

09/29/2006

RECEIVED

NOV 02 2006

WATER RESOURCES
WESTERN REGION

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: October 31, 2006

Water right number: 63-20388

NIMAN RANCH INC
16821 PURPLE SAGE RD
CALDWELL ID 83607
Telephone Number: (208)459-1113

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

X I AGREE with this proposed recommendation: no changes need to be made.

DATE: 10-31-06 SIGNATURE: Robert Stokes

Please print your name: Robert Stokes

IDWR Regional Office, 2735 Airport Wy, Boise, ID 83705, 2083342190

09/28/2006

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

RIGHT NUMBER: 63-20388

NAME AND ADDRESS: NIMAN RANCH INC
16821 PURPLE SAGE RD
CALDWELL ID 83607

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.190 CFS

Right Nos. 63-20388 and 63-11275 are limited to a total combined diversion rate of .75 cfs and to a total combined annual diversion volume of 60.5 AF for stockwater purposes.

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/01/1934

POINT OF DIVERSION:

T05N R03W S32 NENW Within CANYON County

T05N R03W S32 NWNW Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.150 CFS
DOMESTIC	01/01 12/31	0.040 CFS
Domestic use is for 1 home.		

PLACE OF USE: STOCKWATER Within CANYON County

T05N R03W S32 NWNW

DOMESTIC Within CANYON County

T05N R03W S32 NWNW

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

The quantity of water decreed for this water right is not a determination of historical beneficial use.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Rights 63-8702A, 63-8702B, 63-11275 and 63-22368 are also diverted through the points of diversion described above.

Stockwater use is for 3000 cattle.



Idaho Department of Water Resources

63-20388

05N 03W Section 32



-  POU
-  POD
-  Sections
-  Quarter/Quarter

300 0 300 600 Feet



IDWR
Prepared by: Lori Graves
Date: 6-5-06
1986-87 Photography

Adjudication Recommendation Report 63-20388 V1

WATER RIGHT NUMBER: 63-20388 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	SSI LAND & CATTLE CO INC 2615 E CLEVELAND BLVD CALDWELL, ID 83605 (208)459-0734
Current Owner	NIMAN RANCH INC 16821 PURPLE SAGE RD CALDWELL, ID 83607 (208)459-1113

Priority Date: 06/01/1934
Basis: Beneficial Use
Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.150 CFS	
DOMESTIC	01/01 to 12/31	0.040 CFS	
	Total Diversion:	0.190 CFS	

GROUND WATER CANYON County	NW1/4NW1/4	Sec. 32, Twp 05N, Rge 03W, B.M.
GROUND WATER CANYON County	NE1/4NW1/4	Sec. 32, Twp 05N, Rge 03W, B.M.

STOCKWATER

[illegible]

DOMESTIC

[illegible]

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-20388 V1

Conditions of Approval:

1. N11 The quantity of water decreed for this water right is not a determination of historical beneficial use.
2. C18 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.
3. X36 Rights 63-8702A, 63-8702B, 63-11275 and 63-22368 are also diverted through the points of diversion described above.
4. E60 Right Nos. 63-20388 and 63-11275 are limited to a total combined diversion rate of .75 cfs and to a total combined annual diversion volume of 60.5 AF for stockwater purposes.
5. X01 Domestic use is for 1 home.
6. N13 The quantity of water under this right shall not exceed 13,000 gallons per day.
7. X02 Stockwater use is for 3000 cattle.

Remarks:

Comments:

1. Igraves 6/1/2006 Contact

Comment: Contact person is Rob Stokes, Manager of Niman Ranch Inc.

2. Igraves 6/1/2006 P/D

Comment: A combined system utilizing 2 wells is used for the feedlot facility. Overlapping p/d rights include 63-22368, 63-11275 and 63-8702A. See field exam for license 63-11275 for details. The original claim only listed the NWNW well. The NENW well was added to the system in 1977 per license 63-8702. The licensing exam for 63-11275 verified that both wells are used for stockwater in a combined system, which is why the NENW well was also recommended.

3. Igraves 6/1/2006 Water Use

Comment: The original claim listed domestic and commercial uses. Commercial use was described as 3000 feed stock. The feedlots commercial/industrial uses are fully covered on license 63-11275. As a result, claimants amended the claim from commercial to stockwater use.

4. Igraves 6/1/2006 Priority

Comment: Claimants provided letter for the licensing of right 63-11275 that can serve as an affidavit to this claim establishing historical use for 3000 stock. The letter was submitted by Terry Uling to Canyon County Development Services for the previous owners of the feedlot with regards to a proposed dairy. The letter supports historical use for 3000 cattle. Page 3 of the letter references testimony from Clyde Marshbanks given at a hearing 9/16/1999 before Canyon County Planning and Zoning Commission, in which he states that the feedlot has existed on the property for at least 65 years since he has lived there. 1999-65 years equates to the 1934 recommended priority date. Manager Rob Stokes asked that I use this letter for proof of priority and did not mind the 4 year priority date advancement.

5. Igraves 6/1/2006 Amounts

Comment: Licensing exam for 63-11275 calculated system capacity for the two combined wells at .75 cfs.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-20388 V1

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-20388

WATER RIGHT NUMBER: 63-20388

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	SSI LAND & CATTLE CO INC 2615 E CLEVELAND BLVD CALDWELL, ID 83605 (208)459-0734
Current Owner	NIMAN RANCH INC 16821 PURPLE SAGE RD CALDWELL, ID 83607 (208)459-1113

contact / Manager:
Rob Stokes 459-1113
573-1058 cell

Priority Date: 06/01/1930
 Basis: Beneficial Use
 Status: Active

Source Tributary
 GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
DOMESTIC	01/01 to 12/31	0.040 CFS	1.2 - standards
STOCKWATER	01/01 to 12/31	0.150 CFS	40.3 - 3000 x 12 x 365 /
	<u>Total Diversion:</u>	0.190 CFS	41.5 325850

Location of Point(s) of Diversion

GROUND WATER
 CANYON County

~~NE 1/4 NW 1/4 NW 1/4~~
 + NE NW

Sec. 32, Twp 05N, Rge 03W, B.M.

per licensing exam for
63-11275

Place of Use

DOMESTIC
 Twp Rge Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals
 05N 03W 32 | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals

STOCKWATER
 Twp Rge Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals
 05N 03W 32 | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals

Conditions of Approval:

- Ownership changed by DH 1/13/2003

Dates and Other Information:

Claim Received Date: 3/15/1990
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:

ADD X36 other etc that share
P/Ds
E60 combined limits with
63-11275
X01 1 ham
X02 3000 stock

J.R. SIMPLOT COMPANY ONE CAPITAL CENTER 999 MAIN STREET SUITE 1300
P.O. BOX 27 BOISE, IDAHO 83707-0027 (208) 336-2110 FAX (208) 389-7515

CORPORATE HEADQUARTERS

April 28, 2000

Ms. Sonna Lynn Fernandez
Executive Director
Canyon County Development Services Department
1115 Albany Street
Caldwell, Idaho 83805

Re: J.R. Simplot Company
Prospective Sale of Notus Feedlot

Dear Ms. Fernandez:

*See Page 3
For maximum stock runnings*

J.R. Simplot Company submits this letter by way of response to your Memorandum dated March 21, 2000 to Craig Wolford and Craig Wolford's letter dated March 21, 2000 to Rob and Michelle Stokes of Niman Ranch ("Proposed Purchasers"). In your Memorandum, you requested additional information about the Notus Feedlot ("Feedlot") located at 16821 Purple Sage Road, Caldwell, Idaho. The Feedlot has been owned by SSI Foods, Inc., a corporation wholly owned by J.R. Simplot Company ("Simplot") since 1992. The Feedlot property consists of approximately 80 acres. Following is a chronological factual summary relating to the operation of the Feedlot dating back to the 1970's.

The Feedlot's existence dates back prior to the enactment of the applicable Canyon County Ordinance (adopted in September of 1979) ("Ordinance"), requiring a Conditional Use Permit for "Commercial Feed Lots when located at least two (2) miles or greater distance from any Residential Zone, platted subdivision or incorporated city unless this distance is specifically reduced as part of the Conditional Use Permit." CCZO 97-001 (12.3 C). Prior to the adoption of the Ordinance in 1979, the operation of the Feedlot constituted an allowed use in the Agricultural Zone and required no acquisition of permits or other approval.

At the time the Ordinance was enacted in 1979, the Feedlot was owned by Harold G. and/or Harriet A. Crosby ("Crosby"). Crosby operated the Feedlot at that time. Crosby's ownership and use of the Feedlot is supported by the enclosed Sheriff's Deed and Water Right License (Water Right No. A63-08702A) issued by the State of Idaho Department of Water Resources ("IDWR") dated January 31, 1980. The Water Right License provides in pertinent part:

Ms. Sonna Lynn Fernandez
April 28, 2000
Page 2

"This is to certify that Harold G. &/or Harriett A. Crosby of Caldwell, Idaho, has complied with the terms and conditions of Permit No. 63-8702 issued pursuant to Application for Permit dated April 18, 1975, and has submitted proof to the Department of Water Resources on March 21, 1978, that he has applied water to a beneficial use." Water Right License, p.1 (emphasis added).

During the licensing process, the Department of Water Administration, (predecessor to IDWR) conducted a Field Exam on March 21, 1978 to confirm the use of the Feedlot. The enclosed Field Report, together with the Water Right License, establishes that at the time the Ordinance was enacted in 1979, Crosby was operating the Feedlot and had been putting 1.48 c.f.s. of water to a beneficial use for some number of years prior to that time. The priority date for Crosby's water right was April 18, 1975.

We have also provided a copy of the IDWR Adjudication Claim Profile Report for Water Right No. A63-08702A, which shows an allocation to the Feedlot of .68 c.f.s. for irrigation. The Claim Profile Report further provides that "stockwater [is] incident to irrigation." .68 c.f.s. is the equivalent of 439,000 gallons per day. In all of Simplot's feedlot operations, approximately 35 gallons of stock water per day per animal is needed. Therefore, a feedlot with 3,000 animals (such as the Notus Feedlot) needs water rights to support 105,000 gallons of water per day for stock water rights (3,000 animals x 35 gallons per day = 105,000 gallons per day). The stock water rights perfected by Crosby in the late 1970's were more than adequate to support a capacity of 3,000 head.

The enclosed Field Report shows a measured calculation for the amount of water being diverted for dust control purposes at a flow rate of .15 c.f.s., which is the equivalent of 67.32 gallons per minute. The quantity of water licensed by the State of Idaho for dust control corresponds with a Feedlot capacity of 3,000 head. Based upon years of experience, Simplot has determined that to adequately control dust, 1,500 gallons of water per minute is necessary for a feedlot containing 65,000 head. That translates to .023 gallons per animal. Therefore, for a feedlot with a capacity of 3,000 head (Notus Feedlot) it is typical to apply 69.23 gallons of water per minute for dust control (3,000 animals x .023 gallons per animal = 69.23 gallons per minute). This calculation is consistent with the water right perfected by Crosby in 1978, which allowed for 67.32 gallons per minute. The Feedlot, as it existed in the late 1970's (prior to the enactment of the Ordinance), had sufficient water rights for stock water and dust abatement to support a 3,000 head operation.

The history of the use of the Feedlot is further supported by the recent testimony of Clyde Marshbanks before the Canyon County Planning and Zoning

Ms. Sonna Lynn Fernandez
April 28. 2000
Page 3

Commission. I have enclosed a copy of the Findings, Conclusions and Order from the September 16, 1999 hearing before the Canyon County Planning and Zoning Commission (*In the Matter of an Application by Lehman Dairy, Inc. for a Conditional Use Permit* (Case #998499L32-5N-3W)) ("Lehman Matter"). You may recall that the application in the Lehman Matter also involved the Feedlot property located at 16821 Purple Sage Road and related to a request by Lehman Dairy, Inc. for a Conditional Use Permit for a 1,200 cow dairy and associated livestock of 1,200 head, for a maximum total of 2,400 head. At that hearing, Clyde Marshbanks testified that "he owns land on the north and west sides of this proposed dairy. They should have grandfather rights. He has lived there for 65 years and there has been a dairy or a feed lot on that property all that time." (Findings, Conclusions and Order, p.9).

You may also recall that the Commissioners approved the application for the Conditional Use Permit in the Lehman Matter. The number of animals approved in the Lehman Matter (2,400) is not much different from the number of cattle that have been fed in the Feedlot over the years. During the Lehman Matter hearing, in response to a question posed by Commissioner Wright, Ms. Lewis (Staff) stated: "In today's standards it [the Feedlot] would be considered a non-conforming use, but it was grand-fathered in due to the length of time it has been there." (Findings, Conclusions and Order, p.20). This statement emphasizes the fact that, contrary to the statement made in Craig Wolford's letter of March 21, 2000 to the Proposed Purchasers, neither Simplot nor the Proposed Purchasers are seeking approval for a "new" use. The continued operation of the Feedlot at a capacity of 3,000 head is not a new use, but rather a continuation of an existing use.

Crosby owned the Feedlot until May 3, 1990, when by virtue of a Sheriff's foreclosure sale, SSI Land and Cattle Company ("SSI") acquired the Feedlot. I have enclosed the Sheriff's Deed dated May 3, 1990, which was recorded in the records of Canyon County, Idaho as Instrument No. 9008171, reflecting this sale. Subsequent to the purchase, SSI began feeding up to 1,000 animals in the existing pens and increased the efficiency of the operation by adding additional pens. Upon completion of the additional pens SSI fed as many as 4,850 cattle in the Feedlot.

In 1992, Simplot purchased the outstanding stock in SSI (now SSI Foods, Inc.) which included the Feedlot. Simplot has been leasing the feedlot to Mackenzie Ranches since September 1, 1993. The Feedlot has been at or near capacity during each year since 1992 when Simplot acquired the Feedlot and since 1993 when it began leasing it to Mackenzie Ranches. Simplot has records dating back to November, 1995 showing the lease payments made to Simplot by Mackenzie Ranches. I have attached these records for your review. You will see

Ms. Sonna Lynn Fernandez
April 28, 2000
Page 4

that the peak head counts for each year were: 1996 - 2,463; 1997 - 2,322; 1998 - 2,286; 1999 - 2,357; 2000 - 2,034. This is an average of 2,292 total animals in the feedlot during each one month period.

These figures are further supported by the enclosed letter from Duncan S. Mackenzie to the United States Environmental Protection Agency, in which he represents "this facility maintains approximately 2000 animals." The operation currently has coverage under the Environmental Protection Agency's general permit for Concentrated Animal Feeding Operations ("CAFO") IDG-010074. The permit is for 3,000 head.

The above factual information, together with the enclosed documentation, substantiates Simplot's representations that the Feedlot has been operated as a commercial feedlot since at least the mid to late 1970's, has had cattle in it on a continual basis since that time, and has had the capacity for 3,000 head. Simplot is seeking a determination from you that the Feedlot is a non-conforming use based upon its existence and continued operation since a time prior to the enactment of the Ordinance, or, in the alternative, a determination that based upon the pre-1979 water right and use history, the Feedlot has a capacity of 3,000 head and it is therefore entitled to grandfather rights at that capacity. This position is warranted for the following reasons:

1. At the time the Feedlot was owned by Crosby, prior to the enactment of the Ordinance, Crosby perfected a water right allowing water to be used for dust abatement and stock water for a 3,000 head operation. The Feedlot has continued in operation since that time and has remained largely unchanged.

2. Documentation from the Canyon County Assessor indicates that an assessment of the Feedlot was conducted in 1991 and again in 1993. Those assessment records are included for your review. As a result of the assessments, Canyon County was aware of the additional pens that were added to the Feedlot operation by SSI. It is likely that because the Feedlot operation remained substantially unchanged as a result of additional pens, Canyon County did not consider it to be a changed use or an expansion. Simplot has also determined that Simplot corresponded with Shane Weston of Canyon County Planning and Zoning regarding the installation of a septic system on the Feedlot property in 1994. A copy of that correspondence is included for your review. Simplot believes that a building permit was also issued in 1994. All of these actions would have required inspections and site visits by representatives of Canyon County. Certainly, Canyon County had notice and knowledge of the Feedlot level of operation as a result of the assessments conducted in the early 1990's and the permit applications in 1994 and did not proceed in requiring any additional

Ms. Sonna Lynn Fernandez
April 28, 2000
Page 5

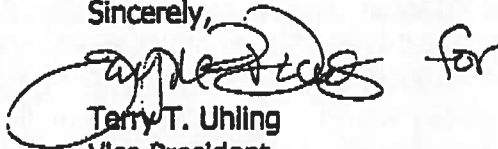
permits relating to the Feedlot operation.

3. A review of the standards to be considered by the Commission set forth in CCZO 6.1 (F) in reviewing Conditional Use Permit Applications provides further support for Simplot's position that it should not be required to apply for a Conditional Use Permit in order for the Commission to clarify that the Feedlot, as it exists today with a capacity of 3,000 head, is in conformance with all applicable ordinances. The "standards" are aimed at new development or changes in a particular use. By contrast, the Feedlot is a use that has been in existence for at least 25 years and is largely unchanged. The only significant changes that have occurred in the area have been the allowance of non-agricultural development in the near vicinity of the Feedlot location. There is some question about the appropriateness of those recently-approved residential subdivisions within two miles of the Feedlot.

We believe we have covered all of the points you raised in your Memorandum of March 21, 2000 to Craig Wolford, and in Craig Wolford's letter to the Proposed Purchasers. Based upon the representations contained in this letter and the enclosed documentation, Simplot strongly believes that there is support for your issuance of a written determination that the Feedlot, in its current capacity of 3,000 head, is a recognized non-conforming use under Canyon County Code Section 07-18-01, or, in the alternative, that the Feedlot is entitled to grandfather rights with a capacity of 3,000 head due to the pre-1979 existence of the Feedlot.

Please contact me if you wish to discuss this matter. I look forward to hearing from you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Terry T. Uhling", followed by the word "for" in a cursive script.

Terry T. Uhling
Vice President
Environmental Health & Safety
Associate General Counsel

Water Right Report 63-11275

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	SSI LAND & CATTLE CO INC 30360 FERN LN WILDER, ID 83676 (208)459-0734
Current Owner	NIMAN RANCH INC 16821 PURPLE SAGE RD CALDWELL, ID 83607 (208)459-1113

Status: Active

Tributary

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
INDUSTRIAL	01/01 to 12/31	0.750 CFS	
IRRIGATION	03/01 to 11/15	0.250 CFS	
STOCKWATER	01/01 to 12/31	0.750 CFS	
	Total Diversion:	0.750 CFS	

GROUND WATER	NE1/4NW1/4	Sec. 32,	Twp 05N,	Rge 03W, B.M.
CANYON County				
GROUND WATER	NW1/4NW1/4	Sec. 32,	Twp 05N,	Rge 03W, B.M.
CANYON County				

INDUSTRIAL

[illegible][illegible]

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-11275

Total Acres: 25

STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
05N 03W 32	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
					X	X											

Conditions of Approval:

1. WB7 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 113.0 af at the field headgate for the irrigation of the lands above.
2. — The total annual diversion volume for stockwater purposes under this right is 60.5 af.
3. 100 The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted for irrigation purposes under this right and shall only divert groundwater under this right for irrigation purposes when water from the appurtenant surface water rights cannot be delivered to the right holder.
- 4. X36 Right 63-08702 is also diverted through the point of diversion located in NENW, S32, T05N, R03W.
5. R61 This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
6. Industrial use is for dust abatement, feed mill, office and equipment washing.
7. — Rights 63-22368 and 63-11275 when combined shall not exceed a total diversion rate of 0.75 cfs.
8. — Right 63-22368 is also diverted through the point of diversion located in NWNW, S32, T05N, R03W.
9. X35 Rights 63-08702 and 63-11275 when combined shall not exceed a total diversion rate of 1.48 cfs, a total annual maximum diversion volume of 760.7 af at the field headgate, and the irrigation of 143 acres.
10. 105 If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used for irrigation purposes without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
11. The total annual diversion volume for industrial purposes under this right is 29.4 af.
12. Rights 63-08702 and 63-11275 when combined shall not exceed a total maximum diversion volume of 643.5 af for irrigation purposes.

Remarks:Comments:

1. dnelson 12/30/2002 Field Report Narrative

Comment: Please see hard copy for narrative, overlap and calculation sheets. Information too large to place into workflow. Would not save. Also please note that change of ownership has been filed to change ownership of water right once permit has been licensed.

2. kwalker 1/27/2003 Relift Pond

Comment: We are not including a redirection point from the pond under this right. The pond (waste lagoon) collects well water, canal water and runoff water from the feedlot. The well water and canal water are used to dilute the lagoon water before entering the sprinkler system.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-11275

Dates and Other Information:

Licensed Date: 1/31/2003
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre: 0.02
Generic Max Volume Per Acre: 4.5
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
-------------	---------------	--------------

0.75

Combined Water Rights: 63-22368 , 63-11275

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
-------------	---------------	--------------

1.48 760.7 143

Combined Water Rights: 63-8702 , 63-11275

Water Supply Bank:

Form 219
6/92STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

JAN 10 2003

DEPARTMENT OF WATER RESOURCES

A. GENERAL INFORMATIONPermit No. 63-112751. Owner: NIMAN MC CONNELL LLC Phone No. (208) 459-1113Current Address: 16821 PURPLE SAGE ROAD, CALDWELL, ID 836072. Accompanied by: ROB STOKES EXAM DATE: 1/3/2002Address: SAME AS ABOVE Phone No. SAME AS ABOVERelationship to Permit Holder: FEEDLOT MANAGER3. Source: GROUNDWATER tributary to N/A**B. OVERLAP REVIEW**1. Other water rights with the same place of use: 63-22368, 63-20388, 63-8702A & BLACK CANYON IRRIGATION DISTRICT RIGHTS2. Other water rights with the same point of diversion: 63-22368, 63-20388, & 63-8702A**C. DIVERSION AND DELIVERY SYSTEM**

1. Point(s) of Diversion:

Ident No.	Govt. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
DOMESTIC WELL			NW	NW	32	5N	3W	CANYON	VISUAL INSPECTION AND USE OF 2000 AERIAL PHOTOS
STOCK WELL			NE	NW	32	5N	3W	CANYON	VISUAL INSPECTION AND USE OF 2000 AERIAL PHOTOS
RELIFT PUMP			NE	NW	32	5N	3W	CANYON	VISUAL INSPECTION AND USE OF 2000 AERIAL PHOTOS

Post-It Fax Note	7671	Date	3-27	# of Pages	20
To	Lois Graves	From	Ronda		
Co/Dept	Western	Co			
Phone #		Phone #			
Fax #	334-2348	Fax #			

MICROFILMED

MAR 17 2003

2. Place(s) of Use:

Indicate Method of Determination SAME AS POINT OF DIVERSION

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	3W	32					25.4 S/C	S/C											25.4

3. Delivery System Diagram: Indicate all major components and distances between components. Indicate weir size/pipe I.d. as applicable.

SEE ATTACHED SHEET.

YES Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

YES Aerial Photo Attached (required for irrigation of 10+ acres).

YES Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
DOMESTIC WELL	FRANKLIN ELECTRIC	2 Hp	2823018110	FRANKLIN ELECTRIC	2823018110
STOCK WELL	GUNDERFOS	15 Hp	1353150	GUNDERFOS	1353150
RELIFT PUMP	CENTURY	50 Hp	6-331269-01	BERKLEY	6967274

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
N/A						

2. Measurements:

Measurements at the time of the exam were not possible since the system was not operating continually. Therefore, a theoretical calculation was performed to determine the maximum capacity of the wells and the re-lift pump.

MICROFILMED

MAR 17 2003

E. NARRATIVE/REMARKS/COMMENTS:

The water for this permit comes from 2 wells referred to the Domestic Well (2Hp pump) and the Stock Well (15 Hp pump). The Domestic Well is located in a pump house in-between the house/office and the feed mill in the NWNW and the Stock Well is located in a pump house at the southeastern corner of the sewage lagoon in the NENW. The entire place of use and the wells are located in the N½ of the NW ¼ of S32 T5N R3W.

The water from the Domestic Well travels through 3 water lines from the well. The first line travels northeast to the house/office and continues under the driveway to a single spigot. The office is located under the house or the basement area of the house. The office is basically separate from the house even though they are contained in the same building. The second water line from the Domestic Well travels northwest to a single residence, which is basically a hired hands home. The third line from the Domestic Well or the main water line, travels due south to the feed mill and then turns east to supply water to the shop. From the shop the main water line travels due south and supplies water the stock pens on the west ½ of the feedlot. Once the line has gone through all of the pens on the west ½ of the feedlot it turns east to the middle of the set of pens on the east ½ of the feedlot. At this point a spur takes off from the main water line and travels due north through the middle of the pens on the east ½ of the feedlot to supply water troughs in these pens. The main water line continues on east and connects to the Stock Well's piping. At the Stock Well a spur from the main water line empties directly into the waste lagoon for the feedlot.

The water in the main waste lagoon is used to irrigate the 25.4-acre field in the NENW and to supply dust abatement for the corrals. A water line from Black Canyon Irrigation District empties into the waste pond with the ground water and any wastewater from corrals. The well water and the canal water are used to dilute the lagoon water to allow it to be pumped through the sprinkling system. A 50 Hp pump pulls water from the lagoon and delivers it to a mainline that runs due north along the western edge of the irrigated field. At approximately the midway point of the northern most corral a line takes off from the mainline to deliver the water to 30 dust abatement sprinklers. These sprinklers are rated at 104 gpm and only 3 sprinklers are operated at any one time. Therefore, the dust abatement system only runs 312 gpm or 0.70 cfs. The main irrigation line continues north until it reaches Purple Sage Road and then turns east and runs parallel to the road to supply water to the wheel line and hand line used to irrigate the field. The wheel line and the hand line each have 32 sprinklers with 1/8" nozzles that are rated at 3.62 gpm for a total of 115.8 gpm or .26 cfs. The maximum diversion rate used from the relief pump is 0.96 cfs. The groundwater used for irrigation is supplemental to the canal water. So the main use of the groundwater would be used for dust abatement since the maximum diversion rate available from the wells is 0.75 cfs. This would only leave 0.05 cfs for irrigation. The only way that the groundwater could be used for irrigation is if the dust abatement was not in operation.

MICHOI LIVES
MAR 17 2003

The pond associated with this right is an existing drainage pond historically used to collect wastewater from the surrounding fields. This pond is shown on all the maps I have found. The main use of the pond has always been to collect wastewater and to serve as a waste lagoon for the feedlot. The wastewater is no longer available, so the only water supplying the pond comes from the canal, corrals, and groundwater. Therefore, no storage right should be needed for this existing pond. The industrial uses listed on this permit should actually be described as commercial use. The commercial use includes water used in the office (not including the home use), feed mill, shop, and equipment washing. The stockwater use is for 4,500 range cattle. The owner supplied affidavits from the former manager of the feedlot stating that 4500 head were in the lot prior to proof of beneficial use being filed. The irrigation and dust abatement use is listed above.

OVERLAP

Snake River Basin Adjudication (SRBA) decree 63-22368, SRBA claim 63-20388, and license 63-8702A overlap the place of use for this permit. Water right 63-22368 is diverted from the domestic well and is used for the home above the office, but does not include the water used by the feedlot office. Claim 63-20388 supplies water to the hired hand's home and supplies a commercial stockwater right for 3,000 head of livestock. An SRBA agent has not yet reviewed this claim, so it is impossible to tell if it is a valid claim or not. This permit has applied for 5,000 head of cattle, and the owner has supplied affidavits showing that at the time proof of beneficial use was filed that 4,500 cattle were held in the facility. Therefore, when this permit and claim 63-22368 are combined, stockwater should be limited to the consumption of water that 4,500 cattle would use. This combined amount would be needed to prevent expanding the use to more than the 4,500 animals capacity, if 63-22368 is recommended as claimed or if 63-22368 was disallowed this permit would still be able to cover the full amount of stockwater used in the facility.

63-8702A is a license for dust abatement and irrigation. The dust abatement has increased since 63-8702A was licensed, therefore, this application will cover only the amount of water used above what was licensed under 63-8702A. The irrigation component of 63-8702A allowed irrigation of 66 acres at approximately $\frac{1}{2}$ of an inch per acre. However, only 25.4 acres of 63-8702A's place of use are still being irrigated by the wells. Therefore, we can allow the remaining diversion rate as long as the irrigation does not exceed 0.02 cfs per acre. There is also Black Canyon Irrigation District water used on these acres. Therefore, this permit is a supplemental right and all surface water should be used first before any groundwater is used.

MICROFILMED

MAR 17 2003

RECOMMENDATIONS:**IRRIGATION:**

I recommend that this permit be licensed for 0.25 cfs and 114.3 afa for irrigation. When the irrigation component of this right is combined with 63-8702A, Black Canyon Irrigation District water, and all other rights the owner should be limited a maximum diversion rate of 0.02 cfs/acre and annual volume of 4.5 afa/afa. This is a supplemental right, so the full allocation of surface water should be used prior to using these wells for irrigation. .

COMMERCIAL:

I recommend that this permit be licensed for 0.75 cfs and 29.4 afa for commercial use. When combined with water right 63-8702A and all other rights, the commercial use should be limited to a combined volume of 56.7 afa and a diversion rate of 0.75 cfs (the system capacity).

STOCKWATER:

I recommend that this permit be licensed for 0.75 cfs and 60.5 afa for stockwater. When combined with water right 63-20388 and all other rights should be limited to a maximum diversion rate of 0.75 cfs and 60.5 afa for stockwater.

GENERAL:

When combined with all the uses for all the overlapping rights these wells should be limited to the maximum capacity of 0.75 cfs diversion rate. The total annual volume for the feedlot and the current irrigation use for the 25.4 acres being irrigated should be limited to a total combined annual volume of 231.5 afa.

Groundwater should not be allowed to be diverted into the sewage lagoon unless an equal amount of the water is being diverted from the lagoon for irrigation or dust abatement. If the owner wishes to store water they will need to file another application for permit.

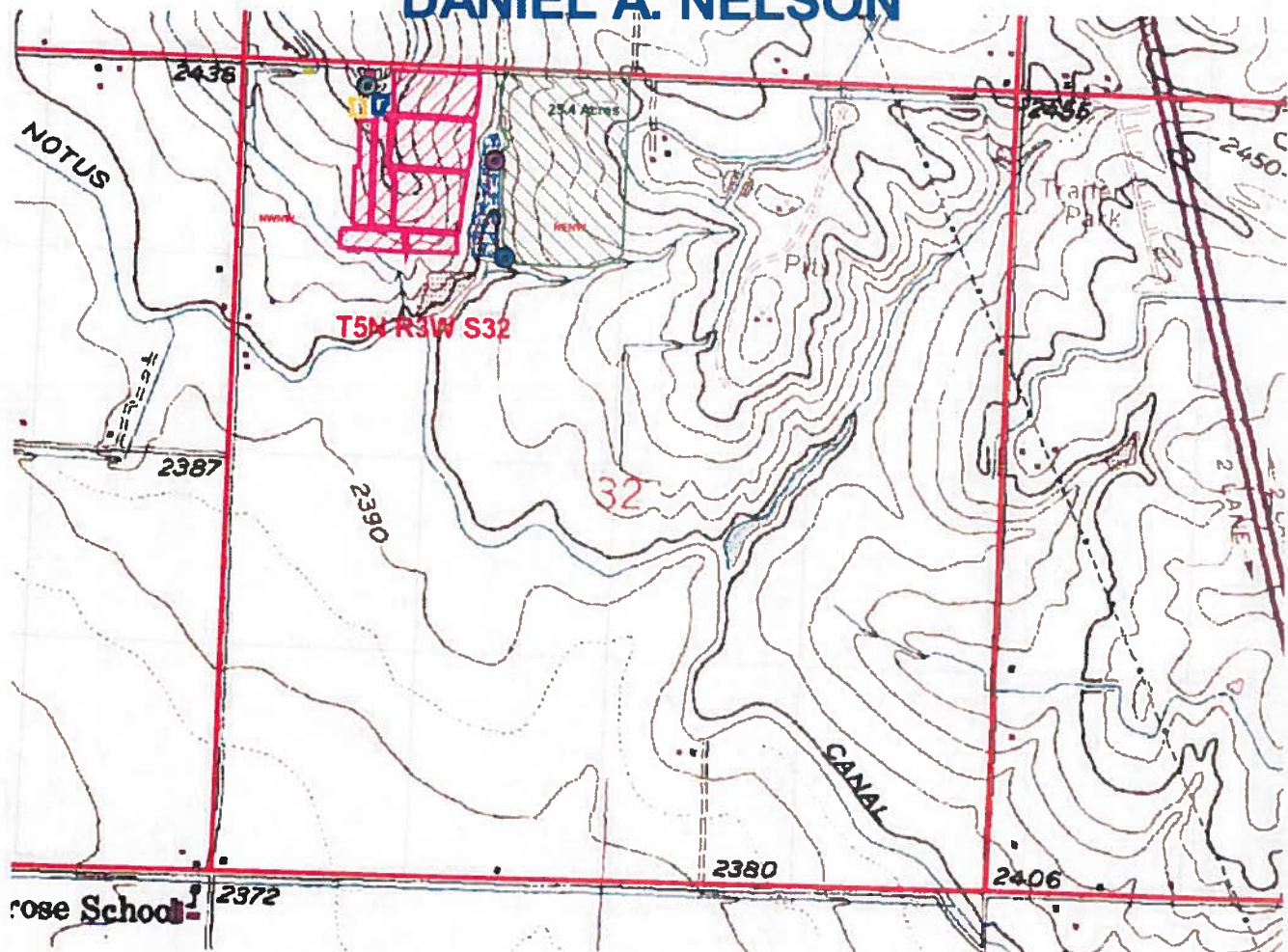
Have conditions of permit approval been met? ☒ yes ☐ no

MICROFILMED

MAR 17 2003

MAR 17 2003

63-11275
POINT OF DIVERSION AND PLACE FO USE
USGS QUADRANGLE MAP X5
PREPARED BY
DANIEL A. NELSON



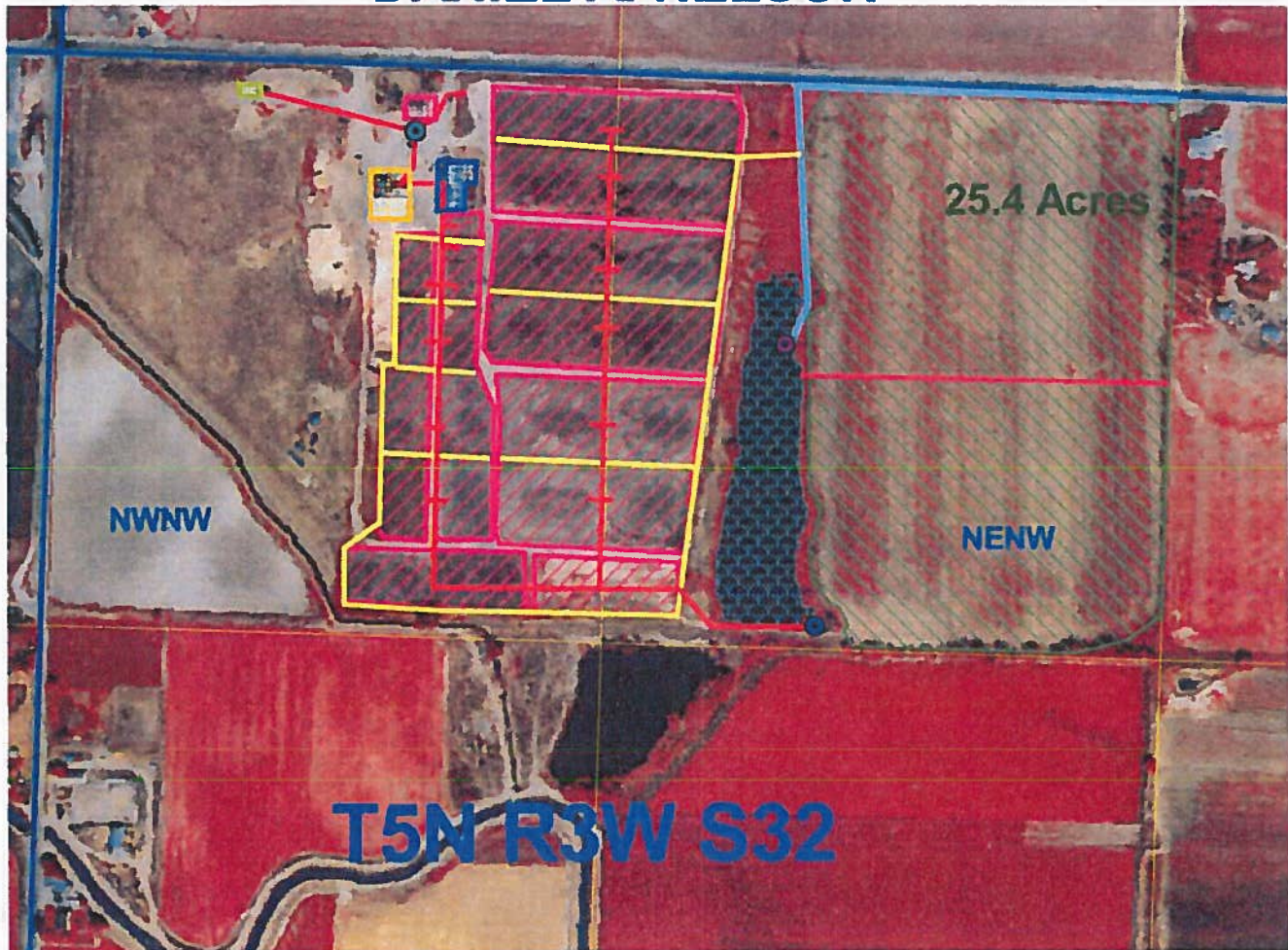
0.3 0 0.3 0.6 Miles

- DOMESTIC WELL
- STOCK WELL
- RE-LIFT PUMP
- HOUSE
- FEED MILL
- OFFICE/HOME
- SHOP
- SETTLING POND
- IRRIGATED FIELD
- CORRALS
- SECTION LINES
- 1/4 1/4 LINES

MICRO
 MAR 17 2003



63-11275
SYSTEM DIAGRAM
2000 AERIAL PHOTO
PREPARED BY
DANIEL A. NELSON



0.1 0 0.1 0.2 Miles

- DOMESTIC WELL
- STOCK WELL
- RE-LIFT PUMP
- HOUSE
- FEED MILL
- OFFICE/HOME
- SHOP
- WELL'S MAINLINE
- DUST ABATEMENT LINES
- PIPELINE FROM CANAL
- IRRIGATION MAINLINE
- SETTLING POND
- IRRIGATED FIELD
- CORRALS
- SECTION LINES
- 1/4 1/4 LINES



MICROFILMED

MAR 17 2003

NWNW

25.4 Acres

NENW

T5N R3W S32

- MICRO, 1985.

MAR 4 7 2013

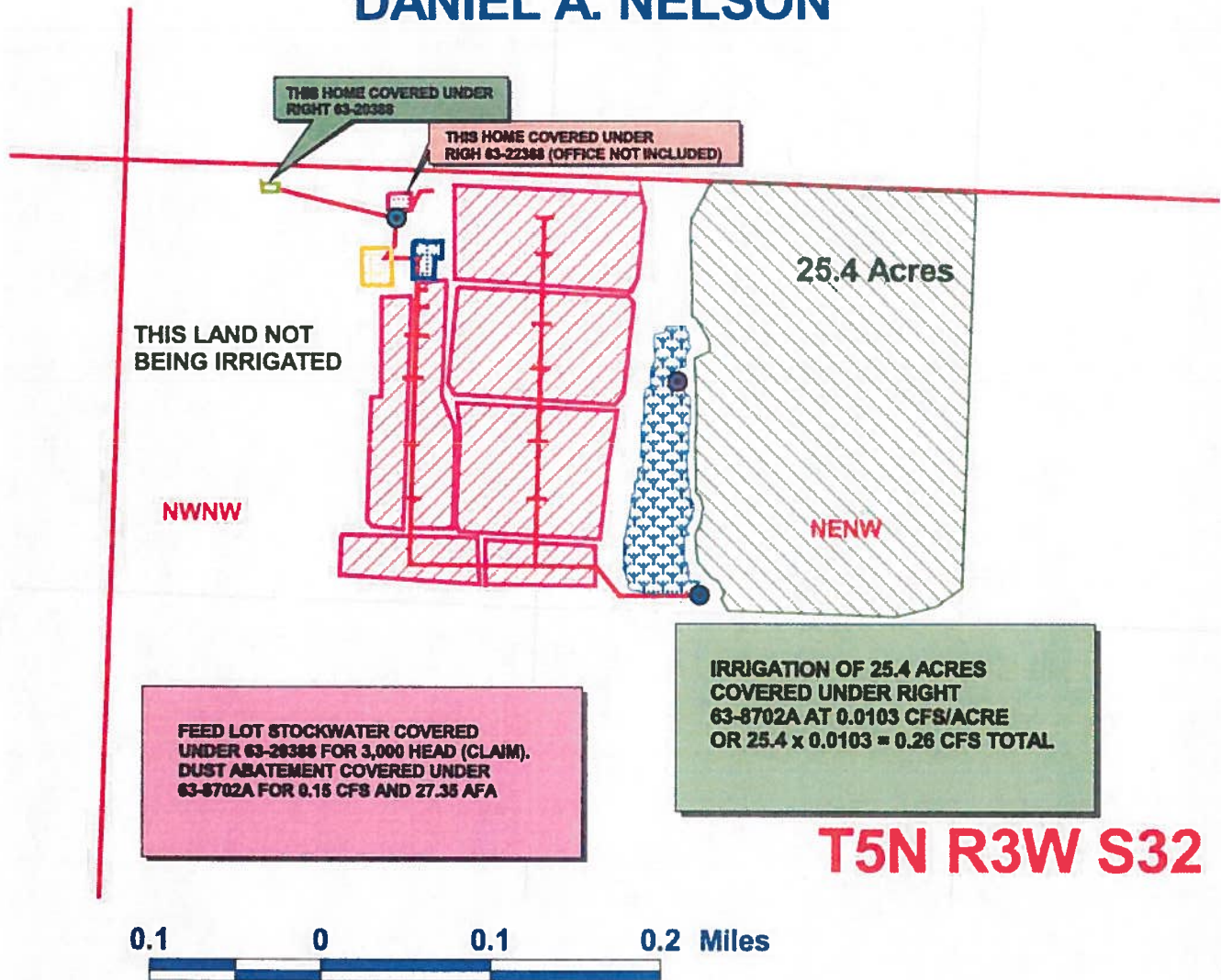


63-11275

OVERLAPPING RIGHTS

PREPARED BY

DANIEL A. NELSON



- DOMESTIC WELL
- STOCK WELL
- RE-LIFT PUMP
- HOUSE
- FEED MILL
- OFFICE/HOME
- SHOP
- SETTLING POND
- IRRIGATED FIELD
- CORRALS
- SECTION LINES
- 1/4 1/4 LINES

MICROFILMED

MAP 17 2003



OVERLAPPING RIGHTS FOR 63-11275 BY USE

DOMESTIC:

63-22368 - SRBA DECREE - FOR ONE HOME IN NWNW S32

63-20388 - SRBA CLAIM - FOR ONE HOME IN NWNW S32

63-11275 - PERMIT - NO DOMESTIC USE REQUESTED

NO DOMESTIC USE IS REQUESTED AND NONE SHOULD BE ALLOWED.

COMMERCIAL:

63-20388 - SRBA CLAIM - FOR 3,000 HEAD FEEDLOT

63-8702A - SRBA CLAIM AND LICENSE - FOR DUST ABATEMENT OF FEEDLOT FOR 0.15 CFS AND 27.3 AFA. NO STOCKWATER INCLUDED WITH THIS RIGHT.

63-11275 - PERMIT- COMMERCIAL USE FOR DUST ABATEMENT, OFFICE AND TRUCK WASHING (LISTED AS INDUSTRIAL).

WE CAN ALLOW COMMERCIAL USE FOR ANYTHING ABOVE THE ALREADY LICENSED COMMERCIAL USE OF 0.15 CFS AND 27.35 AFA CURRENTLY LICENSED UNDER 63-8702A. THE COMMERCIAL STOCKWATER USE UNDER 63-20388 WILL BE ADDRESSED UNDER STOCKWATER.

IRRIGATION:

63-8702A - SRBA CLAIM AND LICENSE - 66 ACRES AT 1/2 INCH PER ACRE (.68 CFS TOTAL), VOLUME IS AT FULL VOLUME PER ACRE

63-11275 - PERMIT - FOR SAME 66 ACRES AT 0.015 CFS PER ACRE (1.00 CFS TOTAL)

WE CAN ALLOW 0.68 CFS FOR 63-11275 WITH THE CONDITION THAT WHEN COMBINED WITH 63-8702A THAT THE DIVERSION RATE IS 1.32 CFS AND AN ANNUAL VOLUME OF 4.5 AFA PER ACRE OR 287 AFA WHEN BOTH RIGHTS A COMBINED. THE ACTUAL DIVERSION RATE WILL BE LIMITED TO THE CAPACITY OF THE PUMPS.

MICHAEL

MAR 17 2003

STOCKWATER:

63- 20388 - SRBA CLAIM - 3,000 HEAD RECORDED AS A COMMERCIAL USE. THIS SHOULD BE CORRECTED TO BE STOCKWATER IN ADJUDICATION.

63-11275 - PERMIT - STOCKWATER FOR 5,000 HEAD OF LIVESTOCK.

AFFIDAVITS SUPPLIED BY APPLICANT SHOW TOTAL ANIMALS IN FEEDLOT AT TIME PROOF OF BENEFICIAL USE WAS FILED TO BE 4,500 HEAD.

WE CAN ALLOW UP TO 4,500 HEAD OF LIVESTOCK FOR THIS PERMIT SINCE 63-20388 IS ONLY A CLAIM. HOWEVER, THIS PERMIT SHOULD BE CONDITIONED THAT WHEN 63-11275 AND 63-20388 ARE COMBINED THEY ARE LIMITED TO THE 4,500 HEAD OF LIVESTOCK RECOMMENDED UNDER THIS PERMIT, WHICH WILL BE THE MAXIMUM NUMBER OF ANIMALS THAT HAVE BEEN HOUSED IN THE FEEDLOT.

MICROFILMED

MAR 17 2003

GROUNDWATER THEORETICAL ANALYSIS

FILE: 63-11275STOCK WATER
WellDATE: 1-11-2002BY: Daniel A. NelsonTHEORETICAL RATE OF FLOW: $Q = \frac{(8.8 \times (HP) \times (EFF.))}{TDH}$

Q = CFS

HP = Total Brake Horsepower of pumping plant (including booster)

Eff. = Pumping plant efficiency (assume 70% or 0.70)

TDH = Total dynamic head = [(LIFT) + (PSI X 2.31)]

LIFT = Depth to water in FEET from land surface to pumping water level

PSI = Pumping pressure measured in PSI near pump (if open discharge assume [0])

$$Q = \frac{(8.8) \times (15 \text{ Hp}) \times (0.70) = 92.4}{\text{TDH}} = 0.66 \text{ CFS}$$

$$[(36) + (45 \times 2.31)] = 139.95$$

LIFT FROM:

PSI FROM:

NOTES ON PUMP:

Measurement ()

Measurement ()

Motor Make, Serial or ID

Owner ()

Owner ()

Area estimate ()

Estimate ()

Pump Make, Serial or ID, rating

Well Logs (X)

Owner Gage (X)

Booster (Y) (N)

REMARKS: LIFT was calculated by adding
10 FT onto the static water level
of 26 FT. This is such a small
well and should not cause much
drawdown.

System Capacity for both wells
is 0.75 CFS.

MICRO...

MAR 17 2003

GROUNDWATER THEORETICAL ANALYSIS

FILE: 103-11275Domestic
wellDATE: 1-11-2002BY: Daniel A. NelsonTHEORETICAL RATE OF FLOW: $Q = \frac{(8.8 \times (HP) \times (EFF.))}{TDH}$

Q = CFS

HP = Total Brake Horsepower of pumping plant (including booster)

Eff. = Pumping plant efficiency (assume 70% or 0.70)

TDH = Total dynamic head = [(LIFT) + (PSI X 2.31)]

LIFT = Depth to water in FEET from land surface to pumping water level

PSI = Pumping pressure measured in PSI near pump (if open discharge assume [0])

 $Q = \frac{(8.8) \times (2) \times (0.70)}{139.95} = 0.09 \text{ CFS}$ $[(26) + (45 \times 2.31)] = 139.95$

LIFT FROM:

Measurement ()

Owner ()

Area estimate ()

Well Logs (X)

PSI FROM:

Measurement ()

Owner ()

Estimate ()

Owner Gage (X)

Booster (Y) (N)

NOTES ON PUMP:

Motor Make, Serial or ID

Pump Make, Serial or ID, rating

REMARKS: LIFT was calculated by adding
10 FT onto the static water level of
26 FT. This is a small well and
should not cause much draw down.
The well log for the HARTZ-Stockwell
since no log was available for this
well.

System Capacity from both wells
is 0.75 CFS.

MICROFILM

MAR 17 2003

GROUNDWATER THEORETICAL ANALYSIS

Relift
PumpFILE: 63-11275DATE: 1-11-2002BY: Daniel A. NelsonTHEORETICAL RATE OF FLOW: $Q = \frac{(8.8 \times (HP) \times (EFF.))}{TDH}$

Q = CFS

HP = Total Brake Horsepower of pumping plant (including booster)

Eff. = Pumping plant efficiency (assume 70% or 0.70)

TDH = Total dynamic head = [(LIFT) + (PSI X 2.31)]

LIFT = Depth to water in FEET from land surface to pumping water level

PSI = Pumping pressure measured in PSI near pump (if open discharge assume [0])

$$Q = \frac{(8.8) \times (50 HP) \times (0.70)}{147.6} = 2.09 CFS$$

$$[(9 FT) + (60 \times 2.31)] = 147.6$$

LIFT FROM:

Measurement (X)

Owner (X)

Area estimate ()

Well Logs ()

Booster (Y) (N)

PSI FROM:

Measurement ()

Owner (X)

Estimate ()

Owner Gage ()

NOTES ON PUMP:

Motor Make, Serial or ID

Pump Make, Serial or ID, rating

REMARKS: The BOOSTER DELIVERS THE WATER FOR THE DUST ABATEMENT AND IRRIGATION. The owner told me there was 9 FT LIFT FROM THE ROAD. I LOOKED AT THE PUMP AND AGREED THAT 9 FT WOULD BE THE MAXIMUM LIFT.

The previous field exams described the irrigation system at 1 wheel line with 1/2" nozzles and 32 sprinklers and an identical hand line. 1/2" nozzles @ 60 psi = 3.62 gpm/nozzle. There fore 3.62 gpm X 64 nozzles = 233.6 gpm = 0.52 CFS.

0.02 CFS X 2.2 acres = 0.044 CFS. These match.

The dust abatement nozzles used are 0.7" nozzles that run 103-104 gpm. These are applicant runs 3 at a time or 312 gpm or 0.70 CFS. Therefore, the entire system runs 1.22 CFS.

FLOW RATE ESTIMATIONS FOR IRRIGATION AND DUST ABATEMENT BASED ON SPRINKLERS

SPRINKLER SYSTEM	NUMBER OF SPRINKLERS	ESTIMATED RATE PER SPINKLER	TOTAL FLOW IN GPM	TOTAL FLOW IN CFS
WHEEL LINES	32.00	3.62	115.84	0.26
HAND LINES	32.00	3.62	115.84	0.26
DUST ABATEMENT (30 SPRINKLERS TOTAL ONLY 3 SPRINKLERS RUN AT ANY ONE TIME)	3.00	104.00	312.00	0.70
TOTAL	67.00		543.68	1.21

The owner informed me that the average pressure used on the irrigation and dust abatement system was 60 psi. The sprinklers were rated using the field examiners handbook for 1/8" nozzles for the hand lines and wheel lines and .70" nozzle faxed to me by an irrigation company for the dust abatement sprinklers.

The theoretical calculation for the re-lift pump for the irrigation system was 2.09 cfs. However, it does not seem that this calculation is reasonable and that the sprinkler calculations should be used, since the sprinkler calculations equal 1" per acre or .52 cfs for 25.4 acres.

THEORETICAL CALCULATION

$$\frac{(8.8) \times (50 \text{ Hp}) \times (0.70)}{[9\text{FT} + (60 \text{ PSI} \times 2.31)]} \Rightarrow 308 = 2.09 \text{ CFS OR } 938 \text{ GPM}$$

The controlling factor for this permit is the capacity of the 2 groundwater wells. The domestic well produces 0.09 cfs and the stockwater well produces 0.66 for a total 0.75 cfs. The 0.75 cfs can be used for any of the uses at any time. Therefore, each use should be granted up to the limiting factor for each use.

MICROFILMED

MAR 17 2003



RAIN GUN® SPRINKLERS



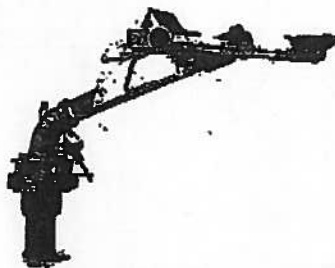
Page 67

SR2003 Full / Part Circle Series

1.50 mm - NPT / BSP

Reverse Rain Gun Sprinkler (SR2003)
Reverse for reduced vibration and greater

Circle Rain Gun Sprinkler (F2002)
Full-size plastic taper bore nozzle sets
BNK-2T (6 sizes) shipped with Rain Gun for
out-of-the-box operational convenience
BNK-2T kit with 0.9" and 1.0" nozzles and
aluminum spoon (order separately)



SR2003

Applications:

SR2003: travellers, pivots and guns, permanent
F2002: portable, permanent, industrial applications

Specifications:

23° trajectory angle
1.50 in / 50 mm NPT / BSP threaded inlet
Taper bore nozzle sets: GNS-2T (6 sizes)
BNK-2T (2 sizes)

Materials:

Body: Cast Aluminum
Arm: Cast Aluminum
Bearing Sleeve: Cast Iron
All Springs and Hardware: Stainless Steel
Disk brake: Delrin™
Standard spoon: Delrin
BNK-2T: Aluminum Spoon

How to Order: Specify

Model number - SR2003 NPT / BSP or F2002 NPT/BSP

Model: SR2003

SR2003/F2002 23° GNS-2T TAPER NOZZLES

U.S. UNITS												
PSI @ 200'	Nozzle 0.9"		Nozzle 1"		Nozzle 1.5"		Nozzle 2"		Nozzle 2.5"		Nozzle 3"	
	Rate	GPM	Rate	GPM	Rate	GPM	Rate	GPM	Rate	GPM	Rate	GPM
30	—	—	—	—	—	—	177	73	181	83	188	97
40	175	45	192	63	198	74	203	85	210	98	217	111
50	196	49	210	70	218	82	231	94	238	109	236	124
60	211	51	225	78	230	89	244	103	244	120	253	137
70	225	58	238	82	248	97	260	117	258	130	268	148
80	235	62	247	89	258	105	259	120	270	139	281	158
90	241	66	253	93	268	110	268	127	281	147	296	167
100	247	68	260	100	269	117	277	134	281	155	304	176
110	254	71	266	103	279	120	283	138	298	161	314	184

METRIC UNITS												
Bar at 200'	Nozzle 0.9"-22.9 mm			Nozzle 0.9"-18.3 mm			Nozzle 0.9"-16.8 mm			Nozzle 0.9"-16.8 mm		
	Rate l/s	Flow m³/h	Pressure L/s	Rate l/s	Flow m³/h	Pressure L/s	Rate l/s	Flow m³/h	Pressure L/s	Rate l/s	Flow m³/h	Pressure L/s
2.0	—	—	—	27.0	13.4	3.0	27.7	14.2	4.1	27.7	14.2	4.1
2.5	25.4	1.8	2.8	28.7	15.0	4.5	36.6	17.6	4.1	36.6	17.6	4.1
3.0	27.9	10.8	2.9	31.1	22.0	4.6	33.0	18.9	5.6	33.0	18.9	5.6
3.5	30.1	11.4	3.1	32.0	16.2	4.5	35.1	20.1	5.6	35.1	20.1	5.6
4.0	32.0	12.1	3.3	34.0	17.2	4.5	36.8	21.3	5.6	36.8	21.3	5.6
4.5	33.8	12.7	3.5	35.6	18.1	3.9	36.8	21.3	5.6	36.8	21.3	5.6
5.0	34.8	13.4	3.7	37.0	19.1	3.3	36.8	22.4	6.3	36.8	22.4	6.3
5.5	36.7	14.0	3.9	38.0	20.0	3.5	39.3	23.5	6.3	39.3	23.5	6.3
6.0	36.6	14.5	4.1	38.9	20.8	5.0	40.3	24.3	6.8	40.3	24.3	6.8
6.5	37.1	15.2	4.2	39.5	21.7	6.0	40.9	25.3	7.1	40.9	25.3	7.1
7.0	37.3	15.7	4.4	39.9	22.3	6.3	41.3	26.3	7.4	41.3	26.3	7.4
7.5	37.8	16.3	4.6	40.1	23.3	6.5	42.5	27.5	7.6	42.5	27.5	7.6

Bar at 200'	Nozzle 0.9"-22.9 mm			Nozzle 0.9"-18.3 mm			Nozzle 0.9"-16.8 mm			Nozzle 0.9"-16.8 mm		
	Rate l/s	Flow m³/h	Pressure L/s	Rate l/s	Flow m³/h	Pressure L/s	Rate l/s	Flow m³/h	Pressure L/s	Rate l/s	Flow m³/h	Pressure L/s
2.0	23.0	16.7	4.7	25.6	19.2	3.4	28.1	21.8	6.1	28.1	21.8	6.1
2.5	26.2	18.6	5.1	27.7	21.3	3.9	30.0	24.1	6.7	30.0	24.1	6.7
3.0	28.4	20.1	5.6	32.4	22.8	4.5	33.3	26.3	7.3	33.3	26.3	7.3
3.5	34.0	21.7	6.0	35.1	24.0	6.1	36.1	28.3	7.9	36.1	28.3	7.9
4.0	36.2	23.1	6.5	37.4	26.6	7.1	38.6	31.1	8.4	38.6	31.1	8.4
4.5	37.3	24.3	6.8	38.2	28.2	7.4	40.6	31.8	8.8	40.6	31.8	8.8
5.0	39.4	26.7	7.1	40.8	31.6	8.1	42.4	33.5	9.3	42.4	33.5	9.3
5.5	40.6	27.0	7.5	42.0	34.1	8.4	44.4	35.2	9.8	44.4	35.2	9.8
6.0	41.5	28.2	7.9	43.0	32.5	9.1	44.4	36.8	10.3	44.4	36.8	10.3
6.5	42.4	28.4	8.2	43.7	33.9	9.4	45.3	38.4	10.8	45.3	38.4	10.8
7.0	42.7	30.3	8.5	44.2	34.2	9.8	46.8	39.9	11.3	46.8	39.9	11.3
7.5	42.9	31.6	8.8	44.3	34.3	10.2	48.1	41.4	11.9	48.1	41.4	11.9

SR2003/F2002 23° BNK-2T TAPER NOZZLES

U.S. UNITS					
PSI @ Elev	Nozzle 1/2"		Nozzle 3/4"		Nozzle 1"
	Rate GPM	Flow GPM	Rate GPM	Flow GPM	
30	196	123	205	154	
40	220	140	226	173	
50	240	157	246	191	
60	260	174	266	210	
70	280	191	286	232	
80	306	195	329	247	
90	319	204	341	262	
100	333	214	353	276	
110	340	224	363	291	

METRIC UNITS							
M PSI	M PSI	Nozzle 0.9"-25.4 mm			Nozzle 1.0"-25.4 mm		
		Rate L/s	Flow L/s	Pressure MPa	Rate L/s	Flow L/s	Pressure MPa
2.0	27.5	27.6	7.7	22.8	34.8	9.6	
2.5	31.7	30.6	8.5	26.3	38.3	10.8	
3.0	35.3	33.3	9.3	27.6	41.4	11.5	
3.5	36.8	35.8	10.0	31.2	44.5	12.4	
4.0	41.2	38.1	10.5	34.3	47.3	13.1	
4.5	42.5	40.4	11.2	46.9	50.1	13.9	
5.0	45.4	42.6	11.8	49.1	52.7	14.6	
5.5	46.9	44.7	12.4	50.9	55.2	15.4	
6.0	48.1	46.0	12.8	52.2	57.6	16.1	
6.5	49.0	48.5	13.5	52.4	60.2	16.7	
7.0	50.1	50.5	14.1	54.2	62.6	17.4	
7.5	50.9	52.4	14.5	54.7	65.0	18.1	

METRIC UNITS												
Bar at 200'	Nozzle 0.9"-22.9 mm			Nozzle 1.0"-25.4 mm			Nozzle 1.1"-27.9 mm			Nozzle 1.2"-30.5 mm		
	Rate M ³ /Hr	Flow L/min	Pressure MPa	Rate M ³ /Hr	Flow L/min	Pressure MPa	Rate M ³ /Hr	Flow L/min	Pressure MPa	Rate M ³ /Hr	Flow L/min	Pressure MPa
2.0	27.7	27.6	7.7	23.8	34.6	8.6	20.0	30.8	9.7	16.3	24.3	10.8
2.5	31.5	30.6	8.5	28.3	38.3	9.8	23.0	34.7	10.8	19.1	27.0	11.8
3.0	35.3	33.3	9.3	37.6	41.4	11.5	26.9	37.3	12.0	21.7	29.5	12.8
3.5	39.1	36.0	10.1	47.0	44.5	13.2	30.8	40.5	13.0	24.3	32.1	13.8
4.0	42.9	38.1	10.9	56.3	47.3	15.0	34.7	43.3	14.0	26.9	34.7	14.8
4.5	46.7	40.2	11.7	65.6	50.1	16.8	38.6	46.1	15.0	29.5	37.3	15.8
5.0	50.5	42.8	12.6	74.9	52.7	18.6	42.5	48.9	16.0	32.1	39.9	16.8
5.5	54.3	44.9	13.4	84.2	55.5	20.4	46.4	51.7	17.0	34.7	42.5	17.8
6.0	58.1	47.6	14.3	93.5	58.2	22.2	50.3	54.5	18.0	37.3	45.1	18.8
6.5	61.9	49.8	15.1	102.8	60.9	24.0	54.2	57.3	19.0	39.9	47.8	19.8
7.0	65.7	52.1	15.9	112.1	63.7	25.8	58.1	60.1	20.0	42.5	50.5	20.8
7.5	69.5	54.3	16.7	121.4	66.5	27.6	62.0	63.0	21.0	45.1	53.2	21.8

MICROFILMED

MAR 17 2003

DIVERSION RATE AND VOLUME CALCULATIONS

DIVERSION RATE CALCUALTION SHEET

IRRIGATION:

Permit allows $\Rightarrow 1.00$ cfs
System capacity (see theoretical calculation sheets) $\Rightarrow 0.75$ cfs
Amount available above currently licensed rate from 63-8702A rate $\Rightarrow 0.25$ cfs
[(25.4 acres X 0.02 cfs/acre) –
(25.4 acres X 0.0103 cfs/acre from 8702A) = 0.25 cfs]

PLEASE NOTE: Maximum allowable rate is 0.02 cfs per acre and 63-8702A has already licensed 0.0103 cfs per acre, therefore, I can only recommend the difference between the maximum allowable and what has already been licensed per acre.

Maximum allowable irrigation rate is 0.25 cfs

COMMERCIAL USE:

Permit allows $\Rightarrow 1.00$ cfs
System capacity (see theoretical calculation sheets) $\Rightarrow 0.75$ cfs
Amount currently in use $\Rightarrow 0.80$ cfs
(0.55 cfs + 0.04 cfs + 0.11 cfs + 0.04 cfs + 0.06 cfs = 0.80 cfs)

Maximum allowable commercial use is 0.75 cfs

Please Note: Dust abatement was calculated at 3-104 gpm sprinklers / 448.8 = 0.70 cfs – 0.15 cfs from 63-8702A = 0.55 cfs. Office use was calculated as standard domestic use of 0.04 cfs. Equipment washing was calculated using 50 gpm/ 448.8 = 0.11 cfs. Shop was calculated at standard domestic use of 0.04 cfs. Feed mill was calculated at 25 gpm or 0.06 cfs.

MICROFILM

MAR 17 2003

Page 1 of 3
63-11275

STOCKWATER USE:

Permit allows $\Rightarrow 1.00$ cfs
System capacity (see theoretical calculation sheets) $\Rightarrow 0.75$ cfs
Amount currently in use $\Rightarrow 0.99$ cfs
(4,500 cattle X 0.00022 = 0.99 cfs (per table 1 field examiners handbook)

Maximum allowable stockwater is 0.75 cfs

PLEASE NOTE: Full capacity of the well can be recommended for stockwater since 63-20388 is only an adjudication claim and has not been verified, and any overlapping use can be handled with conditions. Therefore, when this right is combined with 63-20388 it should be limited to a total diversion rate of 0.75 cfs.

VOLUME CALCUALTION SHEET**IRRIGATION:** $\Rightarrow 114.3$ afa

$V_{LR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 25.4 \times 4.5 = 114.3$

$V_{D,R} = [\text{Diversion Rate (cfs)}] \times (\text{Days In Irrigation Season}) \times 1.9835 = 0.25 \text{ cfs} \times 260 \times 1.9835 = 128.9 \text{ afa}$

$V = \text{Smaller of } V_{LR} \text{ and } V_{D,R} = 114.3 \text{ afa}$

PLEASE NOTE: Maximum allowable volume is 4.5 afa per acre, and 63-8702A has already licensed the full volume per acre. Therefore, I am recommending the full volume amount with the condition "When combined with all other rights including 63-8702A the maximum volume per acre should not exceed 4.5 afa per acre."

COMMERCIAL:**DUST ABATEMENT** $\Rightarrow 25.3$ afa

$[(104 \text{ gpm/sprinkler} \times 3 \text{ sprinklers/set} \times 10 \text{ sets} \times 30 \text{ min sets} \times 183 \text{ days}) / 325850 = 52.6 \text{ afa}$
 $52.6 \text{ afa} - 27.3 \text{ afa from 63-8702A} = 25.3 \text{ afa}]$

PLEASE NOTE: There are 30 sprinklers total, but only 3 sprinklers are used per set. Each sprinkler delivers 104 gpm. Each set is run for approximately 30 minutes. The dust abatement is only used from May 1 to Oct. 31 or 183 days. 63-8702A has already licensed 27.3 afa for dust abatement, therefore, 27.3 afa needs to be subtracted from the total amount of water used for dust abatement to determine the amount used under this permit.

MICAC

MAR 17 2006

FEED MILL**=> 1.1 afa**

[(200 tons of feed/wk X 30 gallons per ton X 52 wks) +
(25 gpm cleanup X 30 min/wk X 52 wks) / 325850 = 1.1 afa]

PLEASE NOTE: Owner stated that they use approximately 30 gallons of water per ton of feed run through the mill and they process approximately 200 tons of feed per week. The owner also cleans the mill each day, which equals approximately 30 minutes per week at about 25 gpm.

OFFICE**=> 0.5 afa**

[(9 people X 50 gal/worker/day X 365 days)/325850 = 0.5 afa]

PLEASE NOTE: 50 gallons per day per worker was taken from the field examiners handbook for construction workers. Showers and wash basins are available to the workers in the office, so this amount seems reasonable.

SHOP/EQUIPMENT WASHING**=> 2.5 afa**

[(10 pieces of equipment X 50 gpm X 30 min/wash X 52 wks) +
(9 workers X 10 gallons/day cleanup X 365 days) / 325850 = 2.5 afa]

PLEASE NOTE: Each of the 9 workers use water to clean their work area and hands if needed. 10 gallons should be a reasonable volume of use per worker per day.

TOTAL COMMERCIAL VOLUME IS 29.4 AFA**STOCKWATER:**

4,500 Head of range cattle X 12 gpd X 365 days / 325850 = 60.5 afa for stockwater (per table 1 field examiners handbook)

MAXIMUM ALLOWABLE FOR STOCKWATER IS 60.5 AFA

PLEASE NOTE: Full capacity of the well can be recommended for stockwater since 63-20388 is only an adjudication claim and has not been verified. Therefore, when this right is combined with 63-20388 it should be limited to a total volume of 65 afa.

FINAL RESULTS

Beneficial use	Period Of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
IRRIGATION	3/1	11/15	0.25 CFS	114.3 AFA
COMMERCIAL	1/1	12/31	0.75 CFS	29.4 AFA
STOCKWATER	1/1	12/31	0.75 CFS	60.5 AFA
TOTAL			0.75 CFS	204.2 AFA

MICROPLATE

MAR 17 2006

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 63-20388
Date Received: 3/15/1990
Receipt No: C015633
Received By:

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

NIMAN RANCH INC Phone: (208)459-1113
16821 PURPLE SAGE RD
CALDWELL ID USA 83607

2. Date of Priority: 06/01/1930

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	03W	32	NE NW NW	CANYON	

5. Description of diverting works:

WELL, APP. 250' DEPTH, 6" CAS., 5HP PUMP & PIPE TO HOUSE & STOCKPENS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.15	
DOMESTIC	01/01	12/31	0.04	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	03W	32	NW	NW	DOMESTIC	
			NW	NW	STOCKWATER	

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:

14. Remarks:

Ownership changed by DH 1/13/2003

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 Organizations:

I do solemnly swear or affirm that I am MANAGER of

Niman Ranch Inc., that I have signed the foregoing
Organization

document in the space below as MANAGER of
Title

Niman Ranch Inc. and that the statements contained in the
Organization

foregoing document are true and correct.

Robert E. Ditt
Signature of Authorized Agent

MANAGER, Niman Ranch Inc.
Title and Organization

April 14, 2006
Date

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this

of Apr 20 06

14th day
Len Guaman

Notary Public

Residing at Boise

My commission Expires 6/18/10



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

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

CIVIL CASE NUMBER: 39576

Ident. Number 63-20388
Date Received: 3/15/1990
Receipt No: C015633
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

NIMAN RANCH INC
16821 PURPLE SAGE RD
CALDWELL ID USA 83607

Phone: (208) 459-1113

2. Date of Priority: 06/01/1930

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	03W	32	NE NW NW	CANYON	

5. Description of diverting works:

WELL, APP. 250' DEPTH, 6" CAS., 5HP PUMP & PIPE TO HOUSE & STOCKPENS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
COMMERCIAL	1/01	12/31	0.15	
DOMESTIC	1/01	12/31	0.04	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
05N	03W	32	NW	NW		DOMESTIC	
			NW	NW		COMMERCIAL	

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:

14. Remarks:

Ownership changed by DH 1/13/2003

15. Basis of Claim: Beneficial Use

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

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

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

Water Right No(s).	Adjudication Claim No(s).	Split?	Water Right No(s).	Adjudication Claim No(s).	Split?
63- 20388		No			
63-22368		No			
63-11275		No			

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) SSI Land and Cattle Co.2615 Cleveland, Caldwell ID 83605
 SSI Land and Cattle Co.2615 Cleveland, Caldwell ID 83605
 Niman McConnell LLC, 1026 East 12th St. Oakland CA 94605

4. New Owner/Claimant(s)* **Niman Ranch Inc.**

Name Connector (Check one): [] and, [] or, [] and/or

New Mailing Address 16821 Purple Sage Rd.

City, State and ZIP Code Caldwell, ID 83607

New Telephone Number 459-1113

5. Date you acquired the property 7-31-00

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

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

Water Right and/or Adjudication Claim Number _____

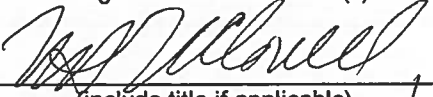
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Other		
Domestic		
Total		

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

Water Right and/or Adjudication Claim Number _____

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

7. Signature of New Owner(s) or Claimant(s)

 , CHAIRMAN
(include title if applicable)

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

For Office Use Only
 Received by DAN Date 1-7-03 Fee \$50.00
 Received by DAN Date 1-7-2003 Receipt No. W029959
 Processed by _____ AJ Date _____ WR _____ Date _____



AERIAL PHOTO		
NIMAN RANCH INC.	SCALE: 1" = 768'	
16821 PURPLE SAGE	T05N R03W SECT 32 N1/2 OF NW1/4	PREPARED BY
CALDWELL ID 83605		DARWIN VANDER STELT



PN 59448

PN 59448

BARGAIN AND SALE DEED

FOR VALUE RECEIVED, SSI FOODS, INC., an Oregon corporation, as Grantor, does hereby bargain, sell and convey unto NIMAN-McCONNELL, LLC, as Grantee, whose current address is 1025 East 12th Street, Oakland, California 94606, all that certain real property located in Canyon County, Idaho and as more particularly described on Exhibit A attached hereto and made a part hereof by this reference.

TOGETHER WITH all improvements, easements, hereditaments and appurtenances thereto, and subject to such rights, easements, covenants, restrictions and zoning regulations as appear of record or based upon the premises.

IN WITNESS WHEREOF, the Grantor has caused its corporate name to be hereunto subscribed by its Vice President, and its corporate seal to be affixed by its Secretary, this 27th day of July, 2000.

SST FOODS, INC.

By:

Its Vice president

ATTEST:

By:

Secretary

STATE OF IDAHO)
) ss.
County of Ada)

On this 27th day of July, 2000, before me, a Notary Public in and for said State, personally appeared STEPHEN A. BEEBE and RONALD N. GRAVES, the Vice President and Secretary, respectively, of the corporation that executed the foregoing instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Notary Public for Idaho
Residing at Boise, Idaho

Notary Public for Idaho

Residing at Boise, Idaho

My commission expires: 5-13-2003



100-443887-1000
100-443887-1000
100-443887-1000
100-443887-1000
100-443887-1000

Exhibit "A"

The land referred to in this commitment is situated in the State of Idaho, County of Canyon, and is described as follows:

All of the North One-half of the Northwest Quarter of Section 32, Township 5 North, Range 3 West, Boise Meridian, Canyon County, Idaho

200026767

RECORDED

NO JUL 31 PM 4 33

C NOEL HALE
CANYON CNTY RECORDER
BY *[Signature]*

REQUEST PRIOR TO MAP
TYPE *[Signature]* FEE *[Signature]*

the warranties of any kind made by the
not required by law. The
Idaho Company regarding the document
concerning the land to which it

State of California

Bill Jones

Secretary of State

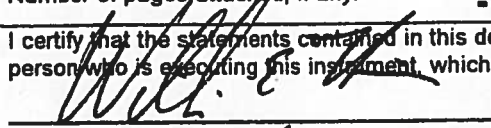
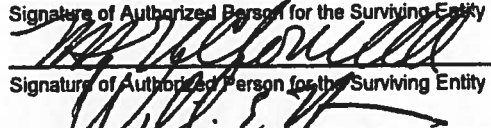
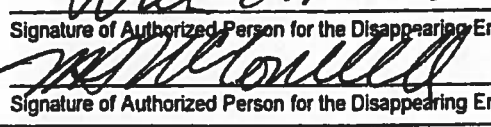
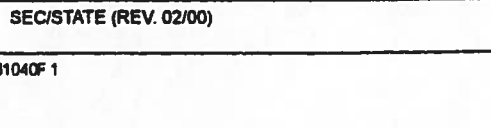
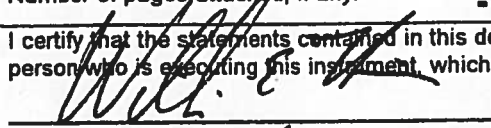
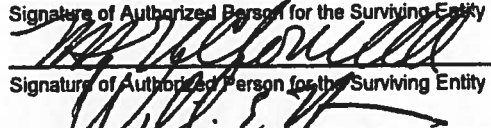
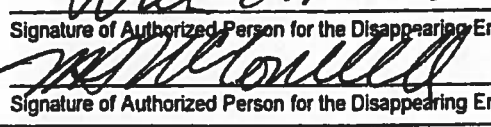
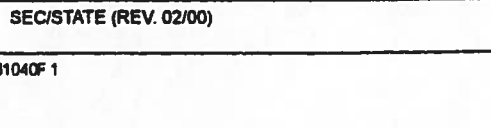
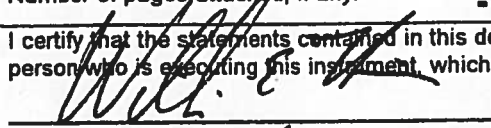
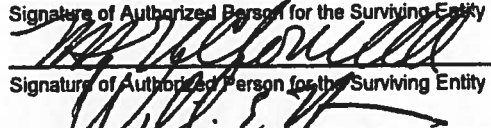
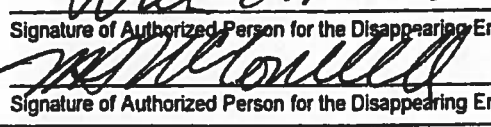
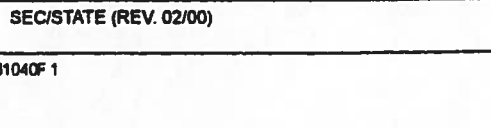
LIMITED LIABILITY COMPANY CERTIFICATE OF MERGER

(Corporations Code 17552)

Filing Fee - Please see instructions.

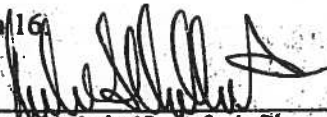
IMPORTANT - Read instructions before completing this form.

This Space For Filing Use Only

1. Name of surviving entity: NIMAN RANCH, INC.	2. Type of entity: CORP	3. Secretary of State File Number: 2336484	4. Jurisdiction: CALIFORNIA												
5. Name of disappearing entity: NIMAN-MCCONNELL, LLC	6. Type of entity: LLC	7. Secretary of State File Number: 199623210029	8. Jurisdiction: CALIFORNIA												
9. Future effective date, if any: Month Day Year N/A															
10. If a vote was required pursuant to Section 17551 or Section 1113, enter the outstanding interests of each class entitled to vote on the merger and the percentage of vote required: <table border="1"><thead><tr><th colspan="2">Surviving Entity</th><th colspan="2">Disappearing Entity</th></tr><tr><th>Each class entitled to vote</th><th>Percentage of vote required</th><th>Each class entitled to vote</th><th>Percentage of vote required</th></tr></thead><tbody><tr><td>100</td><td>MAJORITY</td><td>7,276,556</td><td>MAJORITY</td></tr></tbody></table>				Surviving Entity		Disappearing Entity		Each class entitled to vote	Percentage of vote required	Each class entitled to vote	Percentage of vote required	100	MAJORITY	7,276,556	MAJORITY
Surviving Entity		Disappearing Entity													
Each class entitled to vote	Percentage of vote required	Each class entitled to vote	Percentage of vote required												
100	MAJORITY	7,276,556	MAJORITY												
11. The principal terms of the agreement of merger were approved by a vote of the number of interests or shares of each class that equaled or exceeded the vote required. SECTION 12 IS ONLY APPLICABLE IF THE SURVIVING ENTITY IS A DOMESTIC LIMITED LIABILITY COMPANY, COMPLETE ITEM 12 AND PROCEED TO ITEM 15.															
12. Requisite changes to the information set forth in the Articles of Organization of the surviving limited liability company resulting from the merger. Attach additional pages if necessary. SECTIONS 13 AND 14 ARE APPLICABLE IF THE SURVIVING ENTITY IS A FOREIGN LIMITED LIABILITY COMPANY OR OTHER BUSINESS ENTITY. COMPLETE ITEMS 13 AND 14.															
13. Principal business address of the surviving foreign limited liability company or other business entity: Address: 1205 E. 12TH STREET City: OAKLAND State: CALIFORNIA Zip Code: 94606															
14. Other information required to be stated in the Certificate of Merger by the laws under which each constituent other business entity is organized. Attach additional pages if necessary. N/A															
15. Number of pages attached, if any: -1-															
16. I certify that the statements contained in this document are true and correct of my own knowledge. I declare that I am the person who is executing this instrument, which execution is my act and deed. <table border="0"><tr><td>Signature of Authorized Person for the Surviving Entity </td><td>WILLIAM NIMAN, PRESIDENT May 15, 2001 Type or Print Name and Title of Person Signing Date</td></tr><tr><td>Signature of Authorized Person for the Surviving Entity </td><td>MICHAEL MCCONNELL, SECRETARY May 15, 2001 Type or Print Name and Title of Person Signing Date</td></tr><tr><td>Signature of Authorized Person for the Disappearing Entity </td><td>WILLIAM NIMAN, MANAGER May 15, 2001 Type or Print Name and Title of Person Signing Date</td></tr><tr><td>Signature of Authorized Person for the Disappearing Entity </td><td>MICHAEL MCCONNELL, MANAGER May 15, 2001 Type or Print Name and Title of Person Signing Date</td></tr></table>				Signature of Authorized Person for the Surviving Entity 	WILLIAM NIMAN, PRESIDENT May 15, 2001 Type or Print Name and Title of Person Signing Date	Signature of Authorized Person for the Surviving Entity 	MICHAEL MCCONNELL, SECRETARY May 15, 2001 Type or Print Name and Title of Person Signing Date	Signature of Authorized Person for the Disappearing Entity 	WILLIAM NIMAN, MANAGER May 15, 2001 Type or Print Name and Title of Person Signing Date	Signature of Authorized Person for the Disappearing Entity 	MICHAEL MCCONNELL, MANAGER May 15, 2001 Type or Print Name and Title of Person Signing Date				
Signature of Authorized Person for the Surviving Entity 	WILLIAM NIMAN, PRESIDENT May 15, 2001 Type or Print Name and Title of Person Signing Date														
Signature of Authorized Person for the Surviving Entity 	MICHAEL MCCONNELL, SECRETARY May 15, 2001 Type or Print Name and Title of Person Signing Date														
Signature of Authorized Person for the Disappearing Entity 	WILLIAM NIMAN, MANAGER May 15, 2001 Type or Print Name and Title of Person Signing Date														
Signature of Authorized Person for the Disappearing Entity 	MICHAEL MCCONNELL, MANAGER May 15, 2001 Type or Print Name and Title of Person Signing Date														
SEC/STATE (REV. 02/00)		FORM LLC-9 - FILING FEE: SEE INSTRUCTIONS STF Form - Approved by Secretary of State													

**ATTACHMENT
TO
LIMITED LIABILITY COMPANY
CERTIFICATE OF MERGER
OF
NIMAN RANCH, INC.**

Item 16



Signature of Authorized Person for the Disappearing Entity Date

Rob Hurlbut, Manager May 5, 2001

Type or Print Name and Title of Person Signing Date

200244949

RECORDED

2002 SEP 26 AM 11 33

G NOEL HALES
CANYON CNTY RECORDER
BY *John*

REQUEST *Record book*
TYPE *Pat A* FEE *240*



SECRETARY OF STATE



I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 7 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

SEP 20 2002

Bill Jones

Secretary of State



00565150

2336484 SURV

FILED

in the Office of the Secretary of State
of the State of California

MAY 17 2001 *ERB*

AGREEMENT AND PLAN OF MERGER

Bill Jones
L. JONES, Secretary of State

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement"), dated as of May 15, 2001, is made by and between Niman Ranch, Inc., a California corporation ("Niman Ranch"), and Niman-McConnell, LLC, a California limited liability company ("LLC"): Niman Ranch and LLC agree as follows:

Article 1

RECITAL OF CONSTITUENT ENTITIES

Section 1.1. Constituent Entities. The constituent entities are Niman Ranch, Inc., a California corporation, and Niman-McConnell, LLC, a California limited liability company.

Section 1.2. LLC. LLC is a limited liability company organized under the laws of the State of California pursuant to the filing of articles of organization on August 20, 1996, and which has as its principal place of business 1025 E. 12th Street, Oakland, California 94606. There are presently outstanding 7,276,556 shares representing interests in LLC.

Section 1.3. Niman Ranch. Niman Ranch is a corporation incorporated under the laws of the State of California pursuant to the filing of its articles of incorporation on March 22, 2001, and which has as its principal place of business 1025 E. 12th Street, Oakland, California 94606. Niman Ranch is authorized to issue 52,000,000 shares of capital stock, consisting of (i) 40,000,000 shares of common stock with no par value per share, and (ii) 12,000,000 shares of preferred stock no par value per share, of which 6,977,312 shares have been designated Series A Convertible Preferred Stock ("Series A Stock") and 1,000,000 shares have been designated Series B Convertible Preferred Stock ("Series B Stock"). As of the date hereof, 100 shares of common stock, no shares of Series A Preferred Stock and no shares of Series B Preferred Stock are issued and outstanding.

Section 1.4. Intent to Merge; Surviving Corporation. Each of LLC and Niman Ranch deem it advisable and in the best interest of such entity and its members or shareholders that LLC be merged into Niman Ranch, with Niman Ranch remaining as the surviving corporation (the "Surviving Corporation").

Article 2

MERGER

Section 2.1. Merger. On the Effective Date (as defined below), LLC shall merge with and into Niman Ranch under the laws of the State of California, and Niman Ranch shall be the Surviving Corporation (the "Merger"); provided, however, that this Agreement may be terminated and abandoned in the event any member of LLC exercises "dissenters rights" in accordance with Sections 17600 through 17613 of the California Corporations Code by the board of directors of Niman Ranch or the managers of LLC, notwithstanding the approval of this Agreement by the shareholders or members of either entity.

Section 2.2. Effective Date. The Merger shall become effective upon the proper filing in the office of the California Secretary of State of duly executed documents as described in Section 4.2 below (the "Effective Date").

Section 2.3. Basis of Converting LLC Shares. At the Effective Date of the Merger, by virtue of the Merger and without any action on the part of any member or other equity owner of LLC, the shares of LLC membership interest will be converted into an aggregate of 7,276,556 shares of preferred stock of Niman Ranch, as follows: each share of LLC membership interest issued prior to November 1, 2000 will be converted into one share of Series A Stock, and each share of LLC membership interest issued on or after November 1, 2000 will be converted into one share of Series B Stock; such that a total of 6,776,556 shares of Series A Stock and 500,000 shares of Series B Stock will be issued in the Merger.

Section 2.4. Shares of Surviving Corporation. At the Effective Date of the Merger, the outstanding shares of Niman Ranch common stock shall be cancelled and shall become authorized but unissued shares of Niman Ranch common stock.

Section 2.5. Consequences of the Merger. On the Effective Date and as a consequence of the Merger, (i) the separate existence of LLC shall cease and LLC shall be merged with and into Niman Ranch as the Surviving Corporation; (ii) the identity, existence, name, purposes, franchises, powers, rights and immunities of Niman Ranch shall continue unaffected and unimpaired by the Merger; (iii) the Surviving Corporation shall succeed without other transfer, act, or deed, to all the rights and property of LLC, and shall be subject to all the debts and liabilities of LLC in the same manner as if the Surviving Corporation had itself incurred them; (iv) all debts, liabilities and obligations of Niman Ranch shall continue as debts, liabilities and obligations of the Surviving Corporation; and (v) all rights of creditors and liens upon property of LLC shall be preserved unimpaired and remain enforceable against the Surviving Corporation. The effect of the Merger and the Effective Date of the Merger are as prescribed by law.

Section 2.6. Further Assurance. After the Effective Date, LLC, through the persons who were its managers, officers and members immediately prior to the Merger, shall execute or cause to be executed such further assignments, assurances or other documents as may be necessary or desirable to vest, perfect or confirm any and all right, title and interest to properties, assets and rights in the Surviving Corporation.

Article 3 GOVERNANCE OF SURVIVING CORPORATION

Section 3.1. Board of Surviving Corporation. The present Board of Directors of Niman Ranch shall continue to serve as the Board of Directors of the Surviving Corporation until the next annual meeting of shareholders and until such time as their successors have been duly elected and qualified.

Section 3.2. Bylaws of Surviving Corporation. The bylaws of Niman Ranch in effect immediately prior to the Effective Date of the Merger, shall continue in full force as the bylaws of the Surviving Corporation until altered, amended, or repealed as provided therein or as provided by law.

Section 3.3. Articles of Surviving Corporation. The articles of incorporation of Niman Ranch in effect immediately prior to the Effective Date of the Merger, shall continue in full force as the articles of incorporation of the Surviving Corporation until altered, amended, or repealed as provided therein or as provided by law.

Section 3.4. Officers of Surviving Corporation. The present officers of Niman Ranch holding office immediately prior to the Effective Date of the Merger shall continue to serve as officers of the Surviving Corporation.

Article 4
INTERPRETATION AND ENFORCEMENT

Section 4.1. Controlling Law. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 4.2. State Filings. Upon receipt of any required approval of Niman Ranch and LLC, Niman Ranch shall file in the office of the California Secretary of State all documents required under Sections 1113(g)(1) and 17552(b) of the California Corporations Code.

Section 4.3. Counterparts. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all of such counterparts together shall constitute but one agreement.

Dated: May 15, 2001

Niman Ranch, Inc.,
a California corporation

By William Niman
William Niman, President and
Chief Executive Officer

By Michael McConnell
Michael McConnell, Secretary

Niman-McConnell, LLC,
a California limited liability company

By William Niman
William Niman, Manager

By Michael McConnell
Michael McConnell, Manager

By Rob Hurlbut
Rob Hurlbut, Manager

**CERTIFICATE OF APPROVAL
OF
AGREEMENT AND PLAN OF MERGER**

William Niman and Michael McConnell certify that:

1. They are the President and Secretary, respectively, of Niman Ranch, Inc., a California corporation.
2. The Agreement and Plan of Merger in the form attached was duly approved by the required vote of the board of directors and shareholders of the corporation.
3. There are two classes of authorized shares, common stock and preferred stock, of which 100 shares of common stock and no shares of preferred stock, were issued and outstanding and entitled to vote on the merger.
4. Shareholder approval was by the holders of 100% of the outstanding shares of the corporation.

We further declare under penalty of perjury under the laws of the state of California that the matters set forth in this certificate are true and correct of our own knowledge.

Executed at Oakland, California on May 15, 2001.



William Niman, President



Michael McConnell, Secretary

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

RECEIVED
APR 2 1992

*Rec'd from
SO 4-21-92*

Ident. Number: A63-20388

Date Received:

Receipt No: CO15633

Received By: _____

Department of Water Resources

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

1. Name: SSI LAND & CATTLE CO 208-459-0734
Address: 2615 CLEVELAND
CALDWELL ID 83605

2. Date of Priority: JUN 1, 1930

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05N	03W	32	NE	NW	NW		CANYON

5. Description of diverting works:
WELL, APP. 250' DEPTH, 6" CAS., 5HP PUMP & PIPE TO HOUSE & STOCKPENS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		
COMMERCIAL	01/01	12/31	0.150		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
DOMESTIC 1 HOME, COMMERCIAL FEEDLOT USE FOR UP TO 3000 FEED STOCK

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
05N	03W	32	NW	NW		COMMER	
			NW	NW		DOMEST	

A63-20388

Page 1

Date: 02/26/92

MICROFILMED
SEP 03 1992

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:
A63-20387

14. Remarks:

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 Organizations:

I do solemnly swear or affirm that I am President of
Title

SSI Land + Cattle Co., that I have signed the foregoing
Organization

document in the space below as President of
Title

SSI Land + Cattle Co. and that the statements contained in the
Organization
foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

President, SSI Land + Cattle Co.
Title and Organization

March 17, 1992
Date

State of Idaho)
County of Canyon) SS.

Subscribed and sworn (or affirmed) before me this 17th day

of March 19 92

Janet L. Pendleton
Notary Public

Seal

Residing at Caldwell, Id

My Commission Expires 10/28/97



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 13, 2003

NIMAN RANCH INC
16821 PURPLE SAGE RD
CALDWELL ID 83607

Re: Notice of Claim to a Water Right No. 63-20388

Dear Claimant(s):

Enclosed is a copy of the above referenced claim(s), which reflects the change in ownership of the land and appurtenant water rights, covered under the original filing.

Please note that the enclosed Notice of Claim to a Water Right is not a determination of your water right. This claim was filed during claims taking in the Snake River Basin Adjudication (SRBA) and has not yet been verified by this Department. Water rights are established and maintained by beneficial use of water for the uses designated on this claim form dating back to the priority date listed. This claim will be investigated, verified and recommended to the SRBA Court for court decree sometime in the near future. You will be notified prior to the beginning of any verification of this water right.

Please note, this ownership change information has also been sent to our State Office to process the change for water right numbers 63-11275 and 63-22368.

Thank you again for your patience and cooperation, as we have had several water right changes to process. If you have any questions concerning the enclosed claim(s), please feel free to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Denise Hatfield".

Denise Hatfield
Office Specialist 1
Adjudication Section
Western Region Office

DH: dh

Enclosure

MEMORANDUM

DH

TO: DENISE HATFIELD & KARILYNN TOWNSEND

FROM: DANIEL A. NELSON

DATE: 1/7/03

SUBJECT: CHANGE OF OWNERSHIP FOR 63-20388, 63-22368, AND 63-11275

I performed a field exam on 63-11275. During the field exam process the ownership of the permit changed. In order to expedite the licensing of the field exam the owner wanted to file a Change of Ownership form to be instituted after the permit is licensed. The field exam is being sent to the State Office for licensing with the Change of Ownership documentation attached. Once the permit is licensed, the owner wishes to have the Change of Ownership completed at the same time to ensure the water right is in the same name.

One of the rights on the Change of Ownership form (63-20388) is still a claim in the Snake River Basin Adjudication (SRBA). A copy of the change of ownership form has been given to Denise Hatfield to allow her to correct this record. The original Change of Ownership form has been sent with the field exam for 63-11275 to the State Office staff and Karilynn Townsend to change the ownership of the other two water rights, 63-22368 and 63-11275.

If you have any questions please contact me at the Western Region office. Thank you for time and support.

Idaho Department of Water Resources Receipt

Receipt ID W029959

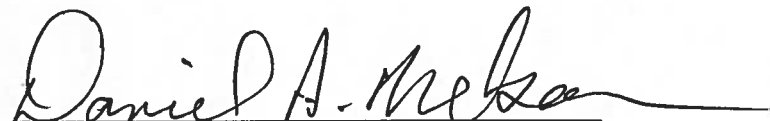
Payment Amount Date Received Region Status
Payment Type Check Number

Payer

Comment

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$50.00	OWNERSHIP CHANGES/SECURITY INTERESTS	0229	21	62140	1155



Signature Line (Dept. Representative)

RECEIVED
APR 2 1992

Department of Water Resources

TO: Roxanne McCarthy

FROM: Pam Wissenbach *Pam*

DATE: April 1, 1992

RE: A63-08702A and A63-20388

Roxanne:

Enclosed are signed copies for the adjudication of the noted water rights owned by SSI Land and Cattle. If there are any other water rights that you have questions about or need more information, please call me at 384-9397. Thank you for your help in making sure that all SSI's water rights are making it through the adjudication process.

MICROFILMED

SEP 03 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

March 5, 1992

Pam Wissenbach
SSI Land and Cattle Co.
2924 Cantrell Ave.
Boise, ID 83706

Re: Snake River Basin Adjudication (SRBA)
Canyon County - Claim No(s). A63-08702A & A63-20388

Dear Pam,

We spoke late last year about two Notices of Claim to a Water Right filed for SSI property in Canyon County. In your records, these claims had been submitted and paid for under Receipt Nos. C015631 and C015633.

I have been unable to locate the originals of these two claims and am enclosing copies to be signed and returned. I am sorry for the inconvenience, but this will assure that the rights in question are secure.

Please return these documents to my attention by April 6, 1992, or late fees may apply. Do not hesitate to contact this office if you have any questions.

Sincerely,

Roxanne McCarthy
Sr. Water Resource Agent
Adjudication Bureau

RM:sf:state:tf

Enclosures:

Claim Nos. A63-08702A, A63-20388

MICROFILMED

SEP 03 1992