



NAME: SPLIT RIGHT

CLAIM: 71-00039B

CORRESPONDENCE 

EVIDENCE OF

PRIORITY



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: A71-00039B
Date Received: 1/11/1990
Receipt No: S010919
Received By: JCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DANIEL L. BERMAN 801-328-2200
Address: 50 S. MAIN ST., SUITE 1250
SALT LAKE CITY, UT 84144

2. Date of Priority: JUN 01, 1904

3. Source: MC GOWAN CREEK Trib. to: VALLEY CREEK
HANNA CREEK VALLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
11N	12E	2	SW	SW	SE		CUSTER
		3	NW	NE	SW		CUSTER

5. Description of diverting works:
COLLECTION DITCH, ROCK DIVERSIONS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.800		

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

8. Total consumptive use is 257.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
11N	12E	11	NE	NE		IRR	18.0
			NW	NE		IRR	5.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11N	12E	11	SW	NE		IRR	29.0
			SE	NE		IRR	38.0
			NE	SE		IRR	7.0
			NW	SE		IRR	3.0
						Section Acres	100.0
		12	SW	NW		IRR	3.0
						Section Acres	3.0
						Total Acres	103.0

11. Place of use in counties: CUSTER

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

13. Other Water Rights Used:
A71-00040B & A71-10136

14. Remarks:
P/U IS H.E.S. 109.
THIS IS A 2/3 PORTION OF THE WR 71-00039.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

DAN J. CAVANAGH
Decree Plaintiff

vs WM. MERRITT, ET AL.
Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am Attorney in fact of _____ Title

DANIEL L. BERMAN, that I have signed the foregoing Organization

document in the space below as Attorney in fact of _____ Title

DANIEL L. BERMAN and that the statements contained in the Organization
foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

Attorney in fact for DANIEL L. BERMAN
Title and Organization

JAN 11 1990
Date

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 11th day

of January 19 90

Seal

[Signature]
Notary Public

Residing at Twin Falls

My Commission Expires Dec 7, 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor PHILLIP E BATT

R. KEITH HIGGINSON
Director

May 8, 1995

DANIEL L BERMAN
50 S MAIN ST SUITE 1250
SALT LAKE CITY UT 84144

RE: SNAKE RIVER BASIN ADJUDICATION CLAIMS A71-00039B & A71-00040B
CHANGE OF OWNERSHIP AND SPLIT OF RIGHTS

Dear Mr Berman

Enclosed are your copies of the above listed claims as changed and a copy of the ownership change request. Please review the claims to verify that the data is correct.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosures



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED

MAY 03 1995

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township 11 North Range 12 East Section 11, 1/4 of 1/4 of 1/4, Govt. Lot HES109, Block, 6, Subdivision/Townsite Thompson Creek Ranch
If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s) Assigned by IDWR: A71-00039B and A71-00040B
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): Daniel L. Berman
Suite 1250, 50 S. Main St., S.L.C., UT 84144
- ☐ New Owner/Claimant (Purchaser): Fred Harold and Dela Devlin Brubaker
- ☐ New Mailing Address: P.O. Box 97, Stanley, ID 83278
- ☐ New Telephone Number: (208) 774 - 2254
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? X yes no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:
Refer to attached "EXHIBIT A", Lot 6, as provided by Idaho
Department of Water Resources
- ☐ Attach proof of ownership, describe proof attached: _____
(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)
- ☐ Signature of New Owner/Claimant(s): Fred Brubaker Date 4-26-95
Dela Brubaker Date 4-26-95
- ☐ Signature of Former Owner/Claimant(s): Dan Berman Date 5/1/95

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: _____ By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

April 12, 1995

"Exhibit A"

R. KEITH HIGGINSON
Director

NOEL SITTON
PO BOX 200
STANLEY ID 83278

RE: DATA RELATING TO THOMPSON CREEK RANCH SUBDIVISION LOTS AS
RELATED TO ADJUDICATION CLAIMS A71-00039B, A71-00040B AND
A71-10136.

Dear Noel

The split calculations were made on a proportionate basis based upon irrigated acres per lot verses total irrigated acres. The recommended amounts are rounded to the nearest one hundredth of a cfs. I did not list the proportionate acre factors for the Thompson creek water. Please refer to the 'Analysis of System' table that was mailed earlier for the acreage breakdown.

As long as specific lots are still within a single ownership the allotted amounts can just be added together to determine the total share for that ownership. The lots appurtenant to that ownership can be listed in the remarks of the claim.

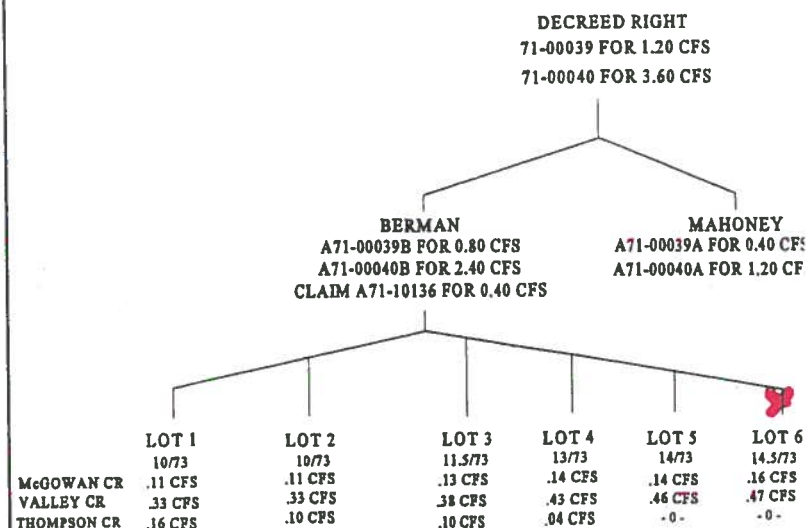
If you have any additional questions please give me a call.

Sincerely

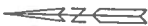
Kelly K.

Kelly K Christensen
Sr Water Resource Agent

THOMPSON CR. RANCH SUBDIVISION POTENTIAL SPLITS OF HES-109



Fd. B.C.
Cor. No. 6 HES 109



SCALE 1"=200'

THOMPSON CREEK RANCH SUBDIVISION

Located Within H.E.S. 109, Sections 11 & 12, T.11N., R.12E., S.M., Custer County, Idaho

July, 1992

A Plat Showing

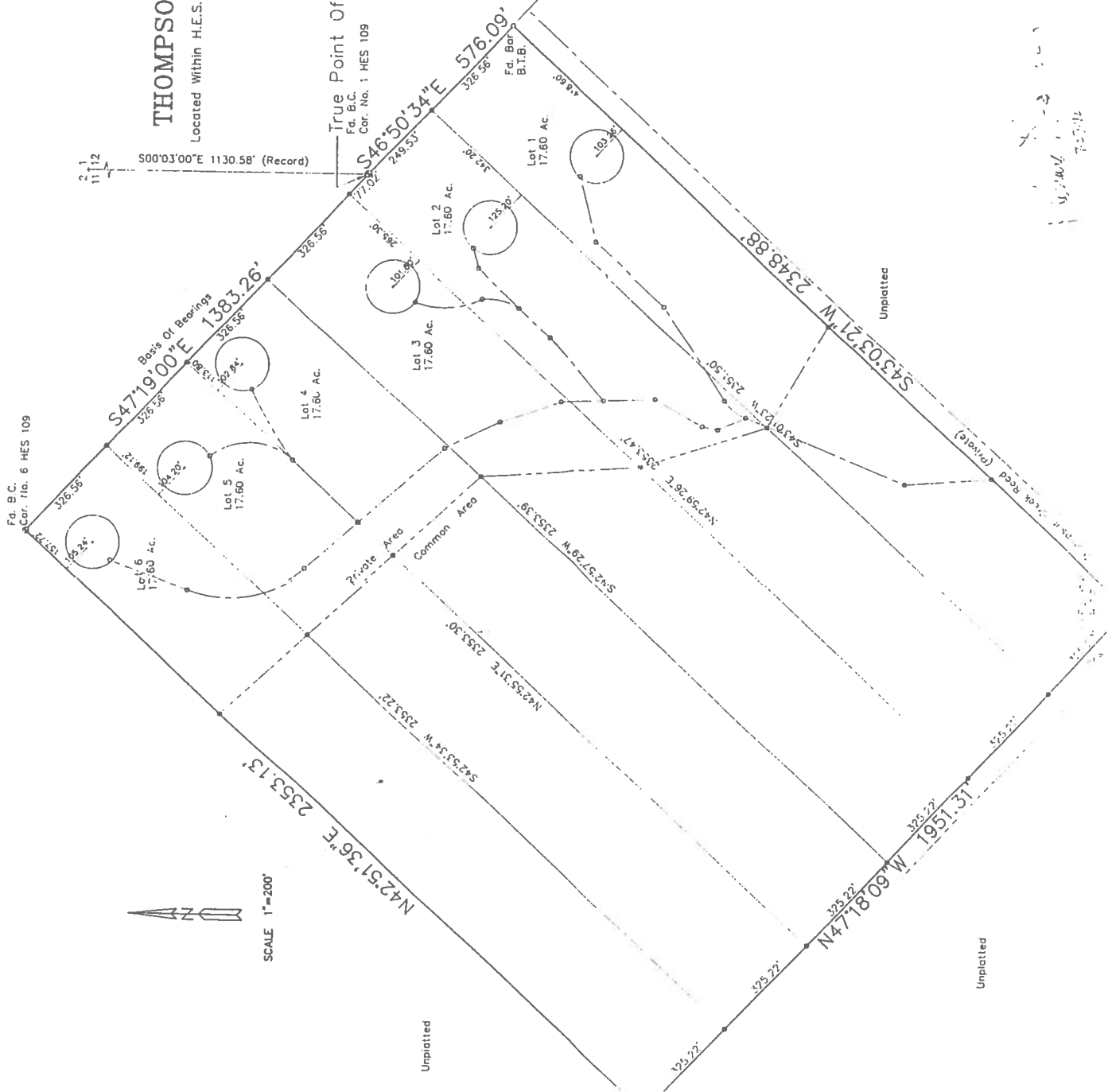
True Point Of Beginning
Fd. B.C.
Cor. No. 1 HES 109

Unplatted

Legend

- Set 1 1/2" Bar capped LS 3621
- o Found 5/8" Bar by B.T. Butler
- Found Brass Cap by GLO
- Found Bar (Alum. Cap)

- Approved Building Area Envelope
- Center Line 40' Private Road & Public Util.; easement
- Division Line Private/Common Area



Notes

1. The developer may relocate any building area envelope within the "Private Area" of any lot prior to the sale of the first lot in the subdivision. No building area envelope will be located closer than 25 feet to any lot line.
2. Each lot owner shall have the right to relocate the building area envelope on such owner's lot with written approval of such relocation by the Design Review Committee, which approval shall not be unreasonably withheld.
3. All roads within this subdivision are private streets. Long-term maintenance and snow removal with respect to the roads within this subdivision shall be the obligation of each lot owner or the homeowners association. Custer County is in no way obligated to accept, maintain or improve these roads.
4. The developer may establish easements, covenants, restrictions, rules and regulations regarding the rights of lot owners within the common and private areas as well as other matters of mutual benefit. Reference should be made to such easements, covenants, restrictions, rules and regulations.

7/23/92

Unplatted



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

December 15, 1994

DANIEL L. BERMAN
50 S MAIN ST SUITE 1250
SALT LAKE CITY, UT 84144

RE: CHANGE OF OWNERSHIP FOR SNAKE RIVER BASIN ADJUDICATION CLAIMS
A71-00039B, A71-00040B, AND A71-10136

Dear Mr Berman

I have sufficient paperwork before me to do the change of ownership based upon owned acres but I need your input on splitting the diversion rates on the claims as I do not feel that splitting the rights based upon owned acres would fit the irrigation practices occurring on the property. I have enclosed a copy of the U-68 orthophotograph (enlarged 200%) with your property outlined and the acres identified per quarter/quarter as it relates to the irrigated acres per system. I have also enclosed an acre breakdown identifying irrigated acres per lot per quarter/quarter. The enclosed map and acre breakdown represents my tentative recommendation of irrigated acres based upon my 9-14-1993 field examination and if you disagree with my findings I need to know.

The most significant difference between your claims and the acres that I identified as irrigated is the acres irrigated from Thompson Creek. In observing the physical slope of the ground I have outlined the ground that I feel can be irrigated with Thompson Creek water by a gravity system. As you can see, lots 5 and 6 do not include acres irrigated from Thompson Creek. If I were to split A71-10136 based upon total owned acres I would have to allocate a portion of the diversion rate to lot 6 and then in my recommendation I would have to disallow that portion of the claim based upon, no beneficial use found. That would also result in a reduced diversion rate available for recommendation for the ground actually irrigated from Thompson Creek.

As these are your claims, I cannot arbitrarily choose the method to split the claims. I need your direction. The method usually used by the department to split rights is to split the claims proportionally based upon the actual irrigated acres.

BERMAN
Page 2
December 15, 1994

Please notify me as soon as possible how you wish these claims to split as I can now only split them based upon owned acres which I do not feel represents the irrigation practices.

If you have any questions please call me at this office.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosures
cc Fred Brubaker

Basis For Split for A71-00039C & D and A71-00040C & D

The rights were split based upon the recommended P/U acre table that lists the quarter/quarters irrigated by source and further broken down within each q/q by the applicable subdivision lot.

See ANALYSIS OF SYSTEM

created Dec 14, 1994

and the orthophoto (enlarged 200%) that shows the recommended P/U broken down by subdivision lots.

Berman's claims were reduced by the acreage determined to be applicable to lot 6. Berman's claims are A71-00039C and A71-00040C

As Thompson Creek water cannot reach lot 6, A71-10136 was not split.

Base Rights

A71-00039B } Berman
A71-00040B }

KKC

7-25-96

CLAIM _____ INIT KKC
 T. R. S. Q/Q
 P/D _____
 PHOTO 11-68 Ortho Photo 200%
 DT. FID. 1971 F&G&T

DIRTY FROM
VALLEY CR (SEC 4)
HANNA CR (SEC 3)

HOMESIDE CREEK
ANCH SUBDIVISION

SUBDIVISION 6
LOTS

Lot 6 - 325.22
Lot 5 - 325.22
Lot 4 - 325.22
Lot 3 - 325.22
Lot 2 - 325.22
Lot 1 - 325.22

1 - 325.22

RECOMMENDED P/U
BY QUARTER/QUARTER



71-000408 VALLEY CR 38 ACRES
 71-000398 HANNA/MCGOWAN CR



71-000408 VALLEY CR 73 ACRES
 71-000398 HANNA/MCGOWAN CR 21 ACRES
 71-10136 THOMPSON CR

SOURCE

SCALE: 1" = 1006

CA = (1006) 2 * .009699 = 22.53
 43,560



**ANALYSIS OF THE SYSTEM FOR
A71-00039B, A71-00040B AND A71-10136
TO DETERMINE BASIS OF SPLIT**

The irrigated ground covered by the the above claims is within the Thompson Creek Subdivision and is identified by subdivision lot and quarter/quarter by system. This split identifies lot 6 as now owned by Fred and Della Brubaker and lots 1 through 5 as still belonging to Daniel L Berman.

The main ditch delivers both Valley Creek and McGowan Creek water to the entire found 73 acres of irrigation. I also found that 21 of those same acres are also irrigated from Thompson Creek (see map for physical relationship).

The recommended acres per segment has been rounded to the nearest $\frac{1}{2}$ acre with smaller acreages per quarter/quarter per lot ignored.

SUBDIVISION LOT NUMBER	ACRES IRRIGATED FROM VALLEY CR AND MC GOWAN CREEK							ACRES IRRIGATED FROM THOMPSON CR			
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	NW $\frac{1}{4}$ NE $\frac{1}{4}$	SW $\frac{1}{4}$ NE $\frac{1}{4}$	SE $\frac{1}{4}$ NE $\frac{1}{4}$	NE $\frac{1}{4}$ SE $\frac{1}{4}$	NW $\frac{1}{4}$ SE $\frac{1}{4}$	LOT TOTAL	SW $\frac{1}{4}$ NE $\frac{1}{4}$	SE $\frac{1}{4}$ NE $\frac{1}{4}$	NE $\frac{1}{4}$ SE $\frac{1}{4}$	LOT TOTAL
1				4.5	5	.5	10.00		6	2	8.00
2			.5	6.5	1	2	10.00		5.5		5.50
3			3	8		.5	11.50		5.5		5.50
4	2		6	5			13.00	1	1		2.00
5	3	1	10				14.00	0			0.00
6	2	5	7.5				14.50	0			0.00
QUARTER/QUARTER TOTAL	7.00	6.00	27.00	24.00	6.00	3.00	73.00	1.00	18.00	2.00	21.00



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

20-OCT-1994 12:44

5 6 15 11 V

NOV 07 1994

FRED & DELA BRUBAKER
PO BOX 97
STANLEY, ID 83278

Department of Water Resources
Southern Region Office

RE: ADJUDICATION CLAIM **A71-10136, A71-00039B, & A71-00040B**
DANIEL BERMAN

DEAR CLAIMANT(S):

THANK YOU FOR RETURNING THE NEW PROPERTY OWNER NOTICE FORM. HOWEVER, WE NEED A LEGAL PROOF OF OWNERSHIP (COPY OF THE WARRANTY DEED OR SOME OTHER STRONG EVIDENCE OF MUTUAL INTENT WITH THE FORMER OWNER'S SIGNATURE SHOWING YOUR NAME AS BUYER ON THE SUBJECT PROPERTY) OR JUST A SIGNATURE OF MR. BERMAN ON THE NOTICE.

IF YOU COULD SEND US A COPY OF THIS PROOF IT WOULD BE GREATLY APPRECIATED

I APOLOGIZE FOR THE DELAY IN THE TRANSFER PROCESS. I WILL GET THIS INFORMATION ENTERED AND COPIES WILL BE FORWARDED BACK TO YOU.

SHOULD YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE OFFICE ANY TIME AT 208-736-3033.

SINCERELY,

Tara L Backlund

TARA L. BACKLUND
IDAHO DEPARTMENT OF WATER RESOURCES
RECORDS CLERK

ENCLOSURES

11/3/94

Tara,

*Enclosed is a copy of the
warranty deed.*

Thank you

DeLa Brubaker



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

5 6 1 1 V

DATE OF CLOSING: 8-3-94

NOV 07 1994

LEGAL DESCRIPTION OF PROPERTY: Township 11 NORTH Range 12 EAST Department of Water Resources
Section 11, 12 1/4 of 1/4 of 1/4 Govt. Lot , BM Southern Region Office
Lot 6, Block, , Subdivision/Townsite THOMPSON CREEK SUB.
If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s) Assigned by IDWR: A71-10136, A71-00039B, A71-00040B by legal des. given.
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): DANIEL L. BERMAN
50 S. MAIN ST. SUITE 1250
SALT LAKE CITY UT 84144
- ☐ New Owner/Claimant (Purchaser): FRED & DELA BRUBAKER
- ☐ New Mailing Address: BOX 97
~~STANLEY~~ STANLEY ID 83278
- ☐ New Telephone Number: (208) 774-2254
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? ☒ yes ☐ no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

- ☐ Attach proof of ownership, describe proof attached:

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- ☐ Signature of New Owner/Claimant(s): Fred Brubaker Date 8-29-94
DeLa Brubaker Date 8-29-94
- ☐ Signature of Former Owner/Claimant(s): Date
 Date

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 10-20-94 By: HCB

Further Action Needed:

Proof of ownership

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: By:

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

Order No. 20109

WARRANTY DEED

FOR VALUE RECEIVED

Daniel L. Berman, a married man, as his sole and separate property

GRANTOR(s), do(es) hereby GRANT, BARGAIN, SELL and CONVEY unto

Fred Harold Brubaker and Dela Devlin Brubaker, husband and wife

GRANTEE(s) whose address is: **P.O. Box 97, Stanley, ID 83278**

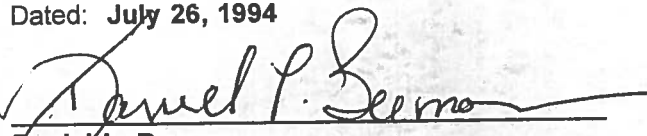
the following described real property in **Custer County, Idaho**, to wit:

Lot 6, THOMPSON CREEK RANCH SUBDIVISION, located within H.E.S. 109, Sections 11 and 12, T 11 North, Range 12 East, Boise Meridian, Custer County, Idaho, as shown by the Official Plat recorded July 13, 1992, as Instrument No. 202008, records of Custer County, Idaho.

Subject To: Taxes, easements, restrictions and encumbrances of record.

TO HAVE AND TO HOLD said premises, with their appurtenances unto the said Grantee and to the Grantor and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the owner in fee simple of said premises; that they are free from all encumbrances except as described that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: **July 26, 1994**


Daniel L. Berman

State of **Utah**

11204
Custer County Reg. 9
Custer County
Time 2:00 P. M. 8-3
Ethel M. Peck, Clerk
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LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That I, DANIEL L. BERMAN, of 50 South Main Street, Suite 1250, Salt Lake City, County of Salt Lake City, State of Utah, has made, constituted, and appointed, and by these presents does make, constitute, and appoint the law firm of HEPWORTH, NUNGESTER & LEZAMIZ, of 133 Shoshone Street East, Twin Falls, County of Twin Falls, State of Idaho, to act in my name, place, and stead, and for my use and benefit to handle any and all affairs pertaining to water right claims pursuant to the Snake River Adjudication appurtenant to that realty in which I have an interest and which is located in Challis, Custer County, State of Idaho, and more particularly described as follows, to-wit:

Beginning at Corner No. 1 from which the corner to Sections 1, 2, 11 and 12 in Township 11 North, Range 12 East, Boise Meridian bears North 3° West 1130.58 feet distant; thence South 47°19' East 576.22 feet to the Northwest side of the Thompson Creek right-of-way; thence South 42°36' West, 2346.96 feet, more or less, along the Thompson Creek right-of-way to the Southwesterly side of said Homestead Entry Survey No. 109; thence North 47°26' West, 1958.46 feet to Corner No. 5 of said Homestead Entry Survey No. 109; thence North 42°37' East to Corner No. 6; thence South 47°19' East, 1381.38 feet to Corner No. 1 the True Point of Beginning.

TOGETHER WITH all water and water rights, and ditch and ditch rights appurtenant thereto or used in connection therewith.

SUBJECT TO all reservations in patents or state grants or in the laws authorizing the issuance thereof, all Federal, State, County, and other zoning or land use requirements and restrictions now or hereafter imposed by any governmental unit; and SUBJECT TO the right of way contained in the Warranty Deed dated October 24, 1972, from William R. Chivers et ux., et al. to Clyde B. Stark, Jr. and Norma C. Stark, recorded January 17, 1973,



Hepworth
Nungester,
& Lezamiz

LIMITED POWER OF ATTORNEY

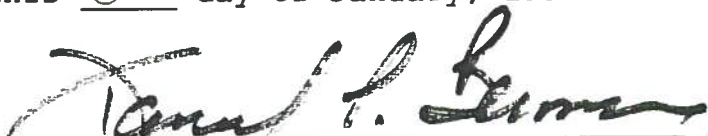
MICROFILMED

MAR 17 1993

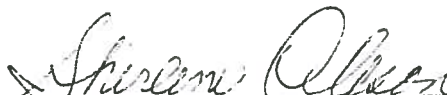
as instrument no. 134978 records of Custer
County, Idaho.

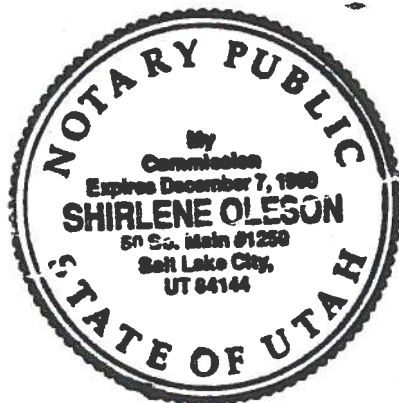
This Power of Attorney shall not be affected by my
disability.

WITNESS My hand this 5th day of January, 1990.


DANIEL L. BERMAN

Sworn and subscribed to before me this 5th day of
January, 1990.


Notary Public
Residing at Santaquin, Utah



Hepworth
Nungester,
& Iezamiz

LIMITED POWER OF ATTORNEY

MICROFILMED
MAR 17 1993

11A

12F

C-1265
C.B. Stark
Garth. Chivers
T.W. Chivers
J.B. Chivers
B. James
K. Payne

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18

38

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C-14

Kathryn Young

M. Christensen
Coast Co.

1112
14/12

A71-00039B
MICROFILMED

MAR 7 1993

A71-00039B

MICROFILMED
MAR 17 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

. MAY 9, 1991

. MS NOEL SITTON
. BOX 200
. STANLEY ID 83278
.

RE: COPIES A71-00039B, A71-00040B, A71-10136

PLEASE SUBMIT \$ 1.00 FOR THE ENCLOSED PRINT OUT OF WATER RIGHTS.

THANK YOU.

A handwritten signature in cursive script that reads 'Anna Adrian'.

ANNA ADRIAN
RECORDS CLERK

MICROFILMED

MAR 17 1993

J5808NP
(OD-26)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT

03/31/98 16:45:23
Page 1

Water Right Number - R71-000398

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** A - ATTORNEY ***

GROOM

BRIT

1 - PO BOX 389

2 -

3 -

City- TWIN FALLS

State- ID Zip- 833030389

Phone - 208-734-7510

*** C - CURRENT OWNER ***

SPLIT RIGHT

1 -

2 -

3 -

City- X

State- ID Zip- 0

Phone - 208-000-0000

*** O - ORIGINAL OWNER ***

BERMAN

DANIEL L

1 - 50 S MAIN ST SUITE 1250

2 -

3 -

City- SALT LAKE CITY

State- UT Zip- 84144

Phone - 801-328-2200

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - -
06/01/1904 17 SOUTHERN Z - SEE REMARKS

+ - - - - Source - - - - - + + - - - - Tributary - - - - -
MC GOWAN CREEK VALLEY CREEK
HANNA CREEK VALLEY CREEK
SPLIT RIGHT

+ - - - - Point of Diversion - - - - -
TwN Rng Sec Tract Lot RFlg County Diversion Name
11N 12E 2 SW SW SE (37) CUSTER
3 NW NE SW (37) CUSTER

+ - - - - Water Use - - - - -
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 11/01 0.800

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage -
0.800 257.5

+ - - - - Place of Use - - - - -
TwN Rng Sec Tract Lot Acres Code Description County
11N 12E 11 NE NE 18.0 01 IRRIGATION (37) CUSTER
11N 12E 11 NW NE 5.0 01 IRRIGATION (37) CUSTER
11N 12E 11 SW NE 29.0 01 IRRIGATION (37) CUSTER
11N 12E 11 SE NE 38.0 01 IRRIGATION (37) CUSTER
11N 12E 11 NE SE 7.0 01 IRRIGATION (37) CUSTER
11N 12E 11 NW SE 3.0 01 IRRIGATION (37) CUSTER
11N 12E 12 SW NW 3.0 01 IRRIGATION (37) CUSTER

Total Acres: 103.0

Water right number - R71-00039B

Prefix Translation: RESEARCH

+ - - Diversion Means - COLLECTION DITCH, ROCK DIVERSIONS

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - A71-00040B & A71-10136

+ - - - - - Remarks - - - - -

GEN SEE NOS. 71-00039C AND 71-00039D.

+ - - - - - Old Water Right Numbers - - - - -

A7100039

+ - - - - - Conditions of Approval - - - - -

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +

DAN J. CAVANAGH

+ - - - - Decree Defendant - - - +

WM. MERRITT, ET AL.

+ - Decree Date -

00/00/0000

+ - - Audit Fields - 11/06/92 MERRITT 11/14/92 POST-STD 03/30/95 POST-STD 05/08/95 KCHRISTE

+ - - - - - Comments - - - - -

Date: 05/08/1995 User Id: KCHRISTE Subject: COPIED FROM REMARKS

P/U IS H.E.S. 109.

THIS IS A 2/3 PORTION OF THE WR 71-00039.

*THIS CLAIM WAS SPLIT BASED UPON A FORMER OWNER SIGNATURE ON FORM 42-1409(7). THE SPLIT IS AS FOLLOWS:

PART C TO BERMAN FOR .64CFS

PART D TO BRUBAKER FOR .16CFS FOR LOT 6 OF THE THOMPSON CREEK

RANCH SUBDIVISION. KKC 5-8-95

+ - - - - - Adjudication Rights Dates and Flags Area - - - - -

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 05/08/1995	Old Judicial District	-
Claim Received Date	- 01/11/1990	Last Amended Date	- 00/00/0000	Temporary Right	- P
Proof Due Date	- 00/00/0000	Proof Made Date	- 00/00/0000	Water District	-
Licensed Date	- 00/00/0000	Receipt Number	- S010919	Federal/State Indicator	- S
		POU Ownership Flag	- Y	Presumption Flag	- D
		Name Connector	- OR	Notice of Error Flag	-



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
1341 FILLMORE ST STE 200
TWIN FALLS ID 83301-3380
(208) 736-3033

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

REEVALUATION OF THOMPSON CREEK SUBDIVISION LOTS AS IT AFFECTS ADJUDICATION CLAIMS BASED ON 71-00039, 71-00040, AND A71-10136

The department has adopted the computerized Geographic Information System (GIS) as the tool of the future for water rights recording and analysis. This tool provides a greater degree of accuracy, a visual representation of the place of use, and is less prone to error.

The initial claims filed by Mr Berman have currently been proportionately split three different times based upon ownership changes for specific subdivision lots. The original splits of these rights were based upon orthophotography and planimeter acre calculations. The GIS process has calculated the place of use by both overall acreage and acreage by quarter/quarters within each lot (GIS maps attached.) Through GIS there has been a slight acre shift for the irrigated ground within the subdivision and this shift is the basis for the modification of the splits of the original claims.

As a unit GIS calculated an additional 3.5 acres irrigated under adjudication claims A71-00039B and A71-00040B. More acres were claimed under those two rights than was found irrigated. All non-irrigated acres stayed with the split portion that was under Mr Berman's name. As the splits were made, only actually irrigated acres were split from the base right for (A71-00039D & A71-00040D the Brubaker sale), (A71-00039E & A71-00040E the Hill sale), and (A71-00039G & A71-00040G the Mahoney sale). The place of use for (A71-00039H & A71-00040H the Peters sale) includes the recognized 13.8 irrigated acres and the balance of 29.2 non-irrigated acres. The recommendation to the SRBA court will not reflect non-irrigated acres.

Again using GIS, an additional 6 acres irrigated were identified under claim A71-10136. They bring the total irrigated place of use under A71-10136 to three acres more than claimed. That shortage is currently identified under A71-10136B and will be addressed specifically with the Hills.

Because of the increase in acres and the shift within each lot, the proportional rate that is appurtenant to each lot also changed in most cases. See the attached table showing the place of use segregated by lot and quarter/quarter. See also, the attached split tree that identifies the appurtenant diversion rates per lot.

SALE TO BRUBAKER (lot 6)

The required modifications begin with the first change of ownership where lot 6 was sold to Mr Brubaker.

PLACE OF USE COMPARISON			
lot no.	original lot acres	gis lot acres	proportionate share of P/U
6	14.5	15	20%

MODIFICATION SUMMARY

claim number	original div rate	gis div rate	original acres	gis acres
A71-00039D	.16 cfs	.16 cfs	14.5	15.0
A71-00040D	.48 cfs	.48 cfs	14.5	15.0
A71-00039C	.64 cfs	.64 cfs	88.5	88.0
A71-00040C	.48 cfs	.48 cfs	88.5	88.0

The found irrigated acreage increased $\frac{1}{2}$ acre and the place of use by quarter/quarter (QQ) has also changed. This, however, did not change the proportionate diversion rate for either right. All four rights have been modified to reflect the $\frac{1}{2}$ acre and QQ change. This data reflects irrigated ground only.

SALE TO HILL (lots 1, 2, and 3)

This sale includes a change in acres and also the proportionate rate per acre, therefore, the six rights (post split) have been modified as follows:

PLACE OF USE COMPARISON			
for A71-00039E & A71-00040E			
lot no.	original lot acres	gis lot acres	proportionate share of P/U
1	10	11	14%
2	10	11.3	15%
3	11.5	12.4	16%
total	31.5	34.7	

for A71-10136A			
lot no.	original lot acres	gis lot acres	proportionate share of P/U
	8.0	9.0	38%
	5.5	5.5	23%
	5.5	6.7	28%
total	19.0	21.2	

MODIFICATION SUMMARY

claim number	original div rate	gis div rate	original acres	gis acres
A71-00039E	.35 cfs	.36 cfs	31.5	34.7
A71-00040E	1.04 cfs	1.08 cfs	31.5	34.7

A71-10136A	.36 cfs	.35 cfs	19.0	21.2
A71-00039F	.29 cfs	.28 cfs	57.0	53.3
A71-00040F	.89 cfs	.84 cfs	57.0	53.3
A71-10136B	.04 cfs	.05 cfs	19.0	21.2

SALE TO HILL (continued)

For Valley Creek and McGowan Creek water GIS calculated an additional 3.2 acres and for Thompson Creek Gis calculated 2.1 additional acres. Based upon a proportionate acre calculation the diversion rates for each right also has to be adjusted. All 6 rights involved in the splits have been modified based upon the GIS calculations. This data reflects irrigated ground only.

SALE TO MICHAEL MAHONEY

As the split rights were not generated using the original planimeter data, no modification of the rights is required. They reflect GIS information only. However, the original planimeter data can be compared to the GIS data through the use of the enclosed charts and tables.

<u>claim number</u>	<u>gis div rate</u>	<u>gis acres</u>
A71-00039G	.14 cfs	13.0
A71-00040G	.41 cfs	13.0
A71-10136B	.05 cfs	2.8

This data reflects irrigated ground only.

SALE TO PETERS (lot 5)

The balance of the place of use remains with the claim portions now in Mr Peter's name. Unlike the previous claims these rights include the originally claimed ground that was found to be outside the irrigated ground.

<u>claim number</u>	<u>gis div rate</u>	<u>gis acres</u>
A71-00039H	.14 cfs	13.8
A71-00040H	.43 cfs	13.8