyon	N43° 30.001' W116° 43.973'

63-32022

63-32023

Description of diverting works

63-32022: 8" casing, 14" above grid, 1Hp Grundfos, 2" discharge, well mate pressure tank
 63-32023: 12" casing, 48" above grid, 60-70' deep, 4' static

OVERLAP REVIEW

Other water rights with the same point of diversion: None

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

WATER USES

☐ No change

☒ Different Uses

63-32022 Use Domestic From 01/01 To 12/31 Amount 0.04 CFS 0.03 AFA
 Use Stockwater From 01/01 To 12/31 Amount 0.02 CFS 0.03 AFA
 63-32023 Use Irrigation From 3/1 To 11/15 Amount 0.01 CFS 0.01 AFA
 ↳ installed in late 1976.

TOTAL VOLUME - Groundwater only

63-32022 ☒ Incomplete on claim, the total is, Amount 0.07 CFS 0.03 AFA

☐ Changes found, the new total is, Amount 0.07 CFS 0.03 AFA

☐ More than 1" per Acre? Yes no (claimant must complete excess flow sheet)

63-32023 total capacity is, Amount 0.01 cfs

NON-IRRIGATION USES:

☐ No change

☒ Changes Exam found: Domestic # of homes 1 Stock # 1 pr. cattle

Types abandoned old house Additional comments: although it is still located south of POB, & built another house east of pond.

PLACE OF USE:

☐ No Change

☒ Changes shown below:

D1 = domestic 1 home (internal/external)
S = stockwater

63-32022
63-32023

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	3W	20					D1												
2N	3W	20					S												
2N	3W	20																	

Overlap with other water rights: None

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:

Delivery System Narrative: * See attachment

63-32022
63-32023

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size
A0002307	Grundfos	1	No tag	No tag	2
A0002308	No tag	10	No tag	No tag	

30 psi
14" abo
and,
8" ca
12" ca
48" ab
and
60-70'
4' static

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

63-32023 Wilder Irrigation is the primary source for irrigation, with the 12" well for 63-32023 being a supplemental source. The sprinkler system was installed in the late 1970's.

63-32022 Tim Allen (son of Richard & Reva Allen) resides at the physical address of POB 16755 Deerflat Rd. The domestic well is located 205' west of the headgate, & pond (Wilder Irr. intake), to the north of the original 16755 house. Tim built another house, which is east of the pond, & has the same address.

Directions: 184, towards Nampa, S. 12th (3.6 miles past Greenhurst), turn west on Missouri (go 6.2 miles), it turns north + turns into Perch Rd (go 1.2 miles) turn lt. on Deer Flat Rd, go down the hill + house on left (16755 Deerflat Rd).
POD: D1 63-32022 is 205' west of head gate for Leilder Tor.
POU: 16755 Deerflat Rd internal/external yard + garden + stockwater for 1 pr. cattle. POD 63-32023: 0.2 mile west of D1 POD, then

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☐ Completed claim checklist
- ☐ Photographs of POD's and POU
- ☐ GPS readings
- ☐ Completed map and or GIS layout showing POD's and POU

0.2 miles south, on west side of dirt road POU for 63-32023:

Property south of 16754 Penrod Ln + east west + southeast of 16755 Deer Flat Rd.

DATE EXAM CONDUCTED:

10/11/2006

FIELD EXAMINER:

Jandy Hemmaway

63-32022 & 63-32023 Allen

Date of Inspection: 10/11/06

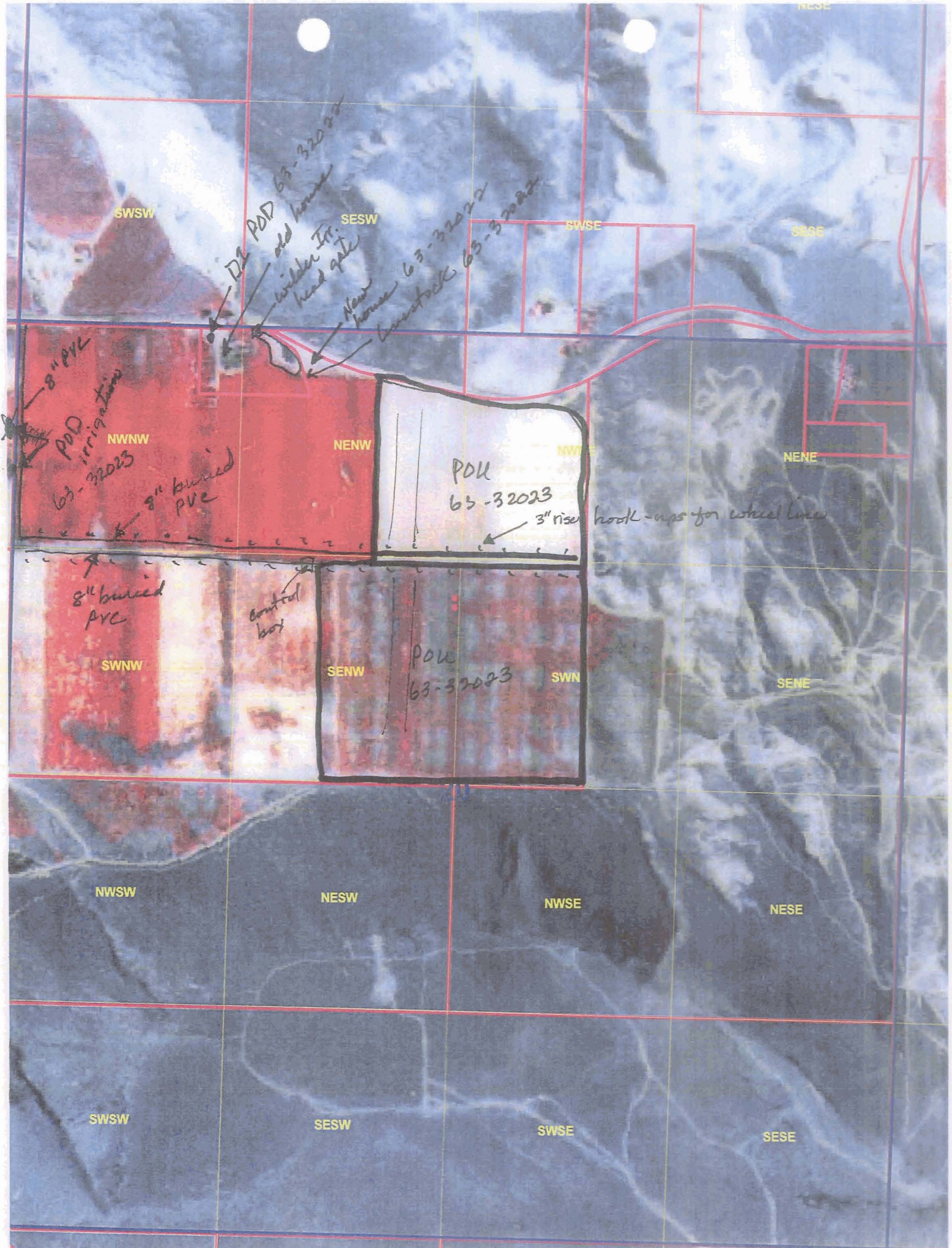
Inspector: Sandy Hemenway

Delivery System Narrative:

63-32022: 2" discharge from well, converts to 2" PVC to 1 ½" PVC to stock tank (for 1 pair cattle), and going to the east to the new residence (16755 Deer Flat Rd) for internal/external use (garden/lawn).

63-32023: 8" discharge from well (assuming 8" since it was unknown, and it converts to 8" PVC), converts to buried 8" PVC that runs north and south at the field where the well resides, with 3' risers for wheel line (wheel line run east to west). At the southeast corner, the buried 8" PVC crosses the road and continues to run west to east on the south boarder (wheel line running south to north, and moving west to east), and on the field on the south side of the dirt road the 8" buried PVC runs on the north boarder west to east (wheel line running north to south, and moving west to east). The buried pipe on both the north and south sides of the dirt road has 3' risers for wheel line. 6 lines with (30) 1 1/4" nozzles are run at the same time with an average range of 30-40 psi.

There is a control box southeast of the house, on the dirt road that runs west to east between the field, that allow water from Wilder Irrigation to co-mingle with the system or run solely groundwater, or Wilder Irrigation.







Idaho Department of Water Resources

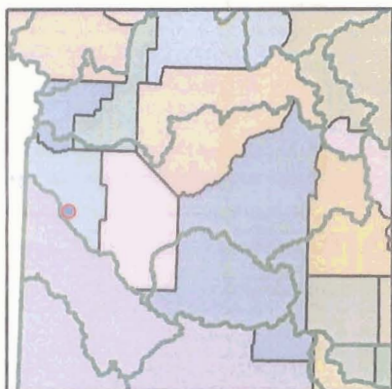
Adjudication Claim:

63-32022 +

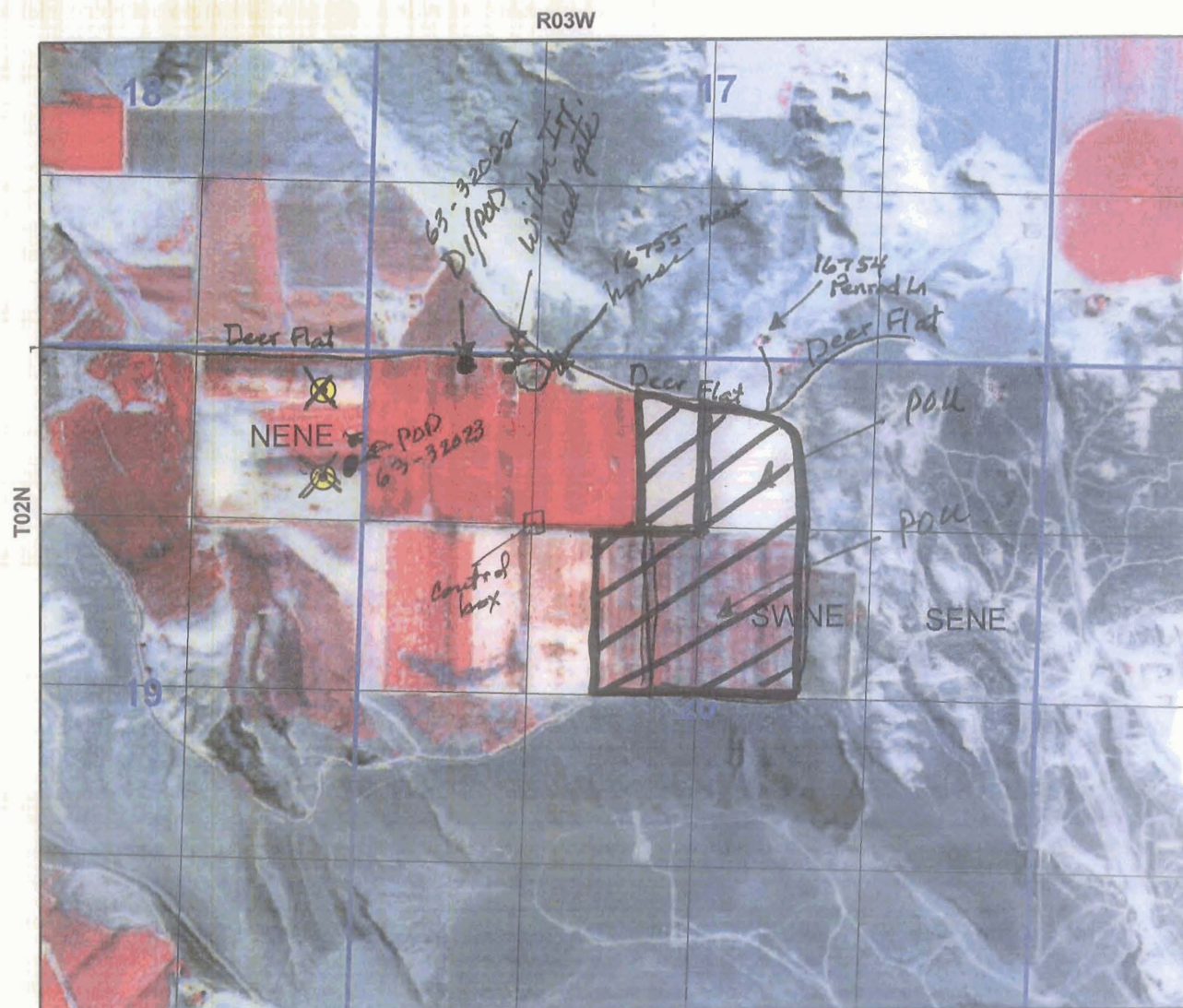
63-32023

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Canyon County
IDWR Basin 63



Prepared by S. Egbert
On Thursday, March 16, 2006
1987/88 Aerial Photography

63-32022 + 63-32023 Allen

10/11/2006 SH

63-32022

Domestic Internal/External Use = 0.04 cfs

Theoretical Pump Calculation: 8" casing, 2" discharge

1 Hp, 30 psi, 2" discharge, ~~60-70' deep~~ 4' static, 12" estimate 4' static since no other well located near by except in. well

* See attachment

= 0.07 cfs capacity

Stockwater: 1 pr. cattle = 2 cattle

Table 1. Rec. Diversion Rate for Stockwater Exh. 15A

0-25 cattle = 0.02 cfs (12 gpd/head)

$V_{ir} = (\# \text{ head} \times \text{gpd/head} \times \text{days per yr}) / 325,850 = (2 \times 12 \times 365) / 325,850 = 0.03$

$V_{dr} = 0.02 \text{ cfs} \times 365 \times 1.9835 = 14.47 = 14.5 \text{ af}$

$V = \underline{0.03 \text{ af}}$

63-32023

Theoretical Pump Calculation:

12" casing, 4' static, 60-70' deep, 8" discharge (estimate)
40 psi (est. since standard for irrigation + no gauge)

* See attachment =

0.58 cfs

Note: This well is supplemental to Wilder Irrigation

Irrigation wheel line, 8" buried PVC to 3' riser hook-ups,

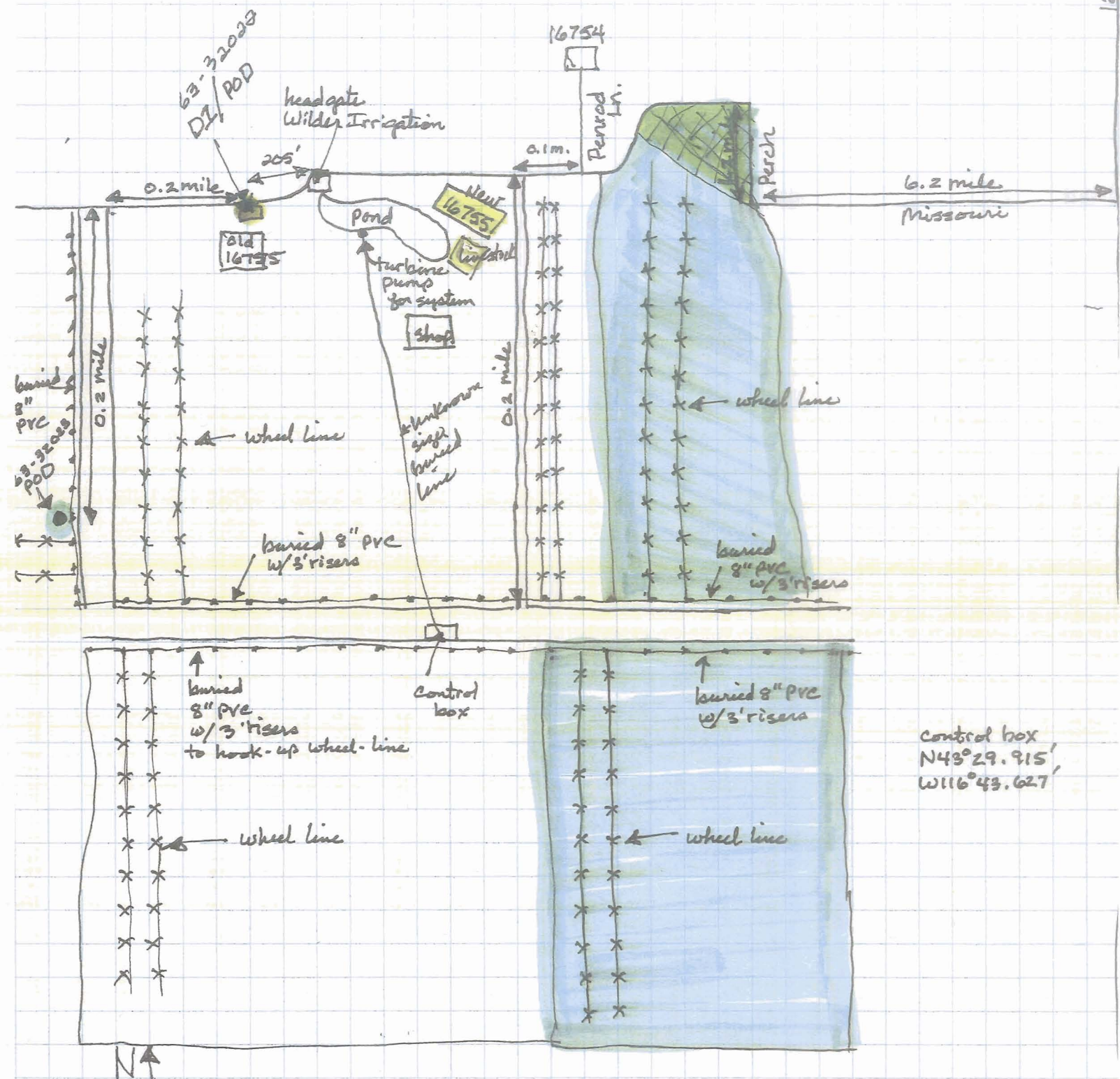
System requirement $\frac{1}{4}$ " nozzles, 6 lines w/ 30 nozzles/line run @ 1 time ^{20-40 psi (per owner)}
Range $\left\{ \begin{array}{l} \text{U of I nozzle discharge chart: } \frac{1}{4}" \text{ nozzle @ 40 psi} = 5.54 \text{ gpm} \\ (180 \text{ nozzles} \times 5.54) \times 0.00223 = \underline{2.22 \text{ cfs}} \end{array} \right.$

$\frac{1}{4}" \text{ nozzle @ 30 psi} = (4.83 \text{ gpm} \times 180 \text{ noz.}) \times 0.00223 = \underline{1.94 \text{ cfs}}$

Pipe Capacity

8" PVC = 1.74 cfs

⊗ due to 8" pipe capacity, I would estimate the psi to be even lower to meet the full capacity of the pipe



63-32022 + 63-32023 Allen
10/11/2006 S.H.

- = 63-32022 POD
- = 63-32023 POD
- = 63-32022 POU
- = 63-32023 POU
- = hillside (not irrigated)

SOIL Test

A
F
C

454-7013
941-3478 Cell

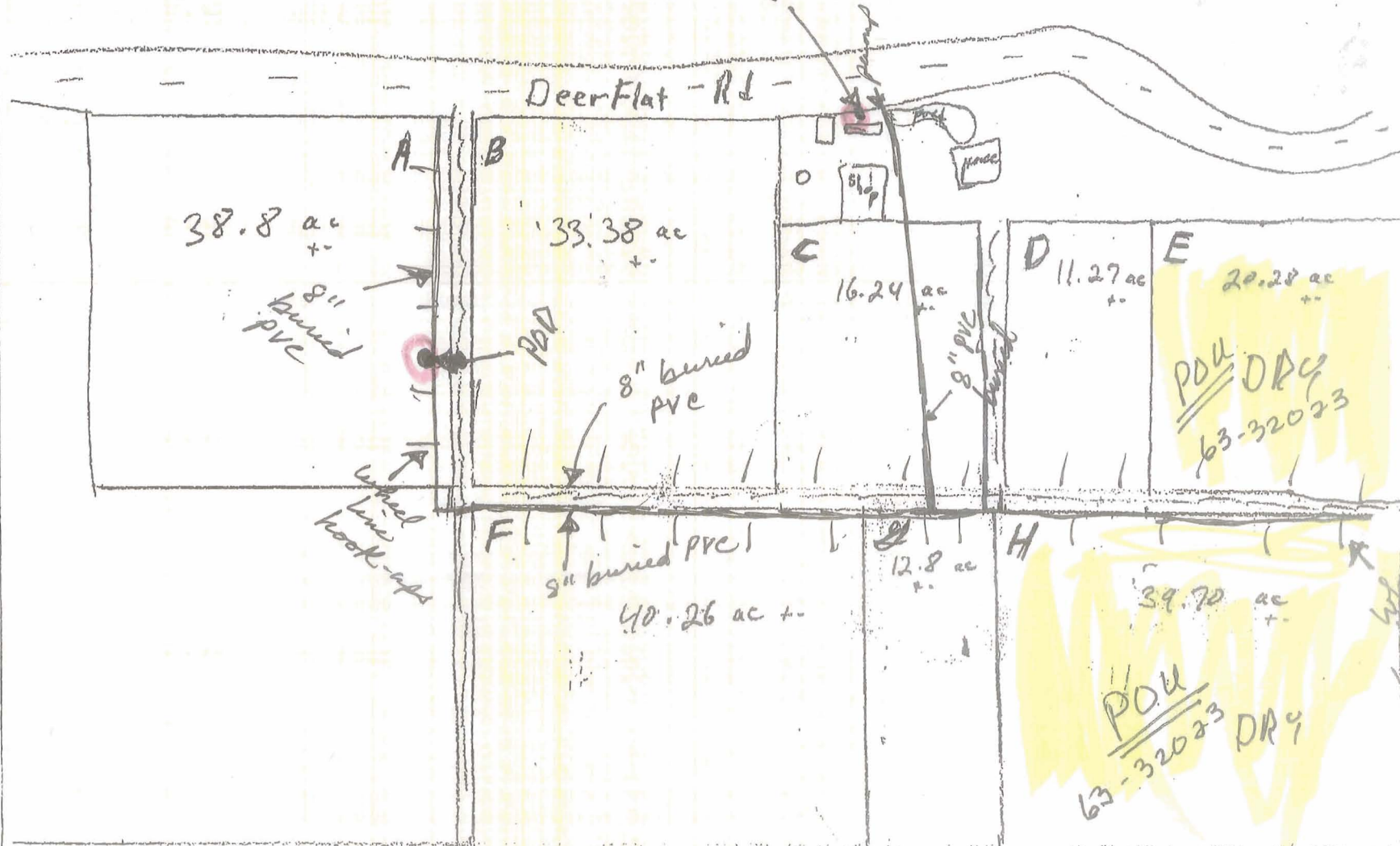
Allen + Allen

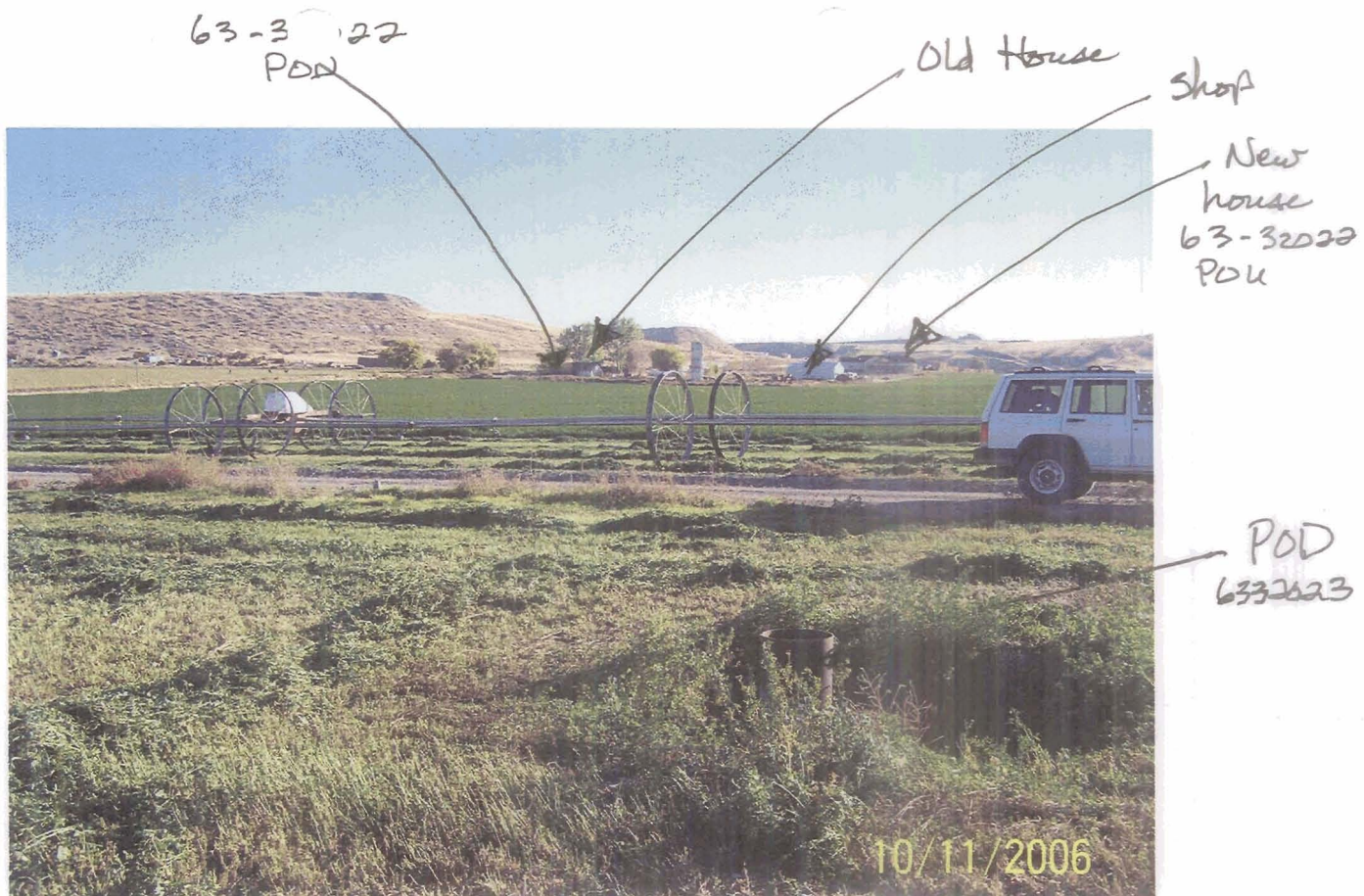
N
+
S
W
+
E

P/L P&P

B
D
L

63-32022 + 63-32023 Allen
10/11/2006 SK





63-32023 Allen
10/11/2006 SH



Control
box
with
unknown
size buried
line from
turbine
pump at
pond from
Wilder
Irrigation



POU

wheel-
line

POU

3' risers
w/ hook ups
for
wheel line

8"
buried
PVC

63-32023 Allen
10/11/2006 SH



6 lines w/
(30) 1/64 nozzles
run at one
time w/ average
pressure 30-40 psi
Wheel line

8"
buried PVC
w/ 3' risers
+ hook-ups
for wheel line

10/11/2006



POU
Looking
down at
them from
the hill
to the
northeast

10/11/2006

63-32023 Allen
10/11/2006 SH

1st house (63-32022)



turbine
pump
for
Wilder
Irr.
pond

head
gate for
Wilder
Irrigation



screened
intake
to pump
(Wilder
Irr. water)

63-32023 Allen
10/11/2006 SH

GROUNDWATER THEORETICAL ANNALYSIS

FILE: 63-32023 Allen

DATE: 10/11/2006

BY: Sandy Hemenway

THEORETICAL RATE OF FLOW: $Q = \frac{(8.8 \times (HP) \times (EFF.))}{TDH}$

Q = CFS

HP = Total Brake Horsepower of pumping plant (including booster)

Eff. = Pumping plant efficiency (assume 70% or 0.70)

TDH = Total dynamic head = [(LIFT) + (PSI X 2.31)]

LIFT = Depth to water in FEET from land surface to pumping water level 4' static + 10 = 14' lift

PSI = Pumping pressure measured in PSI near pump (if open discharge assume [0] 40psi (est. w/irr. std. being 40psi, since no gauge))

$$Q = \frac{(8.8 \times (10) \times (0.70))}{[(14') + (40 \times 2.31)]} = \frac{61.6}{106.4} = 0.58 \text{ cfs}$$

LIFT FROM:

Measurement ☒

Owner ()

Area estimate ()

Well Logs ()

Booster (Y) ☒

PSI FROM:

Measurement ()

Owner ()

Estimate (X)

Owner Gage ()

NOTES ON PUMP:

Motor Make, Serial or ID

No tag

Pump Make, Serial or ID, rating

No tag

REMARKS: 12" casing, 4' static, 60-70' deep;
no gauge so going w/ irrigation standard for
pressure of 40 psi

Discharge size unknown, so assuming 8" since
pipe converts to 8" PVC.

FIELD EXAM REQUEST

Water Right No. 63-32022 and 63-32023

Claimant: David and Gayle Orcutt

POD:

What is the capacity of the well

Verify location of well – mark any corrections on map

POU:

Verify POU – mark any corrections on map

Verify irrigated acres

PONDS:

None (filled w/ Wilder Irrigation while irrigating then pumped w/ turbine pump to pressurized system)

EVIDENCE OF PRIORITY:

I have evidence in file

OTHER QUESTIONS:

Are they using any surface water Wilder Irr.

Are these two right tied together into one system

63-32022 D1 internal/ext.
+ stockwater (1 pr. cattle)

63-32023 irrigation
(supplemental source, since
Wilder Irrigation is their
primary source)

RETURN TO SANDY E.

5-4-06-DM

New owners may be Reallen LLC
2878 S Benecia Way
Nampa 83687

Hemenway, Sandy

From: Hemenway, Sandy
Sent: Wednesday, September 20, 2006 7:09 AM
To: 'Jo Beeman'
Cc: Hemenway, Sandy
Subject: RE: field exam for SRBA claims A63-32022 and A63-32023

Jo,

Thank you for sending copies of the Ownership Change. I spoke with Richard Allen yesterday, and have received permission from him to conduct the inspection. I have left a voice mail with Norm Young at 208-373-7983 x303, to arrange an appointment for him to accompany me with the inspection.

Thank you again for all your help.

Sincerely,

Sandy Hemenway

-----Original Message-----

From: Jo Beeman [mailto:jo.beeman@beemanlaw.com]
Sent: Tuesday, September 19, 2006 4:51 PM
To: Hemenway, Sandy
Cc: Norm Young (ERO); Joyce Angell (B&A); Office Beeman
Subject: field exam for SRBA claims A63-32022 and A63-32023

Sandy,

I expect to hear from Richard Allen tomorrow, now that he will have the email I sent him September 7, but sent to the wrong email address. When Richard and I spoke today he was not at home, so he should find your phone message when he returns. Again, I am sorry for the delay this has caused and I appreciate your call to me as well.

I have attached the Change in Ownership we filed for SRBA claims A63-32022 and A63-32023 after REALLEN, LLC purchased the property from Dave and Gayle Orcutt. Richard Allen is the contact for REALLEN, LLC. I believe the address is correct, but the home phone is 461-2154.

From your review of the files, you can see that Norm Young and I prepared and filed the SRBA claims for the Orcutts while they owned the place of use. REALLEN then asked that we carry forward the same work on its behalf.

Mr. Allen will be talking with me about who he wants to accompany you for the field exam, so I expect to be in touch with you soon.

Jo

Josephine P. Beeman
Beeman & Associates, P.C.
Phone: 208-331-0950
Fax: 208-331-0954
jo.beeman@beemanlaw.com

CONFIDENTIAL NOTICE: This transmission is intended only for the use of the individual(s) named as recipients. It may contain information that is privileged, confidential and/or protected from disclosure under applicable law including, but not limited to, the attorney client privilege and/or work product doctrine. If you are not the

9/20/2006

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.

1. 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.

<u>Water</u>	<u>Adjudication</u>		<u>Water</u>	<u>Adjudication</u>	
<u>Right No(s).</u>	<u>Claim No(s).</u>	<u>Split</u>	<u>Right No(s).</u>	<u>Claim No(s).</u>	<u>Split</u>
	A63-32022				
	A63-32023				

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

A. The appropriate **FILING FEE**. See instructions for fee amounts. **NO FILING FEE IS REQUIRED**

B. 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**.

C. 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**. **AN AERIAL PHOTO WAS SUBMITTED WITH SRBA CLAIMS 63-32022 and 63-32023.**

- | | |
|---|--|
| 3. Name and Address of Former Owner/Claimant(s) | David R. and/or Gayle Orcutt
16755 Deerflat Rd
Caldwell, ID 83605 |
| 4. New Owner/Claimant(s) | REALLEN, LLC
c/o Richard E. Allen
2878 S. Benecia Way
Nampa, ID 83686
(208) 888-5511 |
| 5. Date you acquired the property | March 01, 2005 |

4-21-06
Already to Jeff
Repressable, Notice
of Change should
just have SRBA
claims. Replied with
just SRBA claims.

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) Richard E Allen 2-28-06
(include title if applicable) Richard E. Allen, Owner, REALLEN, LLC

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 _____
Received by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

APR. 13. 2005 2:38PM

NO. 938 P. 2/4

PN 83760

INSTRUMENT NO. 200510709

WARRANTY DEED

FOR VALUE RECEIVED DAVID R. ORCUTT and GAYLE S. ORCUTT,
husband and wife

the Grantors, do hereby grant, bargain, sell and convey unto REALLEN, LLC

the Grantee, whose address is 2878 So. Beneficia Way, Nampa, ID 83687

the following described premises, to-wit:

SEE ATTACHED LEGAL DESCRIPTION

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever; And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances; except for general taxes and assessments for the year 2005 and subsequent years, covenants, conditions, restrictions and easements of record; and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: March 1, 2005

DAVID R. ORCUTT

GAYLE S. ORCUTT

STATE OF IDAHO

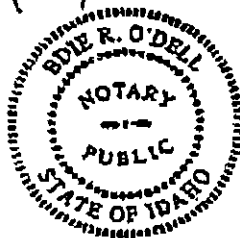
COUNTY OF CANYON

On this 1st day of MARCH, 2005, before me, a notary public, personally appeared DAVID R. ORCUTT AND GAYLE S. ORCUTT, known or identified to me to be the person(s) who(we) name(s) were subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

Notary Public

Residing at Nampa, ID

My commission expires: 4/17/2009



REQUEST
TYPE: Warranty
PIONEER - NAMPA

U NOEL HALLS
CANYON CITY RECORDER
or *[Signature]*

25 MAR 1 PM 11 20

RECORDED

200510709

PIONEER TITLE COMPANY
OF CANYON COUNTY

100 10TH AVE SOUTH
NAMPA, IDAHO 83651

423 SOUTH KIMBALL
CALDWELL, ID 83605

APR. 13. 2005 2:38PM

NO. 938 P. 3/4

PN83760

The Northeast Quarter of the Northeast Quarter of Section 19, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM an easement for a private road in the width of 20 feet along the entire West side thereof.

AND

The West Half of the Northeast Quarter and all of the Northwest Quarter and the North Half of the Southeast Quarter of Section 20, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM all that portion lying North of the County road, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho.

FURTHER EXCEPTING THEREFROM

COMMENCING at the Northwest corner of said Section 20; thence

North 89° 34' 33" East along the Northerly boundary of said West Half of the Northwest Quarter a distance of 1,077.34 feet, said point being the TRUE POINT OF BEGINNING; thence continuing along said Northerly boundary

North 89° 34' 33" East a distance of 408.48 feet; thence

South 00° 04' 10" West a distance of 20.98 feet; thence

South 54° 05' 29" East a distance of 60.52 feet; thence

South 60° 37' 51" East a distance of 68.55 feet; thence

South 54° 25' 29" East a distance of 44.20 feet; thence

South 37° 50' 41" East a distance of 25.17 feet; thence

South 24° 55' 07" East a distance of 37.67 feet; thence

South 19° 08' 14" East a distance of 225.79 feet; thence

South 89° 34' 33" West parallel to the said Northerly boundary of the West Half of the Northwest Quarter a distance of 656.97 feet; thence

North 00° 04' 10" East to a point on the said Northerly boundary of the West Half of the Northwest Quarter a distance of 385.01 feet, said point being the TRUE POINT OF BEGINNING.

AND FURTHER EXCEPTING THEREFROM

A parcel of land being the East 560 feet of the West Half of the Northeast Quarter lying South of Deer Flat Road and all of the North Half of the Southeast Quarter, Section 20, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho, said parcel being more particularly described as follows:

COMMENCING at the Brass Cap marking the Quarter corner common to Sections 17 and 20, Township 2 North, Range 3 West, Boise Meridian, Canyon County; thence

North 89° 22' 00" East 2,640.00 feet to an iron pin marking the corner common to said Sections 20 and 17, and Sections 16 and 21; thence

South 00° 02' 23" East 2,649.26 feet to the Brass Cap marking the Quarter corner common to said Sections 20 and 21, said point being the POINT OF BEGINNING; thence

South 00° 02' 25" East 1,324.79 feet to the Brass Cap marking the South One-

APR. 13. 2005 2:38PM

NO. 938

P. 4/4

Red
412.0

Sixteenth corner common to said Sections 20 and 21; thence
South 89° 18' 45" West 2,635.86 feet to the Aluminum Cap marking the Center-South
One-Sixteenth corner of said Section 20; thence
North 00° 05' 33" West 1,325.64 feet to the Brass Cap marking the Center Quarter
corner of said Section 20; thence
North 89° 19' 52" East 758.53 feet along the Latitudinal Centerline to an iron pin;
thence
North 00° 52' 11" West 2,375.51 feet to the right-of-way of Deer Flat Road; thence
North 59° 38' 07" East 554.10 feet along said right-of-way to an iron pin on the
North line of said Section 20; thence
North 89° 22' 00" East 114.61 feet to an iron pin marking the East One-Sixteenth
corner common to said Sections 17 and 20; thence South 00° 04' 19" East 2,650.07 feet
to an iron pin marking the Center-East One-Sixteenth corner of said Section 20; thence
North 89° 19' 52" East 1,318.53 feet to the POINT OF BEGINNING.

PARCEL II

COMMENCING at the Northwest corner of said Section 20; thence
North 89° 34' 33" East along the Northerly boundary of said West Half of the
Northwest Quarter a distance of 1,077.34 feet, said point being the TRUE POINT OF
BEGINNING; thence continuing along said Northerly boundary
North 89° 34' 33" East a distance of 406.48 feet; thence
South 00° 04' 10" West a distance of 20.88 feet; thence
South 54° 05' 29" East a distance of 60.52 feet; thence
South 60° 37' 51" East a distance of 68.55 feet; thence
South 54° 25' 29" East a distance of 44.20 feet; thence
South 37° 50' 41" East a distance of 25.17 feet; thence
South 24° 55' 07" East a distance of 37.67 feet; thence
South 19° 08' 14" East a distance of 225.79 feet; thence
South 89° 34' 33" West parallel to the said Northerly boundary of the West Half of
the Northwest Quarter a distance of 656.97 feet; thence
North 00° 04' 10" East to a point on the said Northerly boundary of the West Half
of the Northwest Quarter a distance of 385.01 feet, said point being the TRUE POINT OF
BEGINNING.



05/02/2006

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

RIGHT NUMBER: 63-32023

NAME AND ADDRESS: REALLEN, LLC
C/O RICHARD E. ALLEN
2878 S. BENEZIA WAY
NAMPA ID 83686

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.920 CFS

PRIORITY DATE: 03/01/1959

POINT OF DIVERSION:

T02N R03W S19 NENENE Within CANYON County

T02N R03W S19 SENENE Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

0.920 CFS

PLACE OF USE: IRRIGATION Within CANYON County

T02N R03W S20	NWNE	15.00	T02N R03W S20	SWNE	11.00
---------------	------	-------	---------------	------	-------

T02N R03W S20	NENW	15.00	T02N R03W S20	SENW	5.00
---------------	------	-------	---------------	------	------

46 ACRES TOTAL

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

Water is commingled in a single pressurized sprinkler system irrigating 225 acres using groundwater and Wilder Irrigation District water (159.09 acres entitlement). Installation of the single, farmwide sprinkler system began in late 1976.

Prior to 1977 groundwater from this well was applied to land near the well within Wilder Irrigation District in exchange for canal water pumped onto the lands claimed herein. The pump applying water from the irrigation district to the lands listed herein was located in the NENW Sec. 20, T2N, R3W.

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 -



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

May 2, 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

REALLEN, LLC
C/O Richard E. Allen
2878 S. Benecia Way
Nampa, ID 83686

Notice of Claim to a Water Right No. 63-32022, 63-32023

Dear Claimant(s):

Enclosed is a copy of the above referenced claim(s), which reflect the change in ownership of the land and appurtenant water rights, covered under the original filing.

Please note that the enclosed Notice of Claim to a Water Right is not a final determination of your water right. This claim was filed during claims taking in the Snake River Basin Adjudication (SRBA) and has not yet been verified by this Department. Water rights are established and maintained by beneficial use of water for the uses designated on this claim form dating back to the priority date listed. This claim will be investigated, verified and recommended to the SRBA Court for court decree sometime in the near future. You will be notified prior to the beginning of any verification of this water right.

Thank you for your patience and cooperation, as we have had several water right changes to process. If you have any questions concerning the enclosed information, please feel free to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Liberty Gagnon".

Liberty Gagnon
Office Specialist 1
Adjudication Section
Western Region Office

LG: lg

Enclosure

**IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM POU REVIEW REPORT
ADJUDICATION CLAIM NUMBER: 63-32023**

02/21/2006

1

Right #	Type	Twp	Rge	Sec	QQ	Q	Lot	Purpose of Use	Acres/Total	Name
32023	Claim	02N	03W	20	NW	NE		IRRIGATION	15/46	DAVID R ORCUTT
32022	Claim	02N	03W	20	SW	NE		IRRIGATION	12/20	DAVID R ORCUTT
32023	Claim	02N	03W	20	SW	NE		IRRIGATION	11/46	DAVID R ORCUTT
32023	Claim	02N	03W	20	NE	NW		IRRIGATION	15/46	DAVID R ORCUTT
28871	Water Right	02N	03W	20	NE	NW		DOMESTIC		GAYLE ORCUTT
32023	Claim	02N	03W	20	SE	NW		IRRIGATION	5/46	DAVID R ORCUTT

BEEMAN & ASSOCIATES, P.C.

Counselors and Attorneys at Law
409 West Jefferson Street
Boise, Idaho 83702-6049

Josephine P. Beeman
jo.beeman@beemanlaw.com

Phone (208) 331-0950
Fax (208) 331-0954
office@beemanlaw.com

January 6, 2005

RECEIVED

JAN 10 2005

WATER RESOURCES
WESTERN REGION

John Westra
Regional Manager, Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: David R. and Gayle S. Orcutt
SRBA Claims and December 30, 2004 Ground Water Application

Dear John:

This letter provides a detailed listing of the three ground water right filings that were hand-delivered to your office on December 30, 2004. The letter is in triplicate so that it may be included in each file.

All three filings are related to ground water irrigation of 66 acres at the farm owned by Dave & Gayle Orcutt. Two SRBA claims address the historic development of 66 acres of ground water irrigation. The companion December 30, 2004 Application for Permit has been filed and is sought to document authorized ground water irrigation while the two SRBA claims are under review by IDWR and the SRBA court. SRBA decrees would replace the 2004 ground water application.

This history is explained in more detail in the nine-page summary that accompanies the ground water application, the two-page timeline that accompanies the two SRBA claims, and the chart entitled "Determination of Irrigated Acres for Orcutt Claims" that is attached to each of the filings. Those explanatory documents are also enclosed with this letter.

THE FILINGS

1. December 30, 2004 Application for Permit to appropriate .92 cfs of ground water for irrigation of 66 acres, including a project map, a chart entitled "Determination of Irrigated Acres for Orcutt Claims," nine (9) pages of information prepared by Norm Young of ERO Resources, and a Request to Process.

2. Notice of Claim to a Water Right in the Snake River Basin Adjudication for .92 cfs of ground water to irrigate 46 acres, with priority date of March 1, 1959, including two maps, a chart entitled "Determination of Irrigated Acres for Orcutt Claims," and 41 pages of attachments. The attachments are comprised of the following:

- (a) A timeline;
- (b) Four (4) aerial photographs of the Dave & Gayle Orcutt farm (dated 1957, 1964, 1969, and 1987) (page 9 of 41 is undated Farm Services Administration information confirmed by the 1969 aerial photo);
- (c) Two (2) Warranty Deeds: Giese to Marchbanks, dated December 3, 1958, and Marchbanks to Tarp, dated February 8, 1961;
- (d) Two (2) Agreements: (1) Between McKay and Bledsoe, dated April 2, 1973, and (2) between Bledsoe and Svaty, dated June 2, 1976; and
- (e) Five (5) Affidavits: David Orcutt, Norman Svaty, Bob Gibbens, Tom Conroy, and John Conroy.

3. Notice of Claim to a Water Right in the Snake River Basin Adjudication for .4 cfs of ground water to irrigate 20 acres, with priority date of March 1, 1977 (limited to a diversion rate of .92 cfs when combined with the 1959 SRBA claim), including two maps, a chart entitled "Determination of Irrigated Acres for Orcutt Claims," and 41 pages of attachments. The attachments are comprised of the following:

- (a) A timeline;
- (b) Four (4) aerial photographs of the Dave & Gayle Orcutt farm (dated 1957, 1964, 1969, and 1987) (page 9 of 41 is undated Farm Services Administration information confirmed by the 1969 aerial photo);
- (c) Two (2) Warranty Deeds: Giese to Marchbanks, dated December 3, 1958, and Marchbanks to Tarp, dated February 8, 1961;
- (d) Two (2) Agreements: (1) Between McKay and Bledsoe, dated April 2, 1973, and (2) between Bledsoe and Svaty, dated June 2, 1976; and
- (e) Five (5) Affidavits: David Orcutt, Norman Svaty, Bob Gibbens, Tom Conroy, and John Conroy.

John Westra, IDWR Western
Re: Orcutt 12/30/04 Filings
January 6, 2005
Page 3

THE FILING FEES

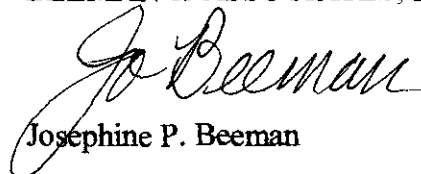
A check for \$416 (signed by David R. Orcutt) accompanied the filings and has been receipted by IDWR (Receipt #W032491). The \$416 fee was calculated based on the statutory requirements listed below:

- | | | |
|----|--|--------------|
| 1. | Application for .92 cfs of ground water irrigation
(see Idaho Code § 42-221.A.2) | \$250 |
| 2. | SRBA Claim for 46 acres of ground water irrigation
(see Idaho Code §§ 42-1414(1)(a)(ii) and (b)(i)) | \$116 |
| 3. | SRBA Claim for 20 acres of ground water irrigation
(see Idaho Code §§ 42-1414(1)(a)(ii) and (b)(i)) | <u>\$ 70</u> |
| | | <u>\$416</u> |

Please feel free to contact me if you have any questions.

Sincerely,

BEEMAN & ASSOCIATES, P.C.


Josephine P. Beeman

JPB:ja
Enclosures
cc: Dave & Gayle Orcutt
Norm Young (ERO)
Z:\3041\6529

**INFORMATION TO ACCOMPANY AN APPLICATION FOR PERMIT
FILED BY DAVID R. AND GAYLE ORCUTT
TO DIVERT AND USE GROUND WATER
FROM A WELL IN CANYON COUNTY, IDAHO**

**SUBMITTED TO
WESTERN REGION
IDAHO DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705-5082**

**PREPARED BY
NORM YOUNG, P.E.
ERO RESOURCES CORPORATION
1106 NORTH COLE ROAD
BOISE, IDAHO 83704
TELEPHONE 208-373-7983
nyoung@eroresources.com**

DECEMBER 22, 2004

DESCRIPTION OF THE ORCUTTS' FARMING OPERATION

1. A family farm operated by the Orcutts for nearly 30 years. David and Gayle Orcutt own and operate a family farm located in southern Canyon County about four miles south of Lake Lowell. Most of the farm is within Wilder Irrigation District and receives irrigation district water through the Stewart Lateral. The Orcutts have lived on and operated the farm since moving to the property in 1976.
2. Production of diversified irrigated crops. The Orcutts and their predecessors on the farm have grown a variety of irrigated crops. Alfalfa, irrigated pasture, potatoes, corn, small grains, sugar beets, mint and various seed crops have been produced. The original patchwork of fields has changed during the time that the Orcutts have owned the property as field leveling, use of sprinkler systems and relocating and burying portions of the Stewart Lateral have increased the size of fields while reducing their number and altering the field shapes to a more regular pattern.
3. Size and location. At the present time approximately 225 acres are irrigated using a single irrigation system. At the point the Stewart Lateral enters the farm, water from the lateral is diverted into a small re-regulating pond. Two pumps powered by electric motors (75 hp and 25 hp) lift water from the pond to a buried, pressurized mainline system that serves the entire irrigated portion of the farm. Wheel line and hand line sprinklers are used to apply water on all of the fields.
4. Isolated location of the farm. The Orcutts' farm is located in a relatively isolated valley on the north side of Pickles Butte on the southern end of the Wilder Irrigation District (See Attachment 1). A steep hillside borders the south edge of the farm leading up to a plateau having an elevation generally 400 to 500 feet higher than the Orcutts' property. An extensive part of this plateau located to the south and southeast of the Orcutts was developed for irrigation in the 1960's through high lift pumping of Snake River water. To the north of the valley, the ridgeline that includes Cucumber Butte provides separation from an area around Lake Lowell that is several hundred feet higher in elevation than the Orcutts' farm. The valley slopes gradually to the west/northwest to the Snake River located about 2 miles west of the Orcutt property.

INTENT AND PURPOSE OF THE APPLICATION FOR PERMIT

1. Changes in Wilder Irrigation District Deliveries. Earlier this year, Wilder Irrigation District notified the Orcutts of the irrigation district's determination that only 159.09 acres of the farm would be allowed to be irrigated using water supplied by the district and that after the 2004 irrigation season the district would be taking action to control use of water on lands not authorized to use district water. About 66 acres of land located up gradient from the historic location of the Stewart Lateral (which has been buried across the applicants' ranch since about 1977) now irrigated by the Orcutts have been identified as not eligible to continue

to receive project water. Most of the ineligible land was already irrigated prior to the Orcutts purchasing the property. Ground water from the well identified in this application (the applicants believe it was constructed in 1959) has been used as a source of water for these lands through exchange with irrigation district water.

2. Ground water claims in the SRBA. The Orcutts are filing claims in the SRBA to seek recognition of a right to use ground water on these lands. One claim asserting a priority date of 1959 for 0.92 cfs for irrigation of 46 acres seeks a right based upon diversion and beneficial use of ground water. A second claim asserting a 1977 priority date for irrigation of 20 acres seeks a right based upon an enlargement in use of the first claimed right pursuant to Section 42-1426, Idaho Code.
3. Why the application is being filed. The reason for filing this application at this time is to assure that irrigation of the entire farm can continue pending the determination of the SRBA court on the claims described above. When the rights asserted through the claims are validated, the permit or license issued based upon this application will be relinquished.

DESCRIPTION OF THE GROUND WATER RESOURCES IN THE AREA

1. Description of the Orcutts' well. The well that will be used to divert the water sought in this application was reportedly constructed in 1959. A driller's report has not been located for the well. The well is cased with a 12-inch diameter steel casing to above land surface. It was reportedly constructed to a depth of 60 to 70 feet. The depth of the well was sounded in August 2004 at about 45 feet so the well may have sloughed in below the casing. The well reportedly encountered a layer or layers of coarse sand and/or gravel allowing adequate water to be diverted for irrigation of about 46 acres near the well.
2. Aquifers in the area. There are about 35 driller's reports on file at IDWR for wells drilled within about 1 to 1 ½ miles of the existing well covered by this application. The reports indicate that wells drilled outside of the isolated valley within which the Orcutt farm is located encounter clay (usually blue, sometimes brown) or other fine grained unconsolidated material or consolidated clay or sandstone materials. These materials are usually identified as part of the Idaho Formation. Domestic wells constructed in these materials in this area are usually more than 500 feet deep with some more than 1000 feet deep to obtain an adequate supply for a single home. The same is true of some wells drilled within the isolated valley, but some wells encounter layers of sand or other coarse material allowing adequate water for domestic, and in some cases larger, uses at depths of 200 feet or shallower. The water, even in the deeper wells, is described as cold and of "good" quality. Water in the deeper wells is usually under some pressure, rising above the level first encountered, but not flowing at the surface. Static water levels in the deeper wells are usually several hundreds of feet below

land surface. Static water level in the shallower wells that encounter sand layers is usually less than 50 feet below land surface.

3. Source of ground water. The near surface sources obtained by Orcutts' well, as it is now constructed, are not directly connected to the water sources in the deeper, more areally-extensive aquifers. The extensive clay formations and other fine-grained materials underlying the isolated valley and encountered in wells in the surrounding higher elevations separate the ground water sources available in the shallower sand and gravel layers from the limited sources generally available once the clay layers are penetrated. This application seeks to appropriate water from the sand and gravel layers encountered within the well as now constructed . from about 20 feet to 70 feet below land surface. Based upon the driller's reports for nearby wells, it appears unlikely that significantly more water will be obtained by extending the well into the thick clay layers underlying the sand and gravel zones.
4. Direction of ground water flow. Attachment 2 is a map showing ground water contours for the lower Boise Valley. This map is the relevant portion of a map of ground water levels for the Boise Valley published as Plate 5 in Water Supply Paper 1376, *Feasibility of Ground-Water Features of the Alternate Plan for the Mountain Home Project Idaho*, US Geological Survey, 1957. This map shows that a "ground-water divide" exists south and southwest of and paralleling the southwest shore of Lake Lowell. Ground water north and east of this divide is eventually tributary to the Boise River. Ground water south and west of the divide flows toward the Snake River. This application seeks ground water from a location about two miles southwest of this ground water divide that is moving toward Snake River. Because of the steep gradient of the ground water surface, the potentiometric head of ground water at the location of the Orcutts' well is nearly 200 ft lower than at the divide. The potentiometric surface depicted on the attached map likely is intended to track water levels associated with aquifers that are continuous throughout the area. Because the ground water encountered in the near surface sand and gravel layers in the isolated valley containing Orcutts' farm is apparently separated from the deeper regional sources by the thick clay layers, the direction of flow in these layers may not match that shown on the regional map. However, because of the steep terrain surrounding the isolated valley on the north, east and south, the direction of ground-water flow in shallow sand and gravel zones will follow the surface topography sloping northwest and westward to the Snake River.
5. Ground-water level trends. Attachment 3 is a map showing changes in ground-water levels in the Boise Valley from about 1970 to 2000. The map was prepared by Idaho Water Resource Research Institute as part of a progress report on the Treasure Valley Ground Water Investigation. The map shows that significant declines have occurred in the area just to the east of the applicants' location. However, these data represent conditions observed in the regional aquifer system and the declines are normally attributed to the extensive ground water use in the

Dry Lake area. Water levels have not changed significantly in the shallow sand and gravel zones from which water is diverted by the Orcutts' well. The water level at the time the well was constructed and first used 45 years ago was about 5 feet below land surface. In late August 2004, the level in the well was measured at about 15 feet below land surface.

6. Potential impact of pumping on Boise River and tributaries. The proposed diversion of ground water will not affect the flow of the Boise River or its tributaries. The location of the well is such that whether or not the water is diverted and used as proposed in this application, it would not enter the Boise River. Pumping of a well constructed to take water from the sand and gravel layers above the deeper regional aquifers will not change the location of the ground water divide associated with the deeper aquifers.
7. Productivity of wells in the area. As herein noted, productive wells can be constructed in the near surface sand and gravel layers. Wells extended into the deeper regional system have not usually been adequate to supply more than domestic uses.

APPLICATION OF THE STATUTORY CRITERIA FOR OBTAINING A WATER RIGHT

1. Adequacy of water supply. The adequacy of the ground water sources to supply the requested use is demonstrated by the construction and use of the existing well. It reportedly produced several hundred gallons per minute using a tractor-mounted, PTO driven pump that allowed the pumping level to be drawn down only a few feet.
2. Injury to other rights. Ground water has been diverted and used for irrigation previously at this location. The applicant is not aware of any allegations of interference with other uses of other surface and ground water. As previously noted, the source is not associated with use of water tributary to the Boise River and the ultimate effect of using water from the well is likely a de minimis depletion in the gain to Snake River.
3. Speculation or delay. The application is not made for speculation or delay. The well is in existence, the delivery system is in place, and ground water is needed as an immediate replacement for lost supplies from Wilder Irrigation District that have been used to irrigate all of the proposed place of use until the 2004 irrigation season.
4. Financial ability. Because the well and irrigation system are in place, the cost of cleaning, deepening and modifying the well and installing a permanent pump to supply the water needed is relatively small compared to the value of the irrigated farm. The financial impact of failing to obtain a source of water for the lands

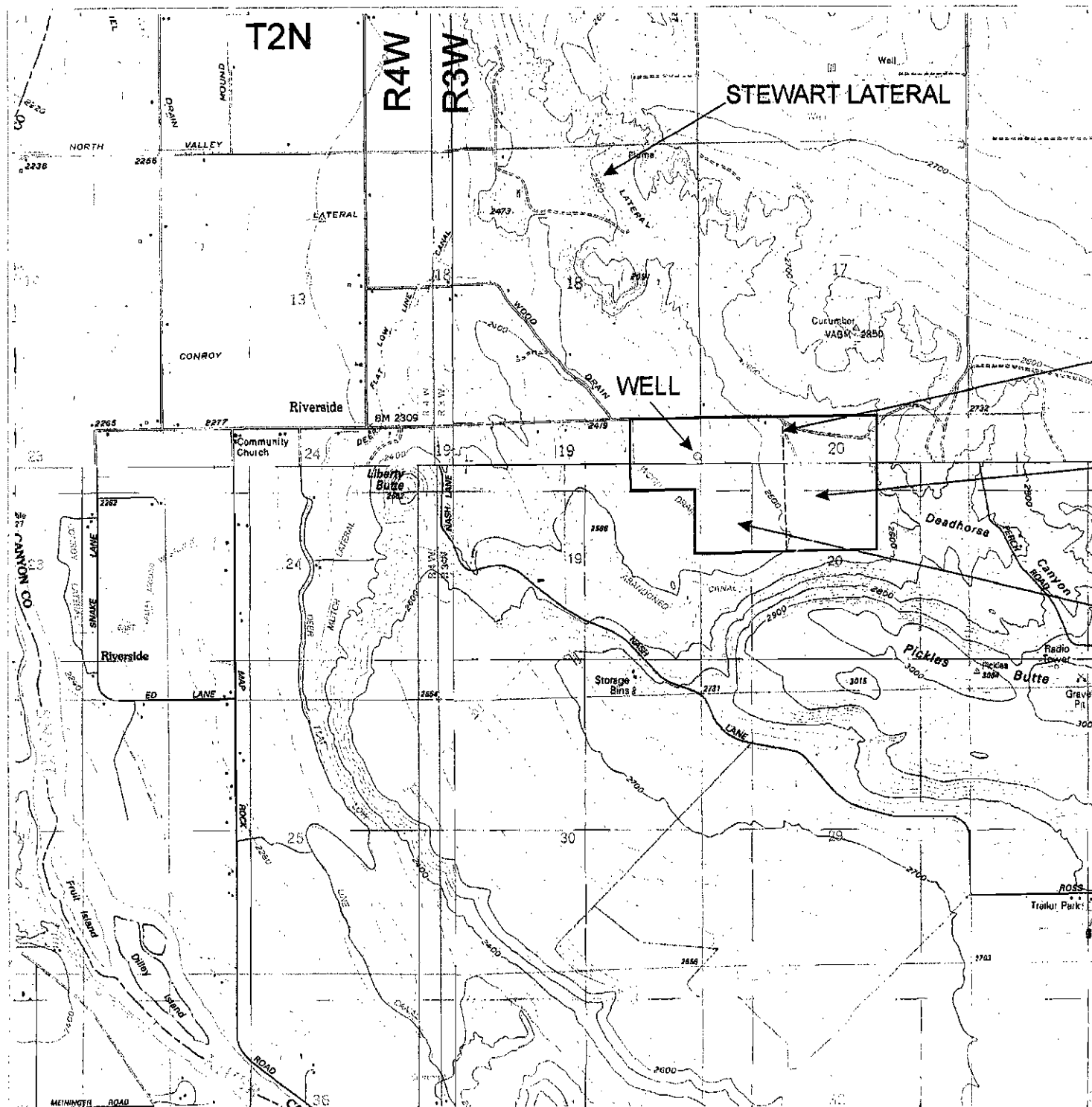
found to be ineligible to continue to receive Wilder Irrigation District water is much larger than the cost to obtain and use water from the well.

5. Local public interest. Section 42-202B(3), Idaho Code, defines “local public interest” as “the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource.” The proposed use of water to maintain the production and economic viability of the Orcutts’ farming operation is in the local public interest. The public water resource will not be adversely affected by continuing the existing agricultural use.
6. Conservation of water. The irrigation system on the Orcutt property is designed and operated to conserve water and electrical energy. The buried mainlines presently in use on the Orcutts’ farm allow water to be conveyed to the fields requiring irrigation without conveyance loss. The wheel line systems used to apply water are equipped with low-pressure sprinkler heads and spray heads to minimize the amount of water required to meet the needs of the crop.

REQUEST FOR IMMEDIATE PROCESSING OF THE APPLICATION

1. Hold on processing of applications affecting Boise River and tributaries. Expedited processing (i.e., without the application being held in the queue awaiting processing under the administrative hold affecting filings associated with the Boise River and tributaries) is requested because of the applicants’ need for authorization to divert and use water for the 2005 season. The applicants will suffer a significant economic loss if the 66 acres not eligible to receive Wilder Irrigation District water do not have a source of water to allow irrigated crops to be produced. This represents nearly 30 percent of the applicants’ irrigated farming operation. As noted herein, the application can be distinguished from other applications being held in Basin 63 because the ground water sought in the application is not tributary to Boise River or its tributaries and diversion and use as proposed in the application will not affect water flows in or to Boise River or its tributaries. In addition, the application seeks water for land that has been irrigated for decades.
2. Agreement to mitigate for loss in flow in lower Snake River. Submitted with the application is IDWR’s standard form providing the applicants’ agreement to provide mitigation as determined necessary to replace the loss in flow in the Snake River needed for ESA-listed anadromous fish.

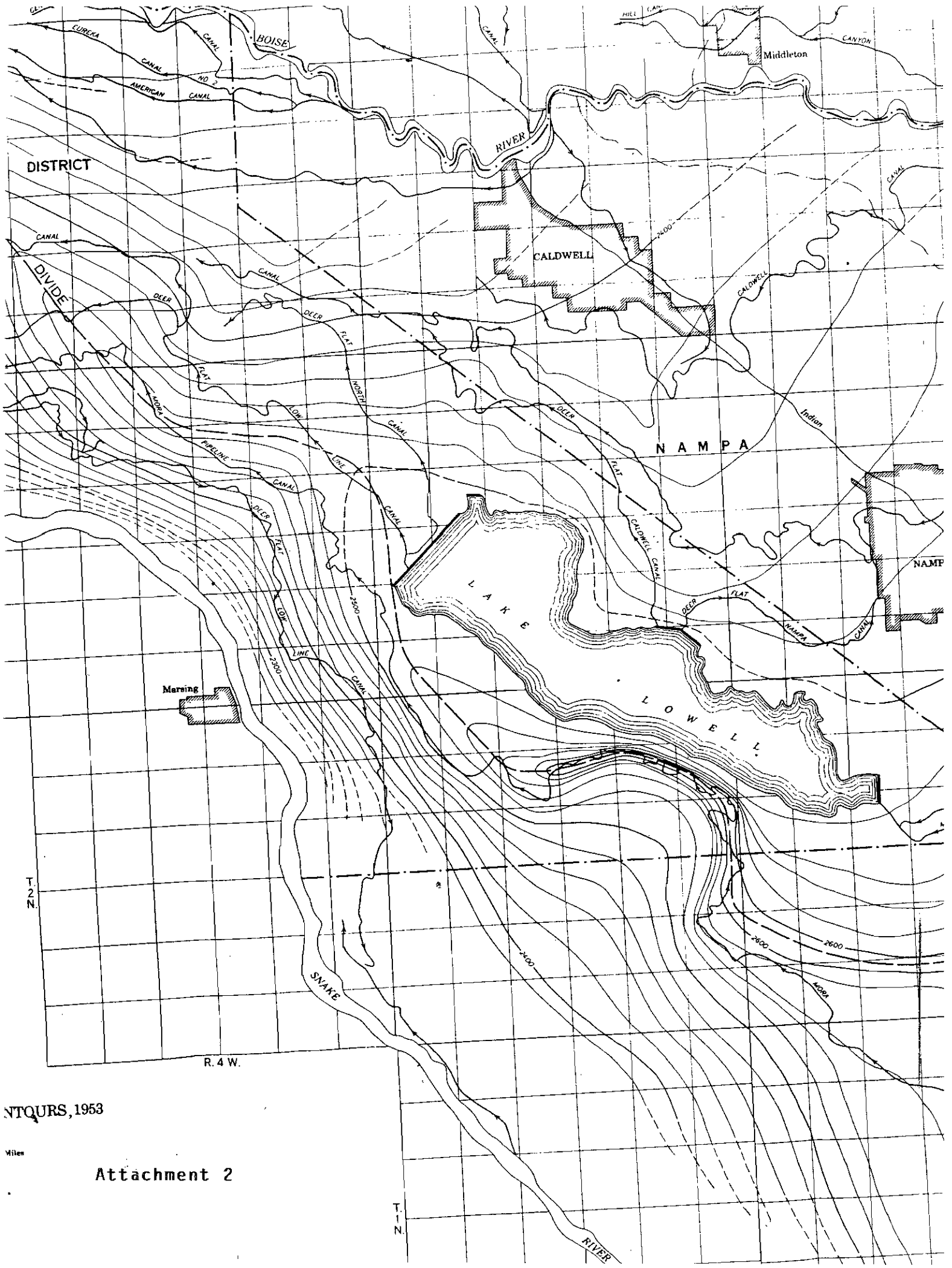
Z:\3041\6527



BURIED-PIPED CANAL

ABANDONED CANAL

ORCUTT IRRIGATED FARMLAND



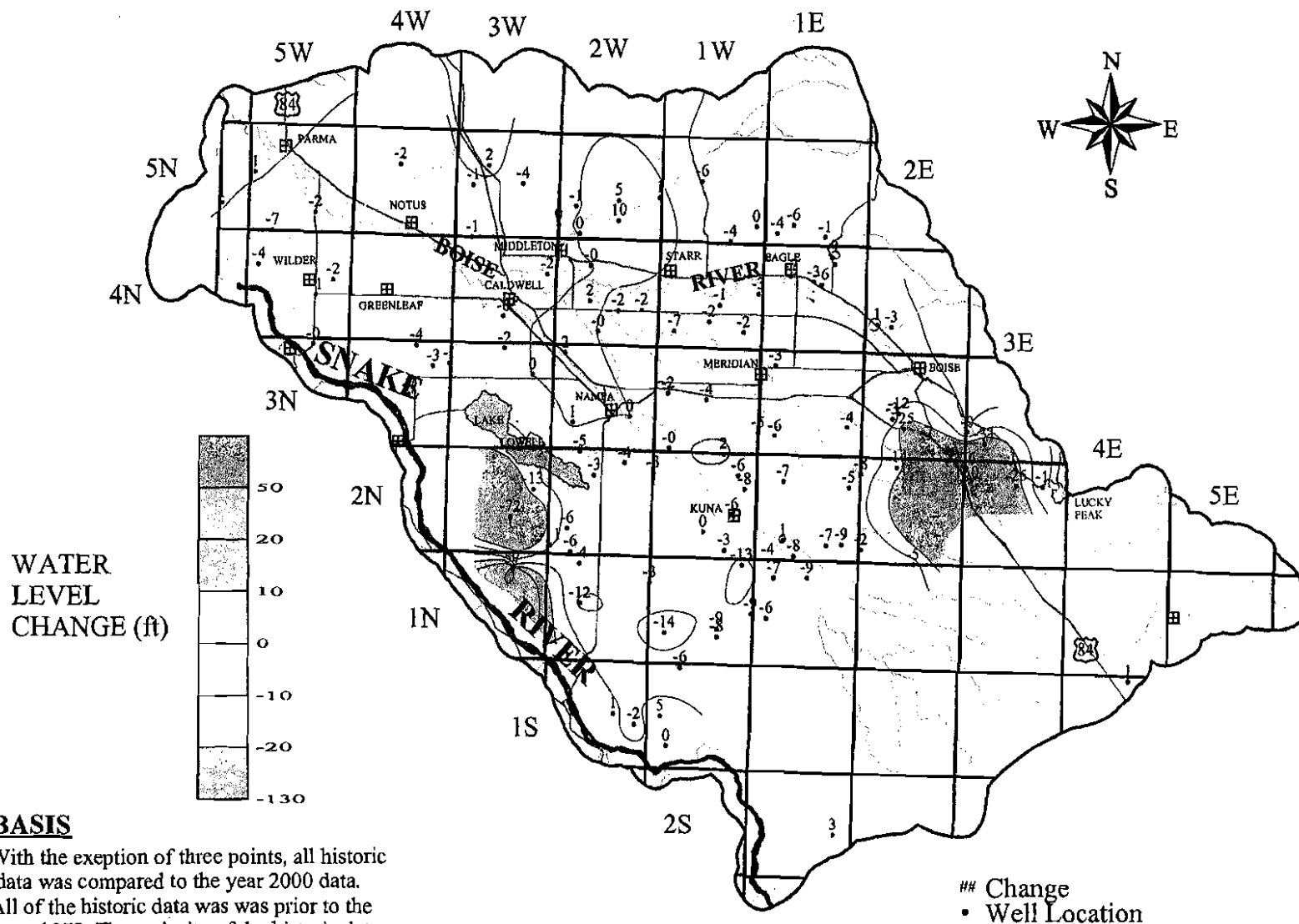
NTQURS, 1953

Miles

Attachment 2

TREASURE VALLEY

GROUND WATER LEVEL CHANGE



BASIS

With the exception of three points, all historic data was compared to the year 2000 data. All of the historic data was prior to the year 1978. The majority of the historic data (79 points) is all Spring 1969 to Spring 1976. Another 21 historical points are all fall 1969 to fall 1976 and 15 are prior to 1969. A total of 115 points were used.

Timeline To Accompany SRBA Claims

1. July 4, 1957: Aerial photograph from Farm Services Administration in Salt Lake City, Utah. (DHV-2T-180) -- shows no farming or irrigation on the 66 acres above the Stewart Lateral.
2. December 3, 1958: Marchbanks bought the property. (deed attached)
3. 1959-1960: Bob Gibbens, John Conroy, and Tom Conroy saw well in use during the Marchbanks ownership. Norman Svaty knew the Marchbanks son because of business ties. The son told him about the well and irrigation on the property. David Orcutt's affidavit establishes the exchange between Wilder Irrigation District water and the ground water use initiated by the Marchbanks. A pump was used to irrigate 46 acres above the canal in the W1/2NE1/4 and the E1/2NW1/4 Sec 20, T2N, R3W. The well was used to irrigate 46 acres located within the NE1/4NE1/4 Sec 19 and the NW1/4NW1/4 Sec 20, both in T2N, R3W. In effect, this increased the irrigation by 46 acres due to ground water use. By virtue of the availability of ground water to irrigate land near the well that had previously been irrigated from the canal, Wilder ID canal water under entitlement for the Marchbanks farm was freed up to be used on the 46 acres above the canal.
4. February 8, 1961: Marchbanks sold the property. (deed attached) The well was constructed while the Marchbanks owned the property as established in affidavits of Gibbens, Conroys, and Svaty. This deed showing that Marchbanks' ownership ended prior to 1963, affirms that the well was constructed and in use prior to the March 25, 1963 mandatory permit date for obtaining a ground water right.
5. July 6, 1964: Aerial photograph from Farm Services Administration in Salt Lake City, Utah. (DHV-1DD-138) - the photo shows the 46 acres above the canal to be actively cultivated or cropped.
6. May 9, 1969: Aerial photograph from Farm Services Administration in Salt Lake City, Utah. (DHV-1KK-282) Undated Farm Services Administration information (attached) shows additional irrigated land (46 acres) which is confirmed by the aerial photograph. This is the timeframe when Norman Svaty knew the Marchbanks son because of business ties.
7. April 2, 1973: The 1973 agreement mentions propane pump. Bob Gibbens' affidavit establishes that a propane pump was used for the well.
8. June 2, 1976: Norman Svaty and his business partner bought the property June 2, 1976. The 1976 agreement shows a pump and tractor for power which confirms a PTO pump for the well.

9. December 1976 to August 1994: The land was sold to Miles Thomas in December 1976 and was owned by the Miles Thomas Trust at the time Dave and Gayle Orcutt bought the property in August 1994.
10. November 1976 to present: David R. Orcutt affidavit emphasizes the burying of the canal, the leveling and squaring up of the fields, and the addition of 20 more acres of irrigation above the canal beginning in 1977. This activity over a period of years, culminated in the farm being served as it now is from a single turnout from the Stewart Lateral, into a reregulation pond, for pumping into a pressurized mainline that provides water in a single system to the entire 225 acres. This links the 20 acres added above the canal, beginning in 1977, to an exchange between ground water and the canal water.
11. 1987: IDWR Aerial photograph for SRBA shows the farm essentially as it is today.

Z:\3041\6453A

September 15, 2004
Determination of irrigated acres for Orcutt claims

Assumptions:

1. New development occurred only outside of irrigation district boundaries.
2. The new development is the present development less the irrigation district entitlement for those 40-acre parcels within which new development occurred.
3. Present total irrigation on the farm is 225 acres. (This assumes that the presently irrigated acres for the three 40-acre parcels entirely within the District Boundary equals the District entitlement. This assumption checks out if the acreage is about 115 acres, which it appears to be.)
4. New development is $225 \text{ less } 159 = 66 \text{ acres}$

	NWNE 20	SWNE 20	NENW 20	SENE 20	Total
1987 and present	15	23	32	40	-----
Irrig Dist. Entitlement	0	0	17.4	26.7	-----
Added 1959 Priority	15	11	15	5	46
Added 1977 Priority	0	12	0	8	20