08/18/2006

IDAHO DEPARTMENT OF WATER RESOURCES

PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 73-39

NAME AND ADDRESS: DIXIE L WHITWORTH
PO BOX 134
MAY ID 83253

SOURCE: PATTERSON CREEK TRIBUTARY: PAHSIMEROI RIVER

QUANTITY: 2.400 CFS

PRIORITY DATE: 10/01/1887

POINT OF DIVERSION:

T14N R22E S8 SWNWNW Within LEMHI County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	05/15 07/09	2.400 CFS
	07/10 10/31	1.800 CFS
	04/01 05/14	2.000 CFS

Claim v Recommn. Telephone conversation with Claimant

PLACE OF USE: IRRIGATION Within LEMHI County

T15N R21E S36	SENE	39.00	40 -1	T15N R21E S36	NESW	16.00	20 -4
T15N R21E S36	NESE	36.00	40 -4	T15N R21E S36	NWSE	22.00	20 +2
T15N R22E S31 Lot 2	SWNW	32.50	-2.5	T15N R22E S31 Lot 3	NWSW	28.00	30 -2

143.5 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT: 1/08/07

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 - Decreed

Source is also known as Spring Creek, Big Spring Creek or O Neal Creek.

IDAHO DEPARTMENT OF WATER RESOURCES

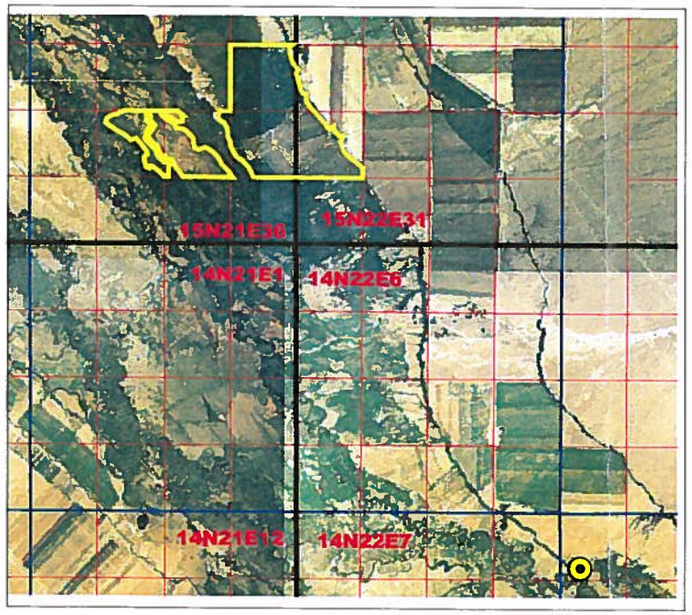
WATER RIGHT NO.:

73-39

T15N R21E Sec. 36, T15N R22E Sec 31, & T14N R22E Sec. 8

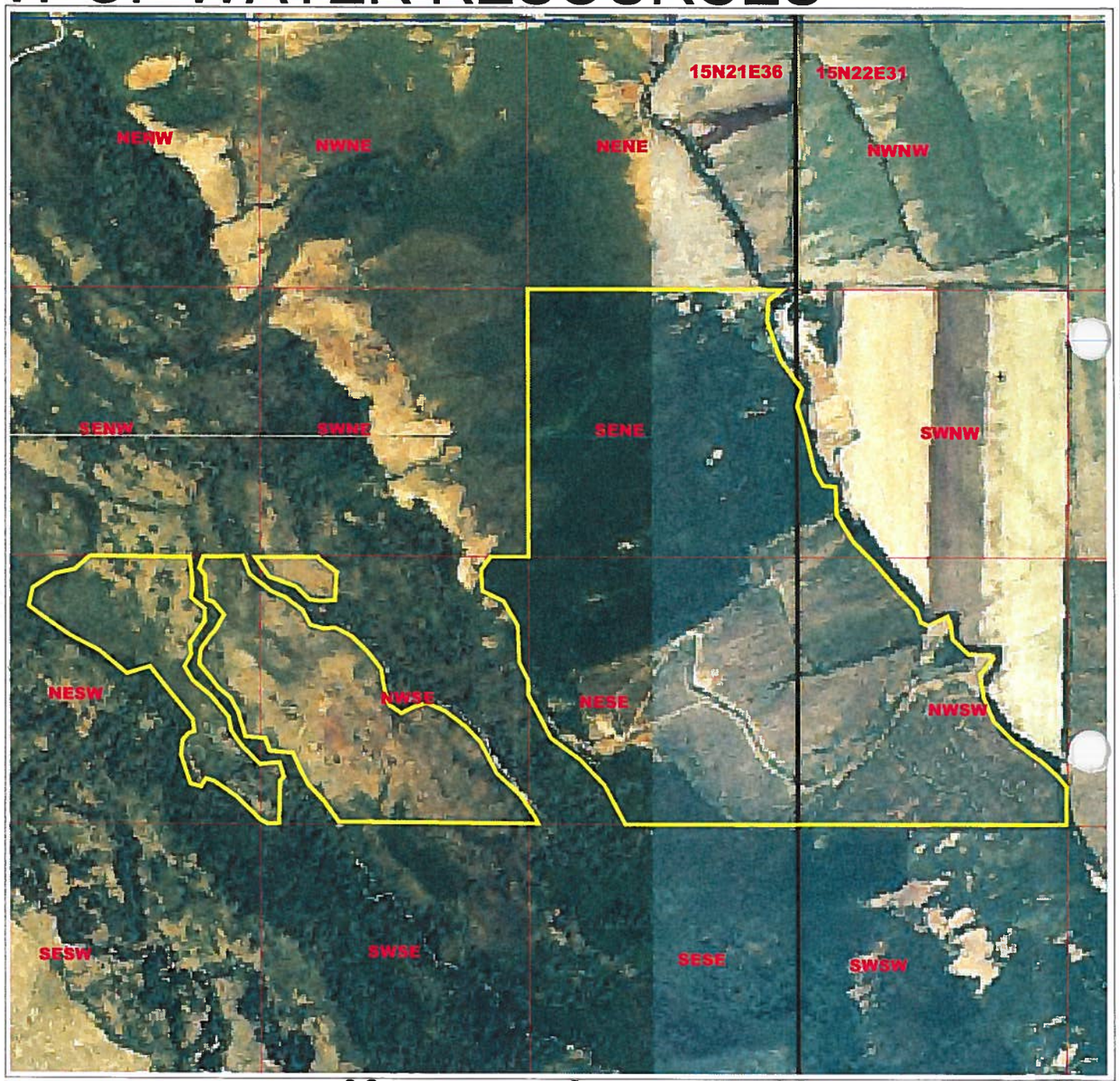
LEGEND

- Quarter Quarter
- Section Lines
- Township
- Point(s) of Diversion
- Place(s) of Use
- IMAGE 1988 True Color



N

Prepared By:
Danielle Favreau
December 21, 2005



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 73-39
Date Received: 5/10/1990
Receipt No: E014390
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DIXIE L WHITWORTH Phone: (208)876-4432
PO BOX 134
MAY ID USA 83253

2. Date of Priority: 10/01/1887

3. Source: SPRING CREEK Trib. to: PAHSIMEROI RIVER

4. Point of Diversion:

Township	Range	Section	1/4	1/4	1/4	Lot	County	Type
14N	22E	8	SW	NW	NW		LEMHI	

5. Description of diverting works:

WOODEN HDGATE WITH FISH TRAP.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	5/14	2	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	1/4	Lot	Use	Acres
15N	21E	36	SE	NE		IRRIGATION	40
			NE	SW		IRRIGATION	20
			NE	SE		IRRIGATION	40
			NW	SE		IRRIGATION	20

						Section Acres	120
15N	22E	31	SW	NW	2	IRRIGATION	5
			NW	SW	3	IRRIGATION	30
						Section Acres	35
						Total Acres	155

11. Place of use in counties: LEMHI

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

13. Other Water Rights Used:

14. Remarks:

P/D MISSOURI CANAL, NO LEGAL DESCRIPTION AMOUNT DECREED = 0.02CFS/IRRIGATED ACRES

15. Basis of Claim: Decreed

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

JAMES E. RISCH
Governor
KARL J. DREHER
Director

October 8, 2006

Dixie Whitworth
P.O. Box 870
Humboldt, AZ 86329

Re: Snake River Basin Adjudication (SRBA)
Notice of Error Reply – Subcase No. 73-39, 73-62

Dear Dixie,

Thank you for your response to our preliminary recommendation of the water right claim(s) captioned above. This letter is an attempt to answer your questions and address your concerns about the recommendation(s).

It's important to understand that the paperwork you attached was not a determination of your water rights; it was a copy of your original claim in the SRBA. IDWR is required to verify and make its recommendation of your claims to the SRBA Court. We are now going through that process.

73-39

The original decree of this right reads "...from July 10th to the close of the season of each and every year...". IDWR uses a standard season of use in the Pahsimeroi Valley that ends on October 31st. All of the water rights in your area end on the same day, regardless of what was claimed. IDWR will not change its recommendation of the standard season.

Many of the historic decrees in your area were issued without reference to actual irrigated acreage. We only know a general description of land owned by the water user at the time of the decree of 73-39. These rights were decreed in *Morrow v. Wagoner* with the following land description: " appurtenant to the Lots 2 and 3 in Sec 31, tp 15n r22 east of the Boise Meridian; and the se¼ of the ne¼ and the ne¼ of the se¼ of sec 36, tp15, n r 21 east of the Boise Meridian, in Idaho."

A water right recommendation in the SRBA must include a list of actual irrigated acres. We use aerial photography to establish the acres irrigated at the commencement of this adjudication: November 19, 1987. In your case, we used 1988 photography to establish your place of use. You had claimed the irrigation of 155 acres; we found 143.5 acres using the photography. Only the acres irrigated in 1988 are recommended in the SRBA.

Unfortunately, your Notice of Error Reply does not indicate where the additional acres may be irrigated. If you feel that you do irrigate more than the recommended acres, the issue will need to be settled during the upcoming objection phase of the SRBA.

73-62

The original decree of this right does not include a season of use. Scott had claimed 4/1 to 11/1. Again, IDWR uses a standard season of use in the Pahsimeroi Valley that ends on October 31st. All of the water rights in your area end on the same day, regardless of what was claimed. IDWR will not change its recommendation of the standard season.

As with 73-39, we only know a general description of land owned by the water user at the time of the decree of 73-62. These rights were decreed in *Brown v. Grubb* with the following land description: "...all that portion of Lots 2 and 3 of said Section 31, lying and being on the North side of the so called Missouri Canal".

A water right recommendation in the SRBA must include a list of actual irrigated acres. We use aerial photography to establish the acres irrigated at the commencement of this adjudication: November 19, 1987. In your case, we used 1988 photography to establish your place of use. Scott had claimed the irrigation of 45 acres; we found 44.7 acres using the photography. Only the acres irrigated in 1988 are recommended in the SRBA.

In this case, the difference is only 0.3 acres and could be human error. I have adjusted our recommendation to indicate the irrigation of 45 acres under water right 73-62.

Please call me at (208) 287-4914 if you have additional questions or concerns. You may also reach me using email: roxanne.brown@idwr.idaho.gov.

Sincerely,

Roxanne

Roxanne Brown
Water Rights Supervisor
Adjudication Bureau
Idaho Department of Water Resources

Enclosures

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 12, 2003

DIXIE WHITWORTH
PO BOX 134
MAY ID 83253

RE: NOTICE(S) OF CHANGE OF WATER RIGHT OWNERSHIP
NOTICE(S) OF CLAIM TO A WATER RIGHT 73-39, 73-62

Dear Ms. Whitworth:

The request for Change of Water Right Ownership concerning the above-referenced Notice(s) of Claim has been processed and the Department's records updated to reflect you as the new claimant.

The enclosed report shows this change along with listing the elements of the water right being claimed. Please review this report and contact this office if there are corrections or questions.

Respectfully yours,

Kristen Forsgren

Kristen Forsgren
Office Specialist 1

Enclosure

OK gc
9/11/03

Form 42-248/42-1409(6) July, 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

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

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

Water Right No(s)	Adjudication Claim No(s)	Split	Water Right No(s)	Adjudication Claim No(s)	Split
A73-00062					
A73-00039					

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

   A. The appropriate **FILING FEE**. See instructions for fee amounts.

   B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.

   C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions): **PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

   OR

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

3. Name and Address of Former Owner/Claimant(s): Scott L. Whitworth
   P.O. Box 147 May, Idaho 83253

4. New Owner/Claimant(s): Dixie Whitworth
   Name Connector (Check one): [ ] and, [ ] or, [ ] and/or

   New Mailing Address: P.O. Box 134

   City, State and ZIP Code: May, Idaho 83253

   New Telephone Number: (208) 876-4432

5. Date you acquired the property: May 24, 2002

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

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other _____		
Total		

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other _____		
Total		

7. Signature of New Owner(s) or Claimant(s) Dixie Whitworth
(include title if applicable) Owner

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

For Office Use Only
Received by _____ Date _____ Fee _____
Receipted by _____ Date _____ Receipt No. _____
Processed by _____ AJ Date _____ WR _____ Date _____

August 5, 2003

RECEIVED
AUG 12 2003
Department of Water Resources
Eastern Region

Idaho Department of Water Resources
Eastern Regional Office
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

Attention: Jennifer Crabtree

As per our recent phone conversation, I am sending the Notice of Change of Water Right Ownership papers back to you. I was under the impression that our lawyers had taken care of this, but somehow it must have gotten over-looked. I just recenfly found out that these water rights had not been transferred into my name.

My ex-husband, Scott Whitworth and myself owned this property along with the water rights. Through our divorce, I was awarded this property. All of the paper work in your office should provide information regarding these water rights. They should just be in my name now instead of his.

I am enclosing a copy of my Divorce Decree, Quit Claim Deed from Scott to myself on this property and water rights and the application to change ownership. If you need any other information that I can provide regarding this matter, please call me at 208-876-4432.

Thanks for your help in this matter.

Sincerely,

Dixie Whitworth

Dixie Whitworth
P.O. Box 134
May, Idaho 83253
Phone: 208-876-4432
Fax: 208-876-4432

07/18/2003

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 73-62

WATER RIGHT NUMBER: 73-62

Owner Type	Name and Address
Current Owner	SCOTT L WHITWORTH PO BOX 147 MAY, ID 83253 (208)876-4432
Original Owner	S F HORN , ID

Priority Date: 06/01/1891
Basis: Decreed
Status: Active

Source	Tributary
MORSE CREEK	SINKS

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	4/01	11/01	0.900 CFS	

Total Diversion: 0.900 CFS

Location of Point(s) of Diversion

MORSE CREEK SE1/4NE1/4NW1/4 Sec. 26, Twp 15N, Rge 22E, B.M.
LEMHI County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	22E	31							35.0 L 2			10.0 L 3							45.0

Total Acres: 45

Conditions of Approval:

Remarks:

1. General P/D NOT GIVEN IN DECREE.
WATER IS MEASURED TO EACH USER AT 15N 22E 28 SWNESW

Comments:

Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 73-62

Dates and Other Information:

Claim Received Date: 5/10/1990
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number: 73
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

07/18/2003

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 73-39

WATER RIGHT NUMBER: 73-39

Owner Type	Name and Address
Original Owner	S F HORNE
	, ID
Current Owner	SCOTT L WHITWORTH PO BOX 147 MAY, ID 83253 (208)876-4432

Priority Date: 10/01/1887

Basis: Decreed

Status: Active

Source	Tributary
SPRING CREEK	PAHSIMEROI RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	4/01	5/14	2.000 CFS	

Total Diversion: 2.400 CFS

Location of Point(s) of Diversion

SPRING CREEK SW1/4NW1/4NW1/4 Sec 8, Twp 14N, Rge 22E, B.M.

LEMHI County

Place of Use

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N 21E 36				40.0					20.0				40.0	20.0			120.0
15N 22E 31							5.0 L 2			30.0 L 3							35.0

Total Acres: 155

Conditions of Approval:

Remarks:

1. General P/D MISSOURI CANAL, NO LEGAL DESCRIPTION AMOUNT DECREED = 0.02CFS/IRRIGATED ACRES

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 73-39

Dates and Other Information:

Claim Received Date: 5/10/1990
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number: 73
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

mr
5-29-02

2 MAY 28 09:48

ROGER D. COX, ESQ.
COX, OHMAN & BRANDSTETTER, CHARTERED
510 "D" Street
P.O. Box 51600
Idaho Falls, Idaho 83405
(208) 522-8606
Fax (208) 522-8618
Idaho State Bar #1141

ATTORNEYS FOR PLAINTIFF

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

DIXIE WHITWORTH, Plaintiff, vs. SCOTT WHITWORTH, Defendant.	**Case No. CV-00-6465** **DECREE OF DIVORCE**

THIS CAUSE having come before the Court on request of Plaintiff's counsel, Roger D. Cox, Esq., and on the parties written Waiver and Stipulation Agreement filed herein and the Court having considered the records and files in this matter together with the Waiver and Stipulation Agreement of the parties and all of the records and files herein, and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. That the Plaintiff be and she hereby is granted an absolute Decree of Divorce from the Defendant on the grounds of irreconcilable differences.

2. That the written Waiver and Stipulation Agreement of the parties respecting the custody of the parties' children, visitation, child support, confirming to each of the parties their separate property, division of community property, payment of community debts, and all other terms and conditions thereof be and they hereby are fully approved, ratified and incorporated in this Decree of Divorce as though fully set out herein.

3. **NOTICE IS HEREBY GIVEN TO DEFENDANT** that the support order contained in this Decree is enforceable by automatic and immediate income withholding as of the effective date of this order under Chapter 12, Title 32, Idaho Code. This automatic and immediate income withholding order shall be issued by the Department of Health and Welfare or other obligee to Defendant's employer or other person who pays Defendant's income, without additional notice to you.

DATED this 24 day of May, 2002.

Colin W. Luke

COLIN W. LUKE
Magistrate Judge

NOTICE OF ENTRY

I HEREBY CERTIFY that a copy of the foregoing was the 28 day of May, 2002, mailed to every party affected thereby, as follows:

Roger D. Cox, Esq.
P. O. Box 51600
Idaho Falls, Idaho 83405

E. W. Pike, Esq.
P. O. Box 2949
Idaho Falls, Idaho 83403

Department of Health and Welfare
Child Support Receipting
P. O. Box 70008
Boise, Idaho 83707

CLERK

K.B

DEPUTY

250549

QUITCLAIM DEED

THIS INDENTURE, made and entered into this 29 day of April, 2002, between **SCOTT WHITWORTH**, of P. O. Box 147, City of May, Lemhi County, State of Idaho, the Party of the First Part, and **DIXIE WHITWORTH**, of P. O. Box 134, City of May, Lemhi County, State of Idaho, the Party of the Second Part, WITNESSETH:

That the said Party of the First Part, for and in consideration of the terms and conditions of the Stipulation Agreement of the parties in the District Court of the Seventh Judicial District, in and for Bonneville County, Case No. CV-00-6465, does by these presents demise, release and forever quitclaim unto the said Party of the Second Part, to her heirs and assigns, all of First Party's right, title and interest in and to all of those certain lots, pieces, or parcels of real property situate, lying and being in the County of Lemhi, State of Idaho, and more particularly described as follows:

Township 15 North, Range 22 East, Boise Meridian, Lemhi County, Idaho: Section 31: Government Lots 2 and 3;

Township 15 North, Range 21 East, Boise Meridian, Lemhi County, Idaho: Section 36: The N1/2SE1/4, NE1/4SW1/4 and the SE1/4NE1/4.

TOGETHER WITH all improvements thereon, all hand lines, wheel lines; all water and water rights; ditch and ditch rights; rights to water through the gravity flow system; all appurtenant thereto; and,

TOGETHER WITH all rights of way; easements for ingress/egress to the subject property, whether written or obtained through use.

The Party of the First Part is executing this instrument for the purpose of relinquishing all his right, title and interest including, but not limited to, any community property interest in and to the land described herein and placing title in the Party of the Second Part as her separate property.

IN WITNESS WHEREOF, the said Party of the First Part has hereunto set his hands and seal the day and year first above written.

Scott Whitworth

SCOTT WHITWORTH

STATE OF IDAHO)
) ss.
County of Bonneville

On this 29 day of April, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared SCOTT WHITWORTH, known to me or proved to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he had executed the same.

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

Edward D Fike

NOTARY PUBLIC FOR IDAHO
Residing at: Idaho Falls Id
My Commission Expires: 2/6/04

State of Idaho)
County of Lemhi) ss No. 250549

This instrument was filed for record at the request of Lemhi Title
at 2:11 o'clock P m 5-16 2002
and duly filmed and indexed in the records of Lemhi County
Terri J Morton
Ex-Officio Recorder
By Jane Eagle Deputy
Fee 6.00
Return To Lemhi Title