

COPY

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OCT 30 2012

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) Subcase No. 63-5155
)
) (Insert Water Right Number)
)
)
) **STANDARD FORM 4**
Case No. 39576)
)
) **MOTION TO FILE:**
) ☒ **LATE NOTICE OF CLAIM**
) ☐ **AMENDED NOTICE OF CLAIM**
)
_____)

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read ***SRBA Administrative Order 1, Rules of Procedure*** (amended Sept. 30, 1996).

My name is State of Idaho, Department of Lands ("IDL")

My address is 300 North 6th Street, Suite 103, P.O. Box 83720, Boise, Idaho 83720-0050

My phone number is: Work (208) 334-0200 Home Not Applicable

I am an attorney representing IDL

My name is Tyson K. Nelson, Deputy Attorney General

My address is JRW Building, Second Floor, 700 West State Street, P.O. Box 44449, Boise, Idaho 83711-4449

My phone number is (208) 334-2400

MOTION TO FILE LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☒ I did not file a Notice of Claim to the use of water in the SRBA because:

IDL manages the State endowment land identified as the place of use for this claim for grazing and other uses. The State of Idaho acquired the land through a land exchange with the United States in 1981 (known as the Prairie #2 land exchange). Prior to the land exchange, the United States Forest Service filed a statutory claim for this water right. For reasons unknown, the water right was not updated after the land exchange. IDL recently discovered this water right had not been claimed in the SRBA. Since this water right is appurtenant to State land, IDL is filing a claim in the SRBA.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☒ I am providing legal and factual documentation for my claimed use of water. You must described these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

IDL's supporting documentation is included with the Notice of Claim, attached hereto.

I have attached:

☒ A fully completed Notice of Claim (available from IDWR) is attached.

☒ A claim filing fee and a late claim fee for those claims other than domestic or stock water use for which a notice of claim was filed. To determine this amount, contact IDWR at (800) 451-4129. IDWR has advised that the claim filing fee for this notice

of claim is \$25.00. IDL requests that IDWR initiate an SA-50 Interagency Billing Statement to bill IDL for the fees (see attached letter from IDL to IDWR).

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on Tuesday, January 15, 2013, at 1:30 p.m.
at the SRBA courthouse, 253 Third Avenue, Twin Falls, Idaho.

VERIFICATION (Must be completed)

State of Idaho

County of Ada

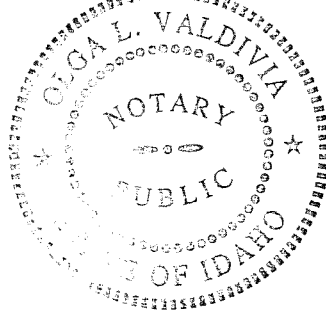
Tyson K. Nelson, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined I.C. §§42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

[Signature]

Attorney signing in representative capacity

Subscribed and sworn to before me on October 24th, 2012
(Insert Date)



[Signature]

Notary Public for Boise, ID
Residing at: Boise, ID
My Commission expires: 2/5/2018

CERTIFICATE OF MAILING

I certify that on this 29th day of October, 2012, I caused to be served the original and/or copy of this form on the following persons by the indicated method:

1. Original to:

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

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: (208) 736-2121
☐ Statehouse Mail

2. Copies to

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

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: (303) 312-7379
☐ Statehouse Mail

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

- ☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____
☒ Statehouse Mail

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

Not Applicable

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.
(Insert Names/address of parties)



Tyson K. Nelson
Deputy Attorney General

**SOUTHWEST
SUPERVISORY AREA**
8355 West State Street
Boise ID 83714
Phone (208) 334-3488
Fax (208) 853-6372



TOM SCHULTZ, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS
C.L. "Butch" Otter, Governor
Ben Ysursa, Secretary of State
Lawrence G. Wasden, Attorney General
Brandon Woolf, State Controller
Tom Luna, Sup't of Public Instruction

October 26, 2012

Idaho Department of Water Resources
Attn: Craig Saxton
Idaho Water Center
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

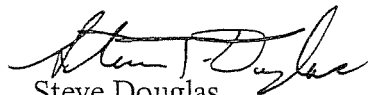
Re: Fee Payment for Claim No. 63-5155

Dear Mr. Saxton:

The Idaho Department of Lands ("IDL") has prepared a Notice of Claim for water right claim no. 63-5155 and will file a Motion to File Late Notice of Claim in the SRBA Court for the claim. In the event the SRBA Court grants IDL's motion, IDL requests that the Idaho Department of Water Resources initiate a SA-50 Interagency Billing Statement to bill IDL for the filing fees. The filing fee is \$25.00.

If you have any questions, please contact me at sdouglas@idl.idaho.gov or 208-334-3488.
Thank you for your assistance in this matter.

Sincerely,


Steve Douglas
Area Manager
Southwest Supervisory Area

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-5155

Date Received: _____

Receipt No: _____

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day

1. Name of Claimant(s) State of Idaho, Department of Lands Phone (208) 334-0200

Mailing Address 300 N. 6th St., Ste. 103, P.O. Box 83720 Boise ID Zip 83720
Street or Box City State

2. Date of Priority: (Only one per claim) 03/16/1906
Month/Day/Year (YYYY)

3. Source of water supply (Check one) Ground Water ☐ or Other ☒ (a) Spring
which is tributary to (b) Sinks

4. Location of Point of Diversion is: Township 02N, Range 08E, Section 9,
NE 1/4 of SE 1/4, or Govt. Lot _____ BM., County of Elmore;

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS coordinates: _____

5. Description of diverting works (Wells, Pumps, Spring boxes, Pipelines, Etc.) including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

Headbox with short pipeline to a watering trough.

6. Water is claimed for the following: (limited to Domestic and/or Stockwater uses. See page 1 of the instructions.)

For Stockwater purposes from 5/1 to 10/31 amount 0.01 cfs ☒ or AFY ☐

For _____ purposes from _____ to _____ amount _____

7. Total Quantity claimed 0.01 cfs ☒ or AFY ☐

8. Non-irrigation uses. Describe fully. (eg. Domestic: give number of households served if single ownership;

Stockwater and Number of livestock) Stockwater for 178 cow/calf pairs.

9. Location of Place of Use is: Township 02N, Range 08E, Section 9,
NE 1/4 of SE 1/4, Govt. Lot _____ BM. Parcel (PIN) no. _____
If different than shown in Item 4
for (Check One) Domestic ☐ Stock ☒ Domestic and Stock ☐

Additional places of use, if any _____

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

11. Do you own the property listed above as place of use? Yes ☒ No ☐

If the answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

None ☒ _____

13. Remarks:
The claimed priority date is based on U.S. Land Patent No. 3410 issued to Mabel A.
Lowry on March 16, 1906 (attached hereto).

14. Basis of Claim (Check One) Beneficial Use ☒ Posted Notice ☐ License ☐ Permit ☐ Decree ☐

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 63-5155

15. 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 ☐ wish to receive do not ☒ and pay a small annual fee for monthly copies of the docket sheet

Number of attachments: 3

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Steve Douglas, Area Manager of Idaho Department of Lands,
Title Organization

that I have signed the foregoing document in the space below as

Area Manager, Southwest Area of Idaho Department of Lands
Title Organization

And that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Steve Douglas Date 10/26/12

Title and Organization Area Manager, Southwest Area, Idaho Department of Lands

16. Notice of Appearance:

Notice is hereby given that I, Tyson Nelson, Deputy Attorney General, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Tyson Nelson Date 10/29/2012

Address P.O. Box 44449, Boise, ID 83711-4449

Last Name Idaho Dept. of Lands Identification No. 63-5155

Attachment 1

Map for Claim No. 63-5155

Attachment 2

U.S. Land Patent

THE UNITED STATES OF AMERICA,

To all to whom these Presents shall come, Greeting:

CERTIFICATE

No. 3410

Whereas *Mabel A. Loomy of Ada County Idaho*

has deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Boise Idaho

whereby it appears that full payment has been made by the said

Mabel A. Loomy

according to the provisions of the Act of Congress of the 21st of April, 1820, entitled "An Act making further provision for the sale of the Public Lands," and the acts supplemental thereto, for the South East quarter of Section nine in Township two North of Range eight east of Boise Meridian in Idaho containing one hundred and sixty acres

according to the Official Plat of the Survey of the said Lands, returned to the General Land Office by the Surveyor General, which said Tract has been purchased by the said *Mabel A. Loomy*

Now know ye, That the United States of America, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said *Mabel A. Loomy*

and to her heirs, the said Tract above described: To have and to hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereto belonging, unto the said *Mabel A. Loomy*

and to her heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof *J. Theodore Roosevelt*

President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the *fifteenth* day of *March*, in the year of our Lord one thousand

nine hundred and *six*, and of the Independence of the United States the one hundred and *thirtieth*

By the President:

J. Roosevelt

By

Wm. Mearns

Secretary.

C. Brush, Recorder of the General Land Office.

L. S.

Attachment 3

State Grazing Lease



STATE OF IDAHO
STATE LAND LEASE

LEASE NO. G-6013

This lease agreement is made and entered into by and between the State of Idaho, acting by and through the State Board of Land Commissioners (lessor) and L G Davison & Sons Inc. (lessee) 1969 Prairie Road, Prairie ID 83647 (Address).

This lease shall commence January 1, 2006 and terminate December 31, 2015.

The annual rent payment is due on May 1st of each year.

The lessor, in consideration of the rental paid and the covenants, conditions and restrictions hereinafter set forth, in attachment B, does hereby lease and demise unto the lessee the lands described, and the special provisions identified, in attachment A at the uses specified herein; grazing 7,641.96 acres containing 837.00 AUMs, cropland 28.00 acres of dryland at 10.00 per acre, 0.00 acres irrigated land at 0.00 per acre, 0.00 acres of wasteland at 0.00 per acre, 0.00 miscellaneous per annum, or 0.00 premium bid.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

COUNTERSIGNED:

Ben Ysursa
Secretary of the State of Idaho
Winston A. Wiggins
Director Department of Lands

THE GREAT SEAL OF THE STATE OF IDAHO
ESTO PERPETUA
President of the State Board of Land Commissioners and Governor of the State of Idaho

STATE OF IDAHO
COUNTY OF Ada

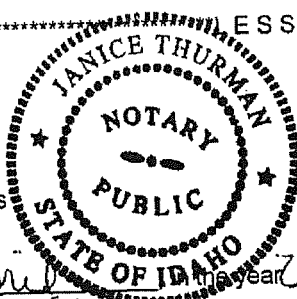
On this 14 day of April, in the year 2010, before me, a Notary Public in and for said State, personally appeared Dirk Kempthorne, known to me to be the president of the State Board of Land Commissioners of the State of Idaho and the Governor of the state of Idaho; and Ben Ysursa, known to me to be the Secretary of the State of Idaho and Winston A Wiggins, known to me to be the Director, that executed the within instrument, and acknowledged to me that the State Board of Land Commissioners of the State of Idaho and the State of Idaho executed the same.

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

Residing at Loose, Idaho, Commission expires 06/15/2010
Donna L. Nielsen
Notary Public for Idaho

*****LESSEE*****

STATE OF Idaho
COUNTY OF Canyon



x L. G. Davison & Sons, Inc
(Lessee)
x by L. E. Davison, Pres.
(Lessee)

On this 4 day of April, in the year 2006, before me, a Notary Public In and for said State, personally appeared L. E. Davison

known to me to be the lessee that executed the within instrument and acknowledged to me that he executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

Residing at Caldwell, Commission expires 05/10/06

Janice Thurman
Notary Public for _____

STATE OF IDAHO
STATE LAND LEASE

LEASE NUMBER: G-6013

PAGE 2

ATTACHMENT A

SPECIAL PROVISIONS:

SEE ATTACHMENT A-1 AND A-2

DESCRIPTION OF PROPERTY:

COUNTY	ACRES	SUBDIVISION DESCRIPTION	SEC.	TWP.	RGE.	ENDOW.
ELMORE	160.00	W2NE, NENW, NWSE,	11 00	1 N	7.0 E	PS
ELMORE	80.00	E2NE,	12 00	1 N	7.0 E	PS
ELMORE	127.73	LOTS 3, 4, SWNW	4 05	1 N	8.0 E	PS
ELMORE	60.28	LOT6 (NWSW), LOT7 (SWSW)	6 00	1 N	8.0 E	PS
ELMORE	30.16	LOT1 (NWNW),	7 00	1 N	8.0 E	PS
ELMORE	76.41	LOT4 (NWNW), SWNW	5 00	2 N	7.0 E	PS
ELMORE	366.64	NESW, L1-6, S2NE, SENW	6 00	2 N	7.0 E	PS
ELMORE	482.40	L1, S2NE, N2NW, NESW, S2SW, SE	4 05	2 N	8.0 E	PS
ELMORE	40.00	NWSW	4 10	2 N	8.0 E	PS
ELMORE	401.40	L1, 2, S2NE, S2SW, SE	5 10	2 N	8.0 E	PS
ELMORE	80.32	L2, SWNE	6 00	2 N	8.0 E	PS
ELMORE	40.00	SESE	6 05	2 N	8.0 E	PS
ELMORE	416.62	L1, 3-6SENE, SENW, NESW, W2SE, NESE	6 10	2 N	8.0 E	PS
ELMORE	440.00	E2, SENW, E2SW	7 05	2 N	8.0 E	PS
ELMORE	520.00	N2, N2SW, NESE, S2SE	8 00	2 N	8.0 E	PS
ELMORE	120.00	NWSE, S2SW	8 05	2 N	8.0 E	PS
ELMORE	120.00	W2SW, SESW	9 00	2 N	8.0 E	PS
ELMORE	520.00	N2, NESW, SE	9 05	2 N	8.0 E	PS
ELMORE	320.00	NENW, S2N2, N2SE, SESE	15 00	2 N	8.0 E	PS
ELMORE	120.00	N2NE, NWNW	15 05	2 N	8.0 E	PS
ELMORE	640.00	ALL	16 00	2 N	8.0 E	PS
ELMORE	160.00	NW,	17 00	2 N	8.0 E	PS
ELMORE	40.00	NESE	18 00	2 N	8.0 E	PS
ELMORE	80.00	NENE, SWNE,	21 00	2 N	8.0 E	PS
ELMORE	160.00	S2N2	22 00	2 N	8.0 E	PS
ELMORE	320.00	NENE, NWNW, N2SW, SE	22 05	2 N	8.0 E	PS
ELMORE	160.00	SE	27 00	2 N	8.0 E	PS
ELMORE	160.00	NE	27 05	2 N	8.0 E	PS
ELMORE	320.00	S2	33 00	2 N	8.0 E	PS
ELMORE	80.00	N2SW	34 00	2 N	8.0 E	PS
ELMORE	480.00	E2, S2NW, S2SW	34 05	2 N	8.0 E	PS
ELMORE	520.00	W2, NWNE, SE,	36 00	3 N	6.0 E	PS

STATE OF IDAHO
STATE LAND LEASE

ATTACHMENT A-1
SPECIAL PROVISIONS
GRAZING / CROPLAND MANAGEMENT PROVISION

Lease Number: G-6006, G-6210 and G-6013 – Combined at Renewal Jan 1, 2006

Lease Applicant: LG Davison & Sons Inc

Allotment Name: Smith Prairie and Williams Creek Allotments

Cropland (if applicable):

Crops planted _____

Crop rotation schedule _____

Grazing (if applicable):

(Number of Livestock by Class)

cow/calf pairs	<u>1000</u>	yearlings	_____	bulls	_____
sheep	_____	horses	_____	other (specify)	_____

(Number of AUMs by Class for Billing)

cattle	<u>837</u>
sheep	_____

Season of Use (specific dates and total number of days): May 1 through October 31

MANAGEMENT PROVISION

The following Management Provision is a summary of the grazing and/or cropland management strategy agreed to by the Lessee and Idaho Department of Lands to address identified resource concerns and management objectives.

Lease G-6011 was combined with G-6013 in 1994.

All of the leased land is used for grazing with a modified grazing rest-rotation/deferred grazing system. State land is used in common with both privately owned and federal grazing permits and managed generally under the federal permits. The Davison's Forest Service Permit is managed under the LESTER CREEK, MENNECKE, RATTLESNAKE, RIMROCK, SMITH PRAIRIE, SPRING CREEK, and WILLIAMS CREEK C&H ALLOTMENTS.

Most of the state leases fall under the Smith Prairie and Williams Creek Allotments. The total number of cattle under the Davison's operation is 1,000 head which are distributed over the state, private and federal lands and rotate pastures based on the federal permit's annual operating instructions. IDL bills for 948 AUMs. However, using state land in conjunction with the federal and private lands does not exceed the number of AUMs for the season of use on any of these parcels. Season of Use on state land is an estimate. Lands are used sometime during those dates based on the rotation determined by the federal permits. Davison's do not have a record of AUM's for their private lands but current utilization levels are reached through regular riding combined with a rest-rotation/deferred grazing system through out all lands involved.

State lands are used between May 1st through October 31st. In addition to State AUM's, Davison's were authorized to use the following on allotments for the 2005 grazing season:

ALLOTMENT	LIVESTOCK	NUMBER	SEASON OF USE
Lester Creek	Cow/calf	164	07/01 – 10/31
Mennecke	Cow/calf	287	07/01 – 09/30
River Unit	Cow/calf	100	04/30 – 05/25
Rattlesnake	Cow/calf	282	05/01 – 10/31
Flat Iron	Cow/calf	35	04/15 – 04/30
Rimrock	Cow/calf	15	04/01 – 10/31
Smith Prairie	Cow/calf	55	05/01 – 10/15
Spring Creek	Cow/calf	70	05/01 – 06/30
Williams Creek	Cow/calf	4	07/01 – 10/31

State lands do not show significant erosion problems. Noxious weeds are present and are being managed through spraying on state lands and the private land by the operator and IDL personnel. Monitoring is done in conjunction with FS and BLM personnel.

Lease No G-6013

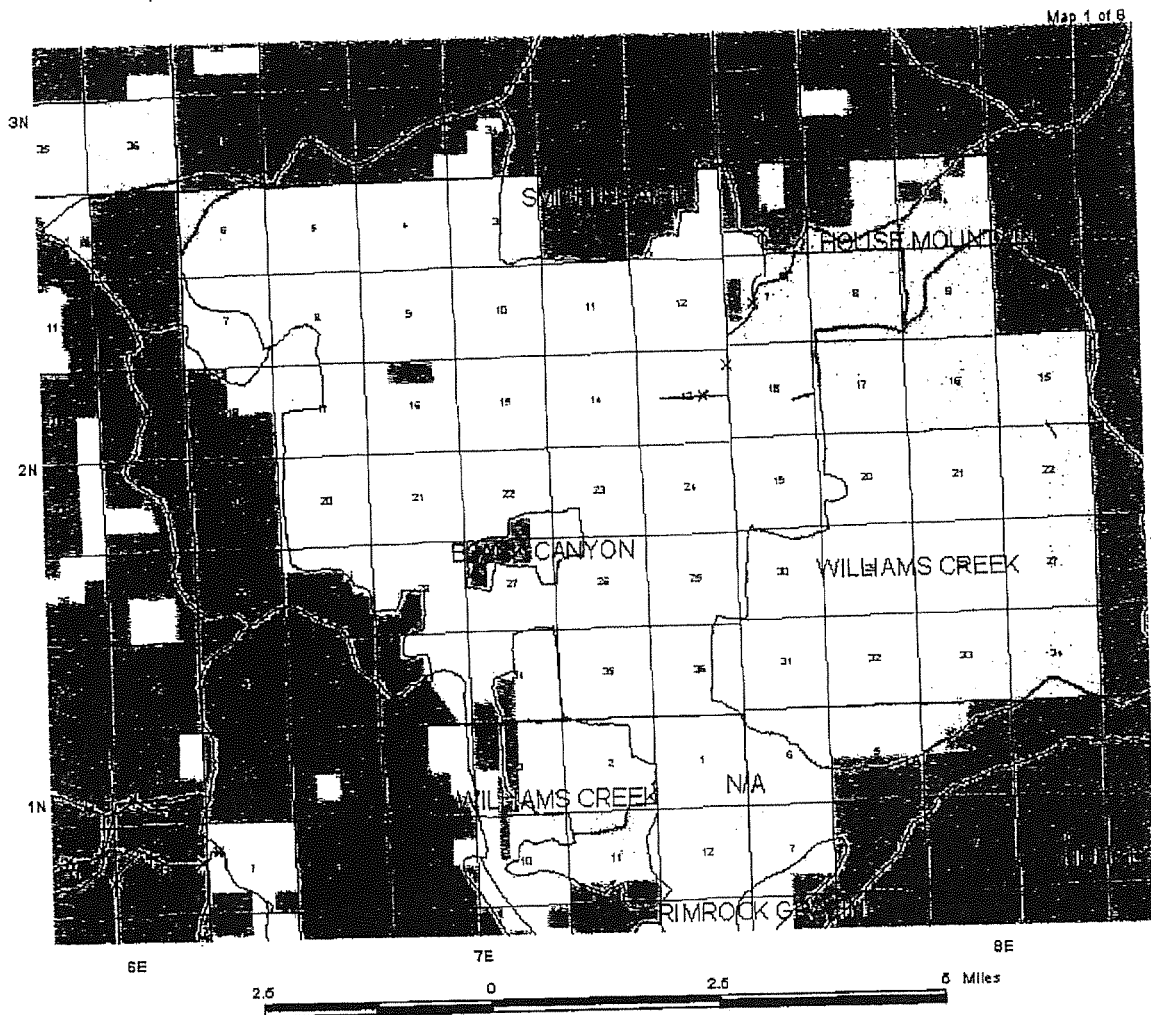
STATE OF IDAHO
STATE LAND LEASE

ATTACHMENT A-2
MAP #1



G-6013

T1N, R7E, 8E; T2N, R7E, 8E; T3N, R6E

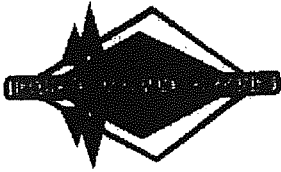


-  Fence
-  Grazing Allotments
-  G-6013
-  State Leases
-  Boise National Forest
-  BLM

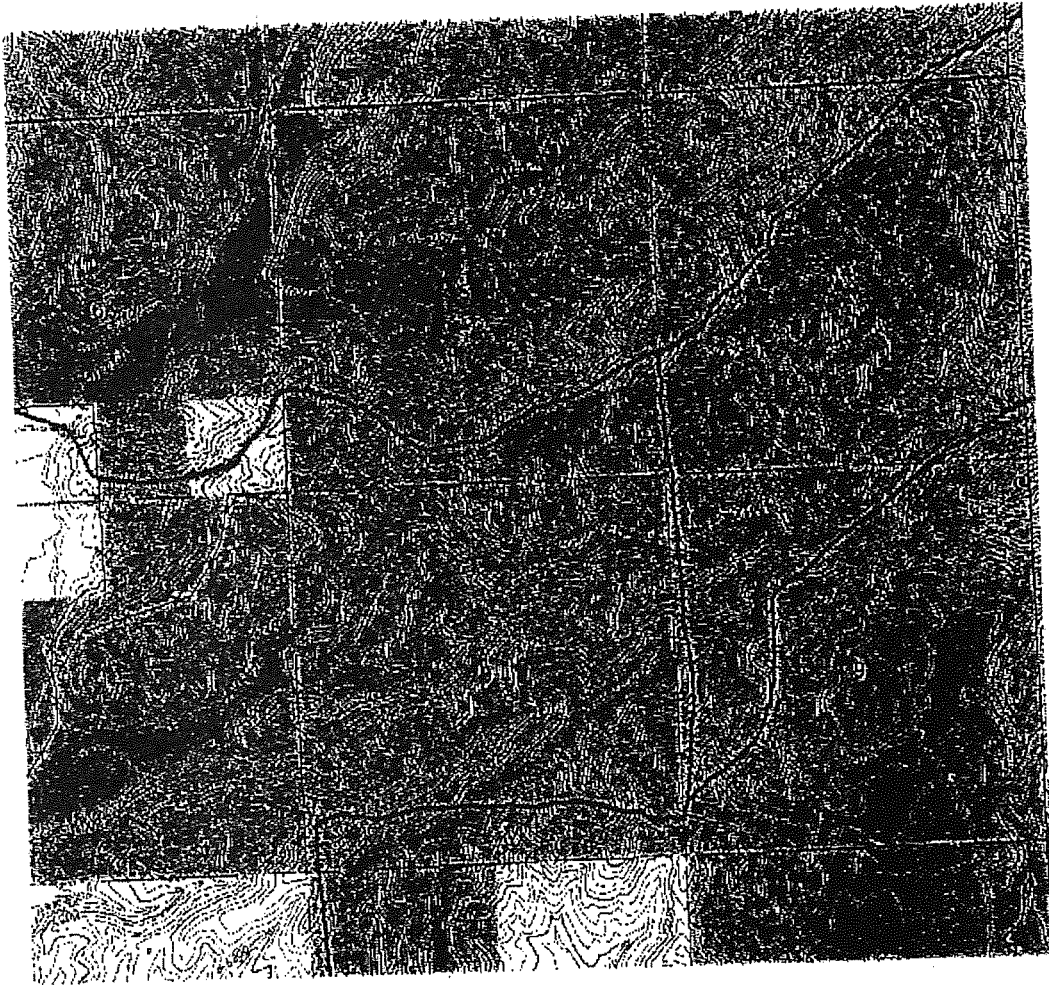


STATE OF IDAHO
STATE LAND LEASE

ATTACHMENT A-2
MAP #2



G-6013
T2N R8E S. 6



-  Grazing Allotments
-  Fence
-  G-6013
-  State Leases
-  Boise National Forest

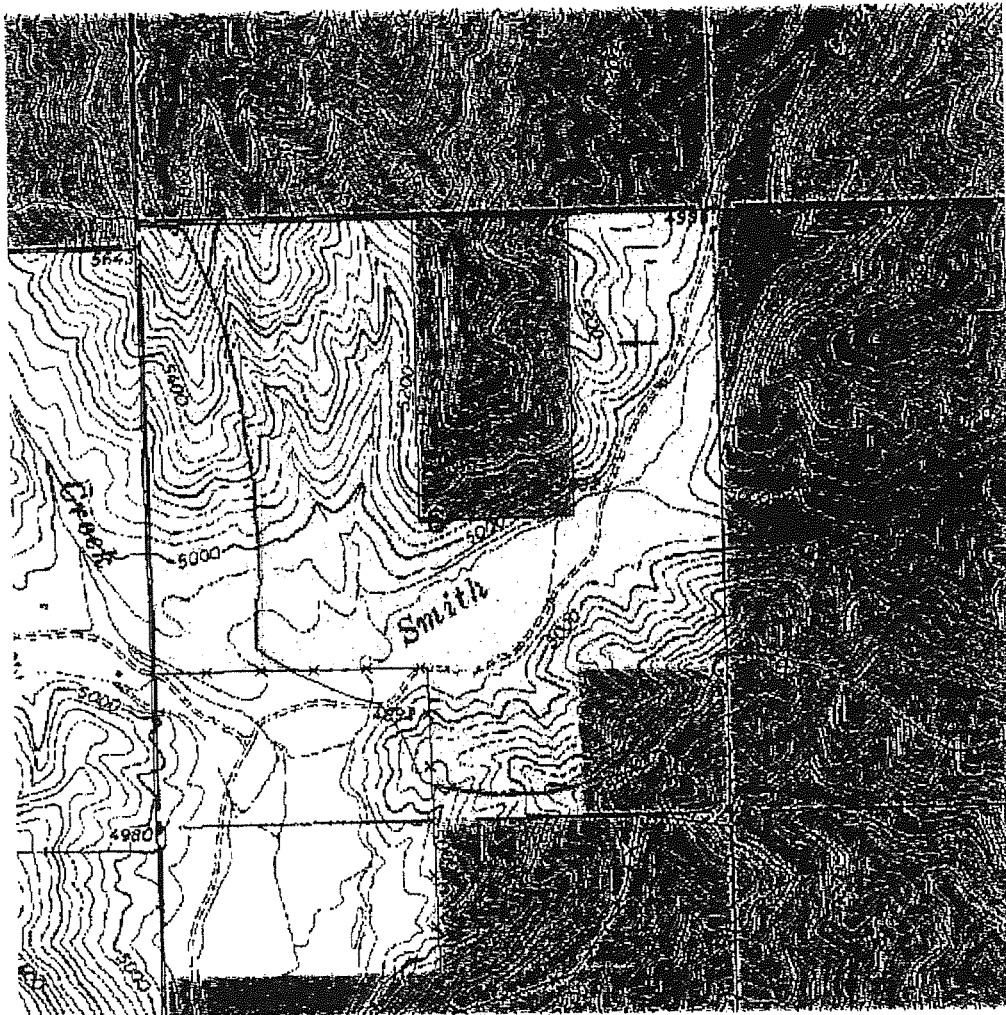


STATE OF IDAHO
STATE LAND LEASE

ATTACHMENT A-2
MAP #3



G-6013
T2N R8E S.6



-  Grazing Allotments
-  Fence
-  G-6013
-  State Leases
-  Boise National Forest



**STATE OF IDAHO
STATE LAND LEASE
ATTACHMENT B**

1. Use of Land

- 1.1 Grazing Use. The leased land shall be used by Lessee for the purpose of grazing domestic livestock, as specified in this Lease and Lessee's approved Grazing Management Plan, attached hereto as Attachment A-1 Special Provisions Grazing Management Plan Summary. No other uses shall be made of the leased land by Lessee without prior written approval of Lessor. At all times Lessee shall practice good husbandry on the leased land.
- 1.2 Cropland Use. In addition to or in lieu of the use authorized in Paragraph 1.1 of this Lease, the Lessee is authorized to use the number of acres identified on the signature page of this lease as cropland. The location and management of said acres shall be designated in the written Grazing Management Plan. Said use shall be in accordance with this Lease, the Lessee's approved Grazing Management Plan, and any special provisions attached hereto. No use of the leased land for cropping purposes shall occur prior to the final approval of the written Grazing Management Plan by Lessor. Lessee shall pay to Lessor an additional rental for the identified acres of cropland whether cultivated or not in an amount determined by Lessor pursuant to Lessor's current cropland rental policy, along with the annual base rental payment as set forth in Section 2 herein.

2. Rental Rate and Modification of Rent

- 2.1 Annual Rent Payment. Lessee agrees to pay to Lessor, in lawful money of the United States, each year's rent for every AUM covered by this Lease, in an amount to be calculated pursuant to Lessor's most current formulas for each applicable use at the time the rental is calculated or recalculated. The rent shall be payable on or before the annual rental payment due date of each successive year. Lessee shall pay the annual rental to Lessor without abatement, offset, or deduction of any kind, unless otherwise authorized by the Lessor through a completed Lease Adjustment form provided by the Lessor. Lessor reserves the right to increase or decrease the annual rent. Lessee will be notified one hundred eighty (180) calendar days in advance of the first payment of any increase in rental.
- 2.2 Late Payment Charge. If annual rental is not paid in full by the date it is due, Lessor may terminate the Lease upon thirty (30) calendar days written notice to Lessee. In addition, in the event any rent due hereunder is not paid in full when due, Lessee shall pay, in addition to such rent, a late charge in the first calendar month of such delinquency equal to the greater of Twenty-five Dollars (\$25.00) or one percent (1%) of the unpaid rent. For each subsequent calendar month of such delinquency, Lessee shall pay an additional late charge equal to one percent (1%) of the then unpaid rent. The parties acknowledge and agree that the late charge described herein is a reasonable attempt to estimate and to compensate Lessor for higher administration costs associated with administering such late payments and is not intended as a penalty. By assessing this late charge, Lessor does not waive any right to declare a breach and to pursue any right or remedy available to Lessor by reason of such breach, after expiration of any applicable notice or cure period.
- 2.3 Lien. The amount of the rent, late charge, and interest shall constitute a lien in favor of the State of Idaho against all of Lessee's improvements and other property on the leased land, including, but not limited to, crops and livestock.

3. Livestock Carrying Capacity.

- 3.1 The grazing period, AUM's, and the number of stock shall be determined by Lessor and may be adjusted from time to time after giving Lessee thirty (30) calendar days notice of any such modifications. Lessee shall furnish such information as may be required to assist Lessor in determining the grazing period and number of stock to be grazed.

4. Grazing Management Plan

- 4.1 Grazing Management Plan Required – Content. Prior to issuance of this Lease, Lessee and Lessor must agree to a written Grazing Management Plan. The content of the plan shall address all activities that may take place under this Lease and include, but not be limited to, consideration of the kind and number of livestock, the season of use, the movement of livestock, the construction of improvements, the vegetation, noxious weed control and other factors identified by Lessor as necessary for inclusion in the plan based on the specific characteristics of the leased land and/or of Lessee's use of the premises. If the leased land is used in

conjunction with federal lands, the Grazing Management Plan prepared for the federal land may be deemed by Lessor, at its discretion, to satisfy the requirements of this section.

- 4.2 **Modification of Plan.** Lessor may review and modify any Grazing Management Plan upon changes in conditions, laws, or regulations, provided that Lessor shall give Lessee thirty (30) calendar days notice of any such modifications prior to the effective date thereof. Prior to instituting any management changes, Lessee must submit, in writing, the proposed changes to the Grazing Management Plan to Lessor for approval. No management changes shall occur prior to Lessor's written approval of the amended Grazing Management Plan. Modifications mutually agreeable to both Lessor and Lessee may be made at any time.
- 4.3 **Annual Plan - Incorporation By Reference.** Lessor may require that the Grazing Management Plan be supplemented by Lessee annually through an approved, written Annual Plan, which shall be developed and approved in the same manner as the Grazing Management Plan set forth in paragraphs 4.1 and 4.2 above. The Grazing Management Plan together with any and all subsequently approved amendments thereto and any Annual Plans are hereinafter referred to collectively as the Grazing Management Plan, and shall be incorporated by reference into this Lease.
- 4.4 **Compliance Required.** Lessee shall abide by all provisions of the Grazing Management Plan. If Lessee fails to abide by the Grazing Management Plan, Lessee will be deemed in breach of this Lease and the lease will be subject to cancellation in accordance with Section 18 of this lease.
- 4.5 **Records to be Retained.** Lessee must keep records showing the numbers and class of livestock on the leased land and the dates put on and removed from the leased land, as well as records relating to the construction of improvements. Lessor may require Lessee to produce these records.
- 4.6 **See Attachment A of this Lease for a summary of the Grazing Management Plan in effect as of the date of execution of this Lease.**
5. **Subleasing or Assignment**
- 5.1 **Written Approval Required.** Lessee shall not sublease or authorize another person to graze livestock on all or any part of Lessee's interest under this Lease, or assign this Lease, without the prior written consent of Lessor to be evidenced by Lessor's execution of consent forms provided by Lessor for that purpose. Any request for approval of a sublease or assignment must be in writing, complying with the statutes or rules governing subleasing, and accompanied by a copy of the proposed sublease agreement and the appropriate processing fee. Lessor may withhold consent for any reason. Any attempt by Lessee to sublease Lessee's interest in the leased land or any part of the leased land or to assign this Lease, shall be void unless Lessor has given such prior written consent. No request for Lessor's approval of any assignment or sublease will be considered unless all rent due has been paid in full, and Lessee is in good standing under the terms of the Lease. No sublease will act as a release of Lessee's obligations hereunder unless Lessor executes a separate written release of Lessee. Lessor has no obligation to so release Lessee, and Lessor can withhold such release at Lessor's sole discretion. Any sublease or assignment will be subject to the provisions of this Lease, including, but not limited to, the existing written Grazing Management Plan. The sublease will only be approved on an annual basis.
- 5.2 **Additional Rental Due.** In the event the leased land is subleased in accordance with Section 5 for an amount greater than the base rental, Lessee shall in addition to Lessee's annual base rental pay to Lessor an amount equal to one-half (1/2) the difference between Lessee's base rental rate herein established, and the rental rate paid by Sublessee.
- 5.3 **Improvements.** Upon approved sublease or assignment, ownership of any existing Lessee-owned improvements under this Lease must be separately negotiated between Lessee and such Sublessee or Assignee.
- 5.4 **Copies to be Filed.** Copies of all assignments, subleases, pasturage or any other agreement of any kind or nature involving the use of the leased land by another person shall be timely filed with Lessor.

6. Leasehold Mortgage.

- 6.1 Lessee shall not mortgage, pledge or otherwise dispose of Lessee's interest in the Lease, or any portion thereof, without prior written consent of Lessor. Lessee shall use mortgage or deed of trust forms provided by Lessor, and shall submit completed forms and appropriate fee to Lessor for review and approval. The term of a mortgage agreement shall not exceed the lease term. Lessor may accept or reject a leasehold mortgage at its discretion.

7. Environmental, Safety and Sanitary Requirements

- 7.1 No Hazardous Materials. Lessee shall neither commit nor permit the use, placement, transport or disposal of any hazardous waste, including, but not limited to, petroleum products, such as oil, gasoline, or any other substance that is or is suspected to be a hazardous substance or material on the leased land except the customary use associated with machinery, equipment and vehicles. Lessee shall be responsible, and shall pay all costs for the removal or other appropriate remedial action regarding any hazardous waste, substances, or materials which Lessee may have caused to be introduced on the land. Any such remediation or removal or storage must be conducted in accordance with applicable federal, state, or local law, regulation, rule or ordinance and Lessee shall immediately, upon the introduction of any hazardous waste, substances or materials onto the leased premises, contact the Idaho Department of Environmental Quality (DEQ) and enter into a consent order for remediation with DEQ, provided however, Lessee shall not forestall commencing any necessary remediation while negotiating the terms of any consent order with DEQ, unless Lessee is so authorized in writing by Lessor. In event of introduction of any hazardous waste, substances or materials, Lessor may also require Lessee to enter into consent orders or other agreements with any other relevant agency. Lessee shall indemnify, defend and hold Lessor harmless from all costs, expenses, damages or fines relating to pollution and hazardous materials including, without limiting the generality of the foregoing, attorney fees and costs of defense or of enforcement of Lessor's rights hereunder. The amount of any costs incurred by Lessor due to Lessee's violation of this provision shall constitute a lien in favor of the State of Idaho against all of the Lessee's improvements and other property on the leased land including, but not limited to, crops and livestock.
- 7.2 Fire and Safety Regulations. Lessee shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including, but not limited to, the Idaho Department of Lands for fire protection and prevention. Lessee agrees to keep the land free from fire hazards as determined by Lessor. Lessee is prohibited from burning garbage or household trash and any burning on the land, including the burning of wood, weeds or other debris, but excepting campfires necessary for the use under this Lease, requires the prior written permission of Lessor. Any burning must comply with applicable federal, state or local law, regulation, rule or ordinance.
- 7.3 Sanitary Requirements. Concerning activities authorized under this lease, Lessee shall at all times keep the land in a clean and sanitary condition, free of trash, garbage and litter so the land is maintained in the same or better condition as when this Lease was issued. Lessee shall not dispose of sewage except in conformity with applicable federal, state, and local law, rules and regulations pertinent to Lessee's use and shall dispose of sewage on the leased land only if specifically authorized by Lessor. The Lessee shall not store trash on the leased land nor transport trash, garbage, litter or debris onto the leased land. Lessee shall dispose of all trash, garbage and carcasses in conformity with all legal requirements. Lessee is responsible for all costs associated with sewage, garbage and litter disposal.
- 8. No Warranty of Suitability - Quiet Enjoyment - Public Use**
- 8.1 No Warranty. Lessee acknowledges that neither Lessor nor any agent of Lessor has made any representation or warranty with respect to the land or concerning the suitability of the land for the uses intended by Lessee. Lessee acknowledges that it has accepted the land in an AS IS CONDITION, accepting any and all known or unknown faults therein.
- 8.2 Quiet Enjoyment. Lessor agrees that Lessee, upon payment of the rent and performing the terms of this Lease, may quietly have, hold and enjoy the land, for the purposes and uses allowed hereunder, during the term hereof. Lessee acknowledges that the Lease is non-exclusive, and Lessor retains the right to use of the land, or to grant rights to others for use of the land, to the extent any such use does not materially interfere with Lessee's purpose and uses allowed hereunder, unless otherwise provided for in this Lease.

- 8.3 Public Use. Lessee must allow the general public the right to use the leased land for any lawful use available to the public for lands owned by the State of Idaho. However, nothing in this Lease authorizes or purports to authorize trespass on private lands to reach state-owned lands. Public use of State lands shall not be restricted without prior written approval of Lessor. This Lease is not an exclusive control lease as described under Idaho Code § 36-1603(b).

9. Water Right and Water Use

- 9.1 Water Rights. No water rights are included in this Lease. The establishment of any new water rights during the term of this Lease shall be by and for Lessor and no claim thereto shall be made by Lessee. Such water rights shall attach to and become appurtenant to the leased land.
- 9.2 Water Use Generally. Lessee shall be entitled to use the water on the leased land, but only for the use allowed in this Lease and only insofar as permitted under Idaho water law. Lessee must receive the prior written consent of Lessor or its authorized agent, and the prior written consent of any department or agency of the State of Idaho having jurisdiction to regulate water rights in and for the State of Idaho for any of the following:
- A. To drill and use a water well,
 - B. To develop and use any source of water,
 - C. To cause any water to be conveyed off the land,
 - D. To bring water onto the leased land.
- 9.3 Water Systems. If water is supplied to the land by a water system operated by the State of Idaho, the use of such system and the supply of water provided thereby may be curtailed or terminated upon thirty (30) calendar days written notice to Lessee from Lessor or its authorized agent. Neither Lessor nor its agents and employees nor any entity of the State of Idaho shall be liable in any manner for damage or inconvenience to the Lessee by reason of failure of, damage to, or termination or curtailment of the operation of any water system or source supplying water to the land.

10. Noxious Weeds

- 10.1 Lessee shall cooperate with Lessor or any other agency authorized to undertake programs for control or eradication of noxious weeds. Lessee shall take measures to control noxious weeds on the leased land in accordance with Title 22, Chapter 24, Idaho Code, except those resulting from activities beyond the Lessee's control. The cost of control of noxious weeds on the leased land shall be shared by Lessee and Lessor with Lessor's share subject to funds appropriated for that purpose.

11. Construction of Improvements

- 11.1 Permit Required. Lessee shall not construct, initiate or place improvements or structures of any character (herein referred to as "improvements") on or to the leased land without the prior expressed, and written permission of Lessor. Said permission shall be in the form of a permit issued by Lessor, and shall be required for any improvement or structure on the leased land including, but not limited to, range improvements, buildings or other structures, water developments, fences, vegetation treatment, or the clearing of land. Lessee shall submit project plans to the Lessor. If the project plans are approved and permitted in writing by Lessor, then Lessee shall construct and implement the improvements in full compliance with the approved plans, the permit and all applicable building codes, rules and laws. Permitted improvements shall be the property of Lessee, unless otherwise provided in the permit or approved Grazing Management Plan. Failure to obtain a written permit prior to construction and implementation of any improvement will be considered a trespass violation and may result in lease cancellation or cause the Department to initiate proceedings to recover damages as provided for in IDAPA 20.03.14. Any improvement associated with the uses authorized in this lease and placed on endowment land prior to January 1, 1970 is considered grandfathered and properly authorized even though there may be no documentation of authorization.
- 11.2 Condition of Improvements. At all times during the term of this Lease, Lessee shall keep all improvements in good repair and functional condition to the satisfaction of Lessor. Any and all fences shall be neat, stock-proof, lawful fences and gates.
- 11.3 Maintenance of Improvements. Lessee may be required to remove or reconstruct improvements in poor or non-servicable condition. Existing maintenance agreements on lands acquired from the federal government shall remain in effect until amended by the parties involved. If maintenance is not being accomplished, Lessor shall

provide a letter to Lessee informing Lessee of the lease violation. If work is not begun within thirty (30) calendar days, Lessor may contract repairs and add the amount to the annual rental.

- 11.4 Removing Improvements. Lessee shall not remove, relocate or otherwise alter any improvements without prior written permission from Lessor.
- 11.5 Cost of Improvements. Any permitted improvement constructed by or at the request of Lessee, shall be constructed at Lessee's own expense, unless Lessor and Lessee shall have entered into a prior written cost sharing agreement for construction of such improvement.
- 11.6 Permitted Improvements At Lease Expiration/Termination. Upon expiration or termination of this Lease for any reason, other than a default by Lessee, and in the event Lessor leases the land to a new lessee, Lessor shall require the new lessee to pay Lessee the then existing value of the permitted improvements in accordance with the then existing statutes and rules. Said value shall be determined through an appraisal conducted by Lessor. Improvement payments shall be first applied towards any rent or other monies due to Lessor before being disbursed to Lessee. Lessor does not hereby agree or become obligated to pay any such value to Lessee, such obligation shall be solely on the subsequent lessee, if any. Any improvement which Lessee is entitled or required to remove upon expiration of the lease must be removed within six (6) months of the expiration of the lease, otherwise it is deemed abandoned and title to such abandoned improvement shall vest in the State of Idaho. Provided, however, Lessor may authorize, in writing, prior to the expiration of the six (6) month time period, additional time for removal of improvement(s) by Lessee. Failure of Lessee to remove any such improvement within the extended time period established by Lessor shall constitute an abandonment of Lessee's rights to such improvement.
- 11.7 Improvements Not Approved. At any time during the term of the Lease, or upon expiration or termination of this Lease for any reason, Lessor may require, at Lessor's sole discretion, that Lessee remove any improvement placed on the leased land without a prior permit from Lessor. The full cost of such removal, including the restoration of the leased land, shall be solely Lessee's. In the event Lessor does not elect to require such removal, Lessee's failure to secure such permit shall constitute forfeiture. Title to any improvement placed on the leased land without a permit from Lessor shall, at Lessor's option, immediately vest in Lessor without waiver of Lessor's right to require removal of the same by Lessee.
- 11.8 Lessor's Removal of Improvement. Lessor may, at its discretion, remove or have removed the abandoned or non-permitted improvement and Lessee shall be responsible for the full cost of removal and restoration of the leased land. Nothing in this Section shall relieve Lessee from the obligation to remove any improvement as required by Lessor under other terms within this Lease.
12. **No Liens**
- 12.1 Lessee will not permit or suffer any liens of any kind or nature to be effected on or enforced against the leased land, including, but not limited to, any mechanics' liens or material suppliers' liens for any work done or materials furnished on the leased land at Lessee's instance or request. Lessee shall ensure that full payment is made for any and all materials joined or affixed to the leased land pursuant to this Lease and for any and all persons who perform labor on the land.
13. **Sale Or Reclassification Of Leased Land.**
- 13.1 Sale. Lessor may sell all or any portion of the leased land during the term of this Lease. Lessor will notify Lessee that the leased lands are being considered for sale prior to submitting the sale plan to the Land Board for approval. Lessee will be notified of a scheduled sale at least thirty (30) calendar days prior to sale date. Lessee shall deliver immediate possession of the land sold unto Lessor, or to the person or party as may be specified in writing by Lessor or Lessor's designee, unless the land remains subject to the Lease, or unless Lessee is to be permitted to harvest a growing crop before surrendering possession. In the event of a growing crop, Lessee shall have possession of only the land on which the crops are growing, and shall deliver possession of the land upon harvest of the crop. When creditable improvements or growing crops are present, and Lessee delivers possession of the land, Lessor shall appraise them in accordance with Idaho Code § 58-313, or the then existing applicable statute or rule, and Lessee shall be paid for the improvements or crops by the purchaser on the day of sale. Lessee shall have the rights provided by paragraph 11.6, and the then existing statutes or rules with respect to compensation for permitted improvements placed upon the leased land by Lessee.

- 13.2 Reclassification. The Lease may be cancelled in whole or in part upon one hundred eighty (180) calendar days written notice by Lessor if the leased lands are reclassified for any other use as designated by Lessor. In the event of early cancellation due to reclassification, Lessee will be entitled to a prorata refund of the premium bid for a conflicted lease.

14. Relationship of the Parties

- 14.1 Lessee is not an officer, employee or agent of Lessor. In no event shall any official, officer, employee or agent of Lessor or of the State of Idaho be in any way personally liable or responsible for any covenant or obligation contained in this Lease, express or implied, nor for any statement, representation or warranty made in connection herewith.

15. Reservations by Lessor

- 15.1 Lessor expressly reserves and excepts the following rights:

A. To enter upon the leased land, or any portion thereof, during the term of this Lease for any purpose, including, but not limited to, the purpose of inspecting the leased land.

B. All rights not expressly granted to Lessee under this Lease, including, but not limited to, all rights to timber, oil and gas, geothermal rights, mineral rights, easements and rights-of-way, water, and fee title to the leased land, and title to all appurtenances and improvements placed thereon by Lessor.

C. To grant easements and rights-of-way over and across the leased land. Lessor shall coordinate with Lessee before processing any easement applications on the leased land. The grantee of such easement shall, before exercising the same, pay Lessee the reasonable value of any permitted improvements and any growing and immature crops, if crops or improvements are impacted by the easement. Said value shall be determined by Lessor's appraisal.

D. To issue other leases on the leased premises. Such other leases may be for any purpose deemed appropriate by Lessor, including, but not limited to, the exploration and development of oil, gas, geothermal and mineral resources as provided by Title 47, Idaho Code. In the event any such other Lease is granted by Lessor, the other lessee shall, before exercising the same, pay Lessee the reasonable value of any permitted improvements and any growing and immature crops, if crops or improvements are impacted by the other lease. Said value shall be determined by Lessor's appraisal. If the other lease conflicts with the grazing use or makes consumptive use of forages, the grazing rental will be adjusted to reflect such loss of use.

E. To require that changes be made in the use under this Lease, and/or to the improvements on the leased premises, including, but not limited to, the sanitation or other facilities for the protection of public health, safety, preservation of property or water quality.

F. To reserve as Lessor's sole property any and all water appurtenant to Lessor's land or from any source arising thereon and to hold water rights for any beneficial use that may be developed as a result of this Lease, and as further provided in Section 9 herein.

G. Rights of ingress, egress, and access, over and across the leased land for Lessor and its lessees, permittees, contractors, and assigns on existing roads, or on suitable alternative roads provided by Lessee.

H. To reclassify the land, in whole or in part, for other uses that will better achieve the objective of Lessor. Upon reclassification this Lease may, at Lessor's discretion, be terminated in whole or as to the affected part. In the event of any such termination due to reclassification, the provisions of Section 11 relating to compensation for permitted improvements shall apply.

I. To sell timber on the leased land or otherwise conduct forest management activities, Lessor reserves the right to restrict or prohibit grazing use on all or portions of the leased land for timber management purposes. Lessee will be given not less than one hundred eighty (180) calendar days written notice of any such restrictions or termination of grazing use, together with a map of the restricted area.

J. To restrict or prohibit grazing on all or any portion thereof of the leased land in response to emergency conditions such as, but not limited to, fires, flooding and drought.

K. To sell all or any portion of the leased land at any time during the term of this Lease, and as further provided in Section 13 herein.

L. To harvest seed from plants on land not under a cropland lease. Lessor will coordinate the harvesting activities with Lessee to minimize impacts on livestock operations or farming operations.

M. To close roads for road protection, wildlife protection or administrative purposes. Planned road closures will be reviewed with Lessee prior to action by Lessor.

N. To claim all permanent improvements placed upon the leased land remaining after six (6) months in cases of abandonment by Lessee or to take possession immediately in cases of cancellation upon breach of any of the conditions of the Lease. No improvements will be disposed of by Lessor until all appeals have been exhausted.

16. Indemnification

16.1 Lessee shall indemnify, defend and hold harmless Lessor, the State of Idaho, its officers, agents and employees from and against any liability, claims, actions, damages, costs, expenses or losses, including reasonable attorney's fees and costs caused by or arising out of the performance, acts or omissions of Lessee, Lessee's agents, officers or employees, or persons using the leased land with Lessee's permission, or otherwise arising out of Lessee's use or occupation of the land; or arising from the failure of the same to comply with any applicable state, federal, local, law, statute, rule, regulation, act, or provision of this lease. This duty to indemnify, defend and hold harmless shall encompass any claims which include or allege negligence of Lessor, its agents, officers or employees other than claims which arise solely out of negligence on the part of Lessor, and this duty shall survive the termination or expiration of this Lease.

17. Payment of Taxes, Assessments or Fees - Lien

17.1 Unless otherwise provided, Lessee shall pay all water charges, fees, assessments or taxes of whatsoever nature that may be legally levied or assessed against the land herein described, or any portion thereof or on any improvements thereto. If the same is not paid, it shall constitute a lien in favor of the State of Idaho against all improvements, livestock or crops growing on the leased land.

18. Lessee's Default

18.1 Lessee's Failure to Comply. Lessee's failure to comply with any of the terms of this Lease or the Grazing Management Plan shall be a breach giving rise to a basis for termination of the Lease. Lessor shall provide Lessee thirty (30) calendar days written notice of the cancellation and, if applicable, the corrective action required of Lessee. The notice shall specify a reasonable time to make a correction or cure the violation or breach, if such breach is subject to correction or cure. If the corrective action or cure is not taken within the specified time or does not occur, then the Lease shall be automatically terminated on the date specified in the written cancellation notice without any further notice or demand, unless otherwise agreed by Lessor in writing. Lessee shall not, while in default, remove any of the improvements, livestock or crops thereon, whether crops are harvested or not unless directed by Lessor. In addition to the rights and remedies specifically granted to Lessor under this Lease, Lessor shall have such other rights and remedies against Lessee as are available at law or in equity, and Lessor's pursuit of any particular remedy for breach shall not, in and of itself, constitute a waiver or relinquishment of any other compatible claim of Lessor against Lessee.

18.2 Lessor's Performance Upon Lessee Default. In the event Lessee fails to perform any act or do anything which Lessee is required to do under the terms of this Lease, Lessor shall have the right, but not the obligation, to perform on behalf of Lessee, any such action. Lessee shall immediately reimburse Lessor for all costs and expenses, including attorney fees, (including fees from the Office of the Attorney General of the State of Idaho), incurred by Lessor in performing any such act or thing. Lessee's obligation to pay costs hereunder shall be deemed to be additional rent fully due and payable on demand from Lessor.

19. Surrender of Land

- 19.1 Lessee shall, at the termination or expiration of this Lease, deliver immediate possession and vacate the leased land, leaving it in the same or better condition than it was in at the time of Lessee's entry on such premises under this agreement, except for reasonable use and wear, acts of God, or damage by causes beyond the control of Lessee, and upon vacating shall leave the demised land free and clear of all rubbish and debris, and with all improvements in good order and condition.

20. Cancellation By Mutual Agreement

- 20.1 Leases may be cancelled by mutual agreement between the Lessor and the Lessee. The Lessor will not unreasonably withhold approval of a request for cancellation by a Lessee.

21. Notices

- 21.1 Notices. Any notice or any demand given under the terms of this Lease shall be deemed given and delivered on the date when personally delivered or if mailed, the date same is deposited in the United States Mail, and mailed by regular or certified mail, postage prepaid and properly addressed to the appropriate party.
- 21.2 Addresses. Until changed by notice in writing, notice, demands, and communications under this Lease shall be addressed to Lessor at:

Idaho State Board of Land Commissioners
954 W. Jefferson Street
PO Box 83720
Boise, Idaho 83720-0050

and to Lessee at the address set forth at the beginning of this Lease. Any notice or correspondence mailed to Lessee at the last identified address shall be deemed effective delivery. It is Lessee's duty to notify Lessor, in writing, of any change in mailing address.

22. Waiver

- 22.1 The waiver by Lessor of any breach of any term, covenant or condition of this Lease shall not be deemed to be a waiver of any past, present or future breach of the same or any other term, covenant or condition of this Lease. The acceptance of rent by Lessor hereunder shall not be construed to be a waiver of any violation of the term(s) of this Lease. No payment by the Lessee of a lesser amount than shall be due according to the terms of this Lease shall be deemed or construed to be other than a part payment on account of the most recent rent due, nor shall any endorsement or statement of any check or letter accompanying any payment be deemed to create an accord and satisfaction.

23. Attorneys' Fees and Costs

- 23.1 In the event Lessor initiates a legal proceeding of any kind instituted under this Lease or to obtain performance of any kind under this Lease, and Lessor prevails, Lessor shall be awarded such additional sums as the court may adjudge for reasonable attorney's fees (including fees from the Office of the Attorney General of the State of Idaho) and to pay all costs and disbursements incurred in such proceeding, including, but not limited to, accountants' fees and fees of appraisers or other experts.

24. Lessee's Compliance with Applicable Laws and Rules

- 24.1 Full compliance. Lessee shall fully comply with all applicable federal, state, or local statutes, ordinances, rules, regulations and laws now existing or hereafter enacted. This shall include, but not be limited to, all applicable rules and regulations and standards promulgated by the State Board of Land Commissioners or the Idaho Department of Lands, including but not limited to, the rules governing grazing leases and cropland leases, IDAPA 20.03.14.
- 24.2 No Waste or Nuisance. Lessee shall not use the land in any manner that would constitute loss or waste, nor shall Lessee allow the same to be committed thereon. Lessee shall not do anything which will create a nuisance or a danger to persons or property.

25. Miscellaneous

- 25.1 **No Trespass.** Lessee shall not use nor allow Lessee's livestock to graze or run at large over lands belonging to Lessor not under lease to Lessee or approved within the Grazing Management Plan.
- 25.2 **Appraisals and Valuations.** Any appraisal or valuation by Lessor called for in this Lease shall be done by Lessor in accordance with applicable state law and regulations, and the then existing policy of Lessor. Lessor's appraisals and valuations shall be conclusive.
- 25.3 **Subject to Existing Leases/Easements.** This Lease is expressly subject to any right-of-way, easement, lease or contract, including, but not limited to, any present or future timber sale contract, that are now in force and effect or that may hereafter be granted relating to the leased land.
- 25.4 **Timber.** This Lease does not authorize Lessee to cut any timber growing on the land leased. Any unauthorized use of such timber by the Lessee or with his knowledge or consent, shall work a forfeiture of this Lease without notice, and said Lessee shall be responsible for damages in the amount of treble the value of the timber used or taken and all other damages. Said timber value to be determined by Lessor.
- 25.5 **Modification.** This Lease may be modified only by a fully executed Lease adjustment on a form provided by Lessor.
- 25.6 **Binding on Heirs and Successors.** This Lease, including the Grazing Management Plan, shall inure to the benefit and be binding upon the heirs, executors, successors, sublessees, and assigns of the parties.
- 25.7 **Lessee's Non-Discrimination.** Lessee shall not discriminate against any person because of race, creed, religion, color, sex, national origin or disability.
- 25.8 **Paragraph Headings.** The paragraph headings, titles and captions used in this Lease are for convenience only and are not part of the Lease.
- 25.9 **Entire Agreement.** This Lease, including all exhibits attached hereto, contains the entire agreement between the parties concerning the subject matter hereof and supersedes any and all prior agreements. The execution of this Lease has not been induced by either party, or any agent of either party, by representations, promises or undertakings not expressed herein and, further, there are no collateral agreements, stipulations, covenants, promises, inducements or undertakings whatsoever between the respective parties concerning this Lease except those which are expressly contained herein.
- 25.10 **Governing Law and Forum.** This Lease shall be construed in accordance with and governed by the laws of the State of Idaho and the parties consent to the jurisdiction of Idaho State courts located in Ada County in the event of any dispute with respect to this Lease.
- 25.11 **Severability.** In the event any provision of this Lease shall be held invalid or unenforceable according to law, for any reason whatsoever, then the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.
- 25.12 **Counterparts.** This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.



LAND EXCHANGE ADDENDUM

L. G. Davison & Sons, Inc., holder(s) of State Lease G-6013,
does/do hereby acknowledge that land described as _____
is included in our lease, and is proposed for land exchange.

We agree that the lands above-referenced may be deleted from our lease by the Department of Lands upon thirty (30) days written notice from the Director, Department of Lands, upon the consummation of the proposed land exchange.

Our signature on this document constitutes the necessary agreement to the land exchange in accordance with Section 58-138, Idaho Code.

We understand that we may continue to use the lands described above in accordance with our state lease for the balance of the year in which the lands are deeded, unless otherwise notified, in writing, by the Department of Lands.

This Land Exchange Addendum, upon the signature of the LESSEE and the approval of the Director, Department of Lands, will become a part of the above referenced state lease and will be binding (as a provision of the lease) upon the LESSEE, his heirs, successors and assigns.

L. E. Davison Pres 4-19-05
LESSEE DATE

Faye L Russell Secretary 4-19-05
LESSEE DATE

Rebecca Beavers 4/19/05
Witnessed by DATE

Tracy Behrens 05-05-05
APPROVED for Director, Department of Lands DATE



LAND EXCHANGE ADDENDUM

LG Davison & Sons, Inc. holder(s) of State Lease G6006 does/do hereby acknowledge that land described as SESE Section 6, Township 02 North, Range 08 East.

is included in our lease, and is proposed for land exchange.

We agree that the lands above-referenced may be deleted from our lease by the Department of Lands upon thirty (30) days written notice from the Director, Department of Lands, upon the consummation of the proposed land exchange.

Our signature on this document constitutes the necessary agreement to the land exchange in accordance with Section 58-138, Idaho Code.

We understand that we may continue to use the lands described above in accordance with our state lease for the balance of the year in which the lands are deeded, unless otherwise notified, in writing, by the Department of Lands.

This Land Exchange Addendum, upon the signature of the LESSEE and the approval of the Director, Department of Lands, will become a part of the above referenced state lease and will be binding (as a provision of the lease) upon the LESSEE, his heirs, successors and assigns.

L. G. Davison & Sons, Inc. L. F. Davison 4-19-05
LESSEE DATE

Faye L Russell, Secretary 4-19-05
LESSEE DATE

Roberta Beaver 4/19/05
Witnessed by DATE

APPROVED Tracy Behrens 05-05-05
for Director, Department of Lands DATE



LAND EXCHANGE ADDENDUM

LG Davison & Sons, Inc. holder(s) of State Lease G6210 do hereby acknowledge that land described as L1, 3-6 (SENE), SENW, NESW, W2SE, NESE Section 16, Township 02 North, Range 08 East, B.M.

is included in our lease, and is proposed for land exchange.

We agree that the lands above-referenced may be deleted from our lease by the Department of Lands upon thirty (30) days written notice from the Director, Department of Lands, upon the consummation of the proposed land exchange.

Our signature on this document constitutes the necessary agreement to the land exchange in accordance with Section 58-138, Idaho Code.

We understand that we may continue to use the lands described above in accordance with our state lease for the balance of the year in which the lands are deeded, unless otherwise notified, in writing, by the Department of Lands.

This Land Exchange Addendum, upon the signature of the LESSEE and the approval of the Director, Department of Lands, will become a part of the above referenced state lease and will be binding (as a provision of the lease) upon the LESSEE, his heirs, successors and assigns.

L. G. Davison & Sons, Inc.

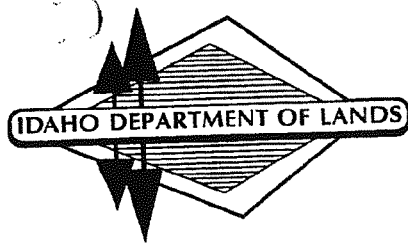
L. G. Davison Pres. 4-19-05
LESSEE DATE

Faye L Russell Secretary 4-19-05
LESSEE DATE

Reuben Beavers 4/19/05
Witnessed by DATE

APPROVED Tracy Behrens 05-05-05
For Director, Department of Lands DATE

**SOUTHWEST
SUPERVISORY AREA**
8355 West State Street
Boise ID 83714
Phone (208) 334-3488
Fax (208) 853-6372



GEORGE BACON, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS
C.L. "Butch" Otter, Governor
Ben Ysursa, Secretary of State
Lawrence G. Wasden, Attorney General
Donna M. Jones, State Controller
Tom Luna, Sup't of Public Instruction

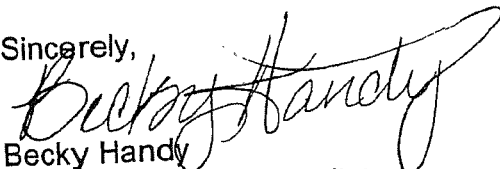
July 12, 2007

LG Davison & Sons
1969 Prairie Road
Prairie, Idaho 83647

Dear Mr. Davison:

I have attached a lease adjustment for the remaining grazing seasons of your current grazing lease, G-6013. This is being done to reflect the land exchange between yourselves and the Idaho Department of Lands. After the land exchange, the actual acres and the AUM's remained the same. Please sign and date the document and return it to the address listed above. If you have any questions please feel free to contact me at (208)334-3488.

Sincerely,


Becky Handy
Lands Resource Specialist



LEASE ADJUSTMENT

Lease Number: **G-6013**
Lessee Name: **LG Davison & Sons**
Address: **1969 Prairie Road**
Prairie, ID 83647

We, the undersigned, do hereby agree that this adjustment shall become a part of State of Idaho Lease Number **G-6013**, and that beginning January 1, **2007**, until December 31, **2015**, the following rates, acreages, and conditions shall apply.

Former Conditions Were:

<u>Acre</u>	<u>Type</u>	<u>AUMs</u>
7,613.96	Grazing	837

- Included these lands – Township 2 North, Range 8 East, Section 21
NENE, SWNE, 80 acres, 7 AUMs

New Conditions Are:

<u>Acre</u>	<u>Type</u>	<u>AUMs</u>
7,613.96	Grazing	837

- No longer includes - Township 2 North, Range 8 East, Section 21, NENE, SWNE, 80 acres, 7 AUMs
- Additions to lease include - Township 2 North, Range 8 East, Section 22 NWNE, NENW, 80 acres, 7 AUMs

Justification:

On May 21st, 2007 a land exchange between the Idaho Department of Lands and LG Davison & Sons took place. In this land exchange two equally valued 80 acre parcels were exchanged so the acres and AUMs of this lease did not change.

ATTENTION LESSEE: Credits under \$50 will automatically post to your lease account. If this Lease Adjustment results in a CREDIT over \$50, please check one of the following for disbursement of the funds:

- ☐ Refund Amount to Lessee
☐ Credit Lease Account to Apply to Future Charges

Lessee

Date

Area Supervisor

Date

Bureau

Date

Distribution:
Bureau
Area Office
Lessee