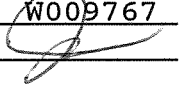


IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,  
IN AND FOR THE COUNTY OF TWIN FALLS

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: **A63-30099**  
Date Received: 2/27/1990  
Receipt No: W009767  
Received By: 

**NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW**

1. Name: JAMES P MERTZ 208-459-4821  
Address: 19786 APRICOT LANE  
CALDWELL ID 83605  
AND/OR  
Name: KATHRYN S MERTZ 208-459-4821  
Address: 19786 APRICOT LANE  
CALDWELL ID 83605

2. Date of Priority: MAY 15, 1918

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County |
|----------|-------|---------|--------|--------|--------|-----|--------|
| 03N      | 04W   | 14      | SE     | SE     | SW     |     | CANYON |

5. Description of diverting works:  
191' WELL & PUMP.

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| DOMESTIC   | 01/01 | 12/31 | 0.110 |      |        |
| STOCKWATER | 01/01 | 12/31 | 0.020 |      |        |

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:  
DOMESTIC, 6 HOMES; STOCKWATER, 10 HEAD.

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use    | Acres |
|----------|-------|---------|--------|-----|-----|--------|-------|
| 03N      | 04W   | 14      | SE     | SW  |     | DOMEST |       |
|          |       |         | SE     | SW  |     | STOCK  |       |

11. Place of use in counties: CANYON

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

13. Other Water Rights Used:

NONE

14. Remarks:

THE 6 HOMES INCLUDE THE CLAIMANT'S HOME AND TENANT MOBILE HOMES FOR WORKERS FOR SYMMS FRUIT RANCH OF WHICH THE CLAIMANTS ARE THE PRIMARY STOCKHOLDERS. PER PHONE CONVERSATION WITH RUTH BOSLEY, SECRETARY SYMMS FRUIT RANCH.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: \_\_\_\_\_

**For Individuals:**

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

Signature of Claimant(s): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

State of Idaho )  
 ) SS.  
County of \_\_\_\_\_ )

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

\_\_\_\_\_  
Notary Public

Seal

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

25.00

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

Identification No. A63-30099Date Received 2-27-1990Receipt Number W009767

RECEIVED NOTICE OF CLAIM  
TO A  
WATER RIGHT

JUL 08 1994

WATER RESOURCES  
WESTERN REGION

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

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

RECEIVED

FEB 27 1990

no inc.

Department of Water Resources  
Western Regional Office

Filing Fee \$25

Please type or print clearly

James P. Mertz

1. Name of Claimant (s) and/or Kathryn S. Mertz Phone (208) 459-4821Mailing Address 19786 Apricot Lane, Caldwell, Idaho Zip 836052. Date of Priority (Only one per claim) May 15, 1918 Month/Day/Year3. Source of water supply (Check one) (☒ Groundwater or Other ( ) (a) \_\_\_\_\_  
which is tributary to (b) \_\_\_\_\_  
Name or kind of source4. Location of point of diversion is: Township 3N Range 4W  
Section 14, SE 1/4 of SE 1/4 of SW 1/4, Govt. Lot \_\_\_\_\_, BM.,  
County of Canyon

Additional points of diversion if any: \_\_\_\_\_

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. \_\_\_\_\_

191' Well and Pump

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For Domestic purposes from January 1 to December 31 amount 0.11 (cfs)(Both dates are inclusive)  
For Stockwater purposes from January 1 to December 31 amount 0.027. Total quantity claimed 0.13 (cfs)8. Total consumptive use claimed is de minimus9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) 6 Households, 10 head livestock. The additional service is to tenant mobile homes for Symms Fruit Ranch of which James P. and Kathryn Mertz are part owners. shareholders.

10. Place of use is: Township: 3N Range 4W  
Section 14, SE 1/4 of SW 1/4, Govt. Lot \_\_\_\_\_, B.M.,  
for (Circle One) Domestic Stock Domestic and Stock  
Additional places of use, if any \_\_\_\_\_

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

12. Do you own the property listed above as place of use? Yes X No \_\_\_\_\_  
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.  
( ) None or \_\_\_\_\_

14. Remarks: \_\_\_\_\_

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court \_\_\_\_\_ Decree Date \_\_\_\_\_ Plaintiff vs Defendant \_\_\_\_\_

If applicable provide IDWR Water Right Number \_\_\_\_\_

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understood 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 \_\_\_\_\_

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) [Signature] Date 2/26/90  
\_\_\_\_\_ Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_

of \_\_\_\_\_ Title \_\_\_\_\_, that I have signed the foregoing

document in the space below as \_\_\_\_\_ of \_\_\_\_\_

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

Signature of Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

Title and Organization \_\_\_\_\_

State of Idaho/or \_\_\_\_\_ )

County of Canyon ) SS.

### NOTARIZATION REQUIRED FOR EACH CLAIM

Subscribed and sworn (or affirmed) before me this 26<sup>th</sup> day of February 1990

SEAL

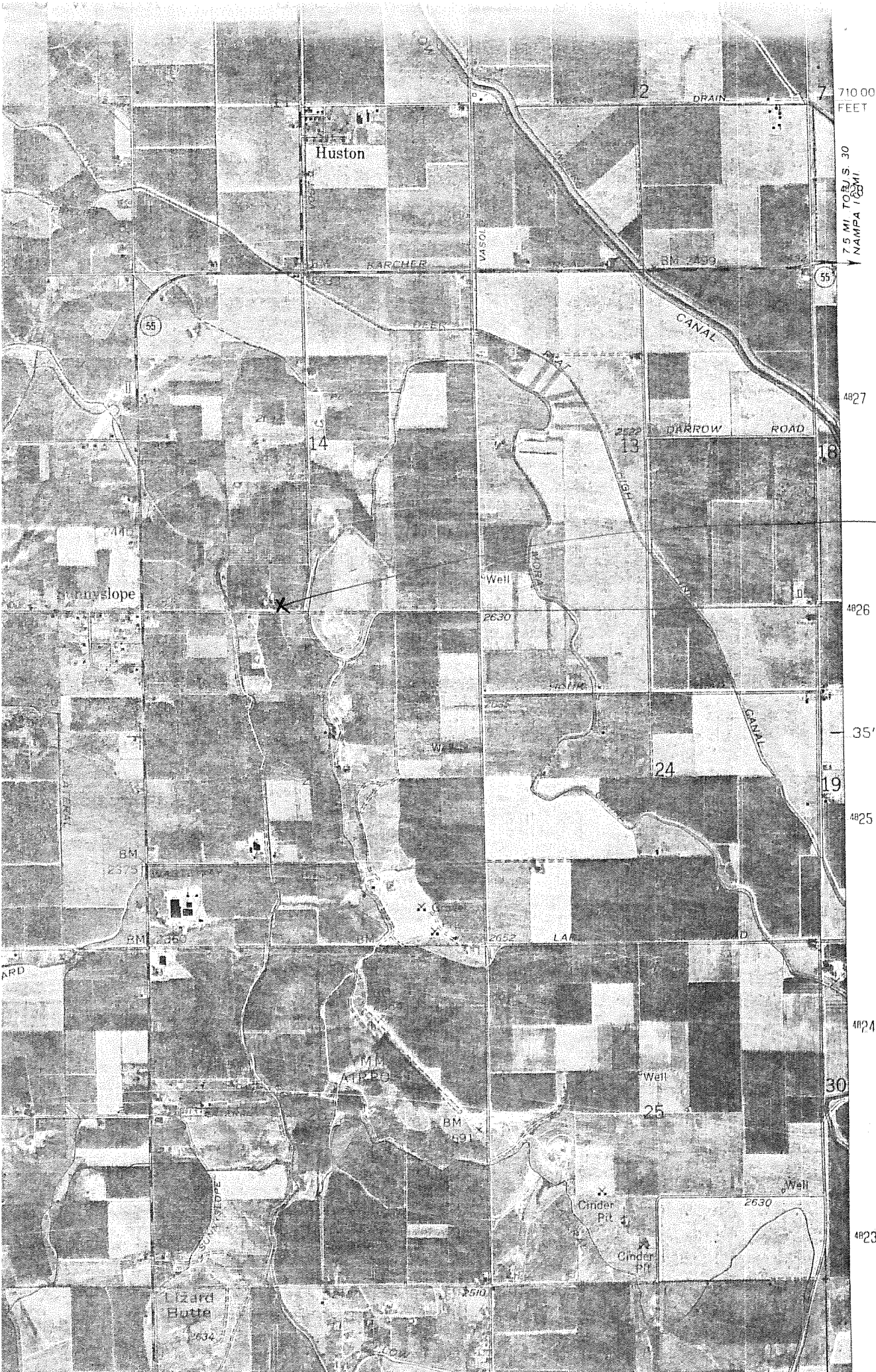
Notary Public Belle B. Bates

Residing at Caldwell, Idaho

My Commission Expires May 15, 1993

Last Name Mertz Ident No. \_\_\_\_\_

Copies: White-State, Yellow-Claimant



T3N  
R4W  
Sec. 14

Mertz House

P/D.

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

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

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

| Water<br>Right No(s). | Adjudication<br>Claim No(s). | Split | Water<br>Right No(s). | Adjudication<br>Claim No(s). | Split |
|-----------------------|------------------------------|-------|-----------------------|------------------------------|-------|
| 63-30099              |                              |       |                       |                              |       |
|                       |                              |       |                       |                              |       |
|                       |                              |       |                       |                              |       |
|                       |                              |       |                       |                              |       |
|                       |                              |       |                       |                              |       |

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):  
**PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

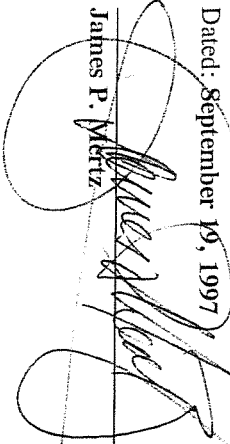
**OR**

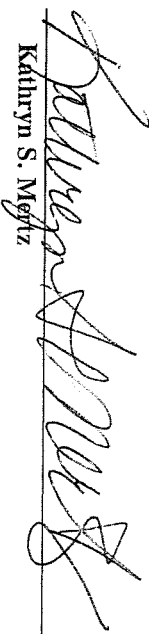
If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY**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

3. Name and Address of Former Owner/Claimant(s) JAMES P MERTZ / KATHRYN S MERTZ  
14072 SUNNYSLOPE RD CALDWELL, ID 83607
4. New Owner/Claimant(s) JAMES W. MERTZ  
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 19786 APRICOT LN.
- City, State and ZIP Code CALDWELL, ID 83607
- New Telephone Number 208 459-0148
5. Date you acquired the property 9/19/1997

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: September 19, 1997

  
James P. Mertz

  
Kathryn S. Mertz

STATE OF Idaho , County of Ada , ss.

On this 19th day of September in the year of 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared  
James P. Mertz and Kathryn S. Mertz

known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

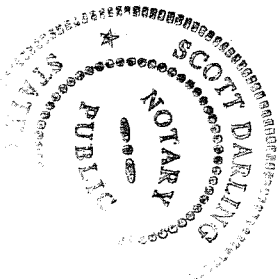
Signature



Name: Scott Darling

Residing at: Eagle, Idaho

My commission expires: 11/28/01



Transnation Title & Escrow, Inc.

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

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

| Water<br>Right No(s). | Adjudication<br>Claim No(s). | Split | Water<br>Right No(s). | Adjudication<br>Claim No(s). | Split |
|-----------------------|------------------------------|-------|-----------------------|------------------------------|-------|
| 63-30099              |                              |       |                       |                              |       |
|                       |                              |       |                       |                              |       |
|                       |                              |       |                       |                              |       |
|                       |                              |       |                       |                              |       |
|                       |                              |       |                       |                              |       |

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- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):  
**PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

**OR**

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

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4. New Owner/Claimant(s) JAMES W. MERTZ  
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 19786 APRICOT LN.
- City, State and ZIP Code CALDWELL, ID 83607
- New Telephone Number 208 459-0148
5. Date you acquired the property 9/19/1997

SCHEDULE A (continued)

LEGAL DESCRIPTION (continued)

EXHIBIT "A"

A portion of the Southeast Quarter of the Southwest Quarter of Section 14, Township 3 North, Range 4 West, Boise Meridian, Canyon County, Idaho, more particularly described, to-wit:

COMMENCING at the South Quarter corner of Section 14, Township 3 North, Range 4 West, Boise Meridian, Canyon County, Idaho; thence

North 90° 00' 00" West a distance of 434.49 feet along the South line of said Section 14 to the INITIAL POINT of this description; thence continue

North 90° 00' 00" West a distance of 344 feet; thence

North 0° 00' 00" East a distance of 437 feet; thence

South 90° 00' 00" East a distance of 135 feet parallel with the said South line; thence

South 0° 00' 00" West a distance of 176 feet; thence

South 90° 00' 00" East a distance of 58 feet parallel with the said South line; thence

South 0° 00' 00" West a distance of 155 feet; thence

South 90° 00' 00" East a distance of 28 feet parallel with the said South line; thence

South 0° 00' 00" West a distance of 15 feet; thence

South 90° 00' 00" East a distance of 123 feet parallel with the said South line; thence

South 0° 00' 00" West a distance of 91 feet to the INITIAL POINT of this description.

REQUEST  
FOR  
RECORD  
FEE 6.00

TRANSACTION TITLE & ESCROW, INC.

RECORDED  
CANYON COUNTY RECORDER  
BY  
V. Chavez

97 SEP 22 PM 4 08

RECORDED

9731906

STATE



# Transnation

TO: James W. Mertz  
19786 Apricot Lane  
Caldwell, ID 83605

DATE: <sup>12/8</sup>~~11/06~~/97  
ESCROW NO.: TN97-1489

BORROWER: James W. Mertz  
ADDRESS: 19786 Apricot Lane

In connection with the above transaction, we enclose the following:

- ( ) Our check in the amount \$ \_\_\_\_\_ representing \_\_\_\_\_
- (XX) Title Insurance Policy No. A37-085545
- (~~XX~~) Original Warranty Deed recorded as Instrument No. 9731906
- ( )
- ( )

Thank you for this opportunity to serve you. If we may be of any further assistance, please do not hesitate to contact our office.

Cordially,

TRANSNATION TITLE & ESCROW, INC.

By: \_\_\_\_\_

*Scott Darling*  
SCOTT DARLING T97-144894  
Escrow Officer

Enclosures



## Transnation

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, TRANSNATION TITLE INSURANCE COMPANY, an Arizona corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

IN WITNESS WHEREOF, TRANSNATION TITLE INSURANCE COMPANY has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, the Policy to become valid when countersigned by an authorized officer or agent of the Company.

TRANSNATION TITLE INSURANCE COMPANY

Attest:

*James J. D. Lynch, Jr.*  
Secretary



By:

*[Signature]*  
President

### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the affect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (a) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (b) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (i) to timely record the instrument of transfer; or
    - (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

(b) The Company shall have the right to prosecute any action or proceeding or to do any other act in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby

obligated to defend, prosecute or continue any litigation. Upon the exercise by the Company of its obligations in paragraphs (b)(i) or (ii), the Company's obligations under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

Issued with Policy  
No.: F51-075656

## POLICY OF TITLE INSURANCE

### SCHEDULE A

Amount of Insurance: \$156,800.00

Policy No.: A37-085545

Premium: \$726.00

File No.: TN97-1489

Date of Policy: September 23, 1997 at 4:08 p.m.

1. Name of Insured:

JAMES W. MERTZ and ZELDENE L. MERTZ

2. The estate or interest in the land described herein and which is covered by this policy is fee simple and is at date of policy vested in:

JAMES W. MERTZ and ZELDENE L. MERTZ, husband and wife

3. The land referred to in this policy is described in the said instrument, is situated in the County of Ada, State of Idaho, and is identified as follows:

SEE ATTACHED EXHIBIT "A"  
(Continued)

Countersigned: \_\_\_\_\_

Authorized Officer or Agent  
Mark A. Washburn

This Policy Is Valid Only If Schedule B is Attached

SCHEDULE A (continued)

LEGAL DESCRIPTION (continued)

EXHIBIT "A"

A portion of the Southeast Quarter of the Southwest Quarter of Section 14, Township 3 North, Range 4 West, Boise Meridian, Canyon County, Idaho, more particularly described, to-wit:

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South 0° 00' 00" West a distance of 15 feet; thence

South 90° 00' 00" East a distance of 123 feet parallel with the said South line; thence

South 0° 00' 00" West a distance of 91 feet to the INITIAL POINT of this description.

This policy does not insure against loss or damage (and the Company will not pay costs, attorney's fees or expenses) which arise by reason of:

GENERAL (STANDARD) EXCEPTIONS

1. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession, or claiming to be in possession, thereof.
2. Easements, liens, encumbrances, or claims thereof, which are not shown by the public records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey of the land would disclose, and which are not shown by the public records.
4. Any lien, or right to a lien, imposed by the law for services, labor, or material heretofore or hereafter furnished, which lien, or right to a lien, is not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) Indian treaty or aboriginal rights, including, but not limited to, easements or equitable servitudes; or, (d) water rights, claims or title to water, whether or not the matters excepted under (a), (b), (c) or (d) are shown by the public records.
6. Taxes or assessments which are not now payable or which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
7. Any service, installation, connection, maintenance or construction charges for sewer, water, electricity, or garbage collection or disposal or other utilities unless shown as an existing lien by the public records.

SPECIAL EXCEPTIONS:

8. General taxes for the year 1997, which are a lien, payable on or before December 20 of said year and not delinquent until after said date.

(Continued)

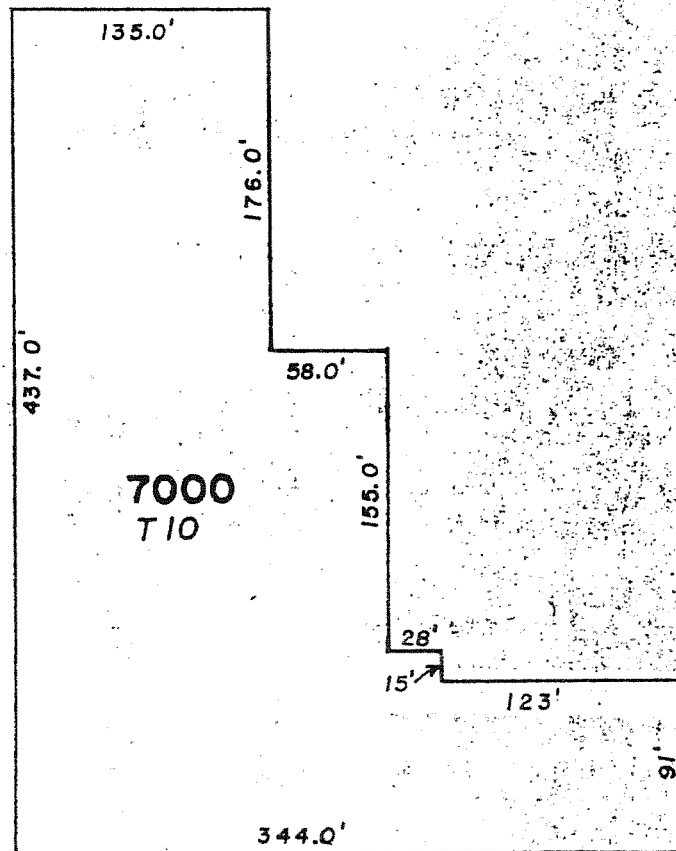
File No.: TN97-1489

Policy No.: A37-085545

SCHEDULE B (continued)

EXCEPTIONS (continued)

9. Right, Title and Interest of WILLIAMSON ORCHARDS, INC., as disclosed by Warranty Deed recorded October 8, 1976 as Instrument No. 784892, records of Canyon County, Idaho.
10. Easement as shown on Survey recorded February 21, 1980 as Instrument No. 886191, records of Canyon County, Idaho.
11. Ditch, road and public utility easements as same may exist over said premises.
12. A Deed of Trust to secure an indebtedness of \$81,800.00, and any other amounts as therein provided.
  - Recorded: September 22, 1997, as Instrument No. 9731907, of Official Records
  - Dated: September 19, 1997
  - Grantor: JAMES W. MERTZ and ZELDENE L. MERTZ, husband and wife
  - Trustee: TRANSNATION TITLE AND ESCROW
  - Beneficiary: AMERICA'S WHOLESALE LENDER



(Continued)

## **7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE.**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or,

(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or

(ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

(c) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

## **8. APPORTIONMENT.**

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

## **9. LIMITATION OF LIABILITY.**

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

## **10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.**

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

## **11. LIABILITY NONCUMULATIVE**

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

## **12. PAYMENT OF LOSS.**

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

NM 1 PA 10

ALTA Owner's Policy (10-17-92)

Cover Page

Form 1190-58

## **13. SUBROGATION UPON PAYMENT OR SETTLEMENT.**

(a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(b) The Company's Rights Against Non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

## **14. ARBITRATION**

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

## **15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.**

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

## **16. SEVERABILITY.**

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

## **17. NOTICES, WHERE SENT.**

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to TRANSNATION TITLE INSURANCE COMPANY, 1700 Market Street, Philadelphia, PA 19103-3990.

ORIGINAL

Valid Only If Face Page, Schedules A and B Are Attached

10/26/2006

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

RIGHT NUMBER: 63-30099

NAME AND ADDRESS: JAMES W MERTZ  
19786 APRICOT LN  
CALDWELL ID 83607

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.130 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
GALLONS PER DAY.

PRIORITY DATE: 05/15/1918

POINT OF DIVERSION:

T03N R04W S14 SESESW Within CANYON County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u>        | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|------------------------------|----------------------|-----------------|
| STOCKWATER                   | 1/01 12/31           | 0.020 CFS       |
| DOMESTIC                     | 1/01 12/31           | 0.110 CFS       |
| Domestic use is for 6 homes. |                      |                 |

PLACE OF USE: STOCKWATER Within CANYON County

T03N R04W S14 SESW

DOMESTIC Within CANYON County

T03N R04W S14 SESW

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A  
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 10 range cattle.



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

JAMES E. RISCH  
Governor

KARL J. DREHER  
Director

October 26, 2006

JAMES W MERTZ  
19786 APRICOT LN  
CALDWELL ID 83607

Re: Water Right No. 63-30099

Dear Mr. Mertz:

Enclosed is a copy of the above referenced **Preliminary Recommendation of Water Rights**, which reflects the change in ownership of the land and appurtenant water rights, covered under the original filing.

If you have any questions concerning this water right, please feel free to contact this office.

Sincerely,

Lori Harris  
Technical Records Specialist 1  
Adjudication Section  
Western Region Office

LH:1  
Enclosure

09/06/2006

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

---

RIGHT NUMBER: 63-30099

NAME AND ADDRESS: JAMES P MERTZ  
19786 APRICOT LN  
CALDWELL ID 83605

KATHRYN S MERTZ  
19786 APRICOT LN  
CALDWELL ID 83605

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.130 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
GALLONS PER DAY.

PRIORITY DATE: 05/15/1918

POINT OF DIVERSION:

T03N R04W S14 SESESW Within CANYON County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u>        | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|------------------------------|----------------------|-----------------|
| STOCKWATER                   | 1/01 12/31           | 0.020 CFS       |
| DOMESTIC                     | 1/01 12/31           | 0.110 CFS       |
| Domestic use is for 6 homes. |                      |                 |

PLACE OF USE: STOCKWATER Within CANYON County

T03N R04W S14 SESW

DOMESTIC Within CANYON County

T03N R04W S14 SESW

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A  
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 10 range cattle.

## REAL PROPERTY INQUIRY

+++++

01 6R33369-011- -0 182-00 SCH139+ 12 33,200 2.03

+++++ 32 13,300

MERTZ JAMES W + 34 150,700

MERTZ ZELDENE L H/W +

+

+

+

19786 APRICOT LN +

CALDWELL ID 83607 +

+++++

14-3N-4W SW + TOTAL 197,200

TAX 10 IN SESW

+++++

+ SURVEY INST 9731906

+ DRAIN DR VALUE APPR CTR

+ CLASS 3 REAP 02 MAN 01 UNIT 1

19786 APRICOT LN, CA

+ PARCEL 6R03N04W147000 H/O Y C/B N

+ PRIOR ACCOUNT 5R33369-011- -0

+ 02 MH on Property NO

MODE:F ACTION:

TRAITS INQUIRY

TRQK318

ACCOUNT NUMBER R33369011 0 UNIT 001 TOTAL UNITS 1

SITE 19786 APRICOT LN CA SEC/TWN/RNG 14-3N-4W

ASSESSED VALUE 197,200 ACREAGE .00

SUB/PARK NAME YEAR/MAKE

CLASS 3 OWNER / OCCUPIED HOUSE CLASS ' 3' SPACE LOT BLOCK

+++++

YR BUILT 1930 AIR COND AIR - NONE CARPORT N

STORY 1.50 STORY HEATING OIL CARPORT SQ FT

FIRST SQ FT 1984 EXTERIOR STUCCO DECK/PATIO? Y

SECOND SQ FT 1392 ROOF COMP POOL? N

BEDS 7 BSMT SQ FT 950 SPA? N

BATHS 5.00 % BSMT FIN 75 LOT SIZE

FRPLC 2 GARAGE N NEIGHBORHOOD 0

GARAGE SQ FT

+++++

COMMENTS

MOBILE HOME ONLY

WIDTH/LENGTH

EXPANDO

AJ5856NP

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

DATE: AUG-21-1997

PAGE: A-851

RIGHT NUMBER: 63-30099

NAME & ADDRESS: JAMES P MERTZ ✓  
KATHRYN S MERTZ ✓  
19786 APRICOT LANE ✓  
CALDWELL ID 83605 ✓

SOURCE: GROUNDWATER

QUANTITY: 0.13 CFS

PRIORITY DATE: 05/15/1918

POINT OF DIVERSION: T03N R04W S14 ✓ SESESW ✓ Within CANYON County

PURPOSE AND

| PERIOD OF USE: | PURPOSE OF USE                     | PERIOD OF USE | QUANTITY |
|----------------|------------------------------------|---------------|----------|
|                | STOCKWATER                         | 01-01 12-31   | 0.02 CFS |
|                | DOMESTIC DOMESTIC, 6 HOMES; STOCKW | 01-01 12-31   | 0.11 CFS |

PLACE OF USE: STOCKWATER ✓ Within CANYON County  
T03N R04W S14 ✓ SESW ✓

DOMESTIC ✓ Within CANYON County  
T03N R04W S14 ✓ SESW ✓

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

THE 6 HOMES INCLUDE THE CLAIMANT'S HOME AND TENANT MOBILE HOMES FOR WORKERS FOR SYMMS FRUIT RANCH OF WHICH THE CLAIMANTS ARE THE PRIMARY STOCKHOLDERS. PER PHONE CONVERSATION WITH RUTH BOSLEY, SECRETARY SYMMS FRUIT RANCH.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

Parcel No. 2253N04W146600

Map 6/25/98 DMS

|                      |          |       |         |
|----------------------|----------|-------|---------|
| Verified by          | IC       | Date: | 5/19/98 |
| Verification Source: | Computer |       |         |

AJ0749NP  
No. R63-30099

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM PROFILE REPORT  
(REGIONAL)

DATE: 07/10/98  
PAGE: 1

| OWNER<br>CODE | NAME & ADDRESS    | PRIORITY<br>DATE | WATER USE  | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|---------------|-------------------|------------------|------------|-----------------------|-------------------|---------------------|
| C             | JAMES P MERTZ     | 05/15/1918       | STOCKWATER | 01-01 12-31           | 0.02 CFS          |                     |
| C             | KATHRYN S MERTZ   |                  | DOMESTIC   | 01-01 12-31           | 0.11 CFS          |                     |
|               | 19786 APRICOT LN  |                  |            |                       |                   |                     |
|               | CALDWELL ID 83605 |                  |            |                       |                   |                     |
|               | (208) 459-4821    |                  |            | TOTAL DIVERSION:      | 0.13 CFS          |                     |

Water Source: GROUNDWATER

Tributary to:

Stage: BENEFICIAL USE

Point(s) of Diversion:

T03N R04W S14

SESESW

CANYON County

Place of use Legal Description for: STOCKWATER

|            | NE      |       |       |       | NW      |       |       |       | SW      |       |       |       | SE      |       |       |       |
|------------|---------|-------|-------|-------|---------|-------|-------|-------|---------|-------|-------|-------|---------|-------|-------|-------|
| T R S      | : Lt Ac | Lt Ac | Lt Ac | Lt Ac | : Lt Ac | Lt Ac | Lt Ac | Lt Ac | : Lt Ac | Lt Ac | Lt Ac | Lt Ac | : Lt Ac | Lt Ac | Lt Ac | Lt Ac |
| 03N 04W 14 | :       | :     | :     | :     | :       | :     | :     | :     | :       | :     | :     | :     | :       | :     | :     | :     |

Place of use Legal Description for: DOMESTIC

|            | NE      |       |       |       | NW      |       |       |       | SW      |       |       |       | SE      |       |       |       |
|------------|---------|-------|-------|-------|---------|-------|-------|-------|---------|-------|-------|-------|---------|-------|-------|-------|
| T R S      | : Lt Ac | Lt Ac | Lt Ac | Lt Ac | : Lt Ac | Lt Ac | Lt Ac | Lt Ac | : Lt Ac | Lt Ac | Lt Ac | Lt Ac | : Lt Ac | Lt Ac | Lt Ac | Lt Ac |
| 03N 04W 14 | :       | :     | :     | :     | :       | :     | :     | :     | :       | :     | :     | :     | :       | :     | :     | :     |

POU County: CANYON

Non-Irrigation Uses: 6 HOMES

Other Rights: NONE

Conditions of Approval:

- N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Remarks: EXP STOCKWATER, 10 HEAD  
PARCEL NO. R03N04W146600

Dates: Exam Made Date:

Verified Date:

07/10/1998

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:

Presumption Flag:

AJ0749NP  
No. R63-30099

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM PROFILE REPORT  
(REGIONAL)

DATE: 07/10/98  
PAGE: 2

=====

Comments: Date: 07/10/1998 User-ID: DSMITH Subject: COPIED FROM REMARKS  
THE 6 HOMES INCLUDE THE CLAIMANT'S HOME AND TENANT MOBILE HOMES  
FOR WORKERS FOR SYMMS FRUIT RANCH OF WHICH THE CLAIMANTS ARE THE  
PRIMARY STOCKHOLDERS. PER PHONE CONVERSATION WITH RUTH BOSLEY,  
SECRETARY SYMMS FRUIT RANCH.

Audit: 07/10/98 DSMITH

Jan Shurte -

Enclosed are  
copies of my list  
of fees and two  
checks sent in  
payment of these  
fees -

Any questions  
please call me -

Luth Bailey  
Symons Fruit Ranch  
459-4821

Claim for Merty returned

RECEIVED

JUL 08 1994

WATER RESOURCES  
WESTERN REGION

ADJUDICATION FEES

Springs:

Jorgenson Irrigation 10 acres \$50.00 + \$10.00 \$60.00  
 → Shepherd's Cove A63-28924 Stockwater 25.00  
 Fran Symms Irrigation 12 acres \$50.00 + \$12.00 62.00  
 → A63-28920

Permits:

Sunny Slope Fruit Company Commercial winery \$30.00  
 Central Cove Commercial Pk. House > OK 30.00

Claim:

Symms Fruit Ranch Expanded to Commercial (A63-28946) 80.00

Domestic:

Fran Symms - A63-28923 \$25.00  
 Sunny Slope Fruit (winery park) 25.00  
 Symms Canyon/Collins 25.00  
 Symms Canyon/Lowell Rd 25.00  
 Symms Canyon/Raney House 25.00  
 Symms Canyon/ Symms Rd & Chicken Dinner 25.00  
 R. A. Symms Residence 25.00  
 Irene Symms 25.00  
 Symms Fruit Ranch/Wilson Hse. 25.00  
 Symms Fruit Ranch/Shepherd's Cove 25.00  
 Symms Fruit Ranch / #7 Domestic at Bin Stack 25.00  
 R. A. Symms/40 Acres 25.00  
 Symms Fruit Ranch/Top High 25.00  
 Symms Fruit Ranch/3 Hinshaw 75.00  
 James P. Mertz - A63-30099 25.00  
 Dan Symms - A63-28922 25.00  
 Maggard → PAID BY MAGGARD'S UNDER W0017623 25.00  
 Myrtle Symms - A63-28321 25.00

1864  
dam  
matches  
w/ name  
index

13  
dom.  
claim  
matches  
w/ name  
index

# 787.00  
1236.00

# 2023.00 fees -

# 787.00

Checks in payment:  
 Sunny Slope Fruit # 1838.00 W009767  
 Sunny Slope Fruit 185.00 W009766  
 2023.00

ADJUDICATION FEES

Irrigation Water:

License #.

CLAIM  
FILED

SUNNY SLOPE FRUIT CO.

63-10432 #25 Gobatt (Paid on Sunny Slope Fruit Co.) - \$185

" 63-08469 #13 \$50.00 + 80 acres - 130 - OK

" 63-02875 #11 \$50.00 + 61 acres - 111 - OK

" 63-03533 <sup>SAME</sup> Cruzen Water 90.00 → overlaps (50)

" 63-03533 #9

" 63-03529 #9 } all overlaps (\$50 each)

" 63-03210 #7

100 TOTAL

" 63-03091 #6 → NO OVERLAP - SHOULD BE \$130

" 63-02941 #5 → " " - SHOULD BE \$210

" 63-08468 #14 → " " - " " "

Irrigation wells are assessed at \$50.00/each plus \$1.00/acre.  
Numbers 9, 9, 7, 6, 5, and 14 irrigate a total of 420 acres  
but there is lots of overlap and overlap acres are not charged.

Gobatt - \$185.00  
# 13 130.00  
# 11 111.00  
Cruzen 90.00  
Other irr. wells 720.00  
1236.00

SD-0601-2 Last Name: SYMMS

STATE

| S<br>E<br>L | First<br>Name                | O<br>W<br>N | Water<br>Right No. | Priority<br>Date | Source      | Total<br>Diversion | Use<br>Code Desc      |
|-------------|------------------------------|-------------|--------------------|------------------|-------------|--------------------|-----------------------|
| ---         | ---                          | ---         | ---                | ---              | ---         | ---                | ---                   |
| ---         | SYMMS                        |             |                    |                  |             |                    |                       |
| ---         | RICHARD A                    | C           | A63-28924          | 08/18/1924       | GROUNDWATER | 0.060              | 43 DOMEST<br>04 STOCK |
| ---         | SYMMS CANYON LTD PARTNERSHIP |             |                    |                  |             |                    |                       |
| ---         |                              | C           | A63-28925          | 08/27/1928       | GROUNDWATER | 0.060              | 43 DOMEST<br>04 STOCK |
| ---         | SYMMS FRUIT RANCH INC        |             |                    |                  |             |                    |                       |
| ---         |                              | C           | A63-28926          | 11/04/1914       | SPRING      | 0.020              | 04 STOCK              |
| ---         | SYMMS                        |             |                    |                  |             |                    |                       |
| ---         | IRENE K                      | C           | A63-28927          | 01/01/1914       | GROUNDWATER | 0.040              | 43 DOMEST             |
| ---         | SYMMS CANYON LTD PARTNERSHIP |             |                    |                  |             |                    |                       |
| ---         |                              | C           | A63-28928          | 06/10/1915       | GROUNDWATER | 0.060              | 43 DOMEST<br>04 STOCK |
| ---         | SYMMS FRUIT RANCH INC        |             |                    |                  |             |                    |                       |
| ---         |                              | C           | A63-28929          | 11/04/1914       | GROUNDWATER | 0.040              | 43 DOMEST             |

(Enter=Continue)

(GOLD7=This Query)

(Menu \_\_\_\_\_)

5 d/s

SD-0601-2 Last Name: SYMMS

STATE

| S<br>E<br>L                  | First<br>Name | O<br>W<br>N | Water<br>Right No. | Priority<br>Date | Source      | Total<br>Diversion | Use<br>Code Desc |
|------------------------------|---------------|-------------|--------------------|------------------|-------------|--------------------|------------------|
| SYMMS FRUIT RANCH            |               |             |                    |                  |             |                    |                  |
|                              |               | C           | A63-03529          | 07/01/1966       | GROUNDWATER | 0.920              | 01 IRR           |
|                              |               | C           | A63-03533          | 07/15/1966       | GROUNDWATER | 0.920              | 01 IRR           |
|                              |               | C           | A63-08468          | 02/22/1977       | GROUNDWATER | 3.200              | 01 IRR           |
|                              |               | C           | A63-08469          | 02/22/1977       | GROUNDWATER | 0.710              | 01 IRR           |
| SYMMS                        |               |             |                    |                  |             |                    |                  |
|                              | MYRTLE        | C           | A63-28321          | 01/01/1914       | GROUNDWATER | 0.040              | 43 DOMEST        |
|                              | FRANCES S     | C           | A63-28920          | 07/08/1918       | SPRING      | 0.400              | 01 IRR           |
| SYMMS CANYON LTD PARTNERSHIP |               |             |                    |                  |             |                    |                  |
|                              |               | C           | A63-28921          | 06/10/1915       | GROUNDWATER | 0.040              | 43 DOMEST        |
| SYMMS                        |               |             |                    |                  |             |                    |                  |
|                              | DANIEL T      | C           | A63-28922          | 04/03/1973       | GROUNDWATER | 0.060              | 43 DOMEST        |
|                              |               |             |                    |                  |             |                    | 04 STOCK         |
|                              | LINDA P       | C           | A63-28922          | 04/03/1973       | GROUNDWATER | 0.060              | 43 DOMEST        |
|                              |               |             |                    |                  |             |                    | 04 STOCK         |
|                              | FRANCES S     | C           | A63-28923          | 07/08/1918       | GROUNDWATER | 0.040              | 43 DOMEST        |

(Enter=Continue)

(GOLD7=This Query)

(Menu \_\_\_\_\_)

1 0/5

SD-0601-2 Last Name: SYMMS

STATE

| S<br>E<br>L | First<br>Name                | O<br>W<br>N | Water<br>Right No. | Priority<br>Date | Source      | Total<br>Diversion | Use<br>Code Desc |
|-------------|------------------------------|-------------|--------------------|------------------|-------------|--------------------|------------------|
| -           | -----                        |             |                    |                  |             |                    |                  |
| -           | SYMMS CANYON LTD PARTNERSHIP |             |                    |                  |             |                    |                  |
| -           |                              | C           | A63-28930          | 03/20/1915       | GROUNDWATER | 0.040              | 43 DOMEST        |
| -           | SYMMS FRUIT RANCH INC        |             |                    |                  |             |                    |                  |
| -           |                              | C           | A63-28931          | 06/10/1905       | GROUNDWATER | 0.060              | 43 DOMEST        |
| -           |                              | C           | A63-28933          | 07/09/1909       | GROUNDWATER | 0.060              | 43 DOMEST        |
| -           |                              | C           | A63-28943          | 07/10/1905       | GROUNDWATER | 0.040              | 43 DOMEST        |
| -           |                              | C           | A63-28945          | 07/15/1960       | GROUNDWATER | 0.040              | 43 DOMEST        |
| -           |                              | C           | A63-28946          | 01/01/1914       | GROUNDWATER | 0.300              | 10 COMMER        |
| -           | SYMMS FRUIT RANCH            |             |                    |                  |             |                    |                  |
| -           |                              | C           | A63-02875          | 08/18/1951       | GROUNDWATER | 1.020              | 01 IRR           |
| -           |                              | C           | A63-02941          | 05/01/1953       | GROUNDWATER | 1.000              | 01 IRR           |
| -           |                              | C           | A63-03091          | 07/19/1956       | GROUNDWATER | 0.570              | 01 IRR           |
| -           |                              |             |                    |                  |             |                    | 43 DOMEST        |
| -           |                              | C           | A63-03210          | 07/15/1960       | GROUNDWATER | 1.700              | 01 IRR           |

(Enter=Continue)

(GOLD7=This Query)

(Menu \_\_\_\_\_)

5 p/s

SD-0601-2 Last Name: SYMMS

STATE

| S<br>E<br>L | First<br>Name     | O<br>W<br>N | Water<br>Right No. | Priority<br>Date | Source      | Total<br>Diversion | Use<br>Code Desc |
|-------------|-------------------|-------------|--------------------|------------------|-------------|--------------------|------------------|
| ---         | ---               | ---         | ---                | ---              | ---         | ---                | ---              |
| ---         | SYMMS FRUIT RANCH | INC         |                    |                  |             |                    |                  |
| ---         |                   | C           | A63-28944          | 08/15/1914       | GROUNDWATER | 0.060              | 43 DOMEST        |
| ---         |                   |             |                    |                  |             |                    | 04 STOCK         |
| ---         |                   | C           | A63-28947          | 01/01/1914       | GROUNDWATER | 0.040              | 43 DOMEST        |
| ---         | SYMMS             |             |                    |                  |             |                    |                  |
| ---         | MYRTLE            | C           | R63-28321          | 01/01/1914       | GROUNDWATER | 0.040              | 43 DOMEST        |
| ---         | SYMMS FRUIT RANCH |             |                    |                  |             |                    |                  |
| ---         |                   | C           | A63-00161AT        | 05/01/1866       | BOISE RIVER | 1.500              | 01 IRR           |
| ---         | SYMMS FRUIT RANCH | INC         |                    |                  |             |                    |                  |
| ---         |                   | C           | A63-29739          | 01/01/1953       | SPRING      | 0.200              | 01 IRR           |
| ---         |                   |             |                    |                  |             |                    |                  |
| ---         |                   |             |                    |                  |             |                    |                  |
| ---         |                   |             |                    |                  |             |                    |                  |
| ---         |                   |             |                    |                  |             |                    |                  |
| ---         |                   |             |                    |                  |             |                    |                  |
| ---         |                   |             |                    |                  |             |                    |                  |
| ---         |                   |             |                    |                  |             |                    |                  |

*Aug.*

(Enter=Continue)

(GOLD7=This Query)

(Menu \_\_\_\_\_)

*2/0/8*

*TOTAL D/S = 14 - same as listed on  
listing from Ruth  
of Symms Fruit Ranch*



State of Idaho  
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190  
FAX (208) 334-2348

JUNE 16, 1994  
JAMES P. OR KATHRYN  
MERTZ  
19786 APRICOT LANE  
CRAWFORD, ID 83605

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

Dear Claimant(s):

This office is presently processing the Notice of Claim(s) to a Water Right you submitted during the Snake River Basin Adjudication claims filing in your area. However, due to the items checked below, we cannot continue to process this claim(s). We are returning this claim(s) to you to complete items required that were incomplete on your claim form. **ONLY THE ITEMS CHECKMARKED IN THIS LETTER NEED COMPLETION. IF AN ITEM IS NOT CHECKMARKED, IT IS NOT PERTINENT TO THIS CLAIM(S).** Also enclosed is the receipt for the filing fee previously submitted with this claim(s).

☒ Fee - No fee received or inadequate fee received, fee due is \$25.  
(Filing fees, based on use(s) of water, were due on all claims filed)

☐ Late Notice of Claim - This claim was received on \_\_\_\_\_ which is after the deadline for filing claims in \_\_\_\_\_ County. The deadline for this County was \_\_\_\_\_, and the late fee now due is \_\_\_\_\_. The enclosed Late Fee Notice explains the late fee and how it is computed.

☐ Item No. 2 - Date of priority - month/day/year that water was first put to use, regardless of ownership. If month or day is unknown, the Dept. will recommend 12/31 of the year designated.

☐ Item No. 3 - Source of Water

☐ Item No. 4 - Point of Diversion - must be shown by quarter-quarter (40 acre tract), section, township and range. Lot and block for subdivision are not acceptable as the legal description for the point of diversion, however, please include this information in the remarks section of your claim. See page two of this letter for additional information.

☐ Item No. 6 - Uses of Water

☐ Item No. 9 - Non-Irrigation Uses

☐ Item No. 10 - Place of Use - must be listed by quarter-quarter (40 acre tract), section, township, and range. Lot and block for subdivision are not acceptable as the legal description for the place of use, however, please include this information in the remarks section of your claim. See page two of this letter for additional information.

Item No. 12 - Ownership of place of use - It appears that the places of use filed on this claim are owned by separate individuals. This claim form can only be used when the places of use are under single ownership, even when all the uses are from one source. Enclosed are claim forms to be used to file on each separately owned place of use. The claim being returned will need to be modified to show one owner, with the changes initialed and dated. The \$25 fee for this claim has been submitted, however, the additional claims returned need to submit a \$25 fee each.

Item No. 15 - Basis of Claim - Please designate if your water right is based on beneficial use of the water - Beneficial Use, or if it is based upon a previously filed water right - Posted Notice, License, Permit or Decree.

Item No. 16 - Signature - this claim form does require your signature be affixed and notarized by a notary public. Note, the notary public signs below the signature blocks listed in this item.

MAP ENCLOSED: Please mark the location of the well(s) and the location of the place(s) of use on this map. Then return the map with your claim and the additional information requested, if any. We can then determine the quarter-quarter(1/41/4) legal description based on the locations marked on this map.

X other: NOTE: AS LONG AS THE 60 HOUSEHOLDS ARE OWNED  
BY YOU, THIS FILING IS ACCEPTABLE (WITH \$25 FILING FEE).  
IF EACH ARE OWNED SEPERATELY, PLEASE CONTACT THIS OFFICE.

Please complete the above item(s) on your claim form(s), initial and date any changes or additions, and return the claim(s), with the requested fee(if one was requested), to our office within 30 days from the date of this letter. If the claim(s), or fee requested, is not received within this 30-day period, the claim(s) will be rejected and your fee, if one was paid previously, will be refunded. Please contact our office listed in the address below, within the 30 day time period, either in writing or by phone, to let us know if there is a problem returning the claim(s), or fee, in order to keep this claim(s) valid. If the claim(s) is rejected and fee refunded, due to no response within the 30-days, the claim(s) can be resubmitted up until claims in this area are prepared for court decree. However, at that time the corrected claim(s) along with the regular filing fee that was refunded, and an additional late fee will be required. Please return your claim(s), any other claims, information or fees requested, if any, to the Department of Water Resources, Western Region Office, 2735 Airport Way, Boise, ID 83705.

Feel free to contact this office if you have any questions concerning this letter.

Sincerely,

Adjudication Staff  
Department of Water Resources  
Western Region Office  
(208) 334-2190

JS:j

Enclosures

**SPECIAL NOTE: IF YOU NO LONGER OWN THE PROPERTY UPON WHICH THIS CLAIM WAS FILED, PLEASE CONTACT THIS OFFICE IMMEDIATELY. IDAHO STATE LAW REQUIRES THAT THE DEPARTMENT BE NOTIFIED OF A CHANGE OF OWNER OR ADDRESS ON A WATER RIGHT.**

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

Identification No. \_\_\_\_\_

Date Received 2-27-1990

Receipt Number \_\_\_\_\_

**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.**

**RECEIVED**

FEB 27 1990

*no inc.*  
Department of Water Resources  
Western Regional Office

Filing Fee \$25

Please type or print clearly

James P. Mertz

1. Name of Claimant (s) and/or Kathryn S. Mertz Phone (208) 459-4821Mailing Address 19786 Apricot Lane, Caldwell, Idaho Zip 836052. Date of Priority (Only one per claim) May 15, 1918 Month/Day/Year3. Source of water supply (Check one) ☒ Groundwater or Other ( ) (a) \_\_\_\_\_  
which is tributary to (b) \_\_\_\_\_  
Name or kind of source4. Location of point of diversion is: Township 3N Range 4W  
Section 14, SE 1/4 of SE 1/4 of SW 1/4, Govt. Lot \_\_\_\_\_, BM.,  
County of Canyon

Additional points of diversion if any: \_\_\_\_\_

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. 191' Well and Pump

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For Domestic purposes from January 1 <sup>Month/Day</sup> to December 31 <sup>Month/Day</sup> amount 0.11 (cfs)For Stockwater purposes from January 1 <sup>(Both dates are inclusive)</sup> to December 31 amount 0.027. Total quantity claimed 0.13 (cfs)8. Total consumptive use claimed is de minimus9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) 6 Households, 10 head livestock. The additional service is to tenant mobile homes for Symms Fruit Ranch of which James P. and Kathryn Mertz are partners/shareholders.

Place-of use is: Township: 3N Range 4W  
Section 14, SE 1/4 of SW 1/4, Govt. Lot \_\_\_\_\_, B.M.,

(Circle One) Domestic Stock Domestic and Stock  
Additional places of use, if any \_\_\_\_\_

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

Do you own the property listed above as place of use? Yes X No \_\_\_\_\_  
If your answer is No, describe in Remarks below the authority you have to claim this water right.  
Describe any other water rights used at the same place and for the same purposes as described above.  
( ) None or \_\_\_\_\_

Remarks: \_\_\_\_\_

Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Decree Date \_\_\_\_\_ Plaintiff vs Defendant \_\_\_\_\_

Applicable provide IDWR Water Right Number \_\_\_\_\_

Signature (s)  
(a.) By signing below, I/We acknowledge that I/We have received, read and understood 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 \_\_\_\_\_

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

Signature of Claimant (s) [Signature] Date 2/26/90  
Date \_\_\_\_\_

Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_ Title \_\_\_\_\_

\_\_\_\_\_, that I have signed the foregoing  
Organization \_\_\_\_\_ of \_\_\_\_\_  
Title \_\_\_\_\_ Organization \_\_\_\_\_

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

Signature of Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

Title and Organization \_\_\_\_\_

State of Idaho/or \_\_\_\_\_ )

County of Canyon ) SS. **NOTARIZATION REQUIRED FOR EACH CLAIM**

Subscribed and sworn (or affirmed) before me this 26<sup>th</sup> day of February 1990

SEAL

Notary Public Belle S. Bates

Residing at Caldwell, Idaho

My Commission Expires May 15, 1993

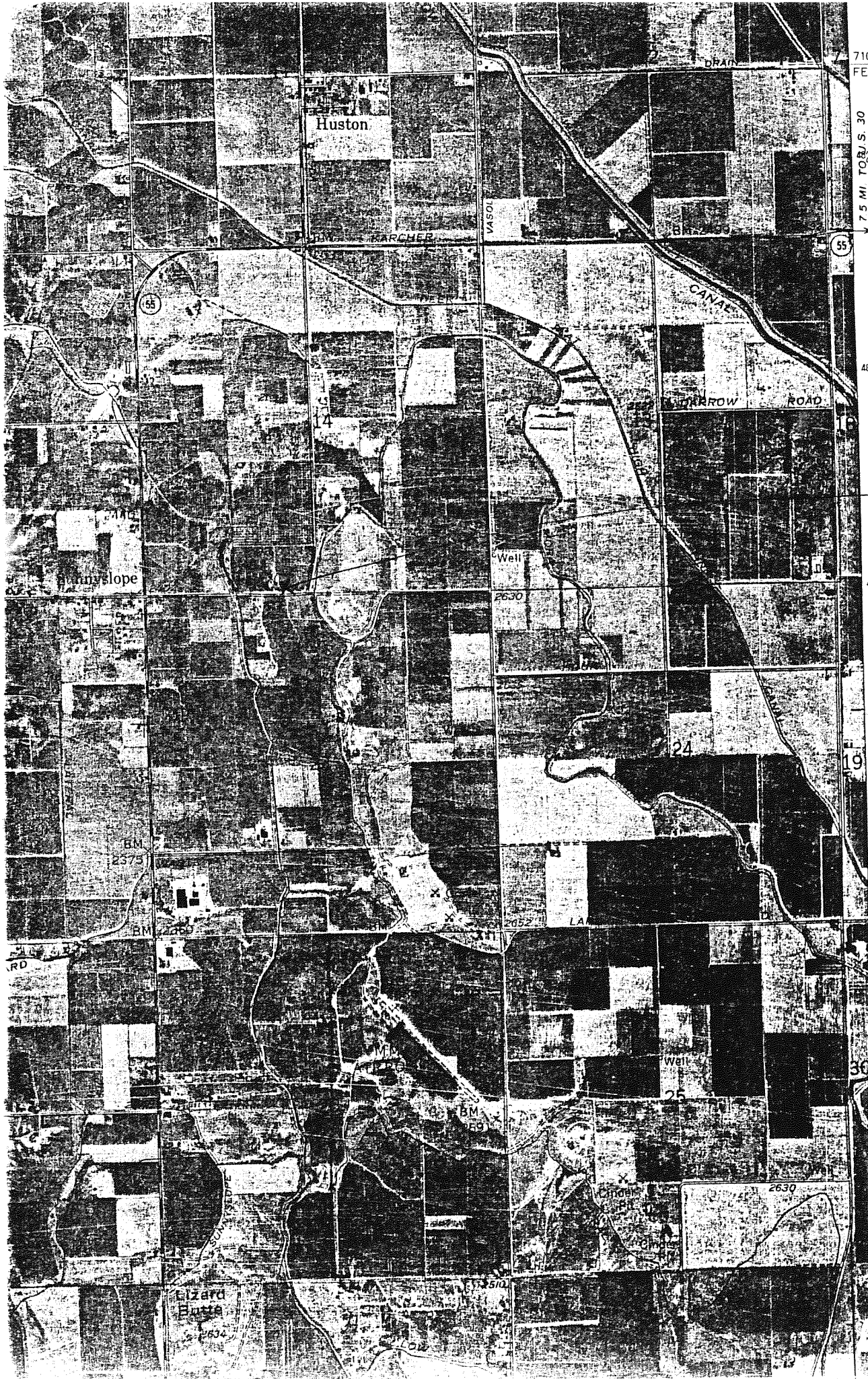
Last Name Mertz Ident No. \_\_\_\_\_

Copies: White-State, Yellow-Claimant

7.5 MI. TO ~~8~~ U.S. 30

Mertz House

P/D.



# ADJUDICATION CLAIM REVIEW CHECKLIST

1-92

CLAIMANT'S NAME

*Mertz*

CLAIM IDENT. NO.

*A63-*

DATE RECEIVED

*3/17/78*

RECEIPT #

FEE PAID \$

*0*

FEE REQ'D \$

*25.-*

YES

NO

Required Info?

Is the name and address complete with zip code? . . . . .

Is a priority date entered? . . . . .

Is the priority date acceptable in view of mandatory filing dates? . . . . .  
See Adjudication Memos #1 and #4 to determine if a Permit is required.

(a) Is a source entered? . . . . .

(b) Is a tributary to entered? (if required) . . . . . N/A

Is the legal description of the p.d. sufficient? . . . . .

Is there a description of the diverting works? . . . . .

Are the water uses appropriate for the form? . . . . .  
The short form is limited to D/S uses. Other uses must be filed on the long form. Note: If stockwater stor. or instream stockwater are filed on the short form & all items complete, do not return claim.

Is the period of use included? . . . . .

Is a quantity claimed for each use? . . . . .

Is a total quantity claimed entered? . . . . .

If required is a consumptive use entered? . . . . . N/A

Is the consumptive use correct? . . . . . N/A

Are the non-irrigation uses listed showing # of homes, hd. of stock? . . . . .

If multiple domestic, is single ownership indicated? . . . . .

Is (are) the place(s) of use and purpose(s) indicated? . . . . .

Is (are) the county(ies) entered? . . . . .

Is the ownership of p.u. checked? . . . . .

Are other water rights listed or "none" indicated? . . . . .

If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) . . . . . N/A

Is the basis of the claim indicated? . . . . .

If the basis of claim is shown as license, permit, or decree is the existing water right no. listed? . . . . . N/A

If yes, compare claim w/existing right and attach proof report noting any differences in comments.

If no, was water right no. found? . . . . .

If the basis of claim is shown as beneficial use, or not marked, are there existing water rights shown in our records using the legal description or name on the claim? . . . . . N/A  
(If yes, attach a proof report & complete number change)  
NOTE: If the claim is for dom/stock this check is not as necessary unless it is located within an area where dom/stock rights were decreed.

If the claimant requested a monthly docket sheet, was the fee paid? . . . . . N/A

Is the claim signed by the claimant, and is the signature appropriate? . . . . .

Has the claim been signed, sealed, and dated by a notary? . . . . .

Was this claim filed on time? . . . . .  
(Check ML3 for date mailed-not all were mailed on the planned date)  
If no, was an extension of time filed & approved? . . . . .

Is the fee enclosed correct? . . . . . Exempt

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3. Is this claim being rejected and returned to claimant? . . . . .

4. Can this claim be data entered? . . . . .

5. Was claim modified? . . . . .

If yes, do modifications require notification to claimant?  
Note: Modifications made must be explained in comments stating  
where the information for any changes was found.

YES

NO

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REJECT - NO  
FREE PAID.

aim reviewed by: RMF Date 1-22-93

aim data entered by: \_\_\_\_\_ Date \_\_\_\_\_

REQUIRED INFORMATION IS INCOMPLETE SEE INSTRUCTIONS TO DECIDE WHETHER  
CLAIM NEEDS TO BE RETURNED OR IF IT CAN BE MODIFIED. IF IT MUST BE  
TURNED INSTRUCTIONS WILL SPECIFY WHICH FORM LETTER TO USE.

Comments: mobile home park requires long form  
NOTE: Not a mobile home park - only mobile  
homes on property for farmworker housing.  
All homes + land need to be under single  
ownership, however, see 2<sup>nd</sup> page of rejection  
letter. If claim is returned with fee,  
then accept claim as being under single owner-  
ship.