

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAR 01 2004
Department of Water Resources

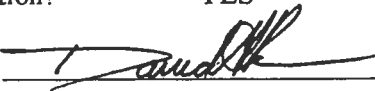
Notice of Security Interest in a Water Right

And Request for Notification of a Change in Ownership or Any Proposed
Or Final Action to Amend, Transfer, or Otherwise Modify a Water Right

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

1. Water Right No(s): P.D. 43-10245, P.D. 43-10250, P.D. 43-10251, 43-4150, 43-4089, 43-4090, P.D. 43-2556,
43-7130, 43-327 AND 43-47A
Adjudication Claim No(s): _____
2. The following **REQUIRED** information must be submitted with this form:
 - A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**
 - B) A **FEE** of \$25.00 per water right or adjudication claim.
3. Name and Mailing Address of Person or Company holding Security Interest

WESTERN AGCREDIT, FLCA
P.O. BOX 95850
SOUTH JORDAN, UT 84095
4. Name of Water Right Owner/Claimant(s)

SPENCER LAND AND LIVESTOCK CO., a Utah Corporation and
SPENCER BROTHERS, a Utah Partnership
5. Expiration Date of Notification Period 05/01/2023
6. Is this a Renewal of Request for Notification? ☐ YES ☒ NO
7. Signature(s) (and title if applicable) 
ASSISTANT VICE PRESIDENT

For Office Use Only

Received by <u></u>	Date <u>3-1-04</u>	Fee <u>\$250.00</u>
Receipted by <u></u>	Date <u>3-1-04</u>	Receipt No. <u>C072866</u>
Processed by <u>D. Dorman AJ</u>	Date <u>3-9-04</u>	WR <u>KLT did</u> Date _____

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MAR 09 2004

NOTICE OF PLEDGE

STATE OF IDAHO
Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

RECEIVED

Loan No. 6201040501 and 6201040502

OCT - 6 2003

Department of Water Resources

Attention: State Engineer

Please be notified that
SPENCER LAND AND LIVESTOCK CO., a Utah Corporation
SPENCER BROTHERS, a Utah Partnership
have this date executed a Real Estate Mortgage in favor of the Western AgCredit, FLCA, covering certain land in Cassia County, State of Idaho, together with all of the Mortgagor's right to use the following:

WATER USER NO. AND PURPOSE OF WATER USE

WUC #(s) 43-10245, 43-10250, 43-10251, 43-4150, 43-4089, 43-4090, 43-2556, 43-7130, 43-327 and 43-47A for irrigation and stock watering.

The said Real Estate Mortgage, given to secure promissory notes (2) of even date, was recorded
October 2, 2003, in the office of the County Recorder of the above referenced County, as
Instrument No. 291772.

Please file this notice with your records of the above referenced and direct notice of any intended change of the place of use or other change which materially affects the beneficiary's security interest in the said rights to the Western AgCredit, FLCA, 406 West South Jordan Parkway (Suite 500), South Jordan, Utah 84095.

Dated: September 12, 2003

Western AgCredit, FLCA

By: David G. Brown
David G. Brown
Assistant Vice President

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MAR 09 2004

Recording Requested by:

WHEN RECORDED MAIL TO:

WESTERN AgCREDIT, FLCA
BOX 95850
SOUTH JORDAN UT 84095-0850

29177~

COPY

Loan No. 6201040501 and 6201040502

**REAL ESTATE MORTGAGE,
FIXTURE FILING AND SECURITY AGREEMENT**

THIS MORTGAGE is made this **12th** day of **September, 2003** between

SPENCER LAND AND LIVESTOCK CO., a Utah Corporation
SPENCER BROTHERS, a Utah Partnership

hereinafter called "Mortgagor", and WESTERN AgCREDIT, FLCA hereinafter called "Mortgagee", a corporation, existing and operating under the Farm Credit Act of 1971, as amended, having its principal place of business in South Jordan, Utah.

WITNESSETH: That Mortgagor IRREVOCABLY GRANTS, BARGAINS, SELLS, CONVEYS AND ASSIGNS unto Mortgagee together with right of entry and possession the following described real property situated in the County of Cassia, State of Idaho:

FOR DESCRIPTION OF REAL PROPERTY SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

TOGETHER WITH: all buildings, structures, equipment, fixtures (including trees, vines and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the above-described property, all of which rights are hereby made appurtenant to the property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, now or hereafter used in connection with the property, all of which are hereby declared to be fixtures; all existing and future grazing rights, leases, permits and licenses; all oil, gas, and mineral leases, permits and rights used with the property; all tenements, hereditaments, easements, rights-of-way and appurtenances to the property; and all right, title, and interest at any time of Mortgagor (or any of its bailees, agents, or instrumentalities), whether now existing or hereafter arising or acquired, whether direct or indirect, whether owned legally, of record, equitably or beneficially, whether constituting real or personal property (or subject to any other characterizations), whether created or authorized under existing or future laws or regulations, and however arising in, including without limitation, the water, water rights and other assets and items described below in subparagraphs (a) through (h) which shall collectively be called "Water Assets" (hereafter collectively referred to as the "Property"). References to "water" and "water rights" are used herein in the broadest and most comprehensive sense of the term(s). The term "water" includes water rights and right to water or whatever rights to money, proceeds, property or other benefits are exchanged or received for or on account of any Water Assets or any conservation or other nonuse of water, including whatever rights are achieved by depositing one's shares of any Water Assets in any water bank or with any water authority, or any other water reallocation rights:

a. All water (including any water inventory in storage), water rights and entitlements, other rights to water and other rights to receive water or water rights of every kind or nature whatsoever including (i) the groundwater on, under, pumped from or otherwise available to the Property, whether as the result of groundwater rights, contractual rights or otherwise, (ii) Mortgagor's right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency or any rights granted or created by any use, easements, covenant, agreement or contract with any person or entity, (iii) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive, decreed or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water, (iv) any water, water right, water allocation, distribution right, delivery right, water storage right, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity;

b. All stock, interest or rights (including any water allocations, voting or decision rights) in any entity, together with any and all rights from any entity or other person to acquire, receive, exchange, sell, lease, or otherwise transfer any water or other Water Assets, to store, deposit or otherwise create water credits in a water bank or similar or other arrangement for allocating water, to transport or deliver water, or otherwise to deal with any Water Asset;

c. All licenses, permits, approvals, contracts decrees, rights and interest to acquire or appropriate any water or other Water Assets, water bank or other credits evidencing any right to water or other Water Assets, to store, carry, transport or deliver water or other Water Assets, to sell, lease, exchange, or otherwise transfer any water or other Water Asset, or to change the point for diversion of water, the location of any water or Water Asset, the place of use of any water or Water Asset, or the purpose of the use of any water or Water Asset;

d. All rights, claims, causes of action, judgments, awards, and other judicial, arbiter or administrative relief in any way relating to any water or Water Asset;

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e. All storage and treatment rights for any water or any other Water Asset, whether on or off the Property or other property of Mortgagor, together with all storage tanks, and other equipment used or usable in connection with such storage and any water bank deposit credits, deposit accounts or other rights arising on account of the storage or nonuse of any water or any other Water Asset;

f. All rights to transport, carry, allocate or otherwise deliver water or other Water Assets by any means wherever located;

g. All guaranties, warranties, management or service contracts, indemnity agreements, and water right agreements, other water related contracts and water reallocation rights, all insurance policies regarding or relating to any Water Asset;

h. All rents, issues, profits, proceeds and other accounts, instruments, chattel paper, contract rights, general intangibles, deposit accounts, and other rights to payment arising from or on account of any use, nonuse, sale, lease, transfer or other disposition of any Water Asset.

Absolute Assignment of All Revenue From Water Assets - Mortgagor hereby absolutely and unconditionally assigns to Mortgagee all proceeds, rents, issues and profits from any use (apart from watering plants on the Property) or other ordinary use on the Property), nonuse, sale, lease, transfer or disposition of any kind of any water or any other Water Asset subject to a lien in favor of Mortgagee. That assignment shall be perfected automatically without appointment of a receiver or Mortgagee becoming a mortgagee in possession and Mortgagee shall have the right, before or after the occurrence of any default or event of default, to notify any account debtor to pay all amounts owing with respect to those proceeds, rents, issues and profits directly to Mortgagee. Except as otherwise agreed in writing by Mortgagee, Mortgagee may apply any such collection (and any rents, issues, profits and proceeds) to any indebtedness owed to Mortgagee in any order, priority or manner desired by Mortgagee.

MORTGAGOR ABSOLUTELY AND UNCONDITIONALLY ASSIGNS, transfers, conveys and sets over to Mortgagee all the rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof or from any lease, mineral lease, or agreement pertaining thereto (collectively the "Rents"); SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Mortgagor by Paragraph B.3 hereof.

PERSONAL PROPERTY SECURITY AGREEMENT - All of the Property will be considered to the fullest extent of the law to be real property for purposes of this Mortgage. To the extent that any of the Property, (including without limitation any Water Assets or fixtures), is deemed to constitute, is adjudicated to be, or declared to be personal property, this Mortgage shall also be deemed to be a security agreement. Mortgagor does hereby create and grant to Mortgagee a security interest in all such personal property described herein; and further, grants to Mortgagee all of the rights and remedies of a secured party under the Uniform Commercial Code and other applicable state law, which rights are cumulative.

FIXTURE FILING - This Mortgage shall also be deemed to be a fixture filing under the Uniform Commercial Code and is to be recorded in the county real estate records.

FOR THE PURPOSE OF SECURING: (1) payment of the indebtedness or obligations evidenced by the following promissory note(s) and/or guaranties executed by Mortgagor and/or others to the Mortgagee at the times, in the manner and with interest as therein set forth (notes may contain variable or adjustable rate provisions):

Dated	Maturity	Face Amount	Dated	Maturity	Face Amount
9/12/2003	5/1/2023	\$500,000.00			
9/12/2003	5/1/2023	\$500,000.00			

(2) The payment of such additional loans or advances, including advances under a revolving line of credit, with interest thereon, as hereafter may be made to Mortgagor, or Mortgagor's successors or assigns, and/or to parties whose obligation Mortgagor is guaranteeing, evidenced by a promissory note or otherwise and any obligations evidenced by any guaranties executed by Mortgagor in favor of Mortgagee; PROVIDED HOWEVER, THAT, such additional loans advances guaranties shall be secured by this Mortgage only if the promissory note, guaranty, or other document evidencing such loans or advances shall recite that it is to be secured by this Mortgage; (3) the payment of any substitute notes, renewals, reamortizations, and extensions of all indebtedness secured by this Mortgage; (4) the performance of every obligation and agreement of Mortgagor whether contained or incorporated by reference in this Mortgage, or contained in any loan document or guaranty executed by Mortgagor in favor of Mortgagee, with respect to any loan, advance, or guaranty secured by this Mortgage; and (5) the payment of all sums expended or advanced by Mortgagee under or pursuant to the terms of this Mortgage, together with interest thereon as herein provided. The continuing validity and priority of this Mortgage as security for future loans, advances, or guaranties shall not be impaired by the fact that at certain times hereafter there may exist no outstanding indebtedness from Mortgagor to Mortgagee or no commitment to make loans or advances.

A. TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR AGREES:

1. To use loan proceeds solely for the purposes set forth in the loan application(s) or agreements, now existing or as hereafter amended. 1971, as amended, and/or the regulations of the Farm Credit Administration, to comply with the Farm Credit Act of

2. To keep the Property in good condition, working order and repair; care for the Property in accordance with standards of good husbandry and to keep all trees, vines and crops on said land and properly cultivated, irrigated, fertilized, sprayed, and fumigated; not to remove, destroy or suffer the removal or destruction of any building, fence, canal, well or other improvements or fixtures thereon; not to remove, replace or alter any horticultural or viticultural tree, vine or shrub planted thereon without the prior written consent of Mortgagee, except in the ordinary course of business; to complete or restore promptly and in good and workmanlike manner any building which may be

constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting the Property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general; to observe and perform all obligations of Mortgagor under any lease of the Property.

3. To provide, maintain and deliver to Mortgagee fire and all other types of insurance of the type and in amounts as Mortgagee may require, with loss payable clauses solely in favor of Mortgagee. In the event of loss, the insurance proceeds, or any part thereof, may be applied by Mortgagee, at its option, to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. In the event that the Mortgagor shall fail to provide satisfactory hazard insurance, Mortgagee may procure, on Mortgagor's behalf, insurance in favor of Mortgagee alone. If insurance cannot be secured by Mortgagor to provide the required coverage, such inability shall constitute an event of default hereunder.
4. To appear in and litigate any action or proceeding purporting to affect the security hereof, the title to the Property, or the rights or powers of Mortgagee; Mortgagee may appear in and litigate any such action or proceedings, including any bankruptcy, partition or condemnation proceeding, affecting the Property, or Mortgagee's interest therein, in which event Mortgagor agrees to pay all costs and expenses thereof, including attorney's fees and costs of securing evidence of title.
5. To pay on or before the due date all taxes and assessments affecting the Property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with the Property; to pay, when due, all encumbrances, charges, and liens, on the Property or any part thereof, which at any time appear to be prior or superior hereto.
6. In case of any suit to foreclose this Mortgage or to collect any charge arising out of the debt hereby secured, or of any suit which the Mortgagee may deem necessary to prosecute or defend to effect or protect the lien herein, including any proceeding in bankruptcy, or if Mortgagee retains an attorney to advise Mortgagee in connection with this Mortgage or any other agreement related to the indebtedness secured by this Mortgage, Mortgagor agrees to pay a reasonable sum as attorney's fees and all costs and legal expenses in connection with said suit, and further agrees to pay the reasonable costs of searching the records and abstracting or insuring the title, and such sums, costs and expenses shall be secured hereby and shall be included in any decree of foreclosure. The fees and costs described herein and elsewhere in this Mortgage shall be in addition to those set forth in the loan agreement or any other written agreement between Mortgagor and Mortgagee.
7. Should Mortgagor fail to make any payment or to do any act as provided for in this Mortgage, then Mortgagee, but without obligation to do so and without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the Property, Mortgagee being authorized to enter upon the Property for such purposes; commence, appear in and litigate any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee, including any bankruptcy proceeding affecting the Property; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefore, including attorney's, accountant's, and appraisal fees, environmental fees, and costs of securing evidence of title, and all amounts so expended shall be obligations of Mortgagor secured by this Mortgage. Nothing contained herein shall prohibit Mortgagee from entering the Property, at a reasonable time and upon reasonable notice to Mortgagor, without incurring or assuming any obligations or liabilities whatsoever, for the sole purpose of inspecting the Property.
8. To pay immediately and without demand all sums expended by Mortgagee pursuant to the provisions hereof, with interest from date of expenditure at the same rate as is provided for in the note or notes secured by this Mortgage. In the event that such sums are not immediately paid, they shall be added, along with the appropriate amount of capital stock or participation certificates, to the principal balance of the indebtedness secured hereby and shall accrue interest as herein set forth. All such sums shall be secured hereby.
9. Environmental Representations, Warranties and Covenants.

(a) Except as disclosed in writing to Mortgagee, or except as otherwise provided in any loan agreement between Mortgagee and Mortgagor which specifically refers to the Property, to the best knowledge of Mortgagor after due inquiry, Mortgagor hereby further represents, warrants and covenants as follows:

(i) No pollutants, contaminants (including oil or other petroleum products), toxic or hazardous substances, or solid or hazardous wastes, as such terms are defined under any federal, state or local Environmental Law, regulation or ordinance (hereinafter "Contaminants") have been, are being or will be generated, manufactured, produced, stored, disposed of, discharged, released threatened to be released, or otherwise allowed to migrate or escape on, under or from the Property in such quantities or concentrations as would violate any federal, state or local Environmental Law, regulation or ordinance or as would require Mortgagor to report such condition to any governmental authority or to undertake removal or remedial action to clean up such contaminants;

(ii) No Contaminants are located on, in or under any property located adjacent to the Property in such quantities or concentrations as would constitute a violation of any Environmental Law or as would require the owner of the adjacent property to report such condition to any governmental authority or to undertake removal or remedial action to clean up such Contaminants;

(iii) Neither the Property, nor any portion thereof, nor any adjacent property or portion thereof, has been or is proposed to be listed under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.), or any analogous state law. Mortgagor shall immediately notify Mortgagee if Mortgagor acquires any information concerning the listing

or proposed listing of the Property or any adjacent property and shall provide Mortgagee with any documents in Mortgageor's possession relative thereto;

(iv) No hazardous wastes, as defined under the Federal Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.), or any analogous state law ("Hazardous Wastes"), have been, are being or will be stored or treated in surface impoundments or other structures or facilities located on the Property that are partially or entirely below the ground surface;

(v) No litigation, investigation, administrative order, consent order, agreement, or other action, proceeding or settlement (hereinafter "Action") has previously been brought, is now pending, or to the best knowledge of Mortgageor threatened against or anticipated by Mortgageor, with respect to Mortgageor's use or management of Hazardous Materials or Hazardous Wastes or the environmental condition of the Property, including any underlying groundwater. Upon learning thereof, Mortgageor shall immediately notify Mortgagee of any such Action or threatened Action and provide Mortgagee with copies of all documentation relative thereto; and

(vi) Except as disclosed in writing to Mortgagee, no underground tanks, wells (except domestic water wells), septic tanks, ponds, pits or any other storage tanks ("Tanks") (whether currently in use or abandoned) are or were located on, or under the Property and no Tanks are or were serving the Property described herein. With respect to any Tanks disclosed in writing to Mortgagee, Mortgageor shall comply with all federal, state and local laws, regulations and ordinances and any requirements of city or county fire departments, applicable to the maintenance and use of such Tanks, including, without limitation, Title 40 of the Code of Federal Regulations Part 112.

(b) Nothing herein shall be deemed to prohibit Mortgageor from (i) using, handling or storing hazardous materials or substances, as defined under any federal, state or local law, regulation or ordinance ("Hazardous Materials") or (ii) storing or treating non-hazardous wastes, so long as such activities are carried out (a) in a good and husbandlike manner in the ordinary course of business, and (b) in compliance with all applicable environmental laws, regulations, permits, orders or other requirements.

(c) In the event that Mortgageor is in breach of any of its representations, warranties or covenants as set forth above, Mortgageor, at its sole expense, shall take all action required, including environmental cleanup of the Property, to comply with the representations, warranties and covenants herein or applicable legal requirements and, in any event, shall take all action deemed necessary by appropriate governmental authorities. Mortgagee shall have the right, but not the obligation, to advise appropriate governmental authorities of any environmental condition on or affecting the Property that constitutes or may constitute a breach of Mortgageor's obligations hereunder;

(d) Mortgageor and its successors and assigns shall indemnify, defend, protect, and hold harmless Mortgagee, its directors, officers, employees, agents, shareholders, successors and assigns and their officers, employees or agents, from and against any and all claims, suits, damages, liens, losses, liabilities, interest, judgments, response and cleanup costs, demands, actions, causes of action, injuries, administrative proceedings and orders, consent agreements and orders, penalties, costs and expenses (including any fees and expenses incurred in enforcing this indemnity, any out-of-pocket litigation costs and the reasonable fees and expenses of counsel) of any kind whatsoever ("Claims") paid, incurred or suffered by, or asserted against Mortgagee, including but not limited to Claims arising out of loss of life, injury to persons, trespass or damages to or contamination of property or natural resources, or injury to business, in connection with or arising out of the activities of Mortgageor on the Property, Mortgageor's predecessors in interest, third parties who have been invited, permitted or trespassed on the Property, or parties in a contractual relationship with Mortgageor, or any of them, or which directly or indirectly arise out of or result from or in any way connected with the Property, whether or not caused by Mortgageor or within the control of Mortgageor, including without limitation: (i) the presence, use, generation, treatment, storage, disposal, release, threatened release, or discharge of any Hazardous Material or Contaminant at or from the Property and/or the cleanup of Hazardous Materials or Contaminants within, on or under the Property; (ii) Mortgageor's breach of any of the representations, warranties and covenants contained herein; and (iii) Mortgageor's violation or alleged violation of any applicable Environmental Law, regulation or ordinance.

(e) Mortgageor's representations, warranties, covenants and indemnities contained herein shall survive the occurrence of any event whatsoever, including without limitation the payoff of any promissory note(s) secured hereby, the release or foreclosure of this Mortgage, the acceptance by Mortgagee of a deed in lieu of foreclosure, or any transfer or abandonment of the Property.

(f) The term "Environmental Law" shall mean any federal, state or local law, statute, ordinance, or regulation, now in effect or hereinafter enacted, pertaining to health, industrial hygiene, or the environmental conditions on, under or about the Property, including but not limited to enactments requiring the removal or containment of asbestos-containing materials in private buildings.

(g) Mortgageor shall permit, or cause any tenant of Mortgageor to permit, Mortgagee or its agents, or independent contractors to enter and inspect the Property at any reasonable time for purposes of determining, as Mortgagee deems necessary or desirable: (i) the existence, location and nature of any Hazardous Materials or Hazardous Wastes on, under or about the Property, (ii) the existence, location, nature, magnitude and spread of any Hazardous Materials or Hazardous Wastes that has been spilled, disposed of, discharged or released on, under or about the Property, or (iii) whether or not Mortgageor and any tenant of Mortgageor is in compliance with applicable Environmental Law. If Mortgageor or its tenants fail to comply fully with the terms of this subdivision (g), Mortgagee may obtain affirmative injunctive relief to compel such compliance.

10. Grazing Rights. If any portion of the Property described in this Mortgage is used by Mortgageor as the basis for obtaining grazing permits or other grazing rights issued by any governmental agency, including without limitation the Forest Service, U.S. Department of Agriculture or the Bureau of Land Management, U.S. Department of Interior, Mortgageor covenants and agrees as follows:

(a) Said grazing permits or other rights are in good standing and have not been modified, reduced or limited in any other respect, except as fully disclosed in writing to Mortgagee:

(b) Mortgagor will perform all obligations imposed as a requirement of exercise of said grazing permits or other rights and will comply with all laws, rules and regulations applicable thereto;

(c) Mortgagor will take such timely action as may be required to cause the renewal or reissuance of said grazing permits or other rights from time to time as they expire during the term thereof. Mortgagor agrees and acknowledges that the failure to renew or cause the reissuance of any said permits for any reason, whether the result of an act or omission of Mortgagor or for reasons beyond Mortgagor's control, is an event of default hereunder and Mortgagee shall have the right to exercise the rights hereinafter set forth in this Mortgage; and

(d) Mortgagor agrees to pay all fees, charges, rents or other payments accruing under said permits or any renewals thereof prior to delinquency. In the event Mortgagor fails to pay any such payment, the amount unpaid shall become a part of the indebtedness secured by this Mortgage and shall be immediately due and payable.

B IT IS MUTUALLY AGREED THAT:

1. Any award of damages in connection with any taking or condemnation or injury to the Property by reason of public use, or for damages resulting from private trespass or injury to the Property, is absolutely and unconditionally assigned and shall be paid to Mortgagee, under the terms and conditions of this Mortgage pertaining to Rents. Upon receipt of such money Mortgagee may apply the same on the indebtedness secured hereby. Mortgagor agrees to execute such further documents as may be required to effect the assignments herein made as Mortgagee may require.
2. At any time, without affecting the liability of any person for the payment of the indebtedness secured hereby, and without otherwise affecting the security hereof, Mortgagee may (a) consent to or join in the making of any map or plat of the Property; (b) grant any easement or create any restriction thereof; (c) subordinate this Mortgage; (d) extend or modify the term of the loan or loans secured hereby; and (e) release without warranty, all or any part of the Property.
3. Prior to any default by Mortgagor in the payment, observance, performance and discharge of any condition, obligation, covenant, or agreement of Mortgagor contained herein, Mortgagor may, for collection and distribution purposes only, collect and receive the Rents as they come due and payable; the Rents are to be applied by Mortgagor to the payment of the principal and interest and all other sums due or payable on any promissory note or guaranty secured by this Mortgage and to the payment of all other sums payable under this Mortgage and, thereafter, so long as the aforesaid has occurred, the balance shall be distributed to the account of Mortgagor. Upon any such default, Mortgagee may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, in his own name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Mortgagee may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary or proper to conserve the value of the Property; also lease the same or any part thereof for such rental, term, and upon such conditions as its judgment may dictate; also prepare for harvest, remove, and sell any crops that may be growing upon the Property, and apply the proceeds thereof upon the indebtedness secured hereby.
4. The entering upon and taking possession of the Property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking of or damage to the Property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
5. Upon default by Mortgagor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the Mortgagee and in accordance with applicable state law. In the event of default, Mortgagee may employ counsel to enforce payment of the obligations secured hereby, may foreclose and, if applicable, sell the Property by advertisement and sale, and in accordance with other applicable state law, and may exercise such other rights and remedies granted by law and equity, which rights and remedies shall be cumulative and not exclusive. Mortgagee may resort to and realize upon the security hereunder and any other real or personal property security now or hereafter held by Mortgagee for the obligations secured hereby in such order and manner as Mortgagee may, in its sole discretion, determine. Resort to any or all such security may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawful nonjudicial proceedings, or both. If the obligation secured by this Mortgage is also secured by personal property, fixtures or crops, Mortgagee may enforce its security interest in the personal property, fixtures and crops and its lien under this Mortgage in any manner and in any order or sequence permitted by applicable law. All remedies are cumulative and none are exclusive; no election by Mortgagee to pursue one remedy or item of collateral shall be deemed to be a release or waiver of any other item of collateral or a release or modification of the liability of Mortgagor or any guarantor to pay and perform in full all obligations to Mortgagee. The procedures governing the enforcement by Mortgagee of its foreclosure and provisional remedies against Mortgagor shall be governed by the laws of the state in which the Property is located. Nothing contained herein shall be construed to provide that the substantive law of the state in which the Property is located shall apply to Mortgagee's rights and Mortgagor's obligations hereunder or under the promissory note(s) or guaranties described herein, which are and shall continue to be governed by the substantive law of the state in which the promissory note(s) or guaranties were executed.
6. The failure on the part of the Mortgagee to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Mortgagee of any default shall not constitute a waiver of any other subsequent defaults. Subsequent acceptance of any

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payment by the holder hereof shall not be deemed a waiver of any default by Mortgagee, or of Mortgagee's rights hereunder as the result of any sale, agreement to sell, conveyance, or alienation, regardless of holder's knowledge of such default, sale, agreement to sell, conveyance, or alienation at the time of acceptance of such payment.

7. This Mortgage applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Mortgagee shall mean the holder and owner of any note secured hereby; or, if the note has been pledged, the pledgee thereof. In this Mortgage, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Mortgagee hereunder are joint and several.

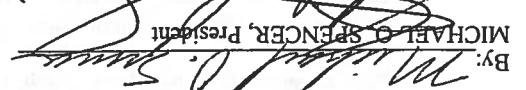
8. (a) In the event the herein-described Property, or any part thereof, or any interest therein, is sold, agreed to be sold, conveyed, alienated or transferred, including any water transfer as defined in subsection (b) below, by Mortgagee, or by operation of law or otherwise, except by inheritance, without Mortgagee's prior written consent, all obligations secured hereby, irrespective of the maturity dates, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable. Failure to exercise such option shall not constitute a waiver of the right to exercise this option in the event of subsequent sale, agreement to sell, conveyance or alienation.

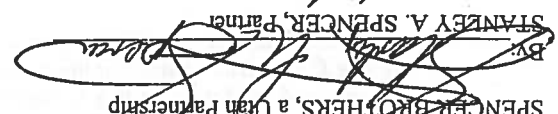
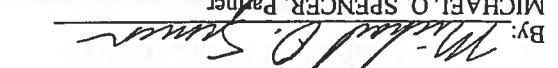
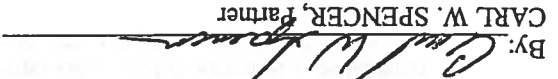
(b) A water transfer is any transfer, assignment, sale, exchange, gift, encumbrance, pledge, hypothecation, alienation, grant of option to purchase, or other disposition of, directly, indirectly, or in trust, voluntarily or involuntarily, by operation of law or otherwise, or the entry into a binding agreement to do any of the foregoing with respect to all or any part of (i) the groundwater on, under, pumped from or otherwise available to the Property, (ii) Mortgagee's right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency and any rights granted or created by any easement, covenant, agreement or contract with any person or entity, (iii) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water, (iv) any water, water right, water allocation, distribution right, delivery right, water storage right, water allocation, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property's being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity, or (v) any shares (or any rights under such shares) of any private water company, mutual water company, or other non-governmental entity pursuant to which Mortgagee or the Property may receive any rights.

9. In the event any one or more of the provisions contained in this Mortgage or in any promissory note(s) hereby secured shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage or said promissory note(s), but this Mortgage and said promissory note(s) shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

Signature(s):

SPENCER LAND AND LIVESTOCK CO., a Utah Corporation

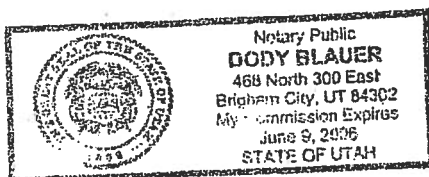
By: 
MICHAEL O. SPENCER, President
By: 
STANLEY A. SPENCER, Secretary

SPENCER BROTHERS, a Utah Partnership
By: 
STANLEY A. SPENCER, Partner
By: 
MICHAEL O. SPENCER, Partner
By: 
CARL W. SPENCER, Partner

Notary Acknowledgment:

STATE OF Utah)
COUNTY OF Box Elder ^{SS.}

On this 14 day of Oct, 2003, before me, the undersigned Notary Public in and for said County and State, personally appeared MICHAEL O. SPENCER and STANLEY A. SPENCER [() personally known to me] [☒] proved to me on the basis of satisfactory evidence] to be the person(s) who executed the within instrument as PRESIDENT and SECRETARY on behalf of the corporation therein named and acknowledged to me that the corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

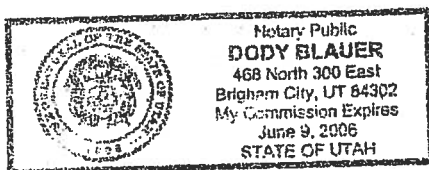


WITNESS my hand and official seal

Dody Blauer
Notary Public in and for said County and State

STATE OF Utah)
COUNTY OF Box Elder ^{SS.}

On this 14 day of Oct, 2003 before me, the undersigned Notary Public in and for said County and State, personally appeared STANLEY A. SPENCER; MICHAEL O. SPENCER; CARL W. SPENCER [() personally known to me] [☒] proved to me on the basis of satisfactory evidence] to be the person(s) who executed the within instrument as PARTNERS of the partnership therein named, on behalf of the partnership, and acknowledged to me that the partnership executed it.



WITNESS my hand and official seal

Dody Blauer
Notary Public in and for said County and State

SCANNED

EXHIBIT "A"

PARCEL NO. 1:

TOWNSHIP 15 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN
CASSIA COUNTY, IDAHO

- Section 34: SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$
- Section 35: NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$
- Section 35: NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$,
EXCEPTING a Right-of-Way 2 rods wide for a road on the
South section line.

TOWNSHIP 15 SOUTH, RANGE 25 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

- Section 11: NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 12: S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$

TOWNSHIP 15 SOUTH, RANGE 26 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

- Section 4: N $\frac{1}{2}$ SW $\frac{1}{4}$
- Section 5: N $\frac{1}{2}$ S $\frac{1}{2}$
- Section 7: NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, Lots 2, 3, and 4
- Section 8: W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$

TOWNSHIP 16 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

- Section 2: Lot 2
- Section 12: NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, EXCEPTING THEREFROM the following described
tracts:

Tract No. 1:

Beginning at the N $\frac{1}{4}$ section corner of said Section 12, said corner marked by
a U.S. Bureau of Land Management iron pipe with brass cap; thence

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North 89°08'29" East along the North line of Section 12 for a distance of 1327.81 feet to the Northwest corner of the NE¼NE¼; thence South 00°01'23" West along the West line of the NE¼NE¼ for a distance of 587.74 feet; thence South 44°43'40" East for a distance of 176.14 feet; thence South 57°10'07" East for a distance of 159.24 feet to the Point of Beginning;

Thence North 31°22'34" East for a distance of 68.34 feet to a ½ inch rebar;
Thence North 74°28'31" East for a distance of 278.25 feet to a ½ inch rebar;
Thence North 25°59'08" West for a distance of 36.62 feet to a ½ inch rebar;
Thence North 64°47'22" East for a distance of 60.28 feet to a ½ inch rebar;
Thence South 23°19'14" East for a distance of 131.64 feet to a ½ inch rebar;
Thence South 26°17'47" West for a distance of 258.06 feet to a ½ inch rebar;
Thence North 78°30'57" West for a distance of 343.24 feet to a ½ inch rebar;
Thence North 31°22'34" East for a distance of 108.34 feet to the Point of Beginning.

Tract No. 2:

An Easement for ingress for the benefit of Tract No.1 described above, more particularly described as follows:

Beginning at the North ¼ section corner of said Section 12, said corner marked by a U.S. Bureau of Land Management iron pipe with brass cap; thence North 89°08'29" East along the North line of Section 12 for a distance of 1327.81 feet to the Northwest corner of the NE¼NE¼ which shall be the Point of Beginning;

Thence North 89°08'29" East along the North line of Section 12 for a distance of 20.00 feet;

Thence South 00°01'23" West for a distance of 479.81 feet;

Thence South 44°43'41" East for a distance of 165.73 feet;

Thence South 57°10'07" East for a distance of 157.24 feet;

Thence South 31°22'34" West for a distance of 20.01 feet;

Thence North 57°10'07" West for a distance of 159.92 feet;

Thence North 44°43'41" West for a distance of 176.14 feet to the West line of the NE¼NE¼;

Thence North 00°01'23" East along the West line of the NE¼NE¼ for a distance of 587.74 feet to the Point of Beginning.

Tract No. 3:

Easement for access to a domestic well together with a 50% interest in all water produced from the well for the benefit of Tract No. 1 described above, more particularly described as follows:

Beginning at the North ¼ section corner of said Section 12, said corner marked by a U.S. Bureau of Land Management iron

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MAD 0 0 0000

pipe with brass cap; thence North 89°08'29" East along the North line of Section 12 for a distance of 1327.81 feet to the Northwest corner of the NE¼NE¼; thence South 00°01'23" West along the West line of the NE¼NE¼ for a distance of 587.74 feet; thence South 44°43'40" East for a distance of 176.14 feet; thence South 57°10'07" East for a distance of 159.92 feet; thence North 31°22'34" East for a distance of 68.34 feet to a ½ inch rebar; thence North 74°28'31" East for a distance of 83.53 feet to the Point of Beginning;

Thence North 35°15'00" West for a distance of 26.90 feet;

Thence North 53°00'37" East for a distance of 20.00 feet;

Thence South 35°15'00" East for a distance of 34.67 feet;

Thence South 74°28'31" West for a distance of 21.24 feet to the Point of Beginning.

TOWNSHIP 16 SOUTH, RANGE 25 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 6: Lots 1, 2, 3 and 4

Section 7: NW¼NE¼, NE¼NW¼, Lots 1 and 2

PARCEL NO. 2:

TOWNSHIP 16 SOUTH, RANGE 25 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 19: W½SE¼

Section 30: W½E½

Section 31: W½E½, SE¼NW¼, SW¼

PARCEL NO. 3:

TOWNSHIP 16 SOUTH, RANGE 25 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 31: E½NE¼ and E½SE¼

Section 32: W½SW¼, EXCEPTING THEREFROM two and one-half (2½)
acres in the Southwest corner of said Section 32.

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MAR 08 2004

Section 32: E½E½

Section 33: W½

TOGETHER WITH the following water rights registered with the State of Idaho
Department of Water Resources: WUC(s): 43-10245, 43-10250, 43-10251, 43-4150, 43-
4089, 43-4090, 43-2556, 43-7130, 43-327 and 43-47A;

ALSO TOGETHER WITH all U.S. Bureau of Land Management grazing privileges
within the JOHNSON CREEK Allotment, CLEAR CREEK Allotment, ALMO FLAT
Allotment, YOST PASTURES Allotment, JIM SAGE Allotment, and GULLY
Allotment;

ALSO TOGETHER WITH all U.S. Forestry grazing privileges within the WEST END
Allotment and ONE MILE Allotment in the SAWTOOTH NATIONAL FOREST.

291772

CASSIA COUNTY, IDAHO
LARRY A. MICKELSEN

RECORDER

FEE 33.05 DEPUTY 43

03 OCT 2 PM 4 25

RECORDED AT THE REQUEST OF

LAND TITLE & ESCROW

SCANNED

MAR 09 2006

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: A43-00047A
Date Received: 5/16/1991
Receipt No: C020510
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: SPENCER BROTHERS
Address: HC 72 BOX 2418
MALTA ID

435-827-5573

83342

2. Date of Priority: APR 1, 1872

3. Source: RAFT RIVER

Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
16S	24E	14	NW	NE	SE		CASSIA

5. Description of diverting works:
HEADGATE, DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	12/31	2.000		

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

8. Total consumptive use is 1096.5 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
15S	25E	31	SE	SW		IRR	15.0
			SW	SE		IRR	30.0
			SE	SE		IRR	5.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	50.0
16S	24E	12	NE	NE	IRR	24.0
			NW	NE	IRR	4.0
			SW	NE	IRR	32.0
			SE	NE	IRR	40.0
					Section Acres	100.0
	25E	6	SW	SW	4 IRR	3.0
			SE	SW	3 IRR	26.0
			SW	SE	2 IRR	23.0
			SE	SE	1 IRR	10.0
					Section Acres	62.0
		7	NW	NE	IRR	40.0
			NE	NW	IRR	40.0
			NW	NW	1 IRR	37.5
			SW	NW	2 IRR	36.0
					Section Acres	153.5
					Total Acres	365.5

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:

43-02556, 43-04089, 43-04150, 43-00327, 43-04090, 43-07130

14. Remarks:

THIS CLAIM INCLUDES AN EXPANSION IN THE NUMBER OF IRRIGATED ACRES
50 ACRES WERE ADDED IN 1962 UNDER A GROUNDWATER LICENSE 43-02556,
51.5 ACRES WERE ADDED IN 1978 UNDER PERMIT 43-07130. WATERS FROM
ALL SOURCES ARE CO-MINGLED AND DISTRUBUTED IN ONE SYSTEM.

4-5-2000: OWNERSHIP CHANGE WARD TO SPENCER PER WD SUBMITTED. NOTE
LAND WITHIN POU NOT CONVEYED IS BLM. SPENCER BROTHERS ARE:
STANELY A., CARL W. AND MICHAEL O. SPENCER. - VH

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

ALBION-IDAHO LAND CO.

Decree Plaintiff

JOBE ADAMS ET AL

vs Decree Defendant

RECEIVED

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

APR 22 1999

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Department of Water Resources

Boise, Idaho

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.initial review:
4/22/99 sec
OK

1. Water Right No(s).:

(same)

UNDIVIDED INTEREST:
A43-10185

Adjudication Claim No(s).:

ALL D&S Decated → A43-00327, A43-00047A, -02556, -04089, -04090, -04150

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

(Deed matches claims)

(A43-07130)

will file Assignment for

A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.

(Map on file w/claim AND → A43-00327)

B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)

OR

C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant

HAROLD OLEN & LORRAYNE B WARD

4. New Owner/Claimant(s)

SPENCER BROTHERS

STANLEY A. SPENCER

MICHAEL O. SPENCER

New Mailing Address

Name Connector (Check one): [] and, [] or, [] and/or

HC 72 BOX 2418

CARL W. SPENCER

City, State and ZIP Code

MALTA, ID

83342

New Telephone Number

435
(208) 827-5573

5. Date you acquired the property

April 1, 1999

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres you irrigate

Number and type of stock

433 head BEEF CATTLE

Diversion rate in CFS

Number of homes

Other uses

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner or Claimant(s)

Spencer Brothers by Stanley A. Spencer

(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

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

REAL ESTATE PURCHASE AND SALE AGREEMENT

HAROLD OLEN WARD AND LORRAYNE B. WARD, as co-trustees of **THE HAROLD AND LORRAYNE WARD TRUST**, under trust agreement dated April 23, 1991, (hereinafter "Seller"), agrees to sell, and **SPENCER BROTHERS**, a Utah general partnership consisting of **STANLEY A. SPENCER, MICHAEL O. SPENCER AND CARL W. SPENCER**, as partners, (hereinafter collectively "Buyer") agrees to purchase the real properties (hereinafter "Properties") more fully described in Exhibit A, attached hereto and incorporated herein, on the following terms and conditions:

1. **Purchase Price.** The purchase price for the Properties shall be *Six Hundred Fifty-Five Thousand Dollars (\$655,000)*, of which *One Hundred Sixty-Eight Thousand Seven Hundred Fifty Dollars (\$168,750)* shall be payable in cash at closing. The remainder shall be paid to Seller by Buyer in the form of a Promissory Note (hereinafter "Note"), attached hereto as Exhibit B and incorporated herein. Upon the termination of the Note, all amounts still owed to Seller shall be paid by Buyer in one cash payment. Said Note shall be secured by a Mortgage on the Properties, attached hereto as Exhibit C and incorporated herein.

2. **Escrow.** Within five (5) days of execution of this Agreement by Buyer and Seller, the parties agree to open an escrow with Cassia County Abstract Company (hereinafter "Closing Agent") at an office selected by Seller. In the event of any alleged or apparent conflict or contradiction between the terms of this Agreement and any escrow agreement, this Agreement will govern.

3. **Closing.** The following provisions shall govern the closing of this transaction:

3.1 **Closing Date.** The sale and purchase of the Properties shall be closed at the offices of Closing Agent within ten (10) days after the date of this Agreement or such earlier date as is mutually agreed upon in writing by the parties. The closing date may be extended by mutual agreement of the parties, not to exceed thirty (30) days.

3.2 **Seller's Obligations at Closing.** On or before the closing date, the Seller shall: (a) deliver to the Closing Agent a warranty deed covering the Properties, duly executed and acknowledged in recordable form conveying to Buyer fee simple interest in the Properties; (b) convey by appropriate instrument all grazing rights, subject to escrow waiver; (c) execute and deliver to the Closing Agent a closing and disbursement statement in a form acceptable to Seller; and (d) take such further action and deliver such other documents necessary to close this transaction in accordance with the terms of this Agreement.

3.3 Buyer's Obligations at Closing. On or before the closing date, Buyer shall: (a) deliver or cause to be delivered to the Closing Agent guaranteed funds in the amount Buyer is obligated to pay on the closing date pursuant to the terms of this Agreement; (b) execute and deliver to the Closing Agent a closing and disbursement statement in a form acceptable to Buyer; and (c) take such further action and deliver whatever documents are necessary to close the transaction in accordance with the terms of this Agreement.

3.4 Escrow Fees and Other Costs. Costs of title insurance (described below) and all real property taxes against the Properties for 1998 and prior years shall be borne by Seller. Taxes for 1999 and all utility, irrigation, or water district charges or fees shall be prorated as of the date of closing. There will be no further proration of taxes, utilities, or assessments between Buyer and Seller after the closing. All prorations will be final at closing and not subject to change. Buyer shall pay recording costs for the deed and any appraisal fees. All other escrow fees and other costs of Closing Agent to close this transaction shall be borne equally between Buyer and Seller, except Buyer is responsible for all costs associated with financing. Other expenses incurred by Buyer or Seller with respect to this transaction, including attorney's fees or other professional fees, shall be borne and paid exclusively by the party incurring the same without reimbursement.

3.5 Closing Agent Obligations. The Closing Agent is instructed as follows: (a) prepare closing statements for execution by Seller and Buyer in accordance with the terms of this Agreement; (b) collect all funds to be received from the parties at closing and disburse and pay the same to the parties or other persons entitled to the same in accordance with the terms of this Agreement and approved on the closing statements; and (c) collect the various instruments and documents and information to be provided by the parties, secure the required signatures and acknowledgments, record such instruments and documents where necessary and in proper sequence, and deliver the same to the respective parties, as required to close this transaction in accordance with the terms of this Agreement.

4. Seller's Representations and Warranties. Seller represents and warrants to Buyer that:

4.1 Seller has received no notice from any governmental agency that the Properties is in violation of any statute, law, ordinance, deed restriction, rules or regulations affecting the Properties.

4.2 Seller is not aware of any pending or threatened litigation or condemnation proceeding affecting the Properties, nor are there any agreements to convey any portion of the Properties to any party other than Buyer.

4.3 Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986 and will execute an affidavit to this effect to be delivered to Buyer at closing and include Seller's tax identification number.

4.4 Seller has not received any notice of default or breach by Seller of any covenant, condition, restriction, right-of-way or easement affecting the Properties.

5. **Condition of Properties.** Buyer acknowledges for Buyer and Buyer's successors, heirs, and assigns, that Buyer has been given a reasonable opportunity to inspect and investigate the Properties. In purchasing the Properties, Buyer is not relying on any representations by Seller, or its agents or employees concerning the condition or safety of the Properties and/or any improvements thereon. Buyer is advised to obtain and pay for the services of one or more qualified specialists to inspect the Properties on Buyer's behalf.

Buyer further states that it is relying solely upon its own inspection of the Properties and not upon any representation made to it by any person whomsoever who is an agent or employee of Seller, and is purchasing the Properties in the condition in which it now is without any obligation on the part of Seller to make any changes, alterations, or repairs thereto.

6. **Due Diligence.** Buyer shall conduct any studies or reviews deemed necessary by Buyer to conduct Buyer's due diligence. All reviews and studies shall be at Buyer's sole cost and expense, and Buyer shall defend, indemnify and hold Seller and Seller's tenant(s) harmless from all claims arising out of Buyer's actions and those of his employees or agents hereunder. Buyer is responsible to conduct all studies on the Properties.

7. **Title Insurance.** At closing, the Seller shall furnish to Buyer a standard owner's title insurance policy in the amount of the purchase price of the Properties showing marketable and insurable title. Within ten (10) days after this Agreement is signed, the Seller shall furnish to the Buyer a commitment for a title insurance policy showing the condition of the title to said Properties. The title shall be free and clear of all liens and encumbrances excepting only the accruing taxes, levies and assessments and any clouds suffered or incurred against the property by Buyer. Buyer shall have fifteen (15) days from receipt of the commitment within which to object in writing to the condition of the title as set forth in the report. If the Buyer does not so object, the Buyer shall be deemed to have accepted the condition of the title. Otherwise, Seller shall, so far as reasonably possible, cure all defects objected to by Buyer before closing. If Seller does not remove objections to Buyer's satisfaction, Buyer may terminate this Agreement without further obligation to Seller.

8. **Grazing Rights.** All Forest (West End C&H Allotment) and Bureau of Land Management grazing permits (Clear Creek Allotment, Jim Sage Allotment, Gully Allotment, and Almo Seeding Allotment) associated with the Properties sold/purchased are to be attached to the land parcels designated as the "Base Property" which is listed below:

NE 1/4 NE 1/4, S 1/2 NE 1/4 of Section 12, Township 16 South,
Range 24, E.B.M.

Lots 1, 2, 3, & 4 Section 6, Township South, Range 25 E.B.M.

NW 1/4 NE 1/4, NE 1/4, NW 1/4, Lots 1 & 2 Section 7, Township
16 South, Range 25, E.B.M.

Appropriate documents listing the Seller as the lien holder of the first mortgage on the Base Property will be initiated and filed, with the appropriate federal agencies with a copy to the Buyer and the Seller.

9. **Appraisal.** Buyer may obtain an appraisal of the Properties at Buyer's cost.

10. **Notice.** Any notice under this Agreement shall be deemed given and delivered on the date when personally delivered, or if mailed, on the same date it is deposited in the United States mail in a sealed envelope by registered or certified mail, return receipt requested, postage prepaid and properly addressed. Until change by notice in writing, notices to Seller shall be addressed as follows:

The Harold and Lorraine Ward Trust
7209 Kingston Dr.
Boise, ID 83704

Notices to Buyer shall be addressed as follows:

Spencer Brothers
HC 72, Box 2418
Malta, ID 83342

Buyer and Seller may change their addresses by notice given as required above.

11. **Broker.** Buyer and Seller represent that no broker was involved in this transaction, and no broker is entitled to any compensation for this transaction. If any broker claims any compensation for this transaction, the party allegedly responsible for the acts giving rise to the claim will defend and indemnify the other innocent party.

12. **Default.** If either party shall fail to comply with the terms of this Agreement, the nondefaulting party shall send written notice and provide a thirty (30) day period to cure. If the default is not cured within the time allowed, the defaulting party agrees to pay all attorney's fees and costs incurred by the nondefaulting party. If suit is filed to interpret or enforce this Agreement, the unsuccessful party to such litigation agrees to pay the prevailing party all costs and expenses, including attorney's fees, incurred by the prevailing party whether incurred in district court, on appeal or in bankruptcy court.

13. **No waiver of Breach.** No waiver of any provision hereof shall be effective unless in writing and signed by the waiving party. No such waiver shall be effective as to any subsequent breach of the same or another provision of this Agreement. The failure of Seller to exercise its rights upon default by Buyer shall not constitute or be construed as a waiver of the right to insist upon strict performance by the Buyer of all the terms and provisions of this Agreement.

14. **Like-Kind Exchange.** Seller and Buyer may elect to effect the purchase or sale of the Properties pursuant to the tax-free exchange provisions of Section 1031 of the Internal Revenue Code, and each party agrees to reasonably cooperate with the other to effect such a tax-free exchange; provided, however, that the party requesting the tax free exchange shall bear all costs arising out of any tax-free exchange it may elect to undertake, and that the Closing shall not be extended in order to accommodate any such exchange. Buyer agrees that any cash that may become available to it as a result of such an exchange shall be immediately applied to reduce the Note, but such payment shall not reduce the payment schedule.

15. **Survival.** All the terms and conditions hereof and all instruments referred to herein and contemplated hereby shall survive closing and the transfer of title to Buyer and shall remain in full force and effect in accordance with their terms.

16. **Successors and Assigns.** This Agreement shall bind each of the parties and their respective heirs, personal representatives, successors, and assigns; provided, however, this Agreement shall not be assigned by any party without the other's prior written consent, which will not be unreasonably withheld. However, Seller is not required to approve any assignee who in Seller's opinion does not have the same or better qualifications and financial backing as Buyer.

17. **Entire Agreement.** This Agreement, with any exhibits incorporated by reference, constitutes the final expression of the parties' agreement and is a complete and exclusive statement of the terms of that agreement. This Agreement supersedes all prior or contemporaneous negotiations, discussions and understandings, whether oral or written or otherwise, all of which are of no further effect. This Agreement may not be changed, modified, explained or supplemented by any extrinsic evidence outside of this Agreement, including, but not limited to, usage of trade, course of dealing and course of performance. This Agreement may only be modified or amended by a writing signed by each party.

18. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

DATED as of this 1 day of Apr. 1, 1999.

SELLER:

THE HAROLD AND LORRAYNE WARD TRUST

By Harold Olen Ward
Harold Olen Ward, Trustee

By Lorrayne B. Ward
Lorrayne B. Ward, Trustee

BUYER:

SPENCER BROTHERS

By Stanley A. Spencer
Stanley A. Spencer, Partner

By Michael O. Spencer
Michael O. Spencer, Partner

By Carl W. Spencer
Carl W. Spencer, Partner

EXHIBIT A

File Number: 14466

The land referred to is described as follows:

PARCEL #1:

TOWNSHIP 15 SOUTH, RANGE 24 EAST, BOISE MERIDIAN, CASSIA COUNTY, IDAHO

Section 34: SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$

Section 35: NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{4}$ SE $\frac{1}{4}$

Section 35: NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$,
Excepting a Right-of-Way 2 rods wide for a
road on the South section line.

TOWNSHIP 15 SOUTH, RANGE 25 EAST, BOISE MERIDIAN, CASSIA COUNTY, IDAHO

Section 11: NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 12: S $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$

TOWNSHIP 15 SOUTH, RANGE 26 EAST, BOISE MERIDIAN, CASSIA COUNTY, IDAHO

Section 4: N $\frac{1}{4}$ SW $\frac{1}{4}$

Section 5: N $\frac{1}{4}$ S $\frac{1}{4}$

Section 7: NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$, E $\frac{1}{4}$ NW $\frac{1}{4}$, Lots 2, 3 & 4

Section 8: W $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$

TOWNSHIP 16 SOUTH, RANGE 24 EAST, BOISE MERIDIAN, CASSIA COUNTY, IDAHO

SECTION 12: NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{4}$ NE $\frac{1}{4}$

TOWNSHIP 16 South, RANGE 25 EAST, BOISE MERIDIAN, CASSIA COUNTY, IDAHO

Section 6: Lots 1, 2, 3 & 4

Section 7: NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Lots 1 & 2

PARCEL #2:

TOWNSHIP 16 SOUTH, RANGE 24 EAST, BOISE MERIDIAN, CASSIA COUNTY, IDAHO

Section 2: Lot 2

PARCEL #3: An undivided one-half interest in

TOWNSHIP 16 SOUTH, RANGE 25 EAST, BOISE MERIDIAN, CASSIA COUNTY, IDAHO

Section 19: SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{4}$ SE $\frac{1}{4}$

Section 20: W $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 29: NW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 30: E $\frac{1}{4}$ E $\frac{1}{4}$

SUBJECT TO Road Right-of-Way along the South side.

ALL IN CASSIA COUNTY, STATE OF IDAHO

EXHIBIT A

**Legal Description of Property
Located in Box Elder County, Utah**

TOWNSHIP 14 NORTH, RANGE 16 WEST, SALT LAKE MERIDIAN

Section 20: E1/2 of NW1/4; SW1/4 of NE1/4; NW1/4 of SE1/4; W1/2 of NW1/4 and N1/2 of SW1/4

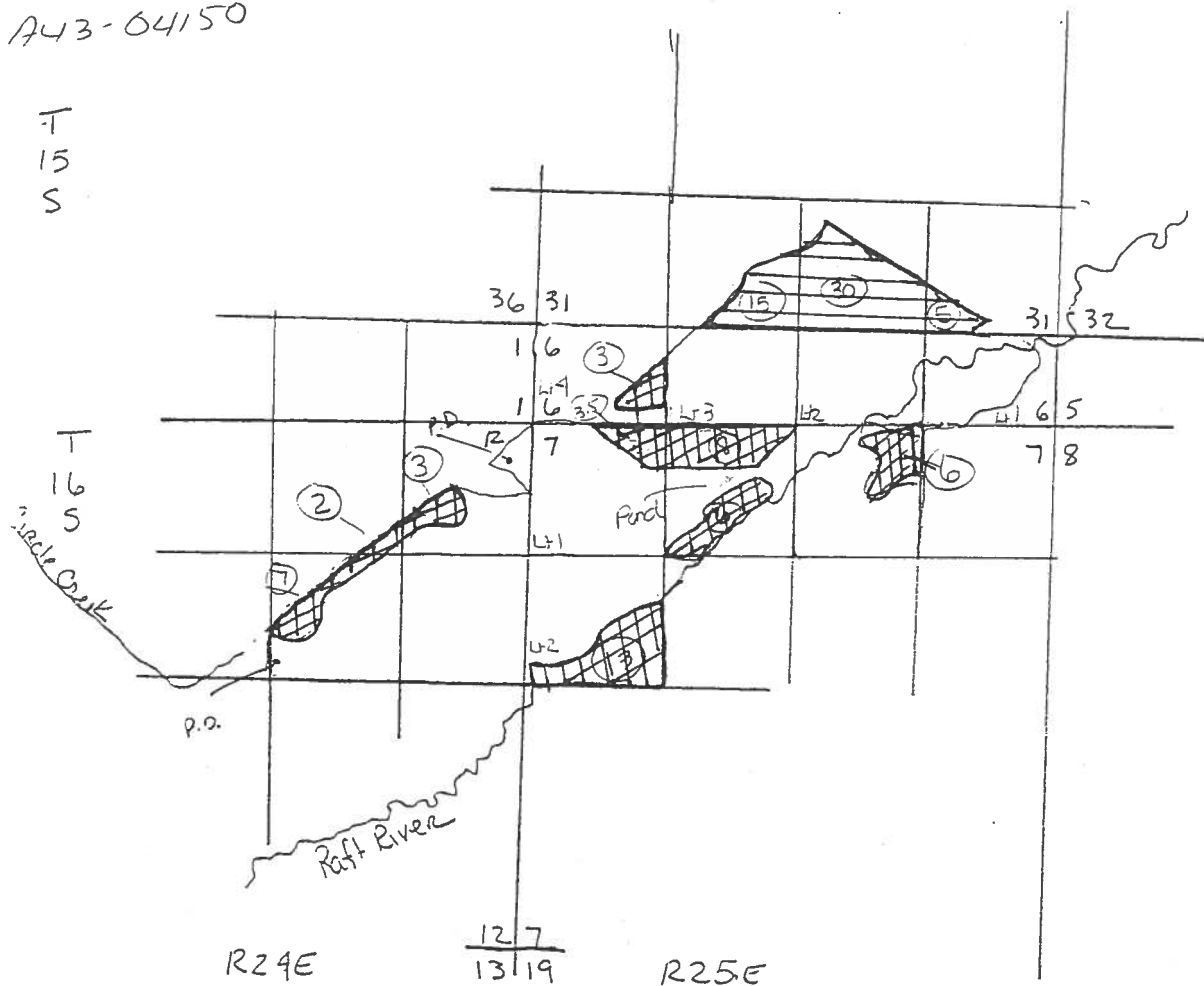
ALL IN BOX ELDER COUNTY, STATE OF UTAH

A43-07130
 A43-02556
 A43-04089
 A43-00047A
 A43-00327
 A43-04150

Copied from Harold Olen Ward original
4/22/99 sec

cc: to all claims

(also: A43-4090)



2 phases of Expansions:

1962 = Red = EOAC covered under license 43-02556
 1978 = Blue = SLSAC covered under Permit 43-07130

Total Expansion
 acres = 101.5

R24E R25E

A43-00327

T15S

T16S

28	29	30	31	32
33	34	35	36	37
38	39	40	41	42

Change of Ownership¹⁸ Co

4/22/99

SCC

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: A43-00047A
Date Received: 5/16/1991
Receipt No: C020510
Received By: _____

RECEIVED

AMENDED

JAN 15 1992

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: HAROLD OLEN WARD
Address: 7209 KINGSTON DR.
BOISE ID

208-334-1079

83704

AND/OR

Name: LORRAYNE B. WARD
Address: 7209 KINGSTON DR.
BOISE ID

208-334-1079

83704

2. Date of Priority: APR 1, 1872

3. Source: RAFT RIVER

Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
16S	24E	14	NW	NE	SE		CASSIA

5. Description of diverting works:
HEADGATE, DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	12/31	2.000		

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

A.F.A.

8. Total consumptive use is 1096.5 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER

A43-00047A

Page 1

Date: 01/09/92

COPY

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MAR 02 1993

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
15S	25E	31	SE		SW		IRR	15.0
			SW		SE		IRR	30.0
			SE		SE		IRR	5.0
			Section Acres					
16S	24E	12	NE		NE		IRR	24.0
			NW		NE		IRR	4.0
			SW		NE		IRR	32.0
			SE		NE		IRR	40.0
Section Acres						100.0		
	25E	6	SW		SW	4	IRR	3.0
SE				SW	3	IRR	26.0	
SW				SE	2	IRR	23.0	
SE				SE	1	IRR	10.0	
Section Acres						62.0		
		7	NW		NE		IRR	40.0
			NE		NW		IRR	40.0
			NW		NW	1	IRR	37.5
			SW		NW	2	IRR	36.0
Section Acres						153.5		
Total Acres						365.5		

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
43-02556, 43-04089, 43-04150, 43-00327, 43-04090, 43-07130

14. Remarks:
THIS CLAIM INCLUDES AN EXPANSION IN THE NUMBER OF IRRIGATED ACRES
50 ACRES WERE ADDED IN 1962 UNDER A GROUNDWATER LICENSE 43-02556,
51.5 ACRES WERE ADDED IN 1978 UNDER PERMIT 43-07130. WATERS FROM
ALL SOURCES ARE CO-MINGLED AND DISTRUBUTED IN ONE SYSTEM.

15. Basis of Claim: DECREED

Case Number:

Court :

A43-00047A

Page 2

Date: 01/09/92

COPY

MICROFILMED

MAR 02 1993

Decree date: / /

ALBION-IDAHO LAND CO.
Decree Plaintiff

JOBE ADAMS ET AL
vs Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Harold Allen Ward Date: 1/9/92
_____ Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 9th day

of January 19 92

Anna Baumhoff
Notary Public

Seal

Residing at _____

My Commission Expires 1994
Anna Baumhoff, Notary Public
Residing at Boise, Idaho
My Commission Expires December 7, 1994

COPY

MICROFILMED
MAR 02 1993

A43-00047A

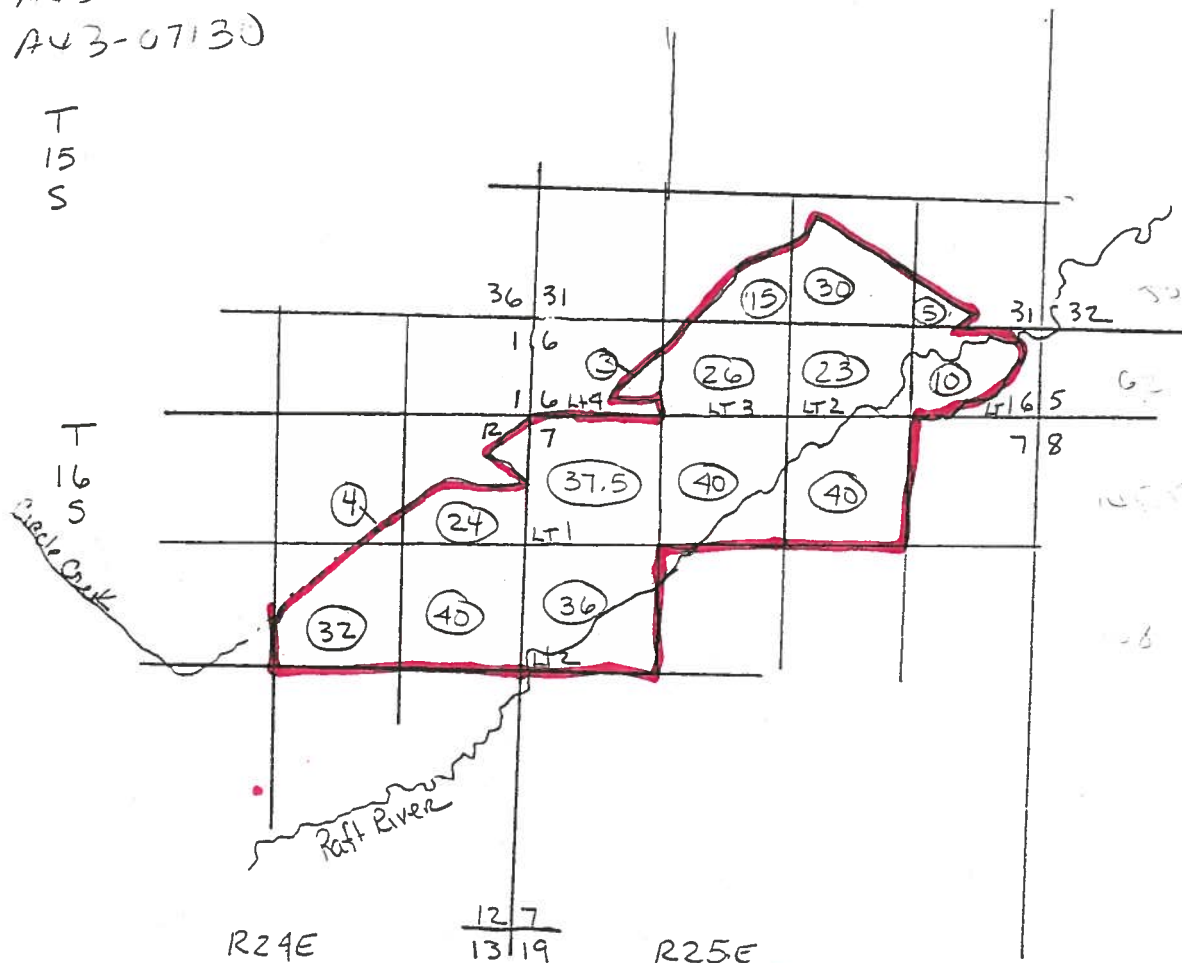
A43-00327

A43-02556

A43-04089

A43-04158

A43-07130



TOTAL ACRES = 365.5 AC

1962 expansion = 50 AC (43-02556)

1978 Expansion = 51.5 AC (43-07130)

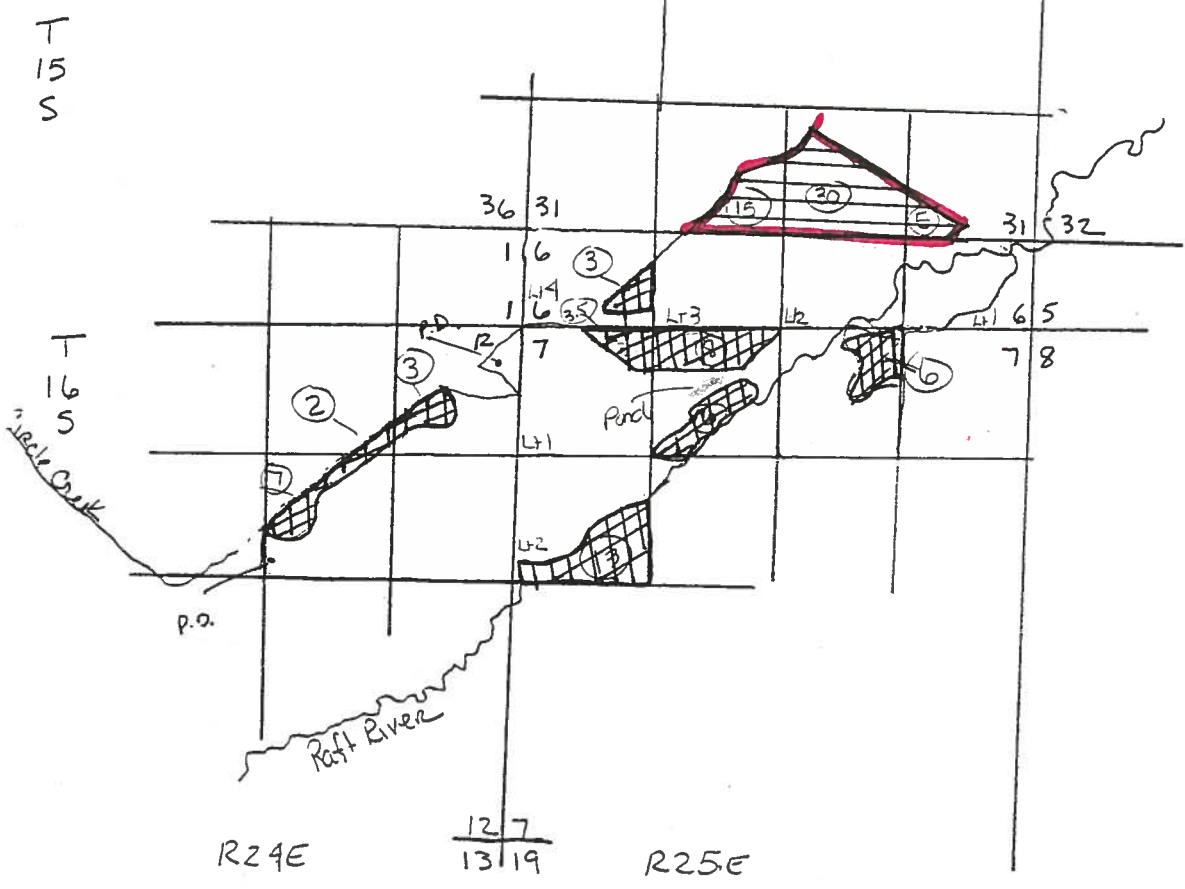
original orig acres = 264. 17C

A43-00047A	A43-04158
A43-00327	A43-04089

MICROFILMED

MAR 02 1993

A43-07130
 A43-02556
 A43-04089
 A43-00047A
 A43-00327
 A43-04150



2 phases of Expansion:

- 1962 = Red = EOTAC covered under license 43-02556
- 1978 = Blue = EOTAC covered under Permit 43-07130

Total Expansion
 across = 101.5
 =

MICROFILMED
 MAR 12 1993

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: A43-00047A
Date Received: 5/16/1991
Receipt No: C020510
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HAROLD OLEN WARD 208-334-1079
Address: 7209 KINGSTON DR.
BOISE, ID 83704
AND/OR
Name: LORRAYNE B. WARD 208-334-1079
Address: 7209 KINGSTON DR.
BOISE, ID 83704

2. Date of Priority: APR 1, 1872

3. Source: RAFT RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
16S	24E	14	NW	NE	SE		CASSIA

5. Description of diverting works:
HEADGATE, DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	12/31	2.000		

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

8. Total consumptive use is 662.5 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
16S	24E	12	NE		NE		IRR	21.0
			NW		NE		IRR	2.0
			SW		NE		IRR	25.0
			SE		NE		IRR	40.0
			Section Acres					88.0
	25E	6	NE		NE	1	IRR	10.0
			NW		NE	2	IRR	23.0
			NE		NW	3	IRR	26.0
			Section Acres					59.0
		7	NW		NE		IRR	34.0
			NE		NW		IRR	31.0
			NW		NW	1	IRR	30.0
			SW		NW	2	IRR	23.0
			Section Acres					118.0
			Total Acres					265.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:

A43-02556, A43-04089, A43-04150, A43-00327

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

ALBION-IDAHO LAND CO.

Decree Plaintiff

JOBE ADAMS ET AL

vs Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

\$ 50 IF EXTENSION GRANTED
\$ 100 IF NO

9

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: A43-00047A
Date Received: ~~4/11/1991~~
Receipt No: _____
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HAROLD OLEN WARD 208-334-1079
Address: 7209 KINGSTON DR.
BOISE, ID 83704

AND/OR
Name: LORRAYNE B. WARD 208-334-1079
Address: 7209 KINGSTON DR.
BOISE, ID 83704

2. Date of Priority: APR 1, 1872

3. Source: RAFT RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
16S	24E	14	NW	NE	SE		CASSIA

5. Description of diverting works:
HEADGATE, DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/01	12/31	2.000		

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

8. Total consumptive use is 662.5 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER

EXTENSION
GRANTED.
\$50 FEE PAID
5-16-91

A43-00047A

Page 1

Date: 04/11/91

MICROFILMED

MAR 02 1993

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
16S	24E	12	NE		NE		IRR	21.0
			NW		NE		IRR	2.0
			SW		NE		IRR	25.0
			SE		NE		IRR	40.0
							Section Acres	88.0
	25E	6	NE		NE	1	IRR	10.0
			NW		NE	2	IRR	23.0
			NE		NW	3	IRR	26.0
		7	NW		NE		IRR	34.0
			NE		NW		IRR	31.0
			NW		NW	1	IRR	30.0
			SW		NW	2	IRR	23.0
							Section Acres	118.0
							Total Acres	265.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
A43-02556, A43-04089, A43-04150, A43-00327

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

ALBION-IDAHO LAND CO.

Decree Plaintiff

JOBE ADAMS ET AL
vs Decree Defendant

16. Signature(s)

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

Number of attachments: 4 PAGES

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Harold Alen Ward Date: 4/11/91

Date: _____

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 11 day
of APRIL 19 91
Jeff Peppersack
Notary Public

Seal

Residing at _____

My Commission Expires _____

Jeff Peppersack, Notary Public
Residing at Boise, Idaho
My Commission Expires Nov. 8, 1994

A43-00327
00047A

2	21	30	28	25	10
23	P 40	23	R	R	A

MAR 02 1953

1253

In the District Court of the Third Judicial District of
Idaho Territory in and for the County of Cassia.

Lee Kirk et al.
vs.
A. Bartholomew et al.

Findings

Findings of the Court in this action.

The above entitled Cause having come on regularly for
trial at the November term of said Court held in and for Cassia
County, Idaho Territory in 1889, and having been tried by the Court
and after taking the evidence on all the issues in the case, and
hearing the arguments of the Counsel for the respective parties
the Court having taken the same under advisement; and
having duly considered said evidence, arguments and all
the case, and being duly advised therein, the Court hereby
renders its decision and findings as follows; to wit:

Findings of Fact.

1. That at the several times herein stated there is flowing
in Raft River and in Adams Creek, a tributary of Raft River
including the tributaries of Adams Creek, during each and
every ordinary year, from the first day of April to the
fifteenth day of June, including the water returned
to said streams after diversion for irrigation as herein
after stated at all the several flows in said streams five
thousand and sixty five inches of water.

2. I find that after diversion for purposes of irriga-
ting the several parcels of land as herein after described
there is returned to said streams of the waters so di-
verted at all of said points and places up to June 15,
in each year two thousand and twenty six inches of
water.

3. That the amount of water actually consumed
in each irrigation at all places on said streams

That he has used the above amounts during the time mentioned, each year on said lands, down to the date of this decree.

That the lands upon which said waters were used as aforesaid, are particularly described as follows:

NE¹/₄ SW¹/₄; NW¹/₄ E¹/₄; S¹/₂ NE¹/₄ Sec. 21st & NE¹/₄ NE¹/₄ Sec. 24. Sp. 15. S. of R 26 E. & Lot 1. Sec. 19. & Lot 4] Sp. 15 S. of R 27 E Boise Meridian.

22. I find that David Hultard appropriated from the waters of said Raft River in the month of April 1882 to be used in the irrigation of the lands hereinafter described from April to June 15 in each year 50 inches of water from June 15 to July 15 30 inches of water from July 15 to the end of the year 20 inches of water.

That he has used the above amounts each year on said lands down to the date of this decree.

That the lands upon which said waters were so used, as aforesaid, are particularly described as follows: E¹/₂ NE¹/₄ and SW¹/₄ NE¹/₄ Sec. 12 Sp. 16. S. of R 24 E Boise Meridian.

23. That J. W. Hultard appropriated from the waters of said Raft River in the month of April 1882 to be used in irrigating the lands hereinafter described from April to June 15 in each year 75 inches of water, from June 15 to July 15 20 inches of water, from July 15 to the end of the year 25 inches of water.

That he has used the above amounts during the time mentioned, each year on said lands down to the date of this decree.

That the lands upon which said water was used as aforesaid are particularly described as follows: NW¹/₄ NE¹/₄ & E¹/₂ NE¹/₄ Sec. 21st & S¹/₂ NE¹/₄ NE¹/₄ Sec. 24. Sp. 15. S. of R 26 E Boise Meridian.

CLAIMANT'S NAME: HAROLD OLEN WARDDATE: 5-21-91COUNTY: CASSIAEMPLOYEE: BURKE H. SCHOLER

MR WARD CAME INTO OFFICE ON 5-16-91 TO PAY THE REQUIRED FEES FOR FILING THIS CLAIM. AN EXTENSION OF TIME WAS GRANTED AND HE PAID \$50 FOR THIS CLAIM. I RECEIPTED THE FUNDS AND PLACED THE RECEIPT NO. ON THE COMPUTER CLAIM FORM. I MADE A COPY FOR HAROLD AND A COPY FOR THE FILE. HE IS CLAIMING AN APRIL 1, 1872 PRIORITY DATE BASED ON OLD DOCUMENTS ATTACHED THE ORIGINAL DECREE FROM KIRK ETAL VS. BARTHOLOMEW ^{ET AL} LISTED NO PLACES OF USE. DECREE FROM ~~B~~ ALBION IDAHO LAND CO VS. JOSE ADAMS ¹⁹²²⁻²⁹ ETAL. ~~LISTED~~ THE PROPER AMOUNTS OF DUE RATE & PLACES OF USE. THIS RIGHT WAS TRANSFERRED FROM LOTS 1, 2, 3, 4 & 5 SEC 6 T16S R26E BM TO SW 1/4 NE 1/4 AND E 1/2 NE 1/4 OF SEC 12 T16S R24E, LOTS 1, 2, 3, 4 SEC 6 T16S R25E AND LOTS 1 & 2, NE 1/4 NW 1/4, NW 1/4 NE 1/4 SEC 7 T16S R24E BY MEANS OF A WARRANTY DEED BETWEEN H.C. BARNES & JOHN C. WARD DATED NOV 22, 1927. HAROLD IS CLAIMING PRIORITY OF APRIL 1, 1972 BASED ON THESE DOCUMENTS ALSO HE IS CLAIMING A PERIOD OF USE BASED IN PART ON THE ORIGINAL DECREE KIRK ETAL VS. BARTHOLOMEW ETAL OF 3/01 TO 12/31. ^{COPIES OF} ALL OF THE DOCUMENTATION IS ATTACHED.

MICROFILMED
MAR 02 1993

Albion-Idaho Land Company

1886-June 15
(Leafy Neal Tract)

1.7 s.f. c332
8B

To be diverted from Clear Creek for the irrigation of NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 33, Twp. 15 S. R. 27 E.B.M.

1881-June 143 0039.5 s.f. c330
(James Kempton Tract)

8B

To be diverted from Clear Creek for the irrigation of NE $\frac{1}{4}$, Sec. 15, Twp. 16 S. R. 27 E.B.M.

1887-June 1 43 0040.2 s.f. c334

8B

To be diverted from Clear Creek for the irrigation of NE $\frac{1}{4}$, Sec. 15, Twp. 16 S. R. 27 E.B.M.

1887-June 1 43 0041 2.7 s.f. c335
(Jerome Kempton Tract)

8B

To be diverted from Clear Creek for the irrigation of NW $\frac{1}{4}$, Sec. 15, Twp. 16 S. R. 27 E.B.M.

1886-June 15 43 0042.2 s.f. c333
(Gallier Tract)

8B

To be diverted from Clear Creek for the irrigation of E $\frac{1}{4}$, Sec. 32, W $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33, Twp. 15 S. R. 27 E.B.M.

1908-May 1 43 0043 2.6 s.f. c337
(Retan Tract)

8B

To be diverted from Clear Creek for the irrigation of E $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, Twp. 16 S. R. 27 E.B.M.

1887-June 1 43 0044.4 s.f. c336
(Pierce Tract)

8B

To be diverted from Clear Creek for the irrigation of S $\frac{1}{4}$ and the S $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 10, Twp. 16 S. R. 27 E.B.M.

1882-June 1 43 0045 1.7 s.f. c331
(Rice or Round Mountain Tract)

8B

To be diverted from Clear Creek for the irrigation of W $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 13, NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 24, Twp. 16 S. R. 27 E.B.M.

PROVIDED: That the Albion-Idaho Land Company or any of the appropriators having a lower point of diversion shall not be entitled to divert any of the waters of the said Clear Creek when the same does not exceed 200 inches or 4 second feet, at the said Company's point of diversion.

Orlando Bateman and Ella Bateman

1884-Apr. 30 43 0046 s.f. c147

To be diverted from Raft River for the irrigation of SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, S $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 24, Twp. 15 S. R. 26 E.B.M.

To be diverted from Raft River

THIS INDENTURE, Made this 22nd day of November

in the year of our Lord one thousand nine hundred and twenty-seven

between H. C. Barnes, and Annie Barnes, his wife,

of _____ County of Cassia

State of Idaho

the parties of the first part, and

John C. Ward,

of _____ County of Cassia

State of Idaho

the part J of the second part,

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of

Three Thousand and no/100 - - - - - DOLLARS,

lawful money of the United States of America, to them in hand paid by the said part J of

the second part, the receipt whereof is hereby acknowledged, he do grant, bargain and sell, and by these presents do, grant,

bargain, sell, convey and confirm unto the said part J of the second part, and to his heirs and assigns forever, all the following

described real estate, situated in the _____ County, of Cassia

State of Idaho, to-wit:

100 inches or two (2) second feet of the flow of the waters of Raft River, with date of priority of April 1, 1872, as decreed to the Durham Land & Cattle Company for use upon the Willard Claim in that certain action in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Cassia, wherein Lee Kirk, et al were plaintiffs and A. Bar- tholomew et al, were defendants, which decree bears date October 3, 1893, which said water was transferred under and by virtue of the certificate of the Commissioner of Reclamation of the State of Idaho, bearing date November 17, 1927, for use upon the following described real estate in the County of Cassia, State of Idaho, to-wit: Lots one (1) and two (2), the Northeast quarter (NE1/4) of Section six (6), and the Northwest quarter of the Northwest quarter (NW1/4) of Section seven; Lots one (1), two (2), three (3) and four (4) of Section six (6), and the Northwest quarter of the Northwest quarter (NW1/4) of Section seven; Lots one (1), two (2), three (3) and four (4) of Section six (6), and the Northwest quarter of the Northwest quarter (NW1/4) of Section seven; Range twenty-five (25) East Boise Meridian, and the Southwest quarter of the Northeast quarter (SE1/4) and the East half of the Northeast quarter (E1/2) of Section twelve (12), Township sixteen (16) South, Range twenty-four (24) East Boise Meridian.

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

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the part J of the second part, and to his 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 part J of the second part, his heirs and assigns, against the said part J of the first part, and their heirs, and against all and every person and persons whatsoever, 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 in us haveunto set their hand and seal on and at the day and year first above written.

Signed, Sealed and Delivered in the Presence of

J. A. Crockett

H. C. Barnes

Annie Barnes

SEAL

SEAL

SEAL

SEAL

UTAH
STATE OF IDAHO
County of Cassia
On this 31st day of March
me John A. Crockett
in and for said County, personally appeared

H. C. Barnes and Annie Barnes, his wife

In the year 1927, before

subscribed to the within instrument, and acknowledged to me that they executed the same.

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

(J.P. SEAL)

John A. Crockett
Notary Public, Residing at Logan, Utah.
My commission expires July 1, 1930.

Filed for record at the request of
at 10:50 o'clock A. M.,

John C. Ward
April 18th., 1928

MAR 2 1933

of Edwards Creek, and during both the high and low water season its flow is greater than Edwards Creek. Edwards Creek also runs through the valley, and lies east of Almo Creek at a distance of about one mile.

In July, 1887, a suit was brought in the state court to determine the relative rights of the Idaho users of the upper Raft River and its tributaries, entitled Kirk, et al., v. Bartholomew, et al. A number of actions since then have been instituted concerning the adjudication of water rights on Raft River and its tributaries, but none of them adjudicated the rights of all of the users of water of that stream. On October 5, 1893, a decree was finally entered by the state court in the case of Kirk, et al. v. Bartholomew, et al., and the rights of all the parties thereto claiming right to the use of the waters of Raft River and Almo Creek and their tributaries were decided, and the date and amount of their appropriations were set forth. Among other provisions of the decrees, Almo Creek and its tributaries were set aside as a water district, separate and distinct from the other streams involved. Not being content with that decree, certain parties interested instituted another suit and a decree was entered by the state court in the case of Darby, et al. v. Jones, et al., in which were determined the relative rights of the various parties who had theretofore appropriated the waters of Raft River and its tributaries to a beneficial use. A portion of the lands of plaintiff and others were not described by legal subdivisions in the decrees in Kirk, et al. v. Bartholomew, et al., and Darby, et al. v. Jones, et al., which has caused the bringing of this suit seeking a workable decree under which the entire stream might be administered. It further appears that another action was brought to have stricken from the decree, in the case of Kirk, et al. v. Bartholomew, et al., the words "after June 15th

of each year", which, it was claimed, were inserted therein by some unknown person after the decree had been signed, and which was stricken out by the court in the subsequent decree. The duty, amounts of water and priorities awarded by the state decrees referred to are agreed upon by the parties to be as set forth in those decrees.

ALBION-IDAHO LAND COMPANY'S RIGHTS.

The plaintiff's rights as decreed in the state decrees are stipulated to be decreed the same in this case, excepting (a) the controversy between it and the defendants Sears and Pierce, which arises out of the issue presented by the pleadings, and in which the plaintiff asserts in its complaint that:

"This plaintiff is the successor in interest of the said Sweetser Brothers and Pierce who were by paragraph twenty-five of the said decree awarded to use and the right to use upon their lands for the irrigation thereof one hundred inches of the waters of Raft River as of date of priority of April 1st, 1871, for the irrigation of its lands. That the lands therein so referred to were in truth and in fact the S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 18, and N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 19, T.13 S.R. 27, E.B.M. And that by the making of said decree the court intended to and in fact did award to said Sweetser Brothers and Pierce the use of and the right to use one hundred inches of the waters of Raft River with date of priority as of April 1st, 1871, for the irrigation of the said lands. And that such water has been continuously used upon said land for the irrigation thereof since April 1st, 1871."

In the cross complaints of Sears and Pierce, which are identical excepting as to the description of lands, it is stated:

"That on the first day of April, 1871, the grantors and predecessors in interest of the defendant appropriated for the irrigation of said land and for stock and domestic purposes 1.625 cubic feet per second of the flow of Raft River.

"That by means of dams placed in said Raft River and ditches leading therefrom, the grantors and predecessors in interest of the said defendants diverted and conducted said water to and upon said land, and the said amount of said water was then and ever since has been and now is necessary for the proper irrigation of said land and for stock and domestic purposes, and the value of said land would be greatly reduced without said water.

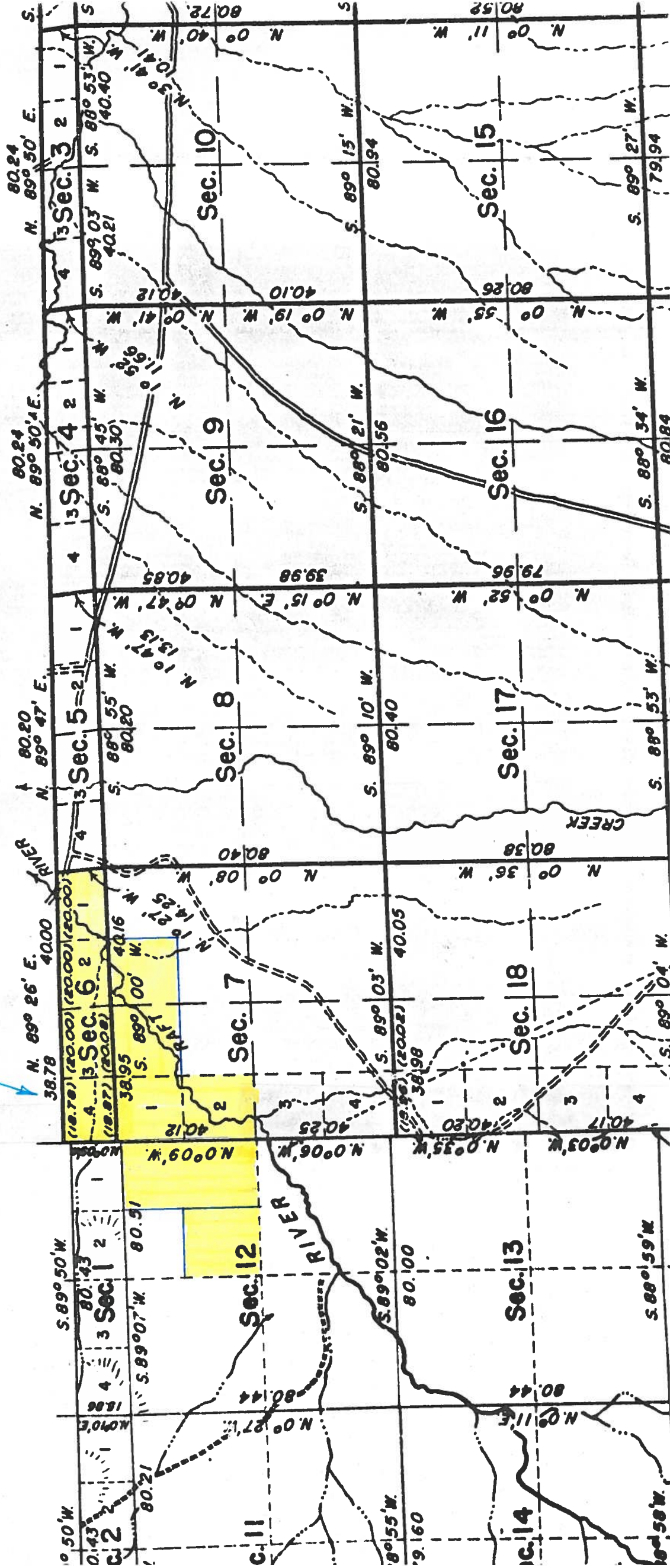
Age	Priority	Stream	Name	Amount	Date of	Description of Lands	Cumulative
No	No			C F S	Priority		Total
32	1	Raft River	A. D. & Bula Pierce	2.651	4-1-71	E ² SW ¹ ₄ , Sec. 19, W ² NW ¹ ₄ Sec. 30, T.13 S.R.27 E. (This right is part of the 4.5 s.f. above) Less an irregular tract (Apr. 1 to Oct. 1) being a part of the 4.5 s.f. above and not in addition there to	
3	1	Raft River	Albion-Idaho Land Company	1.2	4-1-71	Lot 4, SE ¹ SW ¹ ₄ Sec. 18, Lot 1, NE ² NW ¹ ₄ Sec. 19, T.13 S.R.27 E. (Also stock water) Apr 1 to July 1	21.31
4	2	Raft River	Albion-Idaho Land Company	3.82	4-1-72	Lots 1, 2, 3, 4, & 5, Sec. 6, T. 16 S., R. 26 E. (R25E) TRANSFERRED H.C. BRAVES TO JOHN C. WARD	25.13
6	2	Raft River	James F. McGill	2.00	4-1-72	Lot 2, SW ¹ NE ¹ ₄ , W ² SE ¹ ₄ Sec. 5, NW ² NE ¹ ₄ Sec. 8, T.15 S.R.27 E. (Other awards for same lands but total not to exceed 4 s.f. Apr 1 to July 1	27.13
4	2	Raft River	Orson J. & Chloe Sanders	1.6	4-1-72	NE ¹ NE ¹ ₄ Sec. 10, S ¹ NE ¹ ₄ Sec. 11, S ² NE ¹ ₄ , S ² NW ¹ ₄ Sec. 12, T. 16 S. R. 25 E.	28.73
4	2	Raft River	Orson J. & Chloe Sanders	3.2	4-1-72	NE ¹ NE ¹ ₄ Sec. 16, S ² NE ¹ ₄ Sec. 11, S ² NE ¹ ₄ , S ² NW ¹ ₄ Sec. 12, T. 16 S. R. 25 E. (Apr. 1 to July 1)	31.93
6	3	Cassia Creek	Sadie Beecher	.62	4-30-72	N ¹ SW ¹ ₄ , SE ¹ SW ¹ ₄ Sec. 19, T.13 S. R.26 E. N ² SE ¹ ₄ , NE ¹ SW ¹ ₄ Sec. 24, T. 13 S. R. 25 E.	32.55
6	3	Cassia Creek	Clifford Beecher	1.88	4-30-72	W ¹ SW ¹ ₄ Sec. 20, E ² SE ¹ ₄ , SW ¹ SE ¹ ₄ , S ² NW ¹ ₄ SE ¹ ₄ Sec. 19, T.13 S.R.26 E	34.43
2	3	Raft River	Albion-Idaho Land Company	2.6	4-30-72	SE ¹ SE ¹ ₄ Sec.1, T.12 S.R.26 E., Lot 7, Sec.6, Lot 1, Sec. 7, T. 12 S.R.27 E. (Apr. 1 to Nov. 1)	37.03
3	3	Cassia Creek	Ada C. Rice	1.0	4-30-72	E ² SW ¹ ₄ , SE ¹ ₄ Sec.20, T.13 S.R.26 E.	38.03

THE BOISE MER

TOWNSHIP 16 SOUTH, RANGE 25 EAST, OF 7

DEPENDENT RESURVEY

WARRANTY DEED HAS
TRANSFER FROM LOTS
1, 2, 3, 4 & 5 SEC 6 T 16 S
R 26 E TO THIS LOCATION
11-22-27



App. #: 43-7130 12-12-88 LOC: 4- MS
Proof Received : ~~10-8-78~~
Exam Completed:
Sent to S. O. :

TARA:

please create this file for me
as I have an SRSA claim
on it...

Thanks,

H

MON 05-08-95

file:

OLIVER WARD

SD-0412
MODIFY RIGHT

Id , Department of Water Resources
Water Rights Screen 4

Date: 05/08/95
Time: 18:52:59

Water Right Number: 43-07130

Stage/Status : P/_	Temporary Right : P	Region : 17
Water District: _	Swan Falls Flag : 7	Field Exam : R
PoU Owned : _	Transfer/Amended: _	DLE Carey Act : _
	T/A Desc.:	

Dates:

Priority : 10/_6/1978	Appl. Rec.: _/_/_	Appr/Deny : _2/_8/1979
Proof Due : _1/_1/1989	Proof Made: 12/22/1988	Field Exam: _/_/_
Exam to SO: _/_/_	Protested : _/_/_	Hearing : _/_/_
Show Cause: _/_/_	Licensed : _/_/_	Decree : _/_/_

Receipt No.: _____ Old Number: _____

Civil Case No.: _____

Defendent: _____

Plaintiff: _____

(GOLD2=Update)

(GOLD3=Update Field Exam Info)

(Enter=Exit)
(GOLD8=Cancel)

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A43-00047A

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent 7H Date 04-21-95

Contact Person(s) OLIVER WARD

Nature of Contact reporting correct mailing address
in AAMD; correct phone # to be changed
on claims. Msg to AAM - already did this
last week by msg to office.

Substance of Communication msg from record
PO Box 114
AAMD, 83312

phone in Boise: 376-7815

☒ address/phone form sent w/ SAE.

TELEPHONE MEMORANDUM

Incoming Call

✓
Outgoing Call

Returning Call

TO:

Allen Ward

DATE:

04-19-1995

FROM:

7H

FILE:

FILE NO:

SUBJECT:

A43-00047A et al
address/phone #

REMARKS:

*# in claim is disconnected-
from recent contact re: RAYMOND SPRINGS
complaint is 824-5580.*

ROUTING
INSTRUCTIONS:

CALENDAR
DATES:

TO: ADM
FROM: FH
DATE: 04-11-1995
SUBJ: TELEPHONE CALL FROM OLEN WARD

MR. WARD CALLED AT 7:25 AM RE A RUMOUR THAT GARY STEED (REED SPRINGS) HAS GOT A DEAL FOR 160 ACRES ALONG RAFT RIVER NEAR THE UTAH LINE AND IS GOING TO TRANSFER A GROUNDWATER RIGHT FROM CRP GROUND IN BURLEY AREA TO IT.

WARD IS CONCERNED ABOUT INTERFERENCE WITH HIS WELL AND THAT OF BRUCE DURFEE'S.

HE ALSO WANTS US TO KNOW THAT STEED HAS COMMENTED THAT HE IS GOING TO UPGRADE HIS WELLS AND PULL MORE WATER. WARD SAYS THAT STEED IS ALREADY SPREADING WATER ON 50 TO 75 ACRES.

WANTED TO KNOW WHAT HAD BEEN DONE ABOUT THE REED SPRINGS COMPLAINT AND I TOLD HIM THAT YOU AND MEL HAD GONE BY THE SITE RECENTLY.

MR. WARD WOULD LIKE YOU TO CALL HIM. HIS NUMBER IS 824-5580 AND HAS A RECORDER.

CC: WARD CLAIM FILE
STEED ORIGINAL OWNER CLAIMS

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

In Re SRBA

Subcase No.: 43-47A

Case No. 39576

STANDARD FORM 5

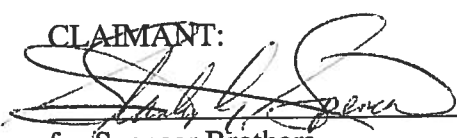
**STIPULATED ELEMENTS OF A
WATER RIGHT**

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

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

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

CLAIMANT:


for Spencer Brothers

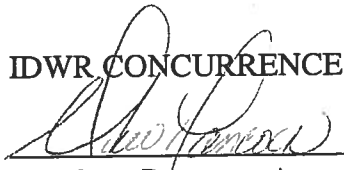
7-15-02
Date

OBJECTOR:


Larry A. Brown, US DOJ
Attorney for BLM

Date

IDWR CONCURRENCE:


Sr. Water Resource Agent

7-15-02
Date


Approved as to form
Attorney for IDWR

Date

CERTIFICATE OF SERVICE

I certify that on _____, 2002, I caused to be served true and correct copies of this Standard Form 5, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Spencer Brothers
HC 72 Box 2418
Malta, ID 83342

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

U.S. Dept. of Justice
Environment & Nat'l Resources Div.
550 W. Fort St. MSC 033
Boise, ID 83724

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Signature of person or attorney mailing the form

07/12/2002

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

RIGHT NUMBER: 43-47A

NAME AND ADDRESS: SPENCER BROTHERS
HC 72 BOX 2418
MALTA ID 83342

SOURCE: RAFT RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 2.00 CFS

THIS RIGHT WHEN COMBINED WITH RIGHTS LISTED BELOW SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE: 43-327, 43-2556, 43-4089, 43-4090, 43-4150, 43-7130.

PRIORITY DATE: 04/01/1872

POINT OF DIVERSION:

T16S R24E S14 NWNESE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	2.000 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

~~T16S R25E S31~~	SESW	13.0	~~T16S R25E S31~~	SWSE	28.0
~~T65S R25E S31~~	SESE	5.6	~~T16S R25E S12~~	NWNE	1.3
T16S R24E S12	NENE	18.0	T16S R24E S12	SWNE	32.0
T16S R24E S12	SENE	40.0	T16S R25E S06 Lot 4	SWSW	1.2
T16S R25E S06 Lot 3	SESW	29.0	T16S R25E S06 Lot 2	SWSE	29.0
T16S R25E S06 Lot 1	SESE	13.0	T16S R25E S07	NWNE	40.0
T16S R25E S07	NENW	40.0	T16S R25E S07 Lot 1	NWNW	38.0
T16S R25E S07 Lot 2	SWNW	38.0			

~~365.1~~ 318.2 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF ~~365~~ 318 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-327, 43-2556, 43-4089, 43-4090, 43-4150, 43-7130.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 260 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS: 43-327, 43-4150.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 100 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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: Decreed

RECEIVED

JUN 11 2002

Department of Water Resources

2002 JUN 07 PM 02:58
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *DM*

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	)	NOTICE SETTING SUBCASE(S)	
	)	FOR INITIAL HEARING	
Case No. 39576	)		
_____	)	SUBCASE NOS: 43-00047A	43-00327
		43-02556	43-04089 43-04090
		43-04150	43-07130

The Initial Hearing for this subcase will be held before
Special Master TERRENCE A. DOLAN

WEDNESDAY, AUGUST 14, 2002 at 01:30 PM
CASSIA COUNTY COURTHOUSE
1459 OVERLAND AVE
BURLEY, ID

ATTENDANCE IS MANDATORY. All parties are required to
attend and must have full settlement authority.

At the Initial Hearing you will have an opportunity
to meet with a representative of the Idaho Department of
Water Resources (IDWR) and/or the objector in an attempt
to reconcile any difference between the claim and the
Director's Report. Bring any and all information you
believe is relevant to your claim and/or objection. If
the claim cannot be reconciled at the Initial Hearing,
the court will set the subcase(s) for trial within 45
days of the Initial Hearing. IF YOU INTEND TO AMEND YOUR
CLAIM, YOU MUST DO SO AT OR BEFORE THE INITIAL HEARING.

Settlement documents must be filed with the court by
AUGUST 07, 2002 or hearing will not be vacated.

Dated: JUNE 07, 2002

/S/ LETTIE MESSICK
Deputy Clerk
Snake River Basin Adjudication

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

Page 1 6/07/02

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING
SUBCASE(S) FOR INITIAL HEARING was mailed on JUNE 07, 2002,
with sufficient first-class postage to the following:

UNITED STATES OF AMERICA

Represented by:

US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

SPENCER BROTHERS
HC 72 BOX 2418
MALTA, ID 83342
Phone: 435-827-5573

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

RECEIVED

FEB 11 2002

RECEIVED

FEB 19 2002

Department of Water Resources
Southern Region

Department of Water Resources

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

In Re SRBA

Case No. 39576

A. Subcase 43-00047A

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior, Bureau of
Land Management, Idaho State OfficeAddress: 1387 South Vinnell Way
Boise, Idaho 83709-1657Daytime Phone: see below

Name & Address of Attorney, if any:

Larry A. Brown (202) 305-0435 phone, (202) 305-0274 faxUnited States Department of Justice; Environment and Natural Resource Division; General Litigation Section
550 West Fort Street, MSC 033; Boise, Idaho 83724

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

Name: Spencer Brothers

Address: HC 72 Box 2418; Malta, Idaho 83342

Name:

Address: ;

Name:

Address: ;

Name:

Address: ;

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

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: See attached

11. **I object because:**

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

E. **REASONS SUPPORTING OBJECTION(S):**

The United States of America, through the Bureau of Land Management, is the owner of the land upon which use is claimed. The claimant's use of Federal land is unauthorized. See attached POU. Claimant's water right should not include this POU.

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Gary A. Madenford, Water Rights Team Leader, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

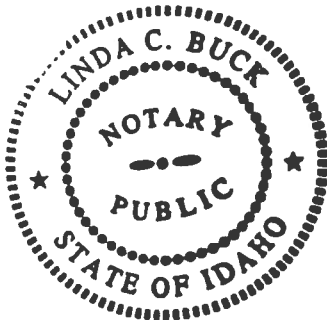
That I am the party/claimant filing this objection, as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Gary A. Madenford
(Signature of person filing objection)

Larry C. Brown
(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

February 7, 2002
Linda C. Buck



Linda C. Buck
Notary Public for Idaho
Residing at: Mountain Home
My Commission Expires: 12-21-2005

INSTRUCTIONS FOR MAILING

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

G. CERTIFICATE OF MAILING

I certify that on Feb 8, 2002, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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

Name: Spencer Brothers
Address: HC 72 Box 2418; Malta, Idaho 83342
Name:
Address:;
Name:
Address:;
Name:
Address:;

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

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


Signature of Objector or attorney mailing on Objector's behalf

09/19/2001

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

RIGHT NUMBER: 43-47A
NAME AND ADDRESS: SPENCER BROTHERS
HC 72 BOX 2418
MALTA ID 83342

**-POUs ON BLM
-CLAIMANT IS NOT AUTHORIZED
TO FARM PUBLIC LAND**

SOURCE: RAFT RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 2.000 CFS

THIS RIGHT WHEN COMBINED WITH RIGHTS LISTED BELOW SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE: 43-327, 43-2556, 43-4089, 43-4090, 43-4150, 43-7130.

PRIORITY DATE: 04/01/1872

POINT OF
DIVERSION:

T16S R24E S14 NWNE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/01 10/31	2.000 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

T15S R25E S31	BLM	SESW	13.0	T15S R25E S31	BLM	SWSE	28.0
T15S R25E S31	BLM	SESE	5.6	T16S R24E S12		NENE	18.0
T16S R24E S12	BLM	NWNE	1.3	T16S R24E S12		SWNE	32.0
T16S R24E S12		SENE	40.0	T16S R25E S06 Lot 4		SWSW	1.2
T16S R25E S06 Lot 3		SESW	29.0	T16S R25E S06 Lot 2		SWSE	29.0
T16S R25E S06 Lot 1		SESE	12.0	T16S R25E S07		NWNE	40.0
T16S R25E S07		NENW	40.0	T16S R25E S07 Lot 1		NWNW	38.0
T16S R25E S07 Lot 2		SWNW	38.0				

365.1 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 100 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 260 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-327, 43-4150.
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 365 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-327, 43-2566, 43-4089, 43-4090, 43-4150, 43-7130.

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

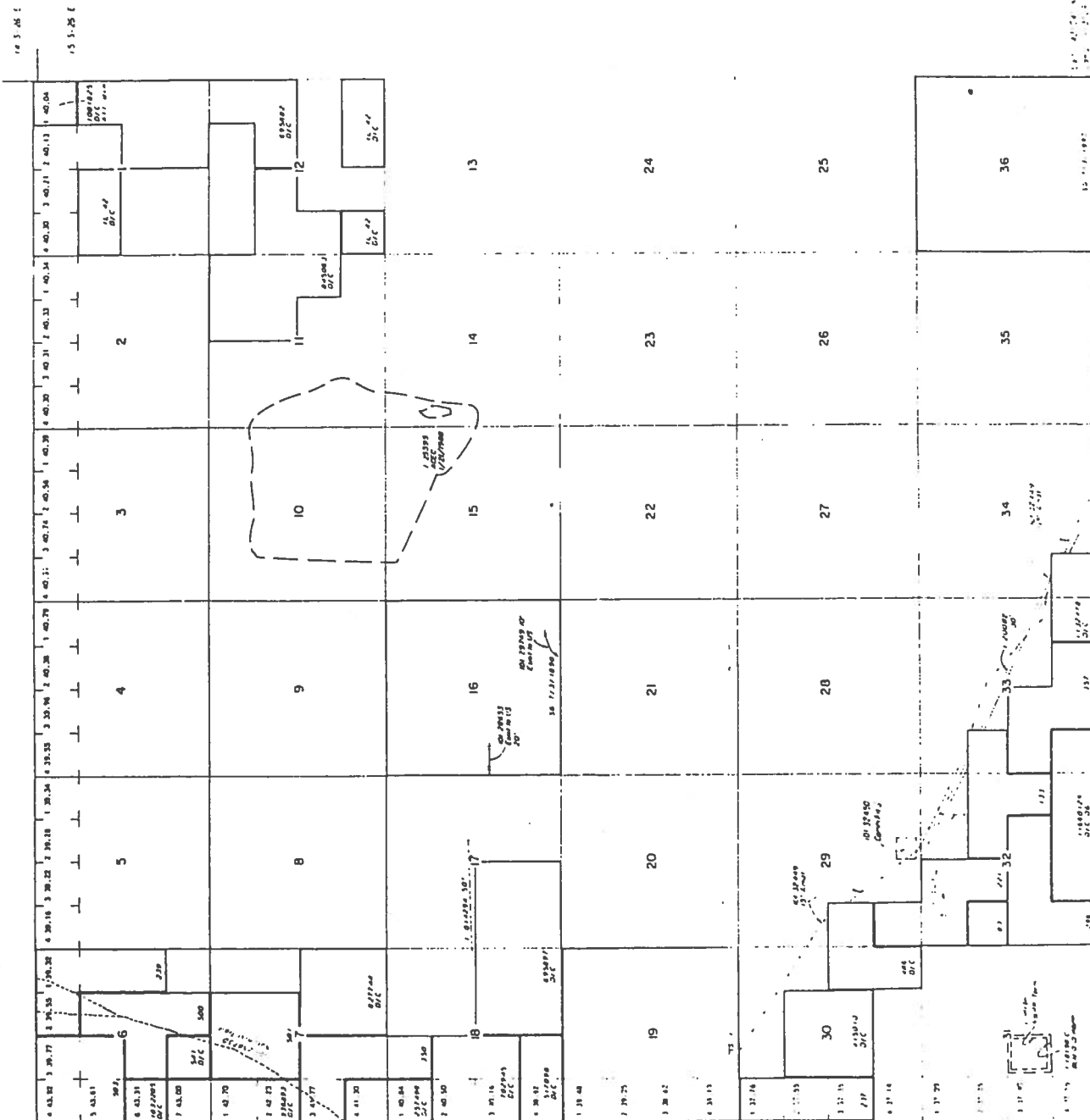
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

CASSIA COUNTY
BUNKER DISTRICT SEC 3

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

[illegible]

THE NOTATION SHOWN ON WITHDRAWALS REPRESENT THE LAST ACTION TAKEN BUT MAY NOT BE THE EFFECTIVE DATE. SEE THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITHDRAWAL ORDER

THE NEW YORK PUBLIC LIBRARY
ASTOR LENOX TILDEN FOUNDATION
500 5TH AVENUE
NEW YORK 17, N.Y.

SCALE IN CHAINS

1002-5-45N
Ct. 1960000

[illegible]

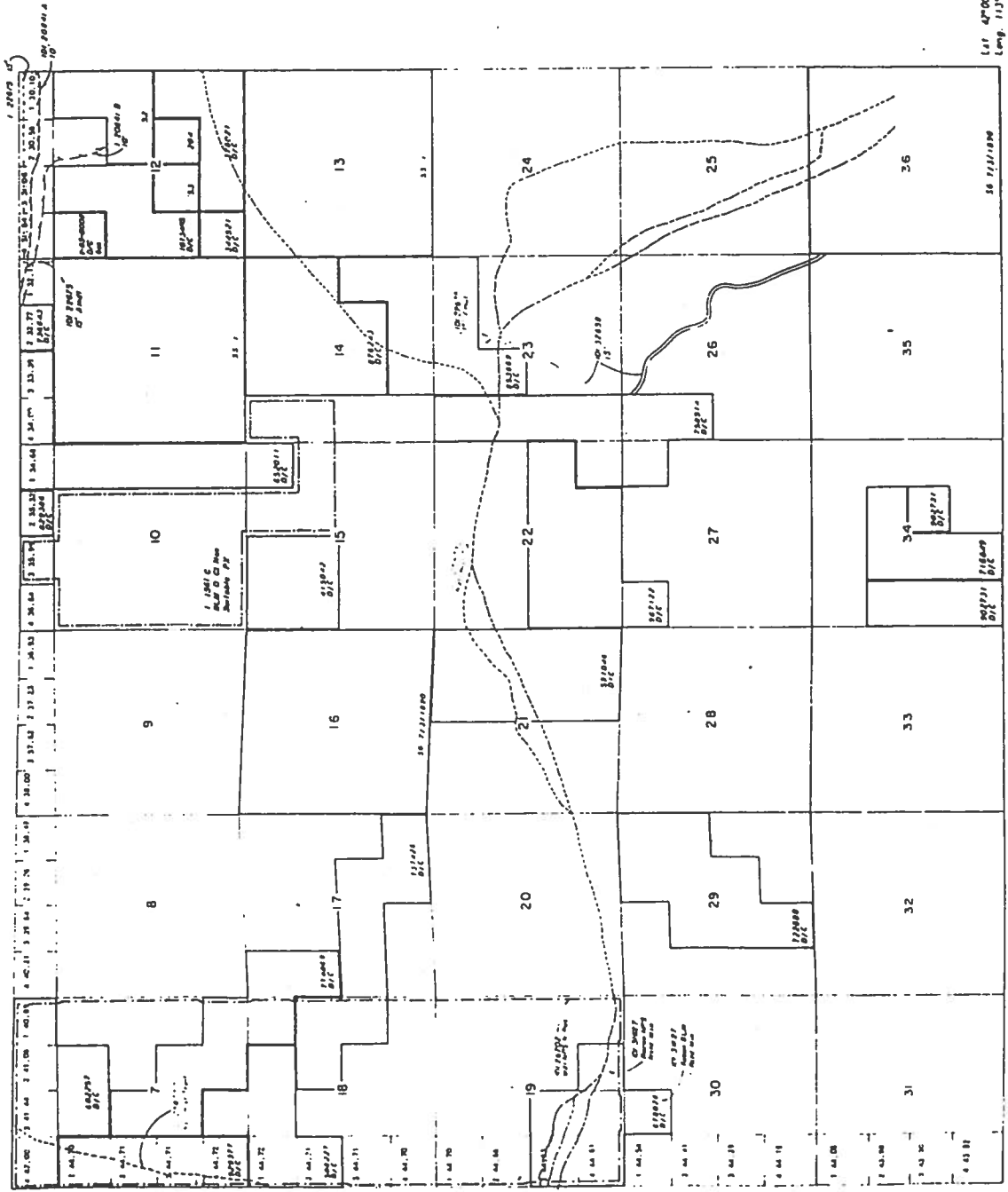
WHEREIN IS SHOWN THE LAST OF THE PUBLIC RECORDS, DAILY

CASSIA COUNTY
SOUTHERN DISTRICT SEC 3

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

INDEX TO SEGREGATED TRACTS	
TRACT NO.	SECTION
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
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THE NOTATION SHOWN ON WITHDRAWALS REPRESENT THE LAST ACTION TAKEN BUT MAY NOT BE THE EFFECTIVE DATE. SEE THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITHDRAWAL ORDER.

SCALE IN CHAINS
0 10 20 30 40 50

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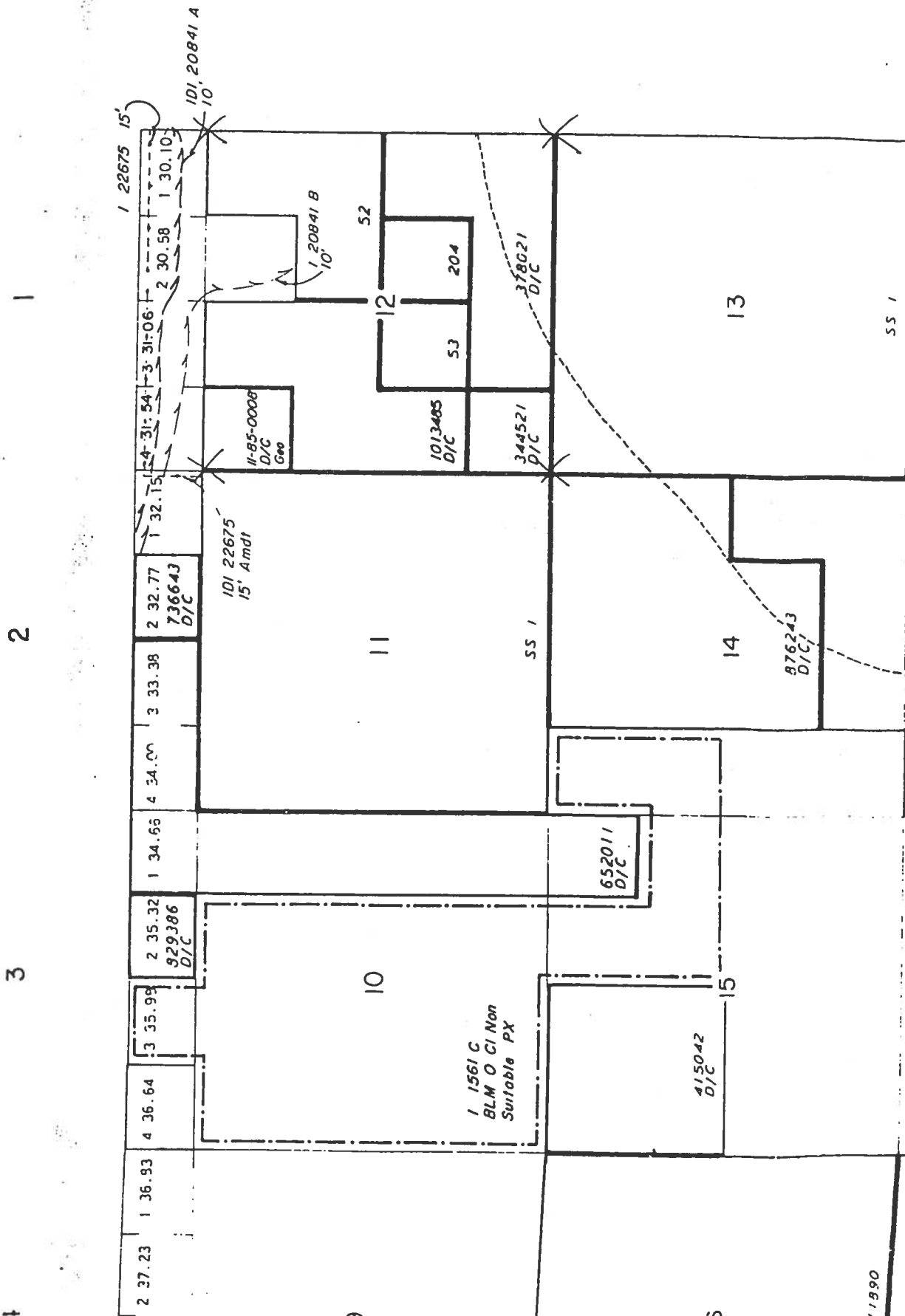
W

W

W

T16S RZ4E

ID: 25873D PX
 Historical public access
 Sec 30: N



05/10/2001

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: June 15, 2001

Water right number: 43-47A

SPENCER BROTHERS

HC 72 BOX 2418

MALTA ID 83342

Telephone Number: (435)827-5573

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 6/4/01

SIGNATURE:

Please print your name:

Stanley A. Spencer

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301, (208)736-3033

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.

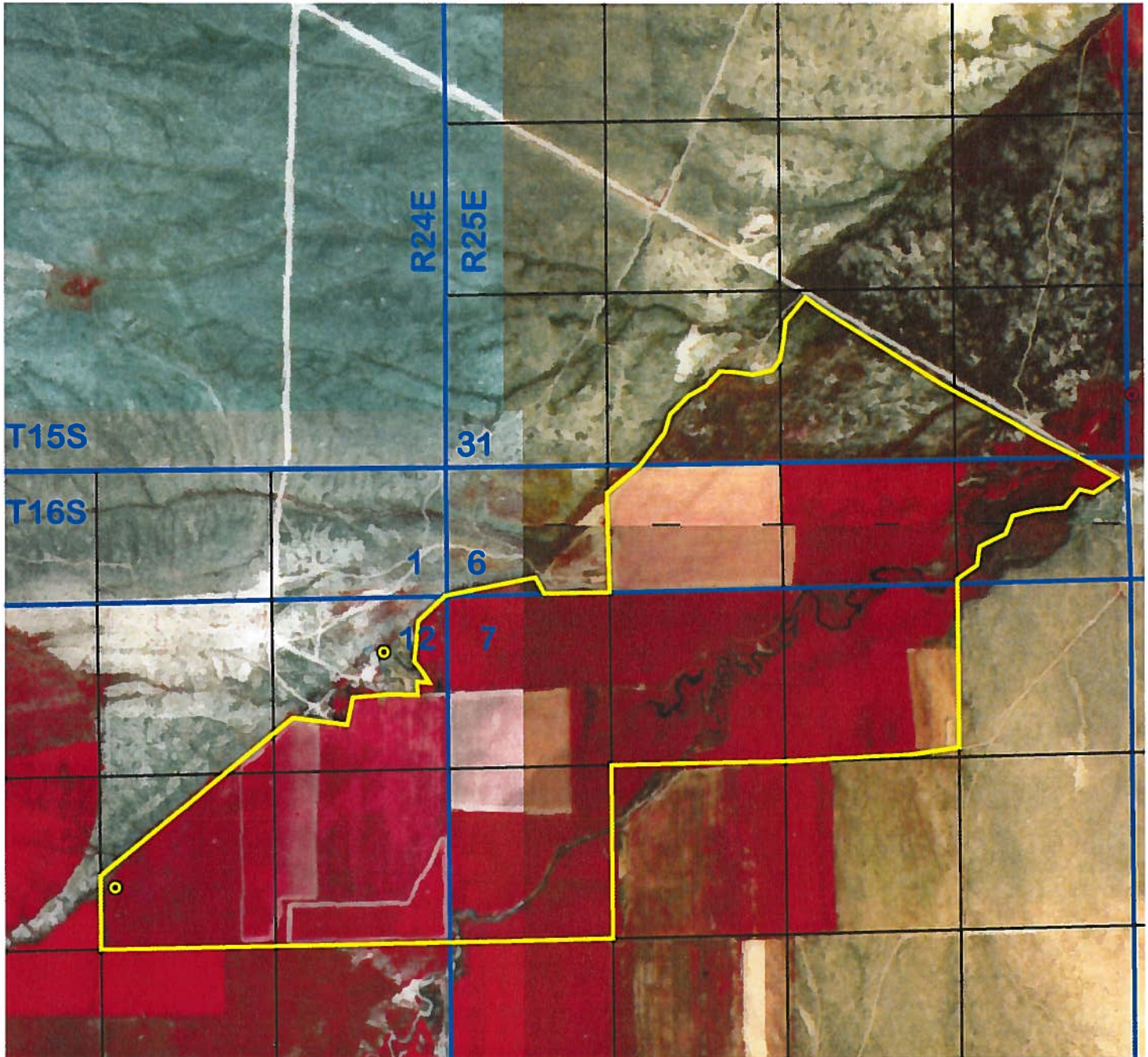
THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER DISTRICT 43B.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Idaho Department of Water Resources

**RIGHTS: 43-47A, 43-327, 43-2556,
43-4089, 43-4090, 43-4150, 43-7130**

RECOMMENDED PLACE OF USE
TWP 15S, RNG 25E, Sec 31
TWP 16S, RNG 24E, Sec 1, 12
TWP 16S, RNG 15E, Sec 6, 7
Data entry on December 14, 2000



-  RECOMMENDED POINT OF DIVERSION
-  RECOMMENDED PLACE OF USE
-  SECTION LINES
-  QUARTER/QUARTER LINES



GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY VIKIE HANCOCK

2000 km¹⁵ w / 4156
2327

[illegible]

RECOMMENDATION NOTES

From: Vikie Hancock

12/18/00

Regarding: **43-47A and 43-327**

These two claims are for irrigation from Raft River on the same place of use. The diversion rate and place of use for **43-327** is verified in the Jobe Adams Decree. 125 acres is indicated by the diversion rate of 2.5 cfs.

The diversion rate and place of use for **43-47A** is verified by Warranty Deed dated 1927. It appears that, between the time of filing of the Jobe Adams Decree in 1922, and the issuance of the Decree in 1928, a portion of the water right represented as 43-47 in the Jobe Adams Decree was transferred approximately 6 miles up-river, splitting the decreed right into A (2 cfs) and B (1.82 cfs) portions. The B portion representing the remainder was claimed, and is being recommended in the SRBA, in the name of Roscoe Ward. This portion is being recommended for 2 cfs on 100 acres.

The original claimant, Mr. H. O. Ward, asserted a season of use from 3-1 to 12-31. He based this upon language in the Findings of Fact of the 1893 Lee Kirk - v- Bartholomew Decree for rights issued to David and JW Hubbard. This decree was superceded by the Jobe Adams Decree. Moreover, the actual 1893 Decree issued for the rights in question stated a season of use of 4-1 to 10-1. See documents enclosed.

Historical point of diversion from Raft River was found and GPS'd.

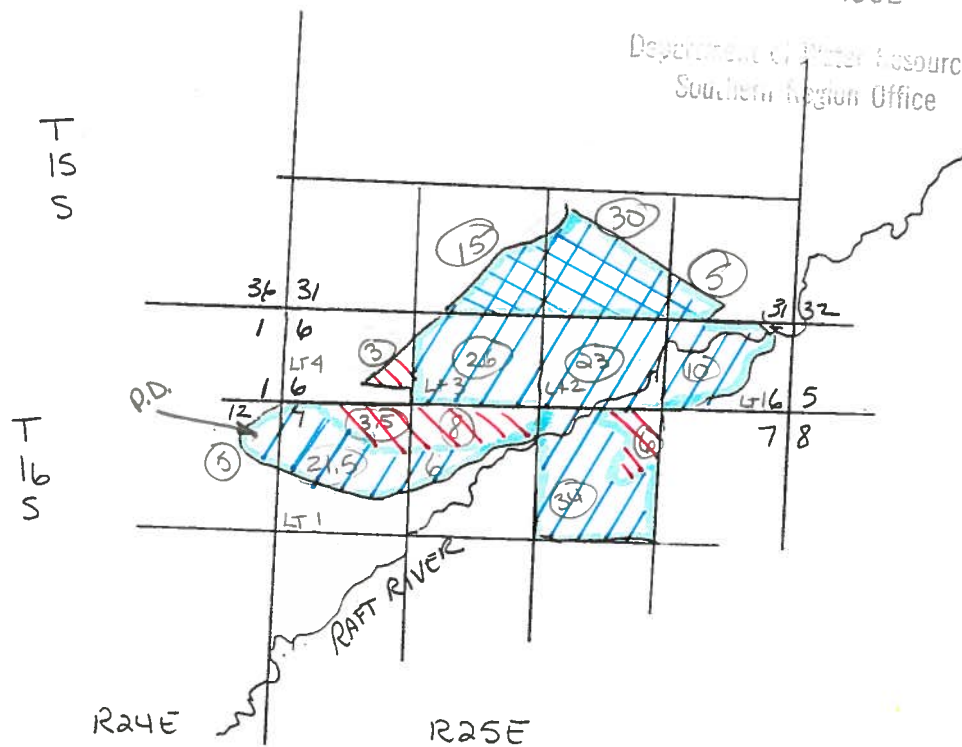
Based upon the map of expansion submitted by Mr. Ward in 1992, the extent of irrigation from surface water could not have exceeded 260 acres before implementation of sprinkler irrigation in the 1970s. Mr. Ward indicated that he mingles surface water with groundwater and has expanded his irrigated place of use to 365 acres. No expansion claim was found for the surface water. If the current claimant wishes to use his surface water on the entire 365 place of use in an irrigation season, an expansion claim would need to be filed.

G.W. 43-04090
443-02556

RECEIVED

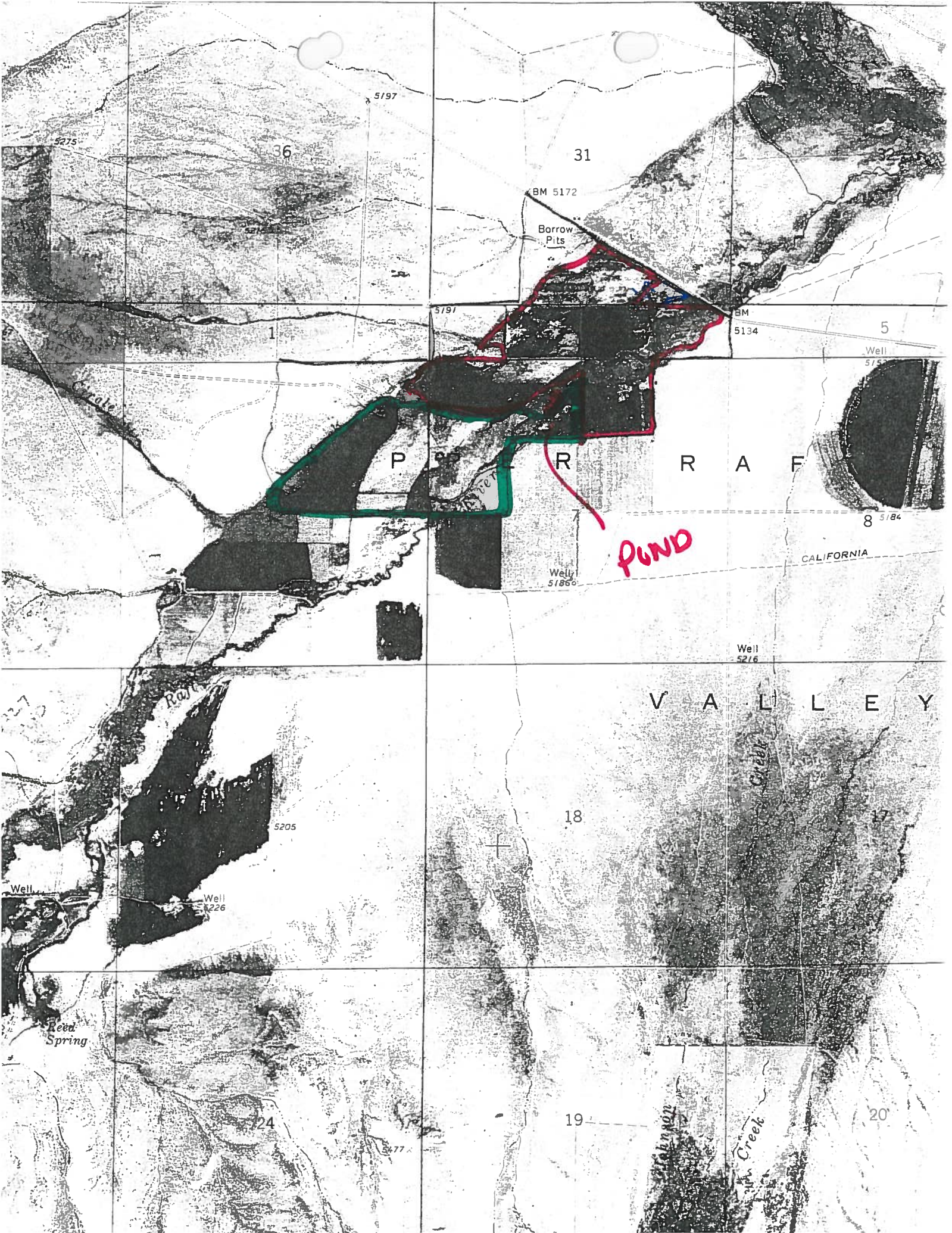
JAN 15 1992

Department of Water Resources
Southern Region Office



1962 expansion = 50 AC covered by license 43-02556
1978 Expansion = 22.5 AC covered by Permit 43-07130

Total
Expansion
acres = 72.5 AC



5197

5275

36

31

32

BM 5172

Borrow Pits

5191

BM 5134

5

Well 5184

P

R

R

A

F

8

POND

CALIFORNIA

Well 5186

Well 5216

V

A

L

L

E

Y

18

17

Well

Well 5226

Reed Spring

5274

5177

19

20

20

34 1881-June 1 3 s.f. To be diverted from Clear Creek for the
(Wilkes Tract) irrigation of $E\frac{1}{2}SW\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, Sec. 33,
Twp. 15 S. R. 27 E.B.M., $NW\frac{1}{4}NE\frac{1}{4}$, Sec. 4,
Twp. 16 S. R. 27 E.B.M.

35 1881-June 1 3 s.f. To be diverted from Clear Creek for the
(Shangle Tract) irrigation of $NW\frac{1}{4}$, Sec. 33, Twp. 15 S.
R. 27 E.B.M.

36 1881-June 1 2.2 s.f. To be diverted from Clear Creek for the
(Schwabacker Tract) irrigation of $S\frac{1}{2}NE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$, Sec. 4,
Twp. 16 S. R. 27 E. B. M.

37 1881-June 1 1.4 s.f. To be diverted from Clear Creek for the
(Kelso Tract) irrigation of $NE\frac{1}{4}$, Sec. 3, Twp. 16 S. R.
27 E.B.M.

38 Albion-Idaho Land Company
1886-June 15 1.7 s.f. To be diverted from Clear Creek for the
(Leafy Neal Tract) irrigation of $NE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$, $SE\frac{1}{4}SE\frac{1}{4}$, Sec. 3
Twp. 15 S. R. 27 E.B.M.

39 1881-June 1 .5 s.f. To be diverted from Clear Creek for the
(James Kempton Tract) irrigation of $NE\frac{1}{4}$, Sec. 15, Twp. 16 S.
R. 27 E.B.M.

40 1887-June 1 2.2 s.f. To be diverted from Clear Creek for the
irrigation of $NE\frac{1}{4}$, Sec. 15, Twp. 16 S.
R. 27 E.B.M.

41 1887-June 1 2.7 s.f. To be diverted from Clear Creek for the
(Jerome Kempton Tract) irrigation of $NW\frac{1}{4}$, Sec. 15, Twp. 16 S.
R. 27 E.B.M.

42 1886-June 15 2.2 s.f. To be diverted from Clear Creek for the
(Galliher Tract) irrigation of $E\frac{1}{2}$, Sec. 32, $W\frac{1}{2}SW\frac{1}{4}$, Sec. 3
Twp. 15 S. R. 27 E.B.M.

43 1908-May 1 2.6 s.f. To be diverted from Clear Creek for the
(Retan Tract) irrigation of $E\frac{1}{2}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$,
Sec. 4, Twp. 16 S. R. 27 E.B.M.

44 1887-June 1 4.4 s.f. To be diverted from Clear Creek for the
(Pierce Tract) irrigation of $S\frac{1}{2}$ and the $S\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$,
Sec. 10, Twp. 16 S. R. 27 E.B.M.

45 1882-June 1 1.7 s.f. To be diverted from Clear Creek for the
(Rice or Round Mountain Tract) irrigation of $W\frac{1}{2}SE\frac{1}{4}$, $SE\frac{1}{4}SE\frac{1}{4}$, Sec. 13,
 $NE\frac{1}{4}NE\frac{1}{4}$, Sec. 24, Twp. 16 S. R. 27 E.B.M.

PROVIDED: That the Albion-Idaho Land Company or any of the appropriators
having a lower point of diversion shall not be entitled to divert any of the
waters of the said Clear Creek when the same does not exceed 200 inches or
4 second feet, at the said Company's point of diversion.

46 Orlando Bateman and
Ella Bateman
1884-Apr. 30

2 s.f. To be diverted from Raft River for the
irrigation of $SE\frac{1}{4}SE\frac{1}{4}$, Sec. 23, $S\frac{1}{2}SW\frac{1}{4}$
and $NW\frac{1}{4}SW\frac{1}{4}$, Sec. 24, Twp. 15 S. R. 26
E.B.M.

47 1872-Apr. 1 3.82 s.f. To be diverted from Raft River for the
irrigation of Lots 1, 2, 3, 4 and 5, Sec
6, Twp. 16 S. R. 26 E.B.M.

48 J. Edwin Barker and
49 Teggie Barker
50 1884-Apr. 30
1881-Apr. 30
1894-Apr. 1

ALBION-IDAHO LAND COMPANY
-vs-
JOBE ADAMS, et al

ia Creek for the
31, Twp. 13
ng the following

SALT LAKE CITY, UTAH.

53.

That the defendant, J. W. Hubbard, be and he is hereby awarded the use of the amount of water hereinafter stated, to-wit: the use and the right to use 75 inches of the waters of said Raft River, and its tributaries, measured under a four inch pressure at the point of diversion, for the irrigation of the lands described in the Findings of Fact. from

2 cjs
Transferred TO
SEE 1927 WD

SEC
12

[illegible]

16S26E

;

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. STEED HEARING

A43-00047A

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Frank Hitchcock

September 8, 1997 1:34pm

NAME:
OLEN WARD-UPPER RAFT RIVER

RE:
RECORDS FOR USAGES RELATED
STEED/REEDSPRINGS-HEARING.

WALK-IN AT 9:20-CW-WANTED ALL USAGES "LICENSES" FOR BRUCE DURFEE, KENT DURFEE, BRENT JONES AND BILL JONES.

DISCUSSED HIS PROTEST RE: STEED USAGES AND FLOWS FROM THE STEED ACRES.

REVIEWED BASIN 43 SEL/ALPHA CLAIMS RECORDS FOR UPPER RAFT RIVER CLAIMS ASSIGNED TO FH AND DID AN AJS58 QUERY FOR THE CLAIMS OF THE NOTED PEOPLE. COLLATED BY NUMBER AND PUT COPIES OF THE NAME LISTS USED WITH EACH SET.

WARD CALLED BACK AT 11:42 TO CONFIRM THE JONES CLAIMS BEING PULLED. HE STOPPED IN SHORTLY AFTER NOON TO PICK UP THE PROOFS LEFT FOR HIM AT THE FRONT DESK.

FROM: Allen Merritt

DATE: August 13, 1997

TO: Steed/Reed Springs/WD 43-B

SUBJECT: Meeting

On July 23, 1997 I met Gary Steed & Dave Sundberg at Steed's pond. The purpose of the meeting was to discuss the replacement of water back into Reed Springs as per condition of license 43-07086. Mr. Sundberg had requested some assistance or guidance in this matter.

At the time of the meeting there was very little water flowing in Upper Raft River above Reed Spring. We observed that some water was flowing in Reed Spring through the pond into Raft River. Mr. Steed was not discharging water from well into spring but some water may have been flowing from a small domestic well. We also observed that Durfee was discharging water from his well system into Upper Raft River. We proceeded downstream to where Raft River crossed major East West County Road and found that Raft River was dry. We also went further down Raft River where Almo Creek enters and above the confluence Raft River was dry but Almo Creek was providing water to Raft River and the river was flowing and filling rights below according to Sundberg. Pictures were taken.

As a result of the meeting Mr. Steed agreed to modify his discharge control works so that the watermaster can control said discharge. He also agreed to improve the measuring device below the pond per watermaster requirements. The watermaster (Sundberg) agreed that pumping water to spring was not then required since Raft River dry and he also would contact Durfee to cease replacement. It was agreed that the watermaster was the one to make the call when replacement was necessary.

While at the road crossing Mr. Ward stopped and talked to Steed and I about related issues of Reed Spring and protest of pond application. During the discussion Steed and Ward did not resolve anything so Steed requested that I schedule a hearing. Both Steed and Ward provided me some dates and I have scheduled said hearing for the 9/10/97. During the discussion we talked about expansion of acres and affects on springs which seems to be an issue. I told them that if someone provided me with a written complaint describing what lands are being illegally watered that we would investigate. If I found lands without water rights then I would initiate a NOV if irrigation continued. I recommended that Mr. Steed review his water filings and see if he was within his rights.

A few days after returning to my office Terry Blau received a call from Erickson regarding Steed watering lands he purchased from Erickson without a water right. I have investigated and found potentially lands without rights so I have sent out the first letter. (See letter to Steed/Durfee/BLM dated 8/13/97).

COPY

43-07086

is illegal pursuant to §42-351, Idaho Code and subject to civil penalties of up to \$100 per day.

If you have questions regarding this matter please feel free to contact our office.

Sincerely,



Allen Merritt, PE
Southern Region Manager

CC: Glen Saxton, Norm Young - IDWR State Office

COPY

State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREIER
DIRECTOR

August 13, 1997

Gary Steed
PO Box 127
Almo, ID 83312

Bruce Durfee
PO Box 187
Almo, ID 83312

Bureau of Land Management
200 S Oakley Hwy
Burley, ID 83318

RE: Complaints of illegal water use on lands around Reed Springs

Gentlemen:

Our office has been contacted by waterusers in the upper Raft River drainage to investigate potential illegal water use on lands in the Reed Springs vicinity (Sections 13, 14, 23, & 24 Twp.16S, Rge.24E). Our office has reviewed the 1997 CFSA aerial slides for this area and compared these with ownership records at Cassia County and water right and SRBA claim records with the department. We confirm that there appears to be irrigated lands that do not have a valid water right. The particular lands falling in this category include:

Lands within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23, Twp.16S, Rge.24E, B.M. belonging to Bruce Durfee. (Approximately 25 acres)

Lands within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23, Twp.16S, Rge.24E, B.M. belonging to Gary Steed. (Approximately 34 acres)

Lands within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23, Twp.16S, Rge.24E, B.M. belonging to the BLM. (Approximately 7 acres)

Since no right or permit exists in our records I request your cooperation in:

-identifying what water right covers the irrigation of these lands if our records are not correct.

-do not divert water for irrigation of these lands if you do not have a water right.

-&/or obtain a valid permit or water right for your for irrigation of these lands.

Please respond to our office within 14 days of the date of this letter as to the status of the irrigation of these lands. Please also note that to divert water in Idaho without a valid water right

COPY

A4-02557
A43-07086

is illegal pursuant to §42-351, Idaho Code and subject to civil penalties of up to \$100 per day.

If you have questions regarding this matter please feel free to contact our office.

Sincerely,



Allen Merritt, PE
Southern Region Manager

CC: Glen Saxton, Norm Young - IDWR State Office

COPY



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREIER
DIRECTOR

July 10, 1997

Gary Steed
PO Box 127
Almo ID 83312

RE: Application for Permit 43-07322 (Pond)
Control by watermaster of License 43-07086

Dear Mr. Steed:

As you may recall, at the pre-hearing conference for your protested application 43-07322 held on June 12th, it was decided that the parties involved would get together and explore options for agreement and/or settlement of the protests. I requested that you contact me by July 1 to inform me of the progress of these negotiations or to advise me if I need to schedule another conference or set the hearing if things cannot be worked out. To date I have not heard from you. Please contact me as soon as possible to inform me of what needs to be done.

On another note, at the conference, you may recall the discussion regarding the requirement for you to replace water in Reed Springs as mitigation for pumping water from your nearby well. The question was asked if mitigation was required at all times or were there situations during flooding or drought where mitigation would not be required. I have researched our records and discussed this matter with the department administrators. I have found that license 43-07086 (copy enclosed) is conditioned that:

- Flows of Reed Springs, depleted by pumpage of groundwater under this license, shall be replaced to protect prior water rights.
- Use of water under this water right will be regulated by the watermaster of State Water District 43-B.

These two conditions were placed on the license so that the watermaster, who delivers the rights on the Upper Raft River, can regulate the water required to be replaced so that the rights of prior right holders are not injured. In the specific situations where:

-The Raft River is at flood stage and all rights called for are being filled

or

COPY

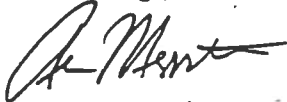
-The Raft River is at extreme low flow or dried up
(futile call),

then the watermaster is authorized to determine that no replacement is required; otherwise, the affect of pumping groundwater pursuant to license 43-07086 on Reed Springs shall be mitigated by replacing water from the well back into the Reed Springs or the Raft River.

By copy of this letter I will inform the watermaster to take control of this situation. Please note that measuring devices may need to be installed by you to allow the watermaster to make the measurements necessary to determine and monitor the water replaced if they do not presently exist.

If you have questions, please feel free to contact our office.

Sincerely,



Allen Merritt, PE
Southern Region Manager

Encl: License 43-07086

CC: Dave Sundberg, watermaster 43-B, PO Box 1, Malta 83342
Jay Harper, 43-B chairman, 1926 S 2350 E, Malta 83342

COPY