

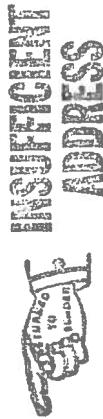
Dept. of Water Resources
Adjudication Bureau
P. O. Box 83720
Boise, ID 83720-0098

ADDRESS SERVICE
REQUESTED

FIRST CLASS



RECEIVED
NOV 23 2005
Department of Water Resources



2-7172D
Preliminary Report

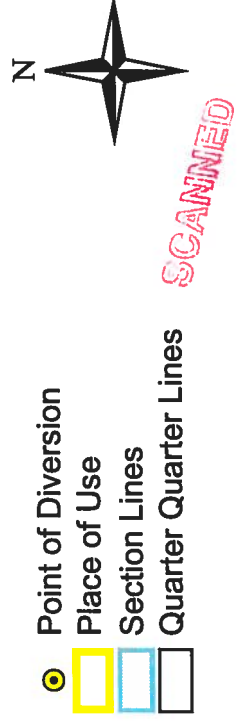
WARREN BURNS
RT 4 BOX 7150
MEANDER POINT
TWIN FALLS ID 83301

Idaho Department of Water Resources



0 0.25 0.5 0.75 1 Miles

Claim Number: 02-07172D
Legal: T06S, R08E, S1
Reviewed By: CLC 6/7/05



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: A02-07172D
Date Received:
Receipt No: C011765
Received By: SDA

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: WARREN BURNS 208-734-5355
Address: RT/4, BOX 7150 MEANDER POINT
TWIN FALLS, ID 83301

2. Date of Priority: OCT 21, 1974

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
06S	08E	1	NW	NE	SW	7	ELMORE

5. Description of diverting works:
PUMP & SPRINKLERS/ALSO ROW & COREGATE IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.060		

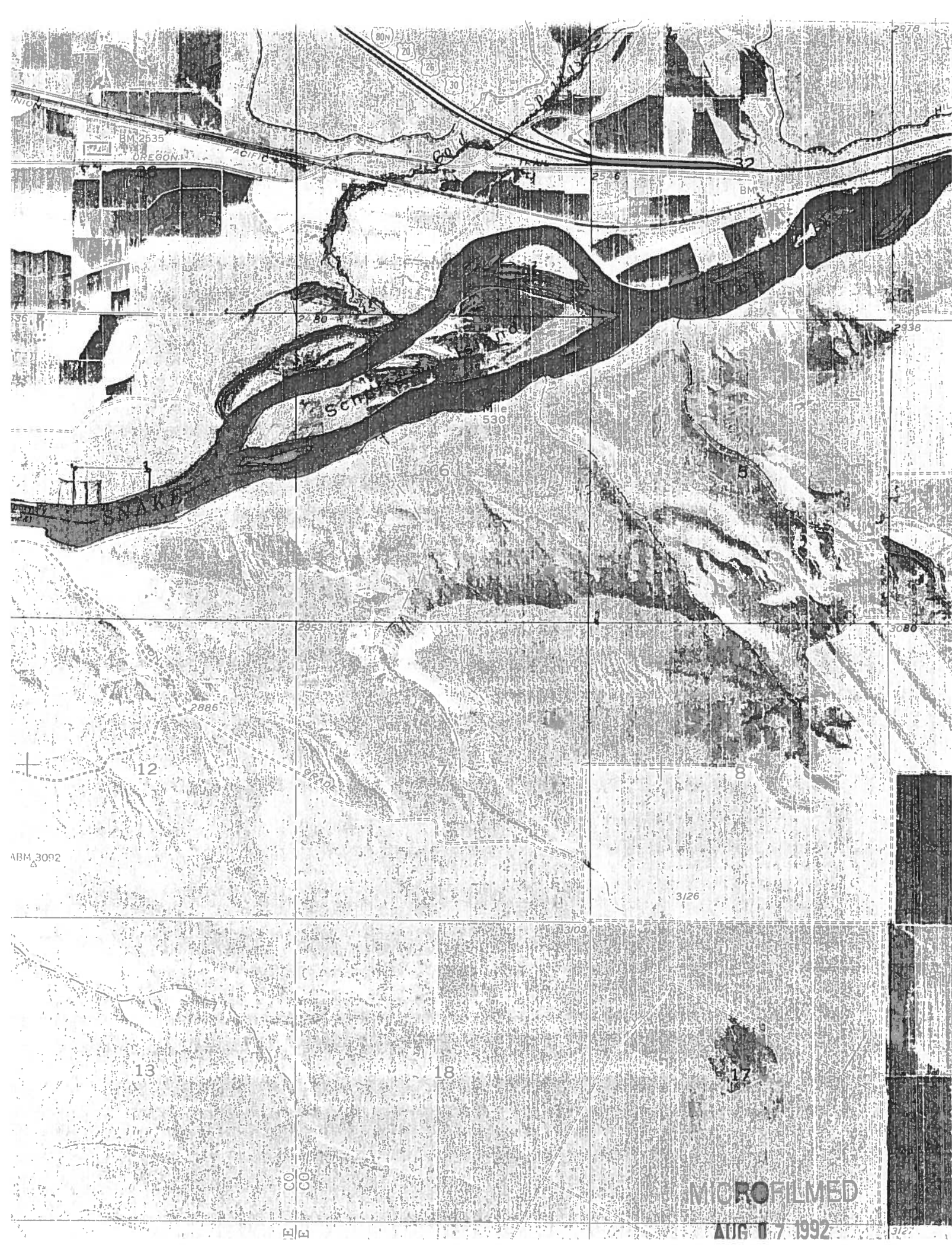
7. Total Quantity Appropriated is:
0.060 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 9.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER INCIDENTAL TO IRRIGATION

10. Place of Use:

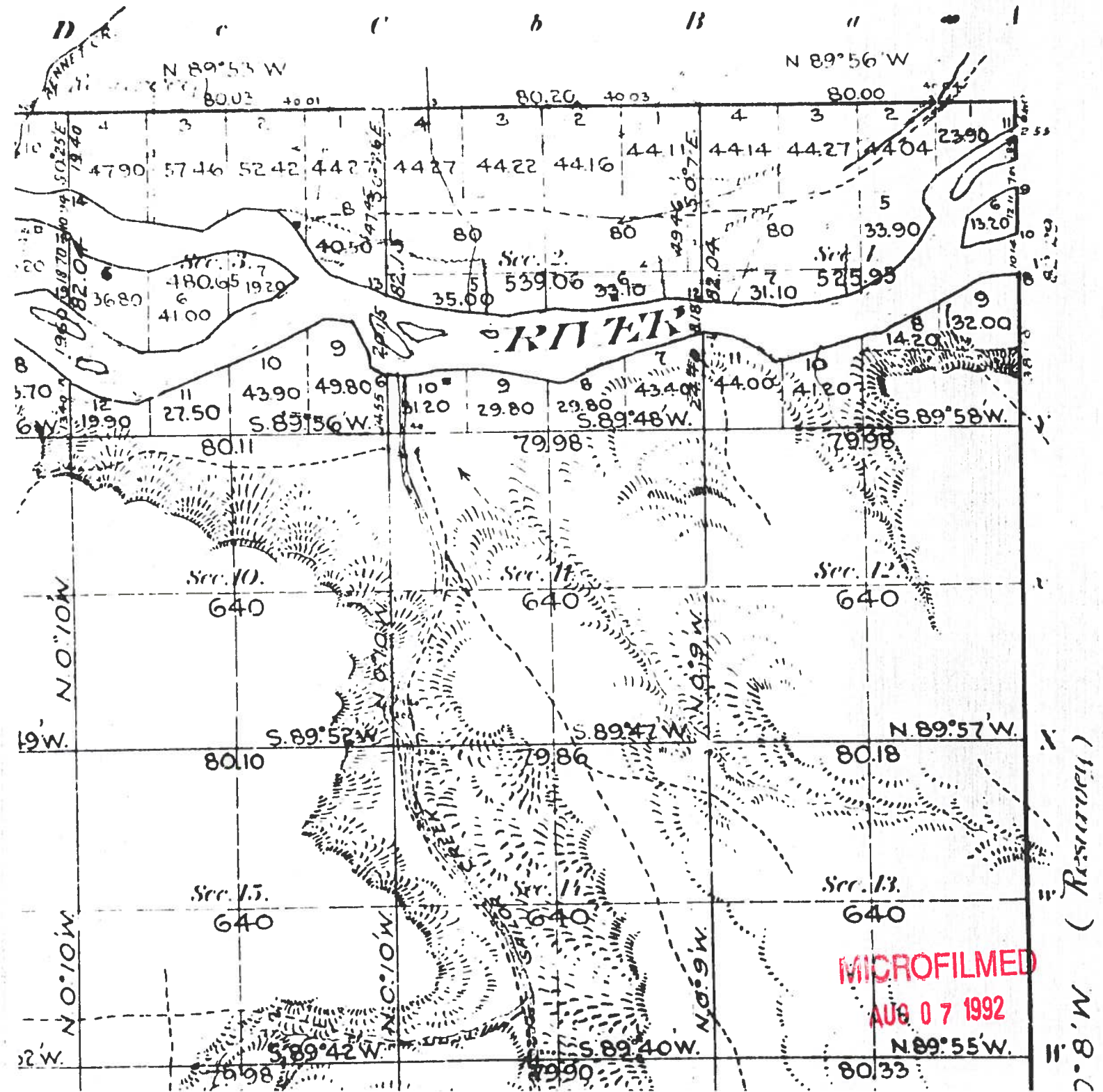
Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
06S	08E	1	NE	SW	7	IRR	3.0
Section Acres							3.0



MICROFILMED

AUG 17 1992

East of the Boise Meridian, Idaho.



RIVERSIDE

A SUBDIVISION IN LOT 12, BLOCK 32
IN SECTION 1, T6S, R8E
ELMORE COUNTY
IDAHO

NE Corner Section 1

unplotted

Center Quarter Corner
Section 1; 1/2" bar rod

N 89° 49' 24" E (Bose Bearing) 2651.96'

1500.00' BANNOCK STREET

922.54'

A02-01772A

⑤

2.50
ACRES

④

1.75
ACRES

③

2.91
ACRES

②

3.05
ACRES

①

3.03
ACRES

RIVER
SNAKE

MICROFILMED

AUG 07 1992

32-11

COMMON ELEMENT
SECTION 1, T6S, R8E
ELMORE COUNTY, IDAHO

REAL POINT OF BEGINNING

2" x 5/16" BIRM PIPE

N 0° 04' 48" W 574.71'

10'

S 89° 54' 12" E

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

2351.02'

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

REAL ESTATE CONTRACT

Agreement made this 3rd day of July, 1979, between
Evan E. Kohtz and Alice J. Kohtz, husband and wife, hereinafter
called the Sellers, and Warren Burns and Marlene Burns, husband
and wife, hereinafter called the Purchasers.

1. Sale. The Sellers, in consideration of the covenants
and agreements of the Purchasers hereinafter contained, agree to sell
and convey unto the Purchasers, and the Purchasers agree to purchase,
all that certain real property situated in the County of Elmore,
State of Idaho, described as follows:

Lot 5, Riverside Acres, a Subdivision in Lot 2, Block 32,
Fruitland Subdivision.

2. Price and Terms of Payment. The Purchasers agree to pay
for the premises and the Sellers agree to accept as the purchase price
therefor, the sum of \$13,000.00 which shall be payable as follows:

(a) \$1,300.00 in cash, concurrent with the execution of
this agreement, the receipt whereof by the Sellers is
hereby acknowledged.

(b) The balance of \$11,700.00 together with interest
computed at the rate of 10 percent per annum on the
unpaid balance, commencing on the date of execution
hereof, shall be paid as follows:

The sum of \$1,538.32 on or before the 3rd day of July, 1980,
and the like sum of \$1,538.32 on or before the 3rd day of
July of each and every calendar year thereafter until the
balance of the purchase price in the amount of \$11,700.00
together with the interest above mentioned, has been paid in full.

1 said contract of sale and it shall remain the obligation of the
2 Sellers to perform, pay, and discharge said contract. Sellers
3 covenant that they will make payments as required under said
4 contract and not allow a delinquency to occur therein. In order to
5 furnish good title to said property to the Purchasers, the Sellers
6 agree to secure the signature of Myrrl W. Heller on the Warranty
7 Deed hereinafter provided for, the same to be held by the Escrowholder
8 pending performance of this contract by the Purchasers.

9 4. Restrictive Covenants. It is understood and agreed that
10 said real property shall be subject to the restrictive covenants
11 set forth in Exhibit "A" hereto, which exhibit is incorporated herein
12 by this reference, and which said restrictive covenants shall run with
13 the land.

14 5. Use of Property. It is understood that the Sellers have
15 utilized said premises as agricultural property in years past and that
16 the Sellers have farmed the same. It is understood, further, that the
17 Purchasers might not begin utilization and/or development of the property
18 in the immediate future. It is agreed between the parties that until
19 such time as the Purchasers desire to begin utilization and/or development
20 of the premises, the Sellers shall have the right to farm the same, with
21 no obligation to pay rental to the Purchasers, and the Sellers shall have
22 the right to retain all crops grown on the premises. The Purchasers shall
23 notify the Sellers 90 days in advance of their decision to commence
24 development and/or utilization of the premises, in order that the Sellers
25 can conclude their farming operations on the premises, harvest any
26 growing crops, and make plans for future farming operations.

27 6. Taxes. The Sellers agree to pay all taxes and assessments
28 on the premises for 1978 and prior years. Taxes shall be levied and

1 The Purchasers agree to pay taxes and assessments levied and assessed
2 against said property for the year 1980 and all subsequent years.

3 If the Purchasers fail to pay the taxes or assessments herein agreed by
4 them to be paid before the same go delinquent, the Sellers may declare
5 the Purchasers in default under the terms of this agreement, after notice
6 as hereinafter mentioned, or may at their option make any payment deemed
7 by them to be necessary to protect the title to the property herein sold,
8 and any such payment made by the Sellers shall be considered as a portion
9 of the unpaid purchase price and shall bear interest at the rate of 10
10 percent per annum from the date of payment until repaid by the Purchasers
11 and the Purchasers agree to pay the same upon demand.

12 7. Condition of Premises. The Purchasers hereby acknowledge
13 that they have personally examined said real property and know the
14 condition thereof. Purchasers acknowledge, further, that they have
15 entered into this agreement on the basis of their own personal knowledge
16 and information and not upon any representations made by the Sellers,
17 or anyone on their behalf.

18 8. Title Insurance. It is agreed that Sellers shall secure,
19 at their expense, a policy of Title Insurance showing a good and market-
20 able title to the property in Sellers, free and clear of encumbrances
21 as except as herein set forth, and the said title insurance policy
22 shall be held in escrow pending the performance of this contract.

23 9. Escrow. Concurrent herewith the Sellers shall execute a
24 good and sufficient Warranty Deed conveying title to said property to
25 Purchasers. Said deed, together with the original of this contract and
26 the title insurance policy, shall be placed in escrow with Idaho First
27 National Bank, Mountain Home, Idaho, as escrowholder. The parties
28 specifically authorize, empower, and designate said bank to act as such

provided, and upon full payment of \$11,700.00 and interest, to deliver to the Purchasers said warranty deed and title insurance policy and also such other papers as may hereinafter be deposited with said escrowholder.

All proceeds received by the escrowholder from the Purchasers pursuant to this contract shall be applied to the reduction of the amount owing to Myrrl W. Heller under the contract of sale referred to in paragraph 3 hereof, it being understood that such proceeds shall be paid upon Escrow # 13680 at First Security Bank of Idaho, N.A., Main Office, Boise, Idaho, the escrowholder of said contract, provided, that when said contract with Myrrl W. Heller has been paid in full all further proceeds paid upon this contract shall be remitted by the escrowholder to the Sellers. Should a default in this contract occur and a forfeiture become effective as hereinafter set out, Purchasers authorize the escrowholder to return to the Sellers all the papers held in escrow.

10. Default. Time and the prompt performance of each and every obligation of Purchasers is agreed to be of the essence of this contract and should Purchasers fail or neglect to make any payments as herein required, when due and before the same become delinquent, or fail or neglect to carry out the other terms and conditions of this contract to be performed by them, then this contract shall be in default, and upon default occurring, Sellers or their authorized agent may cause to be prepared a written notice in duplicate addressed to the Purchasers calling their attention to the matter then in default or on account of which a breach is claimed, and said notice shall be delivered to the escrowholder, who will mail one copy thereof by certified mail to Purchasers at such address as Purchasers may hereafter leave with escrowholder. Purchasers shall have 30 days from the mailing of said notice within which to make good any matters in default or on account of which a breach is claimed or

1 for each notice of default, and in addition thereto such reasonable costs
2 as might be incurred by having the escrowholder serve the notice of default
3 upon the Purchasers. In case of default under this contract by the
4 Purchasers, such costs plus interest accrued on past due payments, must
5 be paid (in addition to the Purchasers' cure of other matters in default
6 as set out in the notice of default) in order to fully cure the default
7 of the Purchasers under this contract.

8 12. Forfeiture. In the event that Purchasers fail or neglect
9 to make good any matters of which they are in default within the time
10 hereinabove provided, then Sellers may, without further notice, declare
11 this contract forfeited, and upon a forfeiture being declared, Sellers
12 shall have the right to immediate possession of said premises, and
13 Purchasers agree that they will immediately surrender possession thereof
14 to the Sellers. And, upon a forfeiture being declared and becoming
15 effective, all monies theretofore paid by the Purchasers to Sellers may
16 be kept and retained by Sellers to apply on the occupancy of the premises,
17 but no provision contained in this contract shall be construed as an
18 election of remedies and Sellers shall have the right, at their option,
19 to bring any action at law or equity to enforce the terms of this
20 contract or to seek restitution or damages.

21 13. Costs. The Sellers and the Purchasers shall each pay
22 one-half of the initial escrow fee for this transaction. ~~The Sellers and~~
23 ~~The Purchasers shall each pay~~ ^{WB} ^{AK} ~~one-half of~~ the yearly fee charged by the
24 escrowholder.

25 14. Right of Prepayment. The Purchasers may at their option
26 pay all or any part of said purchase price on or before the due date
27 thereof, without penalty, and interest shall be charged only upon
28 the principal balance remaining from time to time unpaid.

1 appurtenant to the above-described property, but that the Sellers may
2 use the water rights appurtenant to said property for farming said property
3 as provided in paragraph 5 above. When the Purchasers request exclusive
4 possession of said property, the Sellers shall notify the Idaho Water
5 Resources Board to assure that the Purchasers receive the water rights,
6 for the property being purchased by them.

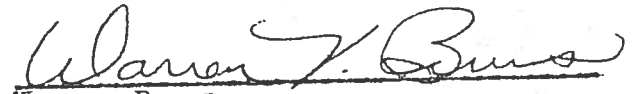
7 16. Binding Effect. This agreement shall be binding upon,
8 and shall inure to the benefit of, the parties, their respective heirs,
9 successors, and assigns.

10 IN WITNESS WHEREOF, the parties have executed this agreement.

11 Sellers

Purchasers

12
13 
14 Evan E. Kohtz

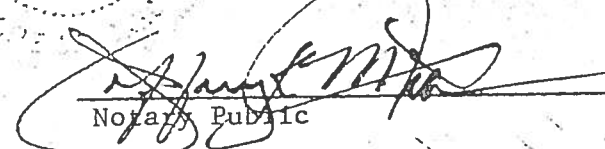

Warren Burns

15
16 
Alice J. Kohtz


Marlene Burns

17
18 State of Idaho)
19 County of Ada) ss

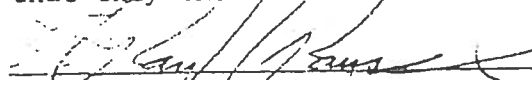
20 On this 2nd day of July, 1979, before me Jeffrey K. McLean, personally
21 appeared Evan E. Kohtz and Alice J. Kohtz, known to me, to be the persons
22 whose names are subscribed to the within instrument, and acknowledged to
23 me that they executed the same

24 
Notary Public

Residing at Boise, Idaho

25 State of Idaho)
26 County of Elmore) ss

27 On the 2nd day of July, 1979, before me Ray Rausch, personally appeared
28 Warren Burns and Marlene Burns, known to me, to be the persons whose
names are subscribed to the within instrument, and acknowledged to me
that they executed the same.


Residing at Mountain Home, ID

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONSENT TO SALE

I, Myrrl W. Heller, the record owner of the above-described property, hereby agree and consent to the sale of said property as provided in the foregoing Real Estate Contract.

DATED this 2nd day of July, 1979.


Myrrl W. Heller

STATE OF IDAHO,)
COUNTY OF ELMORE,) ss.

On this 2nd day of July, in the year 1979, before me, the undersigned, a Notary Public in and for said State, personally appeared Myrrl W. Heller, a single woman, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

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

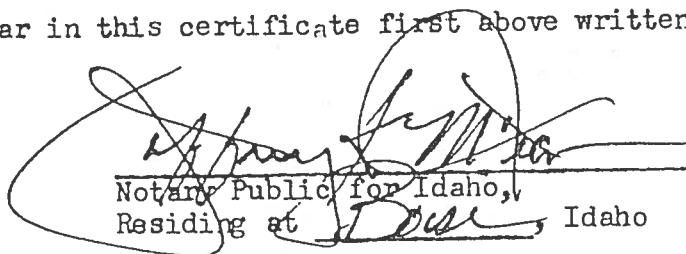

Notary Public for Idaho,
Residing at Boise, Idaho

EXHIBIT A

RESTRICTIVE COVENANTS

1
2 1. The use of said property, or any portion thereof, shall be
3 limited solely to residential and/or farming purposes and no commercial
4 activities shall be conducted thereon, other than farming or ranching.

5 2. No building shall be erected, altered, placed, or permitted
6 to remain on any lot other than one detached single-family dwelling, not
7 to exceed $2\frac{1}{2}$ stories in height, and a private garage for not more than
8 3 vehicles, and a shed to house not more than five head of livestock
9 for each $2\frac{1}{2}$ acres.

10 3. The ground floor area of the main structure, exclusive of
11 one-story open porches and garages, shall be not less than 1,000
12 square feet.

13 4. No building shall be located on any lot nearer than 20 feet
14 from the front lot line or nearer than 10 feet from any side lot line.

15 5. In the event of further subdividing into smaller lots or
16 tracts, no lot or tract shall be sold or offered for sale containing
17 less than $2\frac{1}{2}$ full acres. The plat of this subdivision shall not be amended
18 by re-subdivisions or by metes and bounds descriptions without
19 prior approval of the Elmore County Planning and Zoning Commission.
20 Any proposed re-subdivision of this plat must comply with Elmore
21 County standards for subdivisions in force as of the date of such
22 proposed re-subdivision.

23 6. Easements for the installation and maintenance of utilities
24 and drainage facilities are reserved for location at any suitable
25 place or places in said tract.

26 7. No noxious or offensive activity shall be carried on upon
27 any tract, nor shall anything be done thereon which may be or may
become an annoyance or nuisance to the neighborhood.

1 9. No structure of a temporary character, basement, shack,
2 garage, barn or other outbuilding shall be used on any lot at any
3 time as a residence, either temporarily or permanently, with the
4 exception of recreational use of one small self-contained camper or
5 camper-type vehicle per each $2\frac{1}{2}$ acre lot. Mobile homes will be
6 permitted on the property for a period not to exceed six months during
7 the construction of a conventional home.

8 10. No tract shall be used or maintained as a dumping ground
9 for rubbish. Trash, garbage or other waste shall not be kept except
10 in sanitary containers. All incinerators or other equipment for the
11 storage or disposal of such materials shall be kept in clean and
12 sanitary condition.

13 11. All sewage disposal systems shall be constructed in
14 compliance with standards of the Department of Public Health, both
15 state and county.

16 12. If the parties hereto, or any of them, or their heirs or
17 assigns, or persons claiming under or through them, or any other
18 person, whether such person be the owner of any property in said
19 tract or not, shall violate or shall attempt to violate any of the
20 covenants herein it shall be lawful for any other person or persons
21 owning any real property situated in said tract to prosecute any
22 proceedings at law or in equity against the person or persons
23 violating or attempting to violate any such covenant and either to
24 prevent him or them from so doing or to recover damages for such
25 violation.

26 13. Invalidity of any one of these covenants by judgment or
27 court order shall in no wise affect any of the other provisions which
28 shall remain in full force and effect.

1 It is contemplated that domestic water for use in any building
2 erected upon a building site shall be supplied by the Grantee
3 and, without limiting the options of the Grantee, it is contemplated
4 that such domestic water shall be originated from a well to be
5 drilled and completed by the Grantee at his expense. Any such well
6 shall be located at a minimum distance of 100 feet from any sewage
7 disposal facilities and shall comply in all respects with
8 regulations and health standards of the Elmore County Health
9 Department and the Department of Health of the State of Idaho.

10 15. All bathroom, sink, and toilet facilities shall be located
11 inside the dwelling house and shall be connected by underground
12 pipe with a private septic tank, which shall be constructed in
13 accordance with rules, standards and regulations of Elmore County
14 and the State of Idaho. Drainage from said septic tank shall be
15 kept within the building limits of each building site. Approval of
16 all sewage disposal systems installed shall be obtained from the
17 County and State Health Department and the Grantor shall have no
18 obligation to construct any sewer or to provide any connection thereto.
19
20
21
22
23
24
25
26
27
28

10. Place of Use: Continued

Total Acres 3.0

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:
N/A

14. Remarks:

PLACE OF USE FOR THIS RIGHT IS LOT 5 OF RIVERSIDE ACRES, A SUBDIVISION IN LOT 2, BLOCK 32, FRUITLAND SUBDIVISION, ELMORE CO., IDAHO. THIS SPLIT RIGHT IS A PORTION OF RT. # 02-07172, WHICH WAS LICENSED FOR 15 ACRES OF IRRIGATION IN GOVERNMENT LOT 7, SEC.1,T06S,R08E. CLAIMANT HAS PURCHASED A PORTION OF THE ABOVE NAMED 15 ACRES, A COPY OF THE DEED FOR WHICH IS ATTACHED.

15. Basis of Claim: LICENSE

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 13

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): William T. Burns Date: 9/18/89

Date: _____

State of Idaho)
County of Jerome) SS.

Subscribed and sworn (or affirmed) before me this 18 day

of September 19 89

John A. Hylton
Notary Public

Seal

Residing at Jerome Idaho
My Commission Expires 9/30/92