

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

RIGHT NUMBER: 22-616

NAME AND ADDRESS: THE BOYD CHARLES SMITH & JILL JOHNSON SMITH TRUST  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID 83405

SOURCE: SOUTH LEIGH CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 8.000 CFS

The quantity of water diverted under this water right shall be from the portion awarded to IDAHO and deducted there from as set forth in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941).

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

The rights listed below are limited to a total combined diversion rate of 32.31 cfs. Combined Right Nos.: 22-312, 22-487C, 22-13016, 22-42, 22-160, 22-545, 22-616, 22-13160, 22-13144, 22-13148, 22-130B, 22-481A, 22-482A, 22-483A, 22-2029D, 22-130D, 22-136C, 22-515B, 22-516B, and 22-517B.

PRIORITY DATE: 01/22/1916

POINT OF

DIVERSION: T06N R46E S32 NENWNE Lot 1 Within TETON County

The point of diversion for this water right is in Wyoming, T44N, R118W, Sec. 6 NESENE (L2), 6PM.

The point of diversion shown above is where the conveyance system enters Idaho.

PURPOSE AND  
PERIOD OF USE:

|               | <u>PURPOSE OF USE</u>             |      | <u>PERIOD OF USE</u> |                     | <u>QUANTITY</u> |
|---------------|-----------------------------------|------|----------------------|---------------------|-----------------|
|               | IRRIGATION                        |      | 04/15 10/31          |                     | 8.000 CFS       |
| PLACE OF USE: | <u>IRRIGATION in TETON County</u> |      |                      |                     |                 |
|               | T06N R45E S25                     | NESE | 14.00                | T06N R45E S25       | NWSE 27.00      |
|               | T06N R45E S25                     | SWSE | 39.00                | T06N R45E S25       | SESE 37.00      |
|               | T06N R45E S36                     | NENE | 39.00                | T06N R45E S36       | SWNE 21.00      |
|               | T06N R45E S36                     | SENE | 25.00                | T06N R45E S36       | SWNW 7.60       |
|               | T06N R45E S36                     | SENE | 21.00                | T06N R45E S36       | NESW 40.00      |
|               | T06N R45E S36                     | NWSE | 39.00                | T06N R46E S30       | NESW 22.00      |
|               | T06N R46E S30 Lot 3               | NWSW | 24.00                | T06N R46E S30 Lot 4 | SWSW 32.00      |
|               | T06N R46E S30                     | SESW | 37.00                | T06N R46E S30       | NESE 34.00      |
|               | T06N R46E S30                     | NWSE | 26.00                | T06N R46E S30       | SWSE 39.00      |
|               | T06N R46E S30                     | SESE | 39.00                | T06N R46E S31       | NENE 40.00      |
|               | T06N R46E S31                     | NWNE | 40.00                | T06N R46E S31       | SWNE 38.00      |

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

|                     |      |       |                     |      |       |
|---------------------|------|-------|---------------------|------|-------|
| T06N R46E S31       | SENE | 22.00 | T06N R46E S31       | NENW | 40.00 |
| T06N R46E S31 Lot 1 | NWNW | 38.00 | T06N R46E S31 Lot 2 | SWNW | 26.00 |
| T06N R46E S31       | SENW | 35.00 | T06N R46E S32 Lot 1 | NWNE | 14.00 |
| T06N R46E S32 Lot 2 | SWNE | 28.00 | T06N R46E S32       | NENW | 32.00 |
| T06N R46E S32       | NWNW | 36.00 | T06N R46E S32       | SWNW | 14.00 |
| T06N R46E S32       | SENW | 15.00 | T06N R46E S32 Lot 3 | NWSE | 25.00 |
| T06N R46E S32 Lot 4 | SWSE | 1.30  |                     |      |       |

1006.9 ACRES TOTAL

This right is limited to the irrigation of 400 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 736.3 acres in a single irrigation season. Combined Right Nos.: 22-312, 22-487C, 22-13016, 22-42, 22-160, 22-545, 22-616, 22-13160.

The rights listed below are limited to the irrigation of a combined total of 1006.9 acres in a single irrigation season. Combined Right Nos.: 22-312, 22-487C, 22-13016, 22-42, 22-160, 22-545, 22-616, 22-13160, 22-13144, 22-13148, 22-130B, 22-481A, 22-482A, 22-483A, 22-2029D, 22-130D, 22-136C, 22-515B, 22-516B, and 22-517B.

The rights listed below are limited to the irrigation of a combined total of 688.9 acres in a single irrigation season. Combined Right Nos.: 22-42, 22-160, 22-545, 22-616, 22-13160.

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

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.

This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.

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.

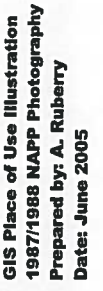
EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Water is delivered through Killpack Pipeline.

The right holder shall accomplish the change authorized by transfer 74019 by November 23, 2008.

Failure of the right holder to comply with the conditions of transfer 74019 is cause for the Director to rescind approval of the transfer.





**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

**EASTERN REGION**

**C. L. "BUTCH" OTTER**  
Governor

**DAVID R. TUTHILL, JR.**  
Director

November 27, 2007

**THE BOYD CHARLES SMITH & JILL JOHNSON SMITH TRUST**  
**C/O HOLDEN KIDWELL HAHN & CRAPO**  
**PO BOX 50130**  
**IDAHO FALLS ID 83405**

RE: Transfer #74019 for water right(s) 22-42, 22-160, 22-545, 22-616,  
22-13144, 22-13148, 22-13160 and Notice of Completed  
Administrative Proceeding (NCAP)

Dear Mr. & Mrs. Smith:

On November 23, 2007, the Idaho Department of Water Resources (IDWR) approved Transfer #74019, modifying the above referenced water right. Based on this transfer, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of the water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Jennifer Crabtree

Technical Records Specialist

SCANNED

JAN 17 2008

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

In Re SRBA

)

Water Rights: 22-42, 22-160, 22-  
545, 22-616, 22-13144, 22-13148, 22-  
13160

Case No. 39576

)

NOTICE OF COMPLETED  
ADMINISTRATIVE  
PROCEEDING

IDWR has completed the following Administrative proceeding:

- ☐ Address change
- ☐ Substitution of Party
- ☒ I.C. § 42-222 transfer **74019**

- |                                               |                                                  |
|-----------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> point of diversion   | <input checked="" type="checkbox"/> place of use |
| <input type="checkbox"/> period of use        | <input type="checkbox"/> nature of use           |
| <input type="checkbox"/> split of water right | <input type="checkbox"/> change in ownership     |

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: Nov 29 2007

Ernest Carlson

Signature of IDWR Representative

SCANNED

JAN 17 2008

### CERTIFICATE OF MAILING

I certify that on Nov 30, 2007, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:

Clerk of the District Court  
Snake River Basin Adjudication  
PO Box 2707  
Twin Falls ID 83303-2707

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:  
THE BOYD CHARLES SMITH & JILL JOHNSON SMITH TRUST  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID 83405

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:  
N/A

4. One copy to:

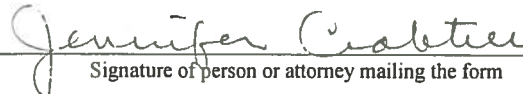
Each party in the subcase, or attorney of record  
N/A

5. One copy each to:

Chief Natural Resources Division  
Office of the Attorney General  
PO Box 44449  
Boise ID 83711-4449

6. One Copy to:

United States Dept of Justice  
Environment & Natural Resource Div  
550 West Fort Street MSC 033  
Boise ID 83724

  
\_\_\_\_\_  
Signature of person or attorney mailing the form

SCANNED  
JAN 17 2008

Claim no. \_\_\_\_\_

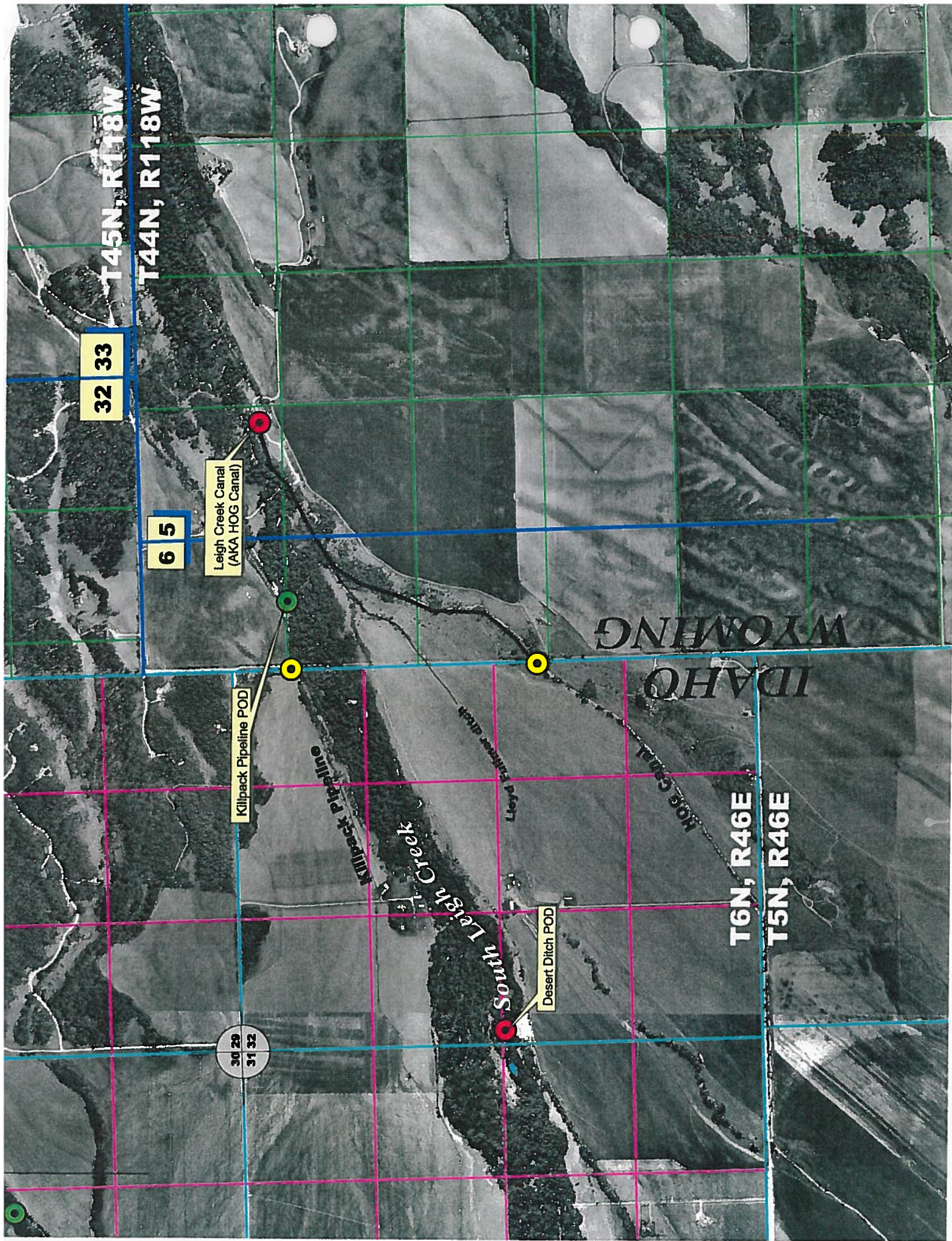
Claimant Contact Log

| <u>Date</u> | <u>Remarks</u> | <u>Agent initials</u> |
|-------------|----------------|-----------------------|
|-------------|----------------|-----------------------|

8/12/04  
DD

Visited w/ Delmas and Vergie Seidham - ranch  
managers for Boyd Smith.

We went over a map of the ranch and Delmas  
explained the system to me.



## Point of Diversion and Source Data Entry Form

Claim Number: \_\_\_\_\_

Water Right Point(s) of diversion and Source.

Water Right Point of Diversion: T \_\_\_\_\_, R \_\_\_\_\_, Sec. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, County: \_\_\_\_\_

Source: \_\_\_\_\_ Tributary to: \_\_\_\_\_

Water Right Point of Diversion: T \_\_\_\_\_, R \_\_\_\_\_, Sec. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, County: \_\_\_\_\_

Source: \_\_\_\_\_ Tributary to: \_\_\_\_\_

Claimed Point(s) of Diversion and Source.

| Twp | Rge | Sec | Gov Lot | QQQ of QQ of Q | County | Source | Tributary to |
|-----|-----|-----|---------|----------------|--------|--------|--------------|
|     |     |     |         |                |        |        |              |
|     |     |     |         |                |        |        |              |
|     |     |     |         |                |        |        |              |

Recommended Point(s) of Diversion and Source.

| Twp | Rge | Sec | Gov Lot | QQQ of QQ of Q | County | Source | Tributary to |
|-----|-----|-----|---------|----------------|--------|--------|--------------|
|     |     |     |         |                |        |        |              |
|     |     |     |         |                |        |        |              |
|     |     |     |         |                |        |        |              |
|     |     |     |         |                |        |        |              |

Other rights from this POD? \_\_\_\_\_

Transfers Pending or approved: \_\_\_\_\_

Document how the POD and Source were verified:

DD  
8/12/04  
POD for this claim is the Killpack Diversion which is in Wyoming - GPS tag # A0013841 and the pipeline crosses the stateline at a point referenced on the GPS as "KILPI".

This diversion feeds into a gravity system. The system can be used to irrigate ground on both sides of the county road which splits the claimant's ground.

There is also a claim from North Leap that

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

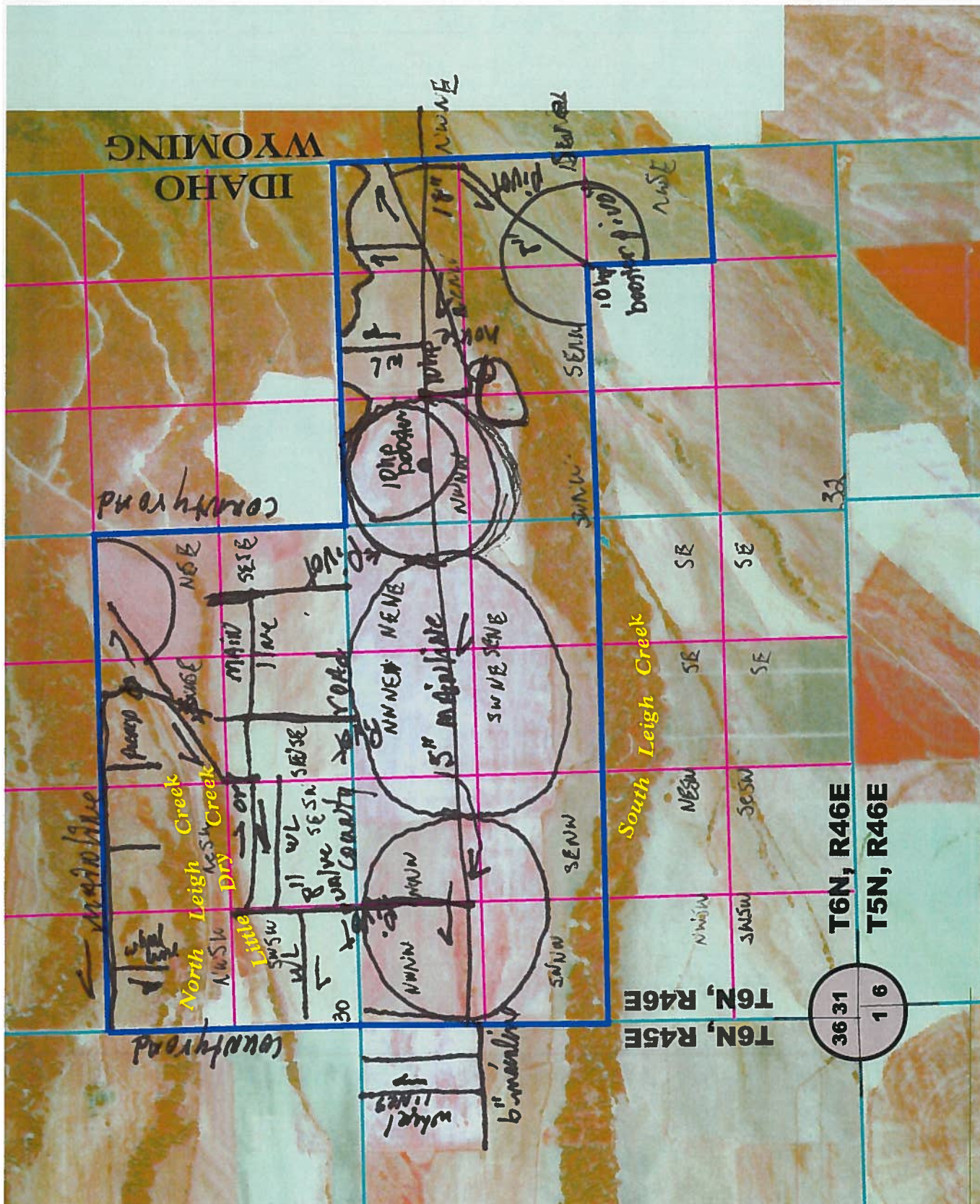
is used on the north side of the farm

# Water Rights:.

22-160

22616

DO 8/12/04



NOTES:

Examiner: \_\_\_\_\_

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

## Place Of Use Data Entry Form

Claim Number: \_\_\_\_\_

## Claimed Place Of Use

| Twp | Rge | Sec | QQ | Q | County | Lot Num | Acres | Purpose of Use |
|-----|-----|-----|----|---|--------|---------|-------|----------------|
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |

Total acres \_\_\_\_\_

## Recommended Place of Use

| Twp | Rge | Sec | QQ | Q | County | Lot Num | Acres | Purpose of Use |
|-----|-----|-----|----|---|--------|---------|-------|----------------|
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |

Total acres \_\_\_\_\_

Pending or approved Transfers: \_\_\_\_\_

Overlapping rights: \_\_\_\_\_

## Document how the POU was verified:

5/12/04  
DO

Field exam showed gravity flow mainline, and a <sup>small</sup> booster pumps (10 h.p.) with pivots, wheel lines and hand lines are used to irrigate this claim. They do not currently use hand lines to irrigate corners of pivots.

Acres claimed appears pretty accurate except for corners where pivots are used

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



THE STATE OF WYOMING

DAVE FREUDENTHAL  
GOVERNOR

PATRICK T. TYRRELL  
STATE ENGINEER

HARRY C. LABONDE, JR.  
DEPUTY STATE ENGINEER

## Board of Control

4E, HERSCHLER BUILDING  
CHEYENNE, WYOMING 82002

TELEPHONE NO. (307) 777-6178  
FAX NO. (307) 777-5451

February 13, 2004

ALLAN CUNNINGHAM  
ADJUDICATION OFFICER

RANDY TULLIS, SUPERINTENDENT  
WATER DIVISION NO. 1  
MICHAEL WHITAKER, SUPERINTENDENT  
WATER DIVISION NO. 2  
LOREN SMITH, SUPERINTENDENT  
WATER DIVISION NO. 3  
JADE HENDERSON, SUPERINTENDENT  
WATER DIVISION NO. 4

Mr. Arnold W. Woolstenhulme, P.E. and L.S.  
AW Engineering  
P.O. Box 139  
Victor, Idaho 83455

RE: Docket Nos. IV-2002-4-1  
and IV-2003-3-2 through  
IV-2003-3-6

Dear. Mr. Woolstenhulme,

This letter is in regard to the <sup>22-169, 545, 616, 42, 13169, 13144, 13146, 13148</sup> Boyd Charles and Jill Johnson Smith Trust, the <sup>22-239B</sup> William E. Hansen, the <sup>22-239A</sup> Pax L. Hansen, the <sup>22-239C</sup> Margaret Hansen, the <sup>22-366B, 367B, 613E</sup> Lorenzo and Ardis Koford, and the <sup>22-13147, 13143, 13145</sup> James and Leona Beard Trust petitions for affirmation of point of diversion and means of conveyance in the matter of certain rights to the use of waters of South Leigh Creek for which the point of diversion, and a portion of the means of conveyance of the Kilpack Ditch, which are pending before the State Board of Control.

The State Board of Control discussed these petitions at its February meeting, and voted to grant these petitions. Orders confirming the Board's action will be issued in the near future.

If we can be of any further assistance, please let us know.

Sours truly,

ALLAN CUNNINGHAM  
Adjudication Officer

RECEIVED

SEP 23 2004

Department of Water Resources  
Eastern Region

/adc

Law Offices  
**HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.**

KENT W. FOSTER  
ROBERT E. FARNAM  
WILLIAM D. FALER  
CHARLES A. HOMER  
GARY L. MEIKLE  
DONALD L. HARRIS  
DALE W. STORER  
MARIE T. TYLER  
ROBERT M. FOLLETT  
FREDERICK J. HAHN, III  
KARL R. DECKER  
THEL W. CASPER  
SHAN B. PERRY  
AMELIA A. SHEETS  
DeANNE CASPERSON\*

\*Licensed in Missouri & Kansas

US BANK BUILDING  
330 SHOUP AVENUE, THIRD FLOOR  
P.O. BOX 50130  
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620  
FACSIMILE (208) 523-9518  
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden  
(1877-1967)  
Robert B. Holden  
(1911-1971)  
Terry L. Crapo  
(1939-1982)  
William S. Holden  
(1907-1988)

Of Counsel  
Fred J. Hahn

March 6, 2003

Jennifer Crabtree  
Idaho Department of Water Resources  
900 N. Skyline Dr., Ste. A  
Idaho Falls, ID 83402

RE: SRBA Claim numbers 22-160, 22-545, 22-616

Dear Jennifer:

We recently received printouts of revisions of the above Notices of Claim. As a result of our amendments of these claims, you added the land in section 30. However, I have reviewed the lands in Sections 31 and 32, it appears to me that these new printouts may contain some errors. It looks like it is our fault because you just followed our amended claims. I have enclosed a copy of 22-160 with what appear to me to be the necessary corrections marked in red. I believe all three Notices of Claim contained the identical information. Would you mind reviewing those notices to see whether you think they should be corrected?

Normally I would wait until the preliminary recommendations come out because the corrections will probably be made at that time. However, we have a situation here where we are trying to comply with Wyoming law also because the state of Wyoming wants to document the point of diversion and conveyance means within that state, but is also reviewing the information from Idaho to make sure their records conform. I have received inquiries from the state of Wyoming about these numbers and thought perhaps I had better point this matter out to you now rather than wait. As always, thank you for your kind assistance.

Yours very truly,



Kent W. Foster

Enclosure

G:\WPDATA\KWF\8527 SMITH, BOYD\CORRESPONDENCE\Jennifer Crabtree, 030603 wpd.cdv

RECEIVED

MAR 07 2003

Department of Water Resources  
Eastern Region

Law Offices  
**HOLDEN, MIDWELL, HAHN & CRAPO, P.L.L.C.**

KENT W. FOSTER  
ROBERT E. FARNAM  
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CHARLES A. HOMER  
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KARL R. DECKER  
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AMELIA A. SHEETS  
DeANNE CASPERSON\*  
\*Licensed in Missouri & Kansas

US BANK BUILDING  
330 SHOUP AVENUE, THIRD FLOOR  
P.O. BOX 50130  
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620  
FACSIMILE (208) 523-9518  
E-MAIL KFOSTER@HOLDENLEGAL.COM

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(1877-1967)  
Robert B. Holden  
(1911-1971)  
Terry L. Crapo  
(1939-1982)  
William S. Holden  
(1907-1988)

Of Counsel  
Fred J. Hahn

January 8, 2003

RECEIVED  
JAN 09 2003  
Department of Water Resources  
Eastern Region

Idaho Department of Water Resources  
Attn: Ernie Carlsen  
900 N. Skyline Dr., Ste. A  
Idaho Falls, ID 83402

RE: SRBA Claims of Boyd C. and Jill J. Smith Trust,  
Nos. 22-160, 22-545, and 22-616

Dear Mr. Carlsen:

We are enclosing with this letter Amended Notices of Claim for the above numbered water rights of the Boyd C. and Jill J. Smith Trust. The purpose of these amendments is to account for a practice which commenced before 1987, which results in the use of South Leigh Creek water north of the road known as 600 North between South Leigh and North Leigh Creeks essentially along the south section line of Section 30. The land which is benefitted by the use of South Leigh Creek water is approximately 260 acres in the South half of Section 30 of T6N., R46E. The practice is described in the attached depositions of Jim Beard and Dee O'Brien and the affidavit of Mr. Delmar Scroughams, the ranch manager for the Smith Trust.

Please let us know if we may provide any additional assistance in this matter. Thank you for your kind attention to the matter.

Very truly yours,



Kent W. Foster

Enclosures

Page 2

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

STATE OF IDAHO, COUNTY OF TWIN FALLS

In Re: SBRA ) Subcase Nos. 22-160  
 Case No. 39576 ) 22-545  
 ) 22-616

## DEPOSITION OF JIM BEARD

Thursday, December 19, 2002, 12:50 p.m.

Driggs, Idaho

Katherine McCoy

Page 3

CSR No. 678

## DEPOSITION OF JIM BEARD

BE IT REMEMBERED that the deposition of

JIM BEARD was taken by the attorney for Boyd Smith at the  
 Super 8 Motel Conference Room, 133 S. Highway 33, Driggs,  
 Idaho, before Katherine McCoy, Court Reporter and Notary  
 Public in and for the State of Idaho, on the 19th day of  
 December 2002, commencing at the hour of 12:50 p.m., in the  
 above-entitled matter.

## A P P E A R A N C E S

For Boyd Smith: HOLDEN, KIDWELL, HAHN & CRAPO  
 By KENT W. FOSTER, ESQ.  
 Attorneys at Law  
 330 Shoup Avenue  
 Third Floor  
 P. O. Box 50130  
 Idaho Falls, Idaho 83405

Also Present: DEE O'BRIEN

Page 4

## I N D E X

## E X A M I N A T I O N

| WITNESS   | EXAMINATION BY       | PAGE |
|-----------|----------------------|------|
| Jim Beard | Mr. Foster . . . . . | 4    |

## E X H I B I T S

| NUMBER               | PAGE |
|----------------------|------|
| 1. Diagram . . . . . | 4    |

Page 5

1 December 19, 2002 12:50 p.m.

## P R O C E E D I N G S

JIM BEARD,

Produced as a witness at the instance of Boyd Smith,  
 was sworn, examined and testified as follows:

(Deposition Exhibit Number  
 One was marked  
 for identification.)

## E X A M I N A T I O N

10 BY MR. FOSTER:

11 Q. State your full name and your address, please.  
 12 A. James Beard, P. O. Box 300, Tetonia, Idaho.  
 13 Q. Jim, the purpose of this deposition, of course,  
 14 I've talked with you about it before so you know what we're  
 15 trying to do.

16 If you have questions -- the most important  
 17 thing is that we try to be truthful. I know that being  
 18 accurate when we start talking about dates will be  
 19 difficult, but I guess all we can do is the best we can.  
 20 My assignment is to try to ask intelligent  
 21 questions, and yours is to try to figure out what I asked  
 22 and see if you can answer it as accurately as is possible.  
 23 Jim, what is your occupation?

24 A. I farm primarily. I have another job I work in  
 25 the winters, maintenance, and a few things at the Teton

Page 6

1 Ridge Ranch.

2 Q. You've farmed for quite a number of years,  
3 haven't you, in the valley?

4 A. Yeah, I've farmed pretty much all my life, I  
5 mean, you know, involved with Tilt there on this place we're  
6 talking about. And I went into business on my own, it's  
7 right about '85 farming on my own.

8 Q. Okay. I'm going to say "all of your life" has  
9 got to be at least twenty-nine years?

10 A. Thank you, double that; right?

11 Q. Well --

12 A. Some mornings it feels triple that.

13 Q. I understand.

14 But it's been actually -- you've actually farmed  
15 land in the basin for several decades?

16 A. Right. I'm forty-four and I probably, well,  
17 like I say, I started farming pretty much as an occupation  
18 when I was twenty-two, twenty-one.

19 Q. Well, let's come to this map that I'm showing  
20 you here. It's been marked as Deposition Exhibit One. It's  
21 the only exhibit we're going to have today. You've had a  
22 chance to look at it a little bit.

23 I'm going to represent to you that it's a  
24 photocopy, a color copy of a section of a United States  
25 geological survey seven and a half minute quadrant angle map

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1 from the Clauson quadrant angle. And you'll see that some  
2 colors have been shown here. There is land that is shown in  
3 yellow and -- in the squares. And each of the squares  
4 represents -- is supposed to represent a quarter quarter  
5 section. Wherever that isn't a government lot, it would be  
6 about forty acres approximately.

7 And you can see where the roads would be, I  
8 think, located on this map. And you can see some land  
9 that's in an orange color. Actually, I tried to make it a  
10 different color, but when you put a pink marker on the  
11 yellow, it turned orange. But you can see the difference in  
12 the colors, can't you?

13 A. Uh-huh.

14 Q. How long have you been familiar with this land?

15 A. Many years. I used to, you know, pick potatoes  
16 on this place for Briggs when I was seven, eight years old,  
17 so since then, you know.

18 Q. And then at some point in time you actually  
19 operated the property, didn't you?

20 A. Yeah, I managed it for Albert, you know, for  
21 close to ten years, this piece here (indicating).

22 Q. You're pointing at the land in yellow that's --

23 A. Right.

24 Q. -- that's south.

25 A. South of --

Page 8

1 Q. South of that road. Is that road, am I accurate  
2 in saying that road is called 600 North?

3 A. Well, I believe it would be because we've got  
4 500 here, I know. Yeah, that would be 600, sure.

5 Q. And 600 North is a road that's shown as going  
6 east and west right about through the center of the map and  
7 through the center of this property. And so land south of  
8 that road was the land that was owned by, did you say his  
9 name was Tilt?

10 A. Well, Briggs, worked for Briggs, then a fellow  
11 by the name of Andrew Little bought it and I worked for  
12 them.

13 Q. Okay.

14 A. And then Albert Tilt bought it from them and I  
15 worked for Albert there so --

16 Q. So you've actually operated it for more people  
17 than just Tilts?

18 A. Yeah, four different people. Well, I didn't  
19 operate it. I mean, I worked on the place for Briggs and  
20 Andrew Little.

21 Q. Okay.

22 A. His foreman was John Rogers and we built fences  
23 there and I moved a lot of pipe when I was young.

24 Q. All right.

25 A. Then I planted the grass that's there now for

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1 Ned Twining when he owned it, so four or five different  
2 owners.

3 Q. And you're familiar with the owner now?

4 A. Yeah, sure.

5 Q. And that's --

6 A. Boyd, Boyd Smith.

7 Q. And that's the client that I'm representing as  
8 you're aware of.

9 A. Sure, uh-huh.

10 Q. Let me ask you this. During the time that you  
11 were familiar with this property and working there or  
12 operating it, let's try to pin down, you said about ten  
13 years?

14 A. Uh-huh.

15 Q. Do you know about which ten years that would be?

16 A. Yeah, I went to work for Albert as pretty much,  
17 you know, farm manager in '78.

18 Q. Okay.

19 A. It was two years after I graduated, I believe,  
20 the spring of '78. And pretty much actively operated it, we  
21 started plowing the place fourteen years. And this  
22 (indicating) what we call the Brown place that Darwin Brown  
23 owned, I think we run it about five years of that ten.

24 Q. That would be the property that's shown here in  
25 orange?

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1 A. Yeah.  
 2 Q. At the time that you were operating the property  
 3 for Mr. Tilt then, this property was owned by Darwin?  
 4 A. Darwin Brown, uh-huh.  
 5 Q. And Mr. Tilt or you rented that from Mr. Brown?  
 6 A. Well, Albert did, yeah.  
 7 Q. Albert did, okay.  
 8 How was that land irrigated when you were there?  
 9 A. Well, it was irrigated by ditches and then, you  
 10 know, for supplemental water, you know, as we talked, we  
 11 come across 600 to the north.  
 12 Q. Tell me just how you did that. How did you get  
 13 across the road?  
 14 A. As I recall Del Bainbridge dug the trench. And  
 15 we just put a pipe, a steel metal pipe in the road. And, of  
 16 course, not knowing at the time that, you know, you can  
 17 legally do that or not. I mean, nobody said anything and we  
 18 just thought it was, you know, part of the thing to do.  
 19 It's the way Clampets farm around here.  
 20 Q. You looked at Mr. O'Brien who's here today. And  
 21 he was at that time the deputy water master. He knew about  
 22 it as far as you know?  
 23 A. I presume. I don't recall us having any  
 24 conversations, but we may have done, yeah. It's been awhile  
 25 ago obviously.

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1 Q. And the pipe that was across the road, how big a  
 2 pipe was it?  
 3 A. I'm thinking it had to house a four-inch hand  
 4 line is what we stuck under there, so it's probably six  
 5 inch, five or six inch well casing type.  
 6 Q. Steel pipe?  
 7 A. Uh-huh.  
 8 Q. And so you basically just put this pipe to run  
 9 another pipe through it?  
 10 A. To protect an aluminum four-inch hand line is  
 11 what it was.  
 12 Q. And that's how you got water under pressure, I  
 13 assume, to the other side?  
 14 A. Right. And we had some port mains we scattered  
 15 out over here (indicating). Fairly ineffective as far as  
 16 covering the acreage, but it seemed to help --  
 17 Q. But it supplemented?  
 18 A. -- in the dry years.  
 19 Q. What kinds of crops were grown there?  
 20 A. Well, we was growing barley when we was farming  
 21 that.  
 22 Q. Okay. Now the water that was used on it without  
 23 taking it across the road, was from what source?  
 24 A. Well, it was out of North Lee. And we didn't --  
 25 we dry farmed this a little over in here. It's better dirt

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1 back over in here (indicating) and there's not much farm  
 2 ground there anyway.  
 3 Q. You're saying the northern portion of this land  
 4 in orange?  
 5 A. Right, uh-huh. This was all, you know, we tried  
 6 to supplement or irrigate. And we come off this ditch that  
 7 heads, you know, back up in the North Lee a ways.  
 8 Q. Okay.  
 9 A. What do you call that on the map? It's not  
 10 Little. It's a ditch that comes right through.  
 11 Q. Yeah, I think "Little" refers to Little Dry  
 12 Creek.  
 13 A. Uh-huh. See, this ditch, (indicating) I'm  
 14 surprised it isn't on the map. It comes in right here  
 15 (indicating). That old canal that goes through the Galloway  
 16 Hill subdivision.  
 17 Q. Will it might -- would it be this one?  
 18 MR. O'BRIEN: It's shown as the Weaver ditch.  
 19 Q. (BY MR. FOSTER) It doesn't --  
 20 A. This ditch come in right here. It's not showing  
 21 it on the map.  
 22 Q. Okay.  
 23 A. This may have been at one time, I see, that's a  
 24 drainage there of some sort, isn't it?  
 25 Q. It shows as a broken line. I understand that's

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1 an intermittent kind of stream.  
 2 A. This is where it headed in with what we  
 3 irrigated this area with anyway (indicating).  
 4 Q. And then what was the purpose of bringing water  
 5 -- where did the water come from that was brought across the  
 6 road?  
 7 A. Well, it was out of this irrigation system that  
 8 Albert had put in, I believe about '78 or -- well, no.  
 9 Let's see. It was prior to that because Briggs had it in  
 10 there and they had hand lines.  
 11 Q. Okay.  
 12 A. And that headed right here (indicating), ducted  
 13 into the main line right here (indicating).  
 14 Q. You're showing about the --  
 15 A. This is where the houses are right now where --  
 16 Q. Okay. Near the houses?  
 17 A. Ducted in that main line right there and run the  
 18 length of the place (indicating). And we just come off a  
 19 riser right here somewhere (indicating) and headed that  
 20 direction.  
 21 Q. And went north up under the road. What's the  
 22 source of that water?  
 23 A. South Lee.  
 24 Q. And under what kinds of conditions, just  
 25 describe the conditions generally, if you can, when the

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1 water from South Lee was used on the north side of the road?

2 A. Well, one, when this ditch that fed this area  
3 here (indicating), this canal that heads back up here in  
4 Wyoming, had a lot of problems. You can see by the topo  
5 here it was steep. It would wash out.

6 Q. And that's the one from North Lee Creek?

7 A. Uh-huh. We always had trouble with it washing  
8 out. Trying to keep water in it was a big hassle. So those  
9 sorts of circumstances. Generally, when, you know, it was  
10 real drought, it was cut off anyway, but we would use it too  
11 because we had plenty of water here (indicating) and the  
12 ditches would suffer.

13 Q. When you say "here," plenty of water south of  
14 the road on the land that had the South Lee Creek water?

15 A. Yeah, we seemed to have plenty of water there.  
16 And actually, we diverted it over there in them sort of  
17 situations.

18 Q. Now, let's just try as close as we can to try to  
19 pin down the time frame which that might have happened. If  
20 you operated the property for Mr. Tilt between about '78 and  
21 '88 approximately?

22 A. Yeah, or '85 or '6, right in there.

23 Q. Okay.

24 A. Eight to ten years. And I've thought about that  
25 some. I really think we probably operated Darwin's place

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1 three to five years.

2 Q. Do you know which would have been on that one  
3 end or the other of that ten year period?

4 A. It's probably been toward the earlier end. I'm  
5 thinking, I'm trying to think of who -- let's see. Twining  
6 bought that from Darwin. I just, you know, to recall that,  
7 I'm going to be honest about it, I won't know. And there  
8 again, it would be within that time frame and we would have  
9 operated it between three and five years, three more  
10 realistic probably than five, might be long, somewhere in  
11 there, maybe four years.

12 Q. And you're thinking that would have been nearer  
13 the '78 or '82 or '81 or '82 time period?

14 A. No. It would have been two or three years after  
15 I was there. I doubt we started farming that until -- I was  
16 just trying to think of some events there that would help me  
17 recollect because it took us -- we run the cattle here  
18 (indicating), until probably '81 or '2 and then we started  
19 plowing. So it would be the tail end of my tenure there as  
20 far as, you know.

21 Q. Would it have been prior to 1987?

22 A. For sure.

23 Q. So you feel confident it was prior to '87?

24 A. I've got think so. Sure. Yeah.

25 Q. And if you were there operating the property

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1 until '85 or '86 or that time frame, do you know who did it  
2 after you?

3 A. Well, my brother, see, I started farming on my  
4 own right at the '85 area. So I wasn't farming, you know,  
5 we could look through the records and see when Twining  
6 bought this from Tilt. That would tell us when, you know, I  
7 was done there. And then I planted it. I think I planted  
8 it for Albert that spring, and then Twining bought it.

9 And then the following year Twining wanted back  
10 the grass so he hired me to plant the grass. And that would  
11 be, you know, in that -- look through the records and see  
12 when Twining bought it from Albert and know when.

13 Q. Okay. So it would have been the spring after  
14 Twining bought it that you planted --

15 A. Planted it back to grass.

16 Q. And that would have been the land in orange?

17 A. No.

18 Q. The land south of the road?

19 A. Yeah, let's see. Yeah, the land south of the  
20 road. I'm trying to think. It's been a long time, a lot of  
21 ground under the bridge since then, water too. We may have  
22 just barley'd this (indicating) and kept this in hay too as  
23 far as --

24 Q. You're speaking of the land north?

25 A. Right, north. I know I planted all this to

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1 grass for Twining.

2 Q. That's the land south of the road?

3 A. Uh-huh. And then I think I planted some of this  
4 too (indicating).

5 Q. Okay. And that was just before you went on your  
6 own?

7 A. Yeah.

8 Q. Didn't operate it?

9 A. Right.

10 Q. Okay. I can't really think of any more  
11 questions, Jim. If you can think of anything --

12 A. I wished I could be more thorough in my  
13 recollection, but I understand -- did you try to get a hold  
14 of Darwin?

15 Q. Yes.

16 A. I've had a hard time finding him.

17 Q. Have you ever been able to find him?

18 A. Huh-uh.

19 Q. I haven't been successful in reaching him  
20 either.

21 A. And Albert, he said, without looking through all  
22 his records, and I'd hate to bother him with it, but he  
23 could pin down some time frames, I suppose. I don't know  
24 Albert well, but is he getting somewhat elderly?

25 A. His mind is still together, I mean, pretty well.

1 He's, what, the same age as pa, I think, 72, but his mind is  
2 good. He could probably recollect maybe even better than me  
3 as to what went on.

4 Q. Okay. I have spoken with him and nothing was  
5 inconsistent with what you've said. He kept insisting that  
6 you'd be the guy that knew.

7 A. Well, okay. I don't know maybe --

8 Q. You've done a good job. I appreciate that. I  
9 think I don't have any further questions.

10 (Off the record.)

11 (The deposition of JIM BEARD was  
12 adjourned at 1:10 p.m., December 19, 2002.)  
13  
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## 1 OFFICER'S CERTIFICATE

2 STATE OF IDAHO }

3 County of Bonneville )

4 I, Katherine McCoy, CSR, do hereby certify  
5 JIM BEARD, P. O. Box 300, Teton, Idaho 83452, was sworn to  
6 testify the truth in the within-entitled cause; that said  
7 deposition was taken at the time and place therein named;  
8 that the testimony of said witness was reported by myself,  
9 Notary Public and Certified Court Reporter; that the  
10 deposition is a true record of the testimony given by the  
11 witness, as recorded on the foregoing 17 pages.

12 And I further certify that I am not related to any of  
13 the parties nor do I have any financial interest in the  
14 matter.

15 IN WITNESS WHEREOF, I have hereunto set my hand and  
16 affixed my seal of office this 30th day of December, 2002.  
17

18 Katherine McCoy  
19 Certified Shorthand Reporter  
20 Notary Public for Idaho

21 Commission expires 3/12/2008  
22  
23  
24  
25

## 1 VERIFICATION

2 STATE OF IDAHO }

3 County of Teton }

4 I, JIM BEARD, P. O. Box 300, Teton, Idaho 83452,

5 depose and say that I am the witness referred to in the

6 foregoing deposition, consisting of 17 pages, that I have

7 read the same and know the contents thereof; that the same

8 are true to my knowledge, or corrections, if any, as noted.

9 Page Line Should Read Reason

10 \_\_\_\_\_

11 \_\_\_\_\_

12 \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_

15 \_\_\_\_\_

16 (Signed) \_\_\_\_\_  
Deponent

17 Subscribed and sworn to before me on this \_\_\_\_\_ day

18 of \_\_\_\_\_,

19 \_\_\_\_\_

20 (Seal) Notary Public for \_\_\_\_\_

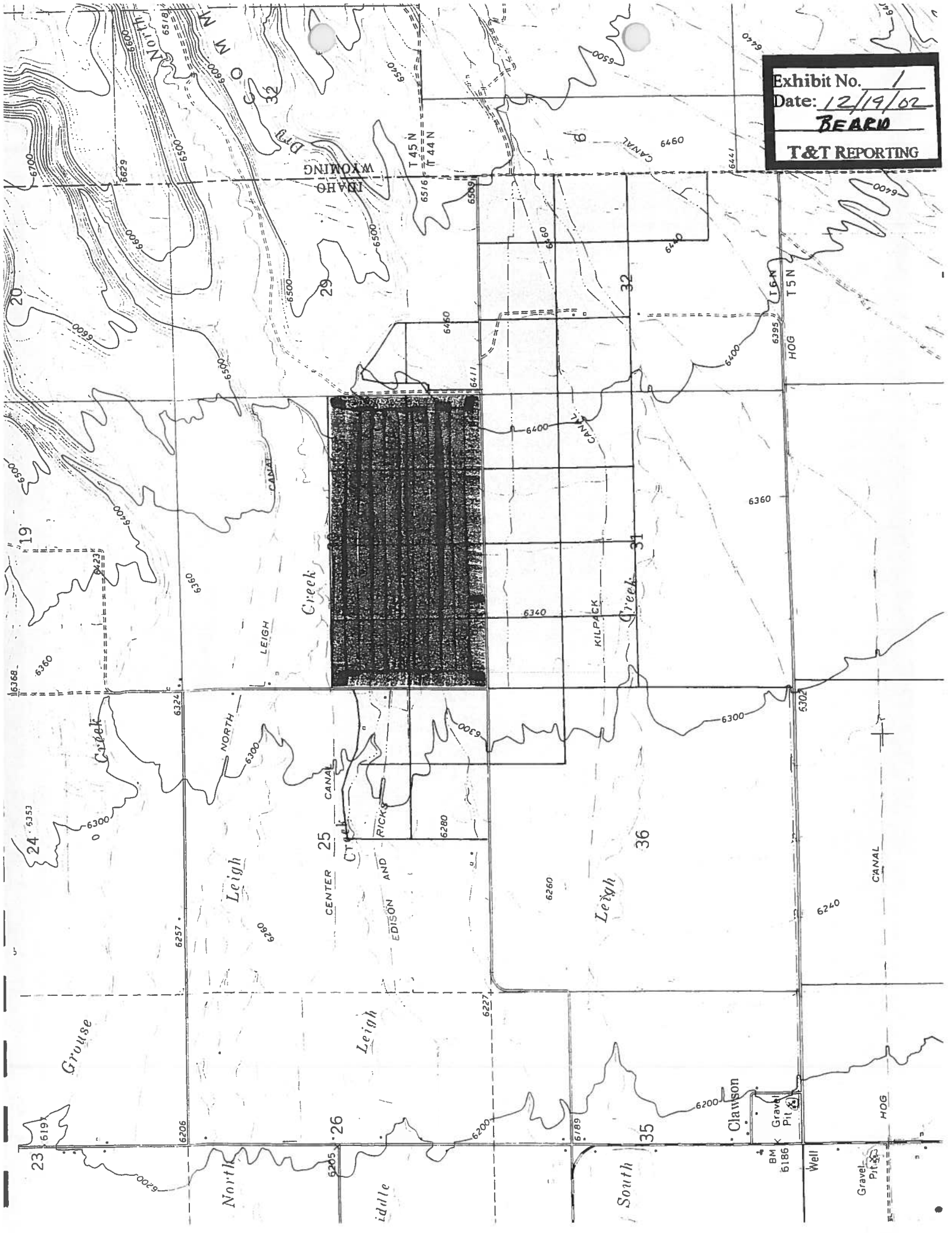
21 Commission expires \_\_\_\_\_  
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <hr/> -V- <hr/> valley [1] 6:3<br>VERIFICATION [1]<br>19:1                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                               |  |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <hr/> -W- <hr/> W [1] 3:15<br>wash [1] 14:5<br>washing [1] 14:7<br>water [14] 10:10,21 11:12<br>11:22 13:4,5,22 14:1,8,11<br>14:13,14,15 16:21<br>ways [1] 12:7<br>Weaver [1] 12:18<br>west [1] 8:6<br>WHEREOF [1] 20:15<br>Wherever [1] 7:5<br>winters [1] 5:25<br>wished [1] 17:12<br>within [1] 15:8<br>within-entitled [1] 20:6<br>without [2] 11:22 17:21<br>witness [6] 4:4 5:4 19:5<br>20:8,11,15<br>worked [4] 8:10,11,15<br>8:19<br>Wyoming [1] 14:4 |                                                                                                                                                               |  |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <hr/> -X- <hr/> X [3] 4:1,2,10                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                               |  |  |

Exhibit No. 1  
Date: 12/19/62  
**BEARD**  
T&T REPORTING



OFFICER'S CERTIFICATE

STATE OF IDAHO )  
 )  
County of Bonneville )

I, Katherine McCoy, CSR, do hereby certify  
JIM BEARD, P. O. Box 300, Teton, Idaho 83452, was sworn to  
testify the truth in the within-entitled cause; that said  
deposition was taken at the time and place therein named;  
that the testimony of said witness was reported by myself,  
Notary Public and Certified Court Reporter; that the  
deposition is a true record of the testimony given by the  
witness, as recorded on the foregoing 17 pages.

And I further certify that I am not related to any of  
the parties nor do I have any financial interest in the  
matter.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my seal of office this 30th day of December, 2002.



*Katherine McCoy*  
Katherine McCoy  
Certified Shorthand Reporter  
Notary Public for Idaho  
Commission expires 3/12/2008

Page 1

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

In Re: SBRA ) Subcase Nos. 22-160  
Case No. 39576 ) 22-545  
 ) 22-616

## DEPOSITION OF DEE O'BRIEN

Thursday, December 19, 2002, 1:15 p.m.

Driggs, Idaho

Katherine McCoy

Page 2

CSR No. 678

## DEPOSITION OF DEE O'BRIEN

BE IT REMEMBERED that the deposition of

DEE O'BRIEN was taken by the attorney for Boyd Smith at the  
Super 8 Motel Conference Room, 133 S. Highway 33, Driggs,  
Idaho, before Katherine McCoy, Court Reporter and Notary  
Public in and for the State of Idaho, on the 19th day of  
December 2002, commencing at the hour of 1:15 p.m., in the  
above-entitled matter.

## A P P E A R A N C E S

For Boyd Smith: HOLDEN, KIDWELL, BAHN & CRAPO  
By KENT W. FOSTER, ESQ.  
Attorneys at Law  
330 Shoup Avenue  
Third Floor  
P. O. Box 50130  
Idaho Falls, Idaho 83405

Page 3

## I N D E X

## E X A M I N A T I O N

| 4 WITNESS     | EXAMINATION BY       | PAGE |
|---------------|----------------------|------|
| 5 Dee O'Brien | Mr. Foster . . . . . | 4    |

## E X H I B I T S

| 12 NUMBER               | PAGE |
|-------------------------|------|
| 13 1. Diagram . . . . . | 4    |

Page 4

1 December 19, 2002 1:15 p.m.

## P R O C E E D I N G S

DEE O'BRIEN,

Produced as a witness at the instance of Boyd Smith,  
was sworn, examined and testified as follows:

(Deposition Exhibit Number  
One was marked  
for identification.)

## E X A M I N A T I O N

BY MR. FOSTER:

Q. Sir, will you please state your name?

A. John D. O'Brien.

Q. And your address?

A. 58 South 3rd East, Driggs.

Q. What is your occupation, Mr. O'Brien?

A. I'm a school teacher.

Q. Here in Teton Valley?

A. Teton County, right.

Q. Mr. O'Brien, in prior years you had another  
occupation that took your summers up, and you remember that?

A. Yes, I got rid of that one.

Q. What was that?

A. I was the deputy water master for Water District

Number One.

Q. Okay. And your assignment was specifically

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1 Teton basin --  
 2 A. Right.  
 3 Q. -- area.  
 4 You were here during the deposition of Mr. Jim  
 5 Beard?  
 6 A. Yes.  
 7 Q. And, of course, you've seen the map that was  
 8 marked as Deposition Exhibit One for his deposition. We'll  
 9 just use the same map. There is no point in using another  
 10 one.  
 11 A. Okay.  
 12 Q. You've looked at it long enough to orient  
 13 yourself on it?  
 14 A. Yes.  
 15 Q. And you heard his testimony about a time period  
 16 when he operated the property shown in yellow and orange?  
 17 A. (Witness nods head.)  
 18 Q. As I understood his testimony, he described that  
 19 when some of this land was owned by people prior to  
 20 Mr. Tilt, Mr. Briggs and others. He worked there so he was  
 21 familiar with the land. And then I think he said that about  
 22 maybe 1978 or approximately that time, he began to operate  
 23 the property for Mr. Tilt as a farm manager?  
 24 A. Yes.  
 25 Q. And sometime during, approximately eight to ten

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1 years, if I understood his testimony correctly, Mr. Tilt  
 2 rented the land shown in orange here as the south half of  
 3 Section 30 which is across the road to the north from his  
 4 other land, he rented that from Darwin Brown?  
 5 A. Uh-huh.  
 6 Q. And Mr. Beard also operated that property.  
 7 A. (Witness nods head.)  
 8 Q. As I understood it, at some point in time in  
 9 order to supplement the irrigation of the land north of the  
 10 road that is shown in orange here, Mr. Beard said that he  
 11 put a steel pipe across the road that permitted him to  
 12 insert an aluminum, four-inch aluminum pipe through so he  
 13 could sort of use it as main line to then sprinkle land  
 14 north of the road with South Lee Creek water.  
 15 A. Uh-huh.  
 16 Q. Now you are familiar with that practice? Did  
 17 you ever see that happening and know that it was happening?  
 18 A. Did I condone it? You had talked with me about  
 19 records. And I looked through to see if in my regulating  
 20 South Lee or North Lee water, if there had been any record.  
 21 Initially, I didn't see anything. However, going back  
 22 through, in fact, about the third time through, 1984.  
 23 July 11, 1984, I have a note, "Talked to Lyle"  
 24 referring to Lyle Swank at the water office, "about  
 25 Harlanders" (phonetic). Harlanders were people that owned

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1 this land down here (indicating).  
 2 Q. You're speaking of --  
 3 A. -- the land that is west of the orange property.  
 4 Q. About the southeast quarter of 25 then?  
 5 A. Uh-huh.  
 6 Q. Okay.  
 7 A. And just -- I have a note, talk to Lyle, "Talked  
 8 to Lyle about Harlanders and Tilts watering out of South Lee  
 9 pump" which would be even though it doesn't say North Lee  
 10 ground, it does say "Harlanders" where these -- ran this  
 11 place (indicating). And Tilt was running this place at the  
 12 time (indicating). And so the practice was going on in '84.  
 13 I had a question about it so I talked to Lyle  
 14 Swank. I didn't write down the conversation Lyle and I had,  
 15 but I made a note in the top of the next page, "Talked to"  
 16 meaning action to be taken, "Tilt needs to transfer right  
 17 and talk to Don Harlander."  
 18 And there is no follow-up information, but I'm  
 19 sure I did talk to Albert Tilt about -- and had he done that  
 20 at the time, we wouldn't be having this conversation.  
 21 Q. That's correct.  
 22 A. But -- so it was a practice. It was going on  
 23 that I had questions about in 1984.  
 24 Q. Okay.  
 25 A. So that pinpoints the date somewhat.

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1 Q. It does, and I very much appreciating taking the  
 2 time to go through your records again, Mr. O'Brien. That's  
 3 very helpful. So it's clear that the practice began prior  
 4 to 1987 because we know it was happening in the year of  
 5 1984.  
 6 Do you have any clear recollection it happened  
 7 other years prior to 1987 or during that time period?  
 8 A. Well, apparently as early as '84, but I don't  
 9 have any records, my main concern was about diversions, not  
 10 about places of use.  
 11 Q. Uh-huh.  
 12 A. And knowing that they did have a South Lee  
 13 right, I was -- because I checked for water, I had to drive  
 14 right by this place so I was aware that the practice was  
 15 going on, but definitely had some concerns. And I don't  
 16 have any information about the years specifically that it  
 17 went on.  
 18 Q. But you think it was more than one?  
 19 A. Oh, I know it was more than one year. It  
 20 definitely went on a number of years.  
 21 Q. Do you remember anyone ever questioning it or  
 22 you were concerned about the fact it was --  
 23 A. I questioned it.  
 24 Q. You questioned it because it was water coming  
 25 out of South Lee?

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1 A. Out of South Lee.  
 2 As Mr. Beard mentioned in his testimony, there  
 3 were all sorts of problems with what I call in my records,  
 4 the Weaver ditch or Weaver Canal.  
 5 Q. And that was the canal that had water --  
 6 A. Out of North Lee.  
 7 Q. -- coming out of North Lee?  
 8 A. Right. That's the canal they had horrible  
 9 maintenance problems. It comes along a rocky hillside. And  
 10 I do recall a number of times the farm managers calling and,  
 11 saying our canal is in trouble, can we use this water and  
 12 the pipe to irrigate while we get this place fixed, while we  
 13 get this canal fixed up, or there were beaver problems up in  
 14 the main creek, North Lee the branch where the Weaver  
 15 headgate was.  
 16 And if it didn't, in my opinion, damage water  
 17 rights downstream and, you know, I made sure that they knew  
 18 they were to stay within their existing amount of their  
 19 water right, then I allowed it to go on. But there were  
 20 times that -- when water was short on South Lee that I would  
 21 go up and tell them to shut off that portion.  
 22 Q. Okay. So in your mind you had at least some  
 23 conditions under which you felt it could be used and  
 24 conditions under which it shouldn't be used?  
 25 A. Right.

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1 Q. And did the water users pretty much adhere to  
 2 your recommendations?  
 3 A. For the most part.  
 4 Q. Okay.  
 5 A. You know, if I went up and said, okay, the  
 6 decrees are off, you've got to shut off, or we're having  
 7 trouble getting water down South Lee, you know, you've got  
 8 to shut that off until we get things -- if there was plenty  
 9 of water, if it was during high water time early in the  
 10 irrigation season, I didn't have any problems with it. Or  
 11 if anybody from downstream complained that they were running  
 12 short of water, then I immediately went to them and said,  
 13 shut off.  
 14 Q. Okay.  
 15 A. So it was something that I was aware of.  
 16 Q. Do you, first of all, I probably ought to ask  
 17 you, what years did you serve as the deputy water master?  
 18 A. From 1978 to 2000, through 2000.  
 19 Q. Okay. So you just recently terminated --  
 20 A. Retired.  
 21 Q. -- that job?  
 22 A. Yeah.  
 23 Q. Retired from that job. Okay.  
 24 We've talked about this use prior to 1987. To  
 25 your recollection have you seen that use occur since 1987?

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1 A. Uh-huh. I couldn't pinpoint exact years, but it  
 2 has occurred since then.  
 3 Q. Any more than one year?  
 4 A. More than one year.  
 5 Q. Okay. As I recall 1997 was a fairly high water  
 6 year. In fact, I seem to recall hearing that that year,  
 7 there was some additional serious damage that occurred on  
 8 the Weaver ditch to the point it couldn't even be used after  
 9 that. Do you know if water was used after '97 from --  
 10 A. On this ground?  
 11 Q. Yeah, from the South Lee source.  
 12 A. I couldn't say for sure, you know, from my  
 13 records, but there is a good likelihood.  
 14 Q. Okay. I think I've covered all the things I can  
 15 think about. Can you think of anything else that's  
 16 important?  
 17 A. I think points that are -- that probably need to  
 18 be made, you know, I feel a lot like Mr. Beard as far as  
 19 wanting to protect existing water rights on South Lee,  
 20 concern that there not be any damage done there.  
 21 And I think one point that was always made to  
 22 the users was that there were two pumps that were diversion  
 23 points for this South Lee property up here along the state  
 24 line. And anytime water was being used over here  
 25 (indicating) --

Page 12

1 Q. Speaking of the orange?  
 2 A. -- speaking of the land over on North Lee, my  
 3 records indicate, and I don't mention anything again about  
 4 point of use, but I made notes in my records about only one  
 5 pump being used.  
 6 And early on when this was started, they  
 7 maintained a meter so that there was no question. Later,  
 8 under later owners it became more difficult for me to make  
 9 sure they maintained that meter so I knew exactly how much  
 10 water was being used, but I did make note that there was  
 11 only one pump which I felt was at least protecting the  
 12 downstream users by limiting the amount they could pump.  
 13 Q. So you wanted to make certain that no more  
 14 water --  
 15 A. Right, that they just weren't running both pumps  
 16 wide open to irrigate land that was outside.  
 17 Q. So the amount of water that was used there never  
 18 increased the diversion rate --  
 19 A. Right.  
 20 Q. -- that was allowed under the water rights --  
 21 A. Right.  
 22 Q. -- that you were administering from the South  
 23 Lee source?  
 24 A. Right. And the way I saw their set up, I didn't  
 25 feel like it was, you know, that they were even reaching the

1 capacity of their water right on South Lee.

2 Q. Okay.

3 A. Which made it a little easier to justify,  
4 they're having trouble with this other canal, okay, they're  
5 staying within -- they're cutting down some of their use  
6 here to use that there (indicating).

7 Q. So they were primarily using the water from  
8 south Lee on the land in orange as a supplemental source?

9 A. Right.

10 Q. All right. I can't think of any other  
11 questions.

12 A. Okay.

13 Q. Maybe we ought to do the same thing and let  
14 Mr. O'Brien review it.

15 THE REPORTER: Do you have a P. O. Box?

16 THE WITNESS: P. O. Box 331.

17 THE REPORTER: Driggs?

18 THE WITNESS: Driggs.

19 (Off the record.)

20 (The deposition of DEE O'BRIEN was  
21 adjourned at 1:25 p.m., December 19, 2002.)  
22  
23  
24  
25

1 OFFICER'S CERTIFICATE

2 STATE OF IDAHO }

3 County of Bonneville )

4 I, Katherine McCoy, CSR, do hereby certify  
5 DEE O'BRIEN, P. O. Box 331, Driggs, Idaho 83422, was sworn  
6 to testify the truth in the within-entitled cause; that said  
7 deposition was taken at the time and place therein named;  
8 that the testimony of said witness was reported by myself,  
9 Notary Public and Certified Court Reporter; that the  
10 deposition is a true record of the testimony given by the  
11 witness, as recorded on the foregoing 13 pages.

12 And I further certify that I am not related to any of  
13 the parties nor do I have any financial interest in the  
14 matter.

15 IN WITNESS WHEREOF, I have hereunto set my hand and  
16 affixed my seal of office this 30th day of December, 2002.  
17

18 Katherine McCoy  
19 Certified Shorthand Reporter  
Notary Public for Idaho

Commission expires 3/12/2008  
20  
21  
22  
23  
24  
25

1 VERIFICATION

2 STATE OF IDAHO }

3 County of Teton }

4 I, DEE O'BRIEN, P. O. Box 331, Driggs, Idaho 83422,

5 depose and say that I am the witness referred to in the  
6 foregoing deposition, consisting of 13 pages, that I have  
7 read the same and know the contents thereof; that the same  
8 are true to my knowledge, or corrections, if any, as noted.

9 Page Line Should Read Reason

10 \_\_\_\_\_

11 \_\_\_\_\_

12 \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_

15 \_\_\_\_\_

16 (Signed) \_\_\_\_\_  
Deponent

17 Subscribed and sworn to before me on this \_\_\_\_\_ day

18 of \_\_\_\_\_,

19 \_\_\_\_\_

20 (Seal) Notary Public for \_\_\_\_\_

21 Commission expires \_\_\_\_\_  
22  
23  
24  
25

|                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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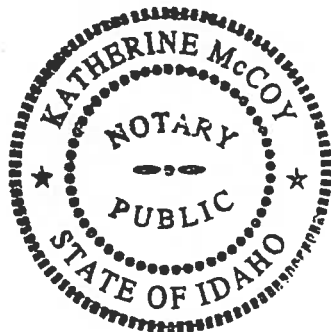
OFFICER'S CERTIFICATE

STATE OF IDAHO )  
 )  
County of Bonneville )

I, Katherine McCoy, CSR, do hereby certify  
DEE O'BRIEN, P. O. Box 331, Driggs, Idaho 83422, was sworn  
to testify the truth in the within-entitled cause; that said  
deposition was taken at the time and place therein named;  
that the testimony of said witness was reported by myself,  
Notary Public and Certified Court Reporter; that the  
deposition is a true record of the testimony given by the  
witness, as recorded on the foregoing 13 pages.

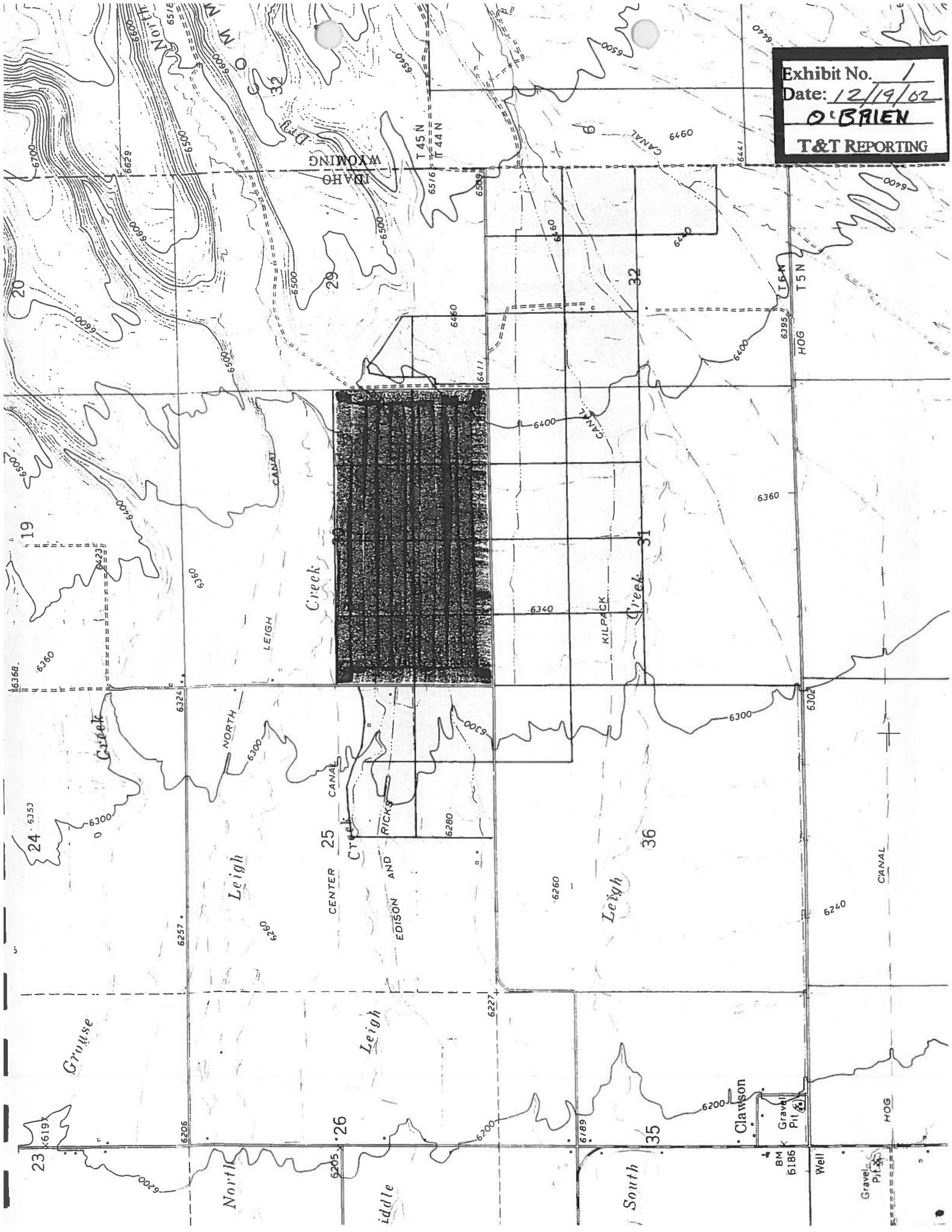
And I further certify that I am not related to any of  
the parties nor do I have any financial interest in the  
matter.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my seal of office this 30th day of December, 2002.



*Katherine McCoy*  
Katherine McCoy  
Certified Shorthand Reporter  
Notary Public for Idaho  
Commission expires 3/12/2008

Exhibit No. 1  
Date: 12/19/02  
O'BRIEN  
T&T REPORTING



**AFFIDAVIT OF DELMAR SCROUGHAMS**

RECEIVED  
JAN 09 2003  
Department of Water Resources  
Eastern Region

STATE OF IDAHO                 )  
                                          )ss  
County of Teton                 )

Delmar Scroughams being first duly sworn, on his oath deposes and says:

1. Affiant is, and has been, a resident of Teton County, Idaho, for the past 22 and one-half years.
2. Affiant is currently employed by the Boyd Charles and Jill Johnson Smith Trust, as manager of the Teton Ranch near Tetonia, Idaho, and has served in such capacity since the acquisition of the ranch lands by the Smith Trust in the fall of 1996. Affiant's duties include the irrigation and operation of the ranch lands.
3. At the time of the acquisition of the ranch lands by the Smith Trust, such lands included the south half of Section 30 and the north half of Section 31 in Township 6 north, Range 46 E.B.M., most of which were irrigated agricultural lands. There is an east-west road dividing these two (2) half sections. The south half of Section 30, which is located north of the road, has historically been irrigated primarily with water from the North Leigh Creek Drainage, and the north half of Section 31, which is located south of the road, has historically been irrigated with water under rights to the waters of South Leigh Creek. However, when affiant began operation of these lands, there were two (2) steel pipes located underneath the road, one near the eastern side of the two (2) half sections, and the other near the western side, through which main line could be placed to permit sprinkler irrigation of the land in the south half of Section 30, north of the road, with water diverted from South Leigh Creek. The South Leigh Creek source is usually a significantly more dependable source of water supply than the North Leigh Creek source, and affiant learned by his own experience and from former operators of

the property, that there were occasions when the land north of the road in Section 30 were short of water from the North Leigh Creek Drainage, when water had historically been brought from South Leigh Creek by means of the mainline placed under the road through the pipes, and used to supplement the irrigation of the land in Section 30 on the north side of the road. Affiant has continued this practice whenever needed since he began operation of these lands for the Smith Trust in the spring of 1997.

4. In the spring of 1997, the ditch (known locally as the Weaver Ditch) which diverted water from North Leigh Creek and transported the same to the lands in the south half of Section 30, was seriously damaged by wash outs because of the high run off early in the irrigation season of that year. The damage to the Weaver Ditch was so severe, that it was impractical to repair it, and it became necessary for the Smith Trust to substantially alter the diversion and delivery system from the North Leigh Creek drainage, and to apply to the Idaho Department of Water Resources for a transfer in point of diversion for the water rights from that source. This process took quite some time to complete, and for that and most of the next two (2) irrigation seasons, it was even more essential to rely on the water from South Leigh Creek to supplement the irrigation of the lands in the south half of Section 30 north of the road. Even after the new diversion and delivery system were completed, there have been substantial drouths during the irrigation seasons of 2000, 2001 and 2002, and there have been times when essentially no water was available from the North Leigh Creek source, and it was necessary to supplement the irrigation of the lands in the south half of Section 30 with water from South Leigh Creek, brought under the road through the pipes described.
5. In 1999, affiant replaced the western most pipe under the road with eight (8) inch double wall steel pipe because the old pipe was so badly rusted and deteriorated. Affiant had understood from the former Deputy Water Master for the Teton Basin,

Mr. Dee O'Brien, that the practice had been in effect from the late 70's or early 80's, whenever there was inadequate water from North Leigh Creek and adequate water from South Leigh Creek, and the lands in the south half of Section 30 required the supplemental irrigation, so long as no more water was diverted from South Leigh Creek than authorized under the existing rights of the ranch lands south of the road to the use of the waters of South Leigh Creek.

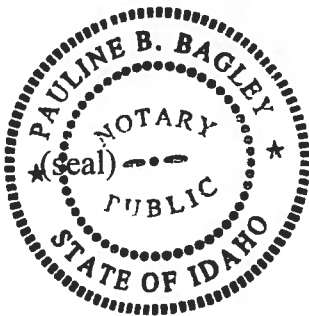
IN WITNESS WHEREOF, affiant has hereunto set his hand this 26 day of November, 2002.

Delmar Scroughams  
Delmar Scroughams

STATE OF IDAHO            )  
                                      )ss.  
County of Teton            )

On this 26 day of November, in the year 2002, before me a notary public in and for said State, personally appeared Delmar Scroughams known or identified to me (or proved to me on the oath of Delmar Scroughams to be the person whose name is subscribed to the within instrument, and acknowledged to me that he 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.



Pauline Bagley  
Notary Public for Idaho  
Residing at Victor  
My commission expires: 8/2005

Kent W. Foster, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.  
P.O. Box 50130  
330 Shoup Avenue, Third Floor  
Idaho Falls, Idaho 83405  
Telephone: (208) 523-0620  
Facsimile: (208) 523-9518  
Idaho State Bar Number 1198

RECEIVED  
DEC 12 2002  
Department of Water Resources  
Eastern Region

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

**In Re SRBA**  
**Case No. 39576**

**Subcase Nos. 22-160, 22-545**  
**and 22-616**

**NOTICE TO TAKE DEPOSITION**  
**(DUCES TECUM)**

**TO: JIM BEARD and DEE O'BRIEN**

PLEASE TAKE NOTICE, that at 1:00 p.m. on the 19<sup>TH</sup> day of December, 2002,  
at the Super 8 Motel Conference Room, located at 133 S. Highway 22, Driggs, Idaho, in  
the above entitled action will take the following deposition:

**Deposition of Jim Beard and Dee O'Brien**

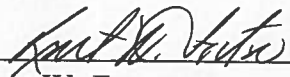
The deposition will be taken upon oral examination pursuant to the Rules of Civil  
Procedure before a notary public and qualified court reporter. The oral examination will  
continue from day to day until completed. You are invited to attend and cross examine.

**COPY**

Pursuant to Rule 30(b) and to the extent you have not previously produced the following documentation, the deponent is required to bring to the deposition the following items and documents:

1. Any written records in your possession regarding use of water under rights nos. 22-160, 22-545 and 22-616 on lands North of the road in Section 30, T. 6N., R. 46E.

DATED this 11<sup>th</sup> day of December, 2002.

  
\_\_\_\_\_  
Kent W. Foster  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\KWF\8527 SMITH, BOYD\Notice of Deposition, Beard & O'Brien wpd.cdv

## CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof on this 11<sup>th</sup> day of December, 2002.

**DOCUMENT SERVED:**            **NOTICE TO TAKE DEPOSITION  
(DUCES TECUM)**

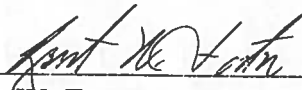
**PARTIES SERVED:**

Jim Beard  
P.O. Box 300  
Tetonia, ID 83452-0300

*[Sent Regular Mail]*

Dee O'Brien  
58 S. 3 E.  
Driggs, ID 83422

*[Sent Regular Mail]*

  
\_\_\_\_\_  
Kent W. Foster, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\KWF\8527 SMITH, BOYD\Notice of Deposition, Beard & O'Brien.wpd



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

June 24, 1999

TERESA L STURM  
HOPKINS RODEN CROCKETT HANSEN & HOOPES PLLC  
PO BOX 51219  
IDAHO FALLS ID 83405-1219

RE: CHANGE OF WATER RIGHT OWNERSHIP FOR TWINING TO BOYD C. & JILL  
J. SMITH TRUST

Dear Ms. Sturm:

Please refer to the following columns:

|            |           |          |           |
|------------|-----------|----------|-----------|
| A22-00042  | A22-00488 | 22-11544 | A22-00208 |
| A22-00063  | A22-00489 | 22-12134 |           |
| A22-00130B |           | 22-12135 |           |
| A22-00130D |           | 22-12136 |           |
| A22-00136C |           | 22-12137 |           |
| A22-00160  |           |          |           |
| A22-00312  |           |          |           |
| A22-00313  |           |          |           |
| A22-00481A |           |          |           |
| A22-00482A |           |          |           |
| A22-00483A |           |          |           |
| A22-00487C |           |          |           |
| A22-00515B |           |          |           |
| A22-00516B |           |          |           |
| A22-00517B |           |          |           |
| A22-00616  |           |          |           |
| A22-02029  |           |          |           |
| A22-04040  |           |          |           |

The first column represents the claims that have been changed into the name of Boyd C. & Jill J. Smith Trust. Copies of computer print-outs reflecting this change are enclosed.

The claims in the second column were combined together in 1997 to form a new claim, and this claim was renumbered to A22-13016. The name was changed on this claim to Boyd C. & Jill J. Smith Trust. A computer print-out of this change is enclosed.

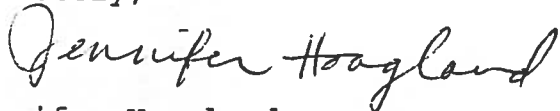
The claims in the third column are all domestic and stock claims, currently before the Snake River Basin Adjudication Court in Twin

Falls. I am required to notify the court of the change in owner and I am in the process of doing this. The owner will be changed to reflect Boyd C. & Jill J. Smith Trust and these claims will be sent to you in another mailing.

Finally, the fourth column reflects the claims that were not changed to reflect your client as the current owner. Claim A22-00208 was split in 1991 into an "A" part and a "B" part. Our records show that neither part was in the name of Twining. Again in 1991 the "B" part was split four more times into a "C" "D" "E" and "F". Again, our records show that none of these parcels of property was in the name of Twining. If the Smith's can prove through legal documents that they own all or some of these parts, then our office will proceed with this change. Otherwise, there is not enough evidence at this time. Copies of computer print-outs for A22-00208 and A22-00208B are enclosed.

If you have further questions regarding these matters, please contact me or Senior Water Agent Dave Carlson.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Hoagland". The signature is written in dark ink and is positioned above the typed name and title.

Jennifer Hoagland  
Technical Records Specialist

Enclosures

cc: Boyd C. & Jill J. Smith

JUN 15 1996

DC  
6-22-99

Department of Water Resources RECEIVED

NEW PROPERTY OWNER  
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP SEP 16 1996

Department of Water Resources  
Eastern Region

DATE OF CLOSING: September 6, 1996

LEGAL DESCRIPTION OF PROPERTY: See attached Warranty Deed

[ ] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

[x] Water Rights Number(s)  
Assigned by IDWR:

A22-00487C; A22-00488; A22-00515B; ✓  
A22-00516B; A22-00517B; A22-00616; ✓  
A22-02029; A22-04040; A22-11544; ✓  
A22-12134; A22-12135; A22-12136; ✓  
A22-12137; A22-00042; A22-00043; 63 ✓  
A22-00130B; A22-00130D; A22-00136C; ✓  
A22-00160; A22-00312; A22-00313; ✓  
A22-00481A; A22-00482A; A22-00483A; A22-00488 ✓  
22-00489; 22-0028 208 ✓

[x] Name and Address of Former  
Owner/Claimant(s)(Seller):

Edmund S. Twining, III, a married man dealing  
with his sole and separate property and Edmund  
S. Twining, III and Jane Forbes Clark, II, acting  
not individually but as Trustees of the Trust  
under the Will of Susan Clark Twining for  
Edmund S. Twining, III, also known as the  
Residuary Trust U/W of Susan C. Twining  
Post Office Box 101  
The Plains, Virginia 20198

[x] New Owner/Claimant  
(Purchaser):

Boyd Charles Smith and Jill Johnson Smith, or  
their successors, not individually but as Trustees  
of The Boyd Charles Smith and Jill Johnson  
Smith Trust created by that certain Trust  
Agreement dated Dember 13, 1990

[x] New Mailing Address:

3201 Ash Street  
Palo Alto, California 94306-2240

[x] New Telephone Number: (415) 493-5411

[x] Does the change in ownership result in a splitting of the water right owned/claimed?  
\_\_\_\_\_ yes \_\_\_\_\_ x no. If yes, then describe the portion of the  
water right that is now owned/claimed by the new owner:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[x] Attach proof of ownership,  
describe proof attached: Copy of Warranty Deed  
(proof of ownership must describe either the property conveyed or include the claim  
number. Proof of ownership is not required if this form is signed by the former  
owner/claimant.)

[x] Signature of New  
Owner/Claimant(s)

Boyd Charles Smith Date 30 Aug 96

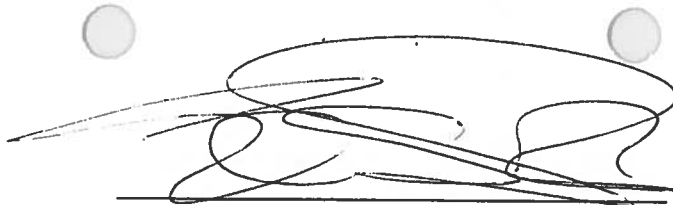
Boyd Charles Smith, and his successors,  
not individually, but as Trustee of The Boyd  
Charles Smith and Jill Johnson Smith Trust  
created by that certain Trust Agreement dated  
December 13, 1990

Jill Johnson Smith Date 8/30/96

Jill Johnson Smith, and her successors,  
not individually, but as Trustee of The Boyd  
Charles Smith and Jill Johnson Smith Trust  
created by that certain Trust Agreement dated  
December 13, 1990

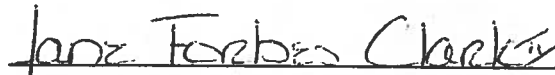
[x] Signature of Former  
Owner/Claimant(s)

Edmund S. Twining, III Date Aug 20, 1996  
Edmund S. Twining, III, Individually



Date August 20, 1996

Edmund S. Twining, III, not individually  
but as Trustee of the Trust under the Will  
of Susan Clark Twining for Edmund S.  
Twining, III, also known as the Residuary  
Trust U/W of Susan C. Twining



Date 8.22.96

Jane Forbes Clark, II, not individually  
but as Trustee of the Trust under the Will  
of Susan Clark Twining for Edmund S.  
Twining, III, also known as the Residuary  
Trust U/W of Susan C. Twining

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

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: By:

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: By:

Claim Number of Split, if any:

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

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR TRANSFER OF WATER RIGHT**  
To Change the Point of Diversion and/or the Place of Use

**APPROVED**

Name of applicant Albert &/or Catherine Tilt Phone 456-6492

Post office address Rt. #1, Box 55, Teton, ID 83432

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

- a. Decree to Walter Barney & Prudential Ins. Co.  
(Name)  
in case of Rexburg Irrigation Co. et al vs Teton Irrigation Canal Co. et al  
dated 12-16-1910 in 6th Judicial District county of Fremont  
(Name of court)
- b. License No. \_\_\_\_\_ issued by the Idaho Department of Water Resources
- c. Claim No. \_\_\_\_\_ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant  
through purchase of lands to which rights pertain.

3. Source of water South Leigh Creek tributary to Teton River

4. Date of priority 22-0160, 6-01-1891; 22-0616, 1-22-1916

5. Water is used for the following purposes:  
22-0160 amount 3.20 for irrigation purposes from \_\_\_\_\_ to \_\_\_\_\_  
22-0616 amount 8.00 for irrigation purposes from \_\_\_\_\_ to \_\_\_\_\_  
amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(month/day - both dates inclusive)

6. Total amount of water under right: a. 11.2 cubic feet per second  
&/or  
b. \_\_\_\_\_ acre feet per annum

7. Location of original point of diversion is \_\_\_\_\_ % of \_\_\_\_\_ % of Section \_\_\_\_\_  
Township \_\_\_\_\_ Range \_\_\_\_\_, B.M., in \_\_\_\_\_ County  
Additional points of diversion, if any diverted in Wyoming

8. Lands irrigated or place of use:

| TWP. | RANGE | SEC. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | TOTALS |
|------|-------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |       |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
| 6N   | 46E   | 31   | X      | X      | X      | X      | X      | X      | X      | X      |        |        |        |        |        |        |        |        | 320    |
|      |       | 32   | X      | X      | X      | X      |        | X      | X      |        |        |        |        |        |        |        |        |        | 240    |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total number of acres to be irrigated 560

B. DESCRIPTION OF PORTION OF RIGHT FOR WHICH THE CHANGE IS REQUESTED (If the entire right is requested changed, omit part B)

1. Amount of water: a. \_\_\_\_\_ cubic feet per second  
&/or  
b. \_\_\_\_\_ acre feet per annum

2. Point of diversion \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_ Township \_\_\_\_\_  
Range \_\_\_\_\_, B.M., \_\_\_\_\_ County \_\_\_\_\_  
Additional points \_\_\_\_\_

3. Place of use:

| TWP. | RANGE | SEC. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | TOTALS |
|------|-------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |       |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Change in point of diversion

a. Amount of water to be diverted 11.2 c.f.s. &/or \_\_\_\_\_ acre feet

b. Point(s) of diversion NE 1/4 NE 1/4, Section 32 Township 6N  
Range 46E, B.M., Teton County

Additional points original point of diversion

c. Description of diverting works pump

d. Describe the reasons for applying for a change in the point(s) of diversion because physical nature of current diversion, combined with beaver problems, make it next to impossible to divert water, especially when creek drops to normal flow. Also, porous nature of ditch causes excessive water loss.

2. Change in place of use NO CHANGE

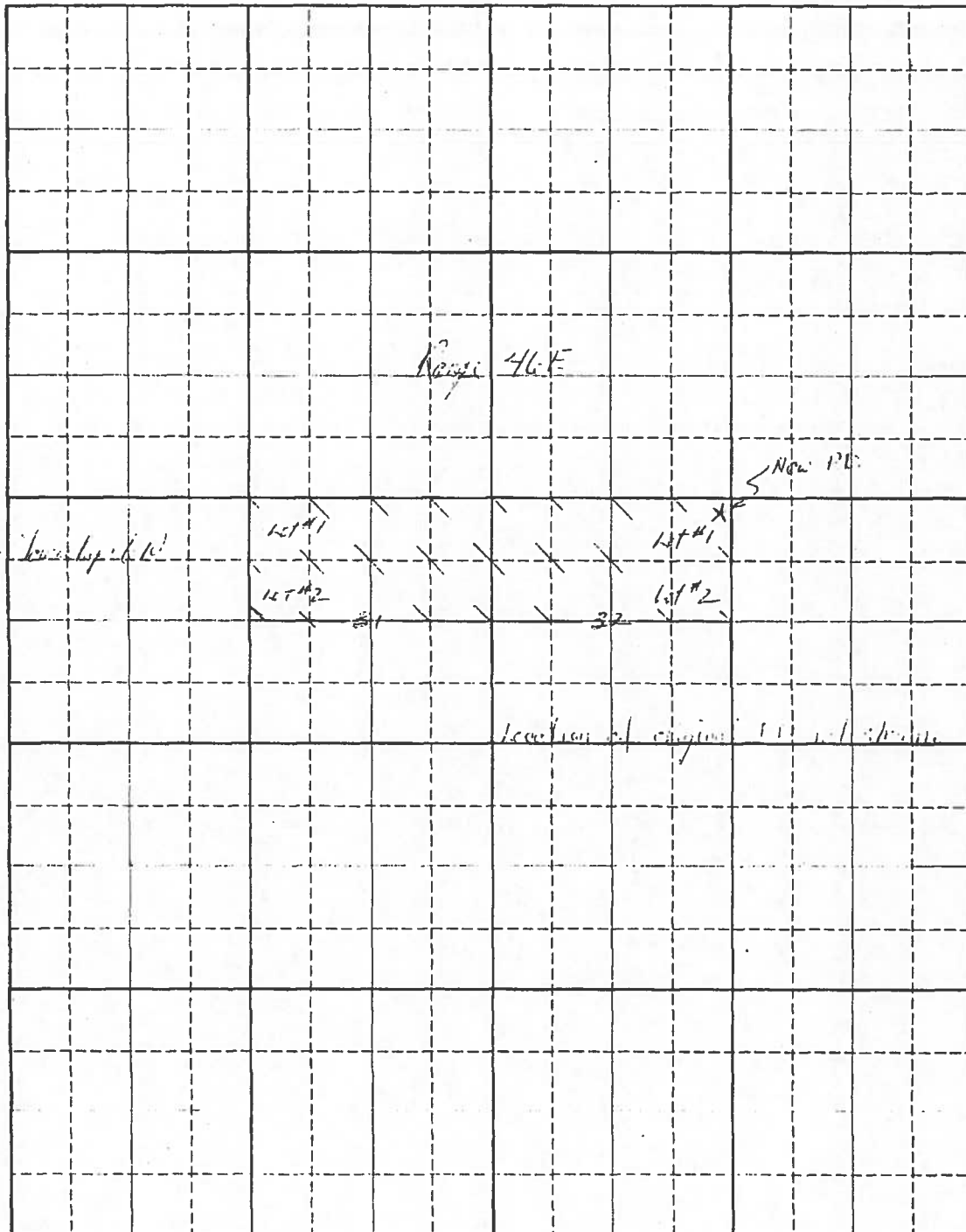
a. Describe the lands or place of use to which the right will be transferred:

| TWP. | RANGE | SEC. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | TOTALS |
|------|-------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |       |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total number of acres to be irrigated \_\_\_\_\_

There is NO  
NEWS OF SEC. 32  
T6N, R46E,  
N6NW1/4 (L1)  
SEC. 32 6N, 46E

- b. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

11/15/10

3. Remarks We want to keep the present point of diversion so we can gravity sprinkle  
at high water.

I hereby assert that no one will be injured by such change and the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

Subscribed and sworn to before me this 11<sup>th</sup> day of July, 19 77  
Catherine Tilt  
S/ ALBERT TILT (Signature of applicant)

My commission expires July 2, 1979  
[Signature]  
(Notary public)

#### ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 22-0160 and 22-0616 and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

Use of water under this Transfer is subject to control by the watermaster of State Water District No. 01, Snake River.

Witness my hand this 22 day of August, 19 77

[Signature]

#### FOR DEPARTMENT USE ONLY

Received by CW Date 7-12-77 Protest filed by \_\_\_\_\_  
6-08-77

Prelim. check by EMC Fee \$30.00

Receipted by CW Date 7-10-77 FF 7360

Published in The Idaho Valley News Copies of protest forwarded by \_\_\_\_\_

Pub. date June 23 + 30, 1977 Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Watermaster recommendation requested on \_\_\_\_\_ Recommended for approval denial \_\_\_\_\_

6-28-77 rec'd. 7-14-77 by EMC J.S.

WD #0424242424

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 22-616  
Date Received: 10/17/1988  
Receipt No: E003224  
Received By:

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

BOYD C & JILL J SMITH TRUST Phone: (208)523-0620

C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID USA 83405

2. Date of Priority: 01/22/1916

3. Source: Unknown

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot | County | Type |
|----------|-------|---------|-----------------------|--------|------|
|----------|-------|---------|-----------------------|--------|------|

5. Description of diverting works:

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) A.F.A |
|------------|-------|-------|--------|------------|
| IRRIGATION | 04/15 | 10/15 | 8      |            |

7. Total Quantity Appropriated is:  
8 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 |
|----------|-------|---------|----------------|-----|-------|
|----------|-------|---------|----------------|-----|-------|

|     |     |    |    |    |            |    |
|-----|-----|----|----|----|------------|----|
| 06N | 46E | 30 | NE | SW | IRRIGATION | 20 |
|     |     |    | NW | SW | IRRIGATION | 25 |
|     |     |    | SW | SW | IRRIGATION | 35 |
|     |     |    | SE | SW | IRRIGATION | 38 |
|     |     |    | NE | SE | IRRIGATION | 34 |
|     |     |    | NW | SE | IRRIGATION | 28 |
|     |     |    | SW | SE | IRRIGATION | 40 |
|     |     |    | SE | SE | IRRIGATION | 40 |

Section Acres 260

|     |     |    |    |    |              |    |
|-----|-----|----|----|----|--------------|----|
| 06N | 46E | 31 | NE | NE | IRRIGATION   | 40 |
|     |     |    | NW | NE | IRRIGATION   | 40 |
|     |     |    | NE | NW | IRRIGATION   | 40 |
|     |     |    | NW | NW | IRRIGATION   | 38 |
|     |     |    | SE | NW | IRRIGATION   | 38 |
|     |     |    | SW | NW | 2 IRRIGATION | 29 |
|     |     |    | SE | NE | IRRIGATION   | 22 |
|     |     |    | SW | NE | IRRIGATION   | 38 |

Section Acres 285

|     |     |    |    |    |              |    |
|-----|-----|----|----|----|--------------|----|
| 06N | 46E | 32 | NW | NW | IRRIGATION   | 36 |
|     |     |    | SW | NW | IRRIGATION   | 20 |
|     |     |    | SE | NW | IRRIGATION   | 19 |
|     |     |    | NW | SE | 3 IRRIGATION | 28 |
|     |     |    | NW | NE | IRRIGATION   | 17 |
|     |     |    | NE | NW | 1 IRRIGATION | 34 |
|     |     |    | SW | NE | IRRIGATION   | 28 |

Section Acres 182

Total Acres 727

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

POINT OF DIVERSION IS TETON COUNTY, STATE OF WYOMING, T44N, R118W, S6, SENE

SOURCE IS SOUTH LEIGH CREEK, TRIBUTARY TO THE TETON RIVER

THE LAND IN SECTION 30 IS IRRIGATED AS A RESULT OF AN ACCOMPLISHED TRANSFER WHICH TOOK PLACE BEFORE 1987. ACTUALLY NO MORE THAN 467 ACRES ARE IRRIGATED WITH A COMBINATION OF RIGHTS 22-160, 22-545, 22-616 AT ANYTIME. THE PERMISSIBLE PLACE OF

USE WAS ENLARGED WHEN THESE RIGHTS WERE USED TO SUPPLEMENT IRRIGATION OF THE LANDS IN SECTION 30.

OTHER WATER RIGHTS: 22-160 AND 22-545 (AND 22-63, 22-312, 22-313, 22-487C & 22-13016 FOR LANDS IN SECTION 30 ONLY)

15. Basis of Claim: Decreed

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 22-616  
Date Received: 10/17/1988  
Receipt No: E003224  
Received By:

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

1. Name of Claimant(s)

BOYD C & JILL J SMITH TRUST Phone: (208)523-0620  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID USA 83405

2. Date of Priority: 01/22/1916

3. Source: Unknown

4. Point of Diversion:

Township Range Section 1/4 of 1/4 of 1/4 Lot County Type

5. Description of diverting works:

6. Water is used for the following purposes:

|            |             |        |            |
|------------|-------------|--------|------------|
| Purpose    | From To     | C.F.S. | (or) A.F.A |
| IRRIGATION | 04/15 10/15 | 8      |            |

7. Total Quantity Appropriated is:  
8 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 |
|----------|-------|---------|------------|-----|------------|-------|
| 06N      | 46E   | 30      | NE         | SW  | IRRIGATION | 20    |
|          |       |         | NW         | SW  | IRRIGATION | 25    |
|          |       |         | SW         | SW  | IRRIGATION | 35    |
|          |       |         | SE         | SW  | IRRIGATION | 38    |
|          |       |         | NE         | SE  | IRRIGATION | 34    |
|          |       |         | NW         | SE  | IRRIGATION | 28    |
|          |       |         | SW         | SE  | IRRIGATION | 40    |

|     |     |    |    |    |   |               |     |
|-----|-----|----|----|----|---|---------------|-----|
|     |     |    | SE | SE |   | IRRIGATION    | 40  |
|     |     |    |    |    |   | Section Acres | 260 |
| 06N | 46E | 31 | NE | NE |   | IRRIGATION    | 40  |
|     |     |    | NW | NE |   | IRRIGATION    | 40  |
|     |     |    | NE | NW |   | IRRIGATION    | 40  |
|     |     |    | NW | NW |   | IRRIGATION    | 38  |
|     |     |    | NW | SW | 2 | IRRIGATION    | 29  |
|     |     |    | NE | SE |   | IRRIGATION    | 22  |
|     |     |    | NW | SE |   | IRRIGATION    | 38  |
|     |     |    | NE | SW |   | IRRIGATION    | 38  |
|     |     |    |    |    |   | Section Acres | 285 |
| 06N | 46E | 32 | NE | NW | 1 | IRRIGATION    | 17  |
|     |     |    | NW | NW |   | IRRIGATION    | 36  |
|     |     |    | SW | NW |   | IRRIGATION    | 20  |
|     |     |    | SE | NW |   | IRRIGATION    | 19  |
|     |     |    | NW | SE | 3 | IRRIGATION    | 28  |
|     |     |    | NE | SW |   | IRRIGATION    | 28  |
|     |     |    | NW | NE |   | IRRIGATION    | 34  |
|     |     |    |    |    |   | Section Acres | 182 |
|     |     |    |    |    |   | Total Acres   | 727 |

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

POINT OF DIVERSION IS TETON COUNTY, STATE OF WYOMING, T44N, R118W, S6, SENE

SOURCE IS SOUTH LEIGH CREEK, TRIBUTARY TO THE TETON RIVER

THE LAND IN SECTION 30 IS IRRIGATED AS A RESULT OF AN ACCOMPLISHED TRANSFER WHICH TOOK PLACE BEFORE 1987. ACTUALLY NO MORE THAN 467 ACRES ARE IRRIGATED WITH A COMBINATION OF RIGHTS 22-160, 22-545, 22-616 AT ANYTIME. THE PERMISSIBLE PLACE OF USE WAS ENLARGED WHEN THESE RIGHTS WERE USED TO SUPPLEMENT IRRIGATION OF THE LANDS IN SECTION 30.

OTHER WATER RIGHTS: 22-160 AND 22-545 (AND 22-63, 22-312, 22-313, 22-487C & 22-13016 FOR LANDS IN SECTION 30 ONLY)

15. Basis of Claim: Decreed

RECEIVED  
JAN 09 2003  
Department of Water Resources  
Eastern Region

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 22-616  
Date Received \_\_\_\_\_  
Receipt Number \_\_\_\_\_

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

1. Name of Claimant(s) BOYD C & JILL J SMITH TRUST Phone (208) 523-0620  
Mailing Address C/O Holden Kidwell Hahn & Crapo, Po Box 50130, Idaho Falls, ID Zip 83405
2. Date of Priority (Only (1) per claim) JAN. 22, 1916
3. Source of water supply (a) SOUTH LEIGH CREEK  
which is tributary to (b) TETON RIVER
- 4.a. Location of existing point of diversion is:  
State of Wyoming, South Leigh Creek in Lot 2 which is the SENE of Section 6, Township 44 N., Range 118 W., of the 6<sup>th</sup> P.M., Teton County, Wyoming.
- b. If instream flow, beginning point of claimed instream flow is:  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4, Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_  
ending point is: Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, 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. Two (2) irrigation pumps at Idaho-Wyoming state line, or through Kilpack Ditch
6. Water is claimed for the following purposes: (Both dates are inclusive)  
(cfs) (acre feet)  
For Irrigation purposes from April 15 to Oct. 15 amount 8.0 or \_\_\_\_\_  
For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_
7. Total quantity claimed (a) 8.0 (cfs) and/or (b) \_\_\_\_\_ (acre feet)
8. Total consumptive use claimed is \_\_\_\_\_ acre feet per annum.

9. Non-irrigation uses; describe fully (e.g. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) \_\_\_\_\_

10. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.  
b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

| TWP | RNG | SEC | NE 1/4 |    |    |    | NW 1/4 |    |    |    | SW 1/4 |    |    |    | SE 1/4 |    |    |    | TLS |
|-----|-----|-----|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|----|----|-----|
|     |     |     | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE |     |
| 6N  | 46E | 30  |        |    |    |    |        |    |    |    | 20     | 25 | 35 | 38 | 34     | 28 | 40 | 40 | 260 |
| 6N  | 46E | 31  | 40     | 40 |    |    | 40     | 38 |    |    | 38     | 29 |    |    | 22     | 38 |    |    | 285 |
| 6N  | 46E | 32  |        | 34 |    |    | 17     | 36 | 20 | 19 | 28     |    |    |    |        | 28 |    |    | 182 |

Total number of acres irrigated 467  
(Permissible place of use - 727)

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

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.  
22-160 and 22-545 (and 22-63, 22-312, 22-313, 22-487C and 22-13016 for lands in Section 30 only)  
\_\_\_\_\_ or None ( )

14. Remarks:

The land in Section 30 is irrigated as a result of an accomplished transfer which took place before 1987. Actually, no more than 467 acres are irrigated with a combination of rights 22-160, 22-545 and 22-616 at anytime. The permissible place of use was enlarged when these rights were used to supplement irrigation of the lands in Section 30.

15. Basis of Claim (Check one) Beneficial Use \_\_\_\_\_ Posted Notice \_\_\_\_\_ Permit \_\_\_\_\_ Decree X License \_\_\_\_\_  
If applicable provide IDWR Water Right Number \_\_\_\_\_  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date \_\_\_\_\_  
Plaintiff vs Defendant \_\_\_\_\_

16. Signature(s)

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

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

\_\_\_\_\_ Date \_\_\_\_\_

Last Name Boyd C. & Jill J. Smith Trust

Ident. Number 22-616

For Organizations: I do solemnly swear or affirm that I am Trustee of Boyd C. and Jill J. Smith Trust,  
(Title) (Organization)  
that I have signed the foregoing document in the space below as Trustee of Boyd C. and Jill J. Smith Trust and  
(Title) (Organization)  
that the statements contained in the foregoing document are true and correct.

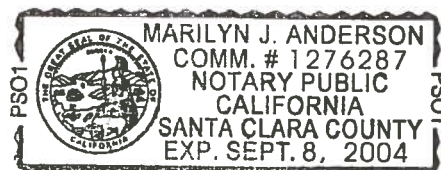
Signature of Authorized Agent

Boyd C. Smith, Trustee  
Boyd C. Smith, Trustee

Title and Organization Boyd C. & Jill J. Smith Trust

Date 2 Dec 2002

STATE OF CALIFORNIA )  
) SS.  
County of Santa Clara )



Subscribed and sworn (or affirmed) before me this 2nd <sup>December</sup> day of July, 2002.

Notary Public Marilyn J. Anderson  
Residing at San Jose, California  
My Commission Expires September 8, 2004

17. Notice of Appearance:

Notice is hereby given that I, Kent W. Foster will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature \_\_\_\_\_  
Address PO Box 50130, Idaho Falls, ID 83405  
Date \_\_\_\_\_

AJ0749NP  
No. A22-00616

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

DATE: 06/24/99  
PAGE: 1

| OWNER<br>CODE | NAME & ADDRESS                                                                         | PRIORITY<br>DATE | WATER USE  | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|---------------|----------------------------------------------------------------------------------------|------------------|------------|-----------------------|-------------------|---------------------|
| C             | BOYD C & JILL J SMITH TRUST<br>3201 ASH ST<br>PALO ALTO CA 943062240<br>(415) 493-5411 | 01/22/1916       | IRRIGATION | 04-15 10-15           | 8.00 CFS          |                     |
|               |                                                                                        |                  |            | TOTAL DIVERSION:      | 8.00 CFS          |                     |
|               |                                                                                        |                  |            | CONSUMPTIVE USE:      |                   | 934.00 AFA          |

Water Source: SOUTH LEIGH CREEK

Tributary to: TETON RIVER

Stage: DECREED

Point(s) of Diversion:

T06N R46E S32 Lot01(NENMNE) Lot01(SENHNE) Lot02(NESHNE)

TETON County

Place of use legal Description for: IRRIGATION

|            | NE             | NW             | SW             | SE             |             |
|------------|----------------|----------------|----------------|----------------|-------------|
| T R S      | NE NE NE NE NE | NE NE NE NE NE | NE NE NE NE NE | NE NE NE NE NE |             |
| 06N 46E 31 | 40             | 40             | 38             | 22             |             |
| 06N 46E 32 | 01-17          | 02-28          | 34             | 36             | 20          |
|            |                |                |                |                | 19          |
|            |                |                |                |                | 03-28       |
|            |                |                |                |                | TOTAL ACRES |
|            |                |                |                |                | 467.0       |

POU County: TETON

Other Rights: 22-00160

Remarks: GEN DIVERSIONS: TWO IRRIGATION PUMPS (60 & 75 HP) AT ID/MT STATE  
LINE IN NW1/4NE1/4, SEC 32, T4N 6N, RGE 46E. KILPACK CANAL  
HAS A CEMENT HEADING IN SE1/4NE1/4, SEC. 6, T4N. 44N, RGE. 118W,  
6HT PM., TETON COUNTY WYOMING. HOG CANAL (SOUTH LEIGH CANAL)  
HAS A CEMENT HEADING IN NW1/4NW1/4, SEC. 5, T4N. 44N, RGE. 118W,  
6HT PM., TETON COUNTY WYOMING.  
\*CHANGED OWNERSHIP PER REQUEST/JH/6-24-99\*

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: 01 Field Inspection Flag: C  
Presumption Flag: C

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: A22-00616  
Date Received: 10/21/1988  
Receipt No: E003224  
Received By: TO

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: EDMUND S. TWINING, III 208-456-2310  
Address: P.O. BOX 101  
TETONIA, ID 83452  
AND  
Name: SUSAN TWINING  
Address: P.O. BOX 101  
TETONIA, ID 83452  
AND  
Name: ~~CATHERINE TILT~~  
Address:

A2200616



2. Date of Priority: JAN 22, 1916  
3. Source: SOUTH LEIGH CREEK Trib. to: TETON RIVER  
4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------|-------|---------|--------|--------|-----|-----|--------|
| 06N      | 46E   | 32      | NE     | NW     | NE  | 1   | TETON  |
|          |       |         | SE     | NW     | NE  | 1   | TETON  |
|          |       |         | NE     | SW     | NE  | 2   | TETON  |

5. Description of diverting works:  
THERE ARE THREE POINTS OF DIVERSION. (SEE REMARKS)

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 04/15 | 10/15 | 8.000  |      |        |

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

8. Total consumptive use is 934.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

| Township | Range | Section | 1/4 | of | 1/4 | Lot | Use           | Acres |
|----------|-------|---------|-----|----|-----|-----|---------------|-------|
| 06N      | 46E   | 31      | NE  |    | NE  |     | IRR           | 40.0  |
|          |       |         | NW  |    | NE  |     | IRR           | 40.0  |
|          |       |         | SW  |    | NE  |     | IRR           | 38.0  |
|          |       |         | SE  |    | NE  |     | IRR           | 22.0  |
|          |       |         | NE  |    | NW  |     | IRR           | 40.0  |
|          |       |         | NW  |    | NW  | 1   | IRR           | 38.0  |
|          |       |         | SW  |    | NW  | 2   | IRR           | 29.0  |
|          |       |         | SE  |    | NW  |     | IRR           | 38.0  |
|          |       |         |     |    |     |     |               |       |
|          |       |         |     |    |     |     | Section Acres | 285.0 |
|          |       | 32      | NW  |    | NE  | 1   | IRR           | 17.0  |
|          |       |         | SW  |    | NE  | 2   | IRR           | 28.0  |
|          |       |         | NE  |    | NW  |     | IRR           | 34.0  |
|          |       |         | NW  |    | NW  |     | IRR           | 36.0  |
|          |       |         | SW  |    | NW  |     | IRR           | 20.0  |
|          |       |         | SE  |    | NW  |     | IRR           | 19.0  |
|          |       |         | NW  |    | SE  | 3   | IRR           | 28.0  |
|          |       |         |     |    |     |     | Section Acres | 182.0 |
|          |       |         |     |    |     |     | Total Acres   | 467.0 |

11. Place of use in counties: TETON

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

13. Other Water Rights Used:  
22-00160

14. Remarks:

DIVERSIONS: TWO IRRIGATION PUMPS (60 & 75 HP) AT ID/WY STATE LINE IN NW1/4NE1/4, SEC 32, TWN 6N, RGE 46E. KILPACK CANAL HAS A CEMENT HEADING IN SE1/4NE1/4, SEC. 6, TWN. 44N, RGE. 118W, 6HT PM., TETON COUNTY WYOMING. HOG CANAL (SOUTH LEIGH CANAL) HAS A CEMENT HEADING IN NW1/4NW1/4, SEC. 5, TWN. 44N, RGE. 118W, 6HT PM., TETON COUNTY WYOMING.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

LEIGH CREEK CANAL CO.

Decree Plaintiff

A22-00616

Page

vs  
2

LYNN CRANDALL, W. M.

Decree Defendant

Date: 09/28/88

MICROFILMED  
OCT 28 1992

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:   1  

**For Individuals:**

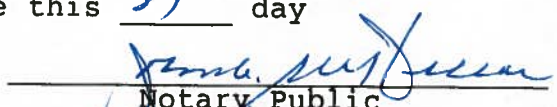
I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s):  Date: 9/27/88

 Date: 9/27/88

State of Idaho )  
County of Seton ) SS.

Subscribed and sworn (or affirmed) before me this 27 day  
of September 19 88

  
Notary Public

Seal

Residing at Boise, Idaho

My Commission Expires 12/31

OCT 28 1992

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IDAHO  
WIDMING

## Pumps

Low / healthy / can't

6

EDMUND S. AND SUSAN TWINING III  
Teton Ranch

P.O. Box 101

Teton, Wyo 83452

45-2310

Legal DescriptionsTeton Ranch

Lots 1 and 2, E½NW¼, NE¼ - Section 31

Lots 1, 2 and 3, NW¼ - Section 32

All in Township 6 North, Range 46 East,  
Boise MeridianWelfare Farm

NE¼NE¼ - Section 36

Township 6 North, Range 45 East, B.M.

Stillers Run

Lots 3 and 4; E½SW¼; SE¼

All in Section 30, Twn. 6 North, Rge. 46 E.B.M.

Galloway Hills

SW½SW¼, S½NW½SW¼, Sec. 29, Twn. 6 N., Rge 46 E.B.M.

Water Rights Described in Warranty DeedsTeton Ranch

22-0160/T.2135 - 3.2 cfs - 1891

Source: South Leigh Creek

Amount: 3.2 cfs

Priority Date: 1891

Use: Irrigation

Place of Use: Lots 1 &amp; 2, E½NW¼, NE¼, Section 31

Twn 6 N., Rge 46 EBM

Diversion: See "Diversion" below

Lots 1, 2, 3, & NW¼ Sec 31  
of Sec 32

22-0616/T.2135 - 8.0 cfs - 1916

Source: South Leigh Creek

Amount: 8.0 cfs

Priority Date: 1916

Use: Irrigation

Place of Use: Lots 1 &amp; 2, E½NW¼, NW¼, Section 31

Twn 6 N Rge 46 EBM

Diversion: See "Diversion" below

Lots 1, 2, 3 &amp; NW¼ Sec 32

Diversion: Irrigation Pumps at Ida/Wyo State line

NW¼NE¼, Sec. 32, Twn. 6 N., Rge. 46 EBM

OR

SE¼NE¼, Sec. 6, Twn. 44 N., Rge 118 W6thPM

Kilpack Canal Diversion

SE¼NE¼, Sec. 6, Twn. 44 N, Rge 118W-6PM

Hog Canal Diversion

NW¼NW¼, Sec. 6, Twn. 44 N, Rge 118-6PM

80 acre feet - Fremont-Madison

POOR ORIGINAL

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Welfare Farm - *PD. page 5.*

22-0042 - .8 cfs - So. Leigh - Jan. 22, 1916.

Stillers Run

22-0063 (DECREE)

Source: ~~South~~ <sup>North</sup> Leigh Creek

Amount: 6.4 cfs

Priority Date: January 22, 1916

Use: Irrigation

Place of Use: Sec. 30-6-46EBM

NE%SW% NW%SW%

SW%SW% SE%SW%

NE%SE% NW%SE%

SW%SE% SE%SE%

*W. C. Gillette*  
Diversions: Lot <sup>2</sup> Section 29-6-46 EBM

F. C. Gillette vs Lynn Waddell - December 7,  
1938

22-0312 (DECREE)

Source: North Leigh Creek

Amount: 3.0 cfs

Priority Date: June 1, 1897

Use: Irrigation

Place of Use: Sec. 30-6-46 EBM

NE%SW% NW%SW%

SW%SW% SE%SW%

*W. C. Gillette*  
Diversions: SW%NE% - Section 29, Twn. 6 N., Rge  
46 EBM

Rexburg Irr. Co. vs Teton Canal Co. - 12/16/1910

22-0313 (DECREE)

Source: North Leigh Creek

Amount: .2 cfs

Priority Date: June 1, 1900

Use: Irrigation

Place of Use: SW% Sec. 30, Twn. 6 N., Rge 46 EBM

*W. C. Gillette*  
Diversions: SW%NE% - Sec. 29, Twn. 6 N., Rge 46  
EBM (originally recorded as Rge 45)

Rexburg Irrigation Co. vs Teton Canal Co. -  
12/16/1920

22-0487 (DECREE)

Source: North Leigh Creek

Amount: 1.8 cfs

Priority Date: June 1, 1897

Use: Irrigation

Place of Use: SE%, Sec. 30, Twn. 6 N., Rge. 46  
EBM

Diversions: SW%NE%, Sec. 29, Twn. 6 N., Rge 46  
EBM (originally reported as Rge 45)

Rexburg Irrigation Co. vs Teton Canal Co.  
12/10/1910

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22-0488 (DECREE)

Source: North Leigh Creek  
Amount: .7 cfs  
Priority Date: June 1, 1899  
Use: Irrigation  
Place of Use: SE $\frac{1}{4}$ , Sec. 30, Twn. 6 N., Rge. 46  
EBM  
Diversion: Hansen Ditch  
Rexburg Irrigation Co. vs Teton Canal Co.  
12/10/1910

22-0489 (DECREE)

Source: North Leigh Creek  
Amount: 3.2 cfs  
Priority Date: June 1, 1899  
Use: Irrigation  
Place of Use: SE $\frac{1}{4}$ , Sec. 30, Twn 6 N., Rge 46 EBM  
Diversion: Hansen Ditch  
Rexburg Irrigation Co. vs Teton Canal Co.  
12/10/1910

22-4040 (CLAIM)

Source: Indian Creek  
Amount: 4.1 cfs  
Priority Date: June 29, 1900  
Use: Irrigation 4.0 cfs  
Stock Water .1 cfs  
Place of Use: S $\frac{1}{4}$ , Section 30, Twn 6 N., Rge 46  
NW EBM  
Diversion: NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 29, Twn. 6 N., Rge 46  
EBM  
Published: Teton Valley News  
July 31, 1980 & August 1, 1980

~~22-7258 (PERMIT)~~ N. 107.

Source: Well  
Amount: 6.4 cfs  
Date: August 31, 1977  
Use: Irrigation and Stock Water  
Place of Use: S $\frac{1}{4}$  Section 30, Twn. 6 N., Rge 46  
EBM  
Diversion: SE $\frac{1}{4}$ SE $\frac{1}{4}$  Section 30, Twn. 6 N., Rge. 46  
EBM

NOTE: The application was filed on August 31, 1977. The applicant was given five (5) years to prove up on the well (August 31, 1982). On November 1, 1982 the applicant filed a Request for Extension of Time and was given until November 1, 1987 to complete his proof for permit to be issued.

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Galloway Hills

Water right unknown

Domestic Wells

A22-12134 Teton Ranch

Location: SE<sup>32</sup>NW<sup>32</sup>, Sec. 8, Twn. 6 N., Rge 46 EBM  
Size: 6"  
Depth: Unknown  
History: Estimated 50 years *Mar 1 4, 1928*  
Use: Domestic: 2 homes, stock water  
*600 HP range in the*

A22-12135 Stillers Run

x(1) Location: NW<sup>32</sup>SW<sup>32</sup>, Sec. 30, Twn 6 N, Rge 46 EBM  
Size: 6"  
Depth: Unknown  
History: Estimated 50 years *Mar 1 12, 1928*  
Use: Domestic - 1 house, stock water

A22-12136 (2) New South Well  
Location: <sup>SW</sup>NW<sup>32</sup>SW<sup>32</sup>, Sec. 30, Twn 6 N, Rge 46 EBM  
Size: 6"  
Depth: 120 feet  
Date Drilled: April 30, 1987  
Use: Domestic and Stock Water  
*600*

A22-12137 (3) New North Well  
Location: <sup>NW</sup>NW<sup>32</sup>SW<sup>32</sup>, Sec 30, Twn 6 N, Rge 46 EBM  
Size: 6"  
Depth: 120 feet  
Date Drilled: April 30, 1987  
Use: Domestic and Stock Water  
*600*

Stock Water

File for stock water on all parcels from South Leigh and Middle Leigh and North Leigh for estimated 600 head of stock.

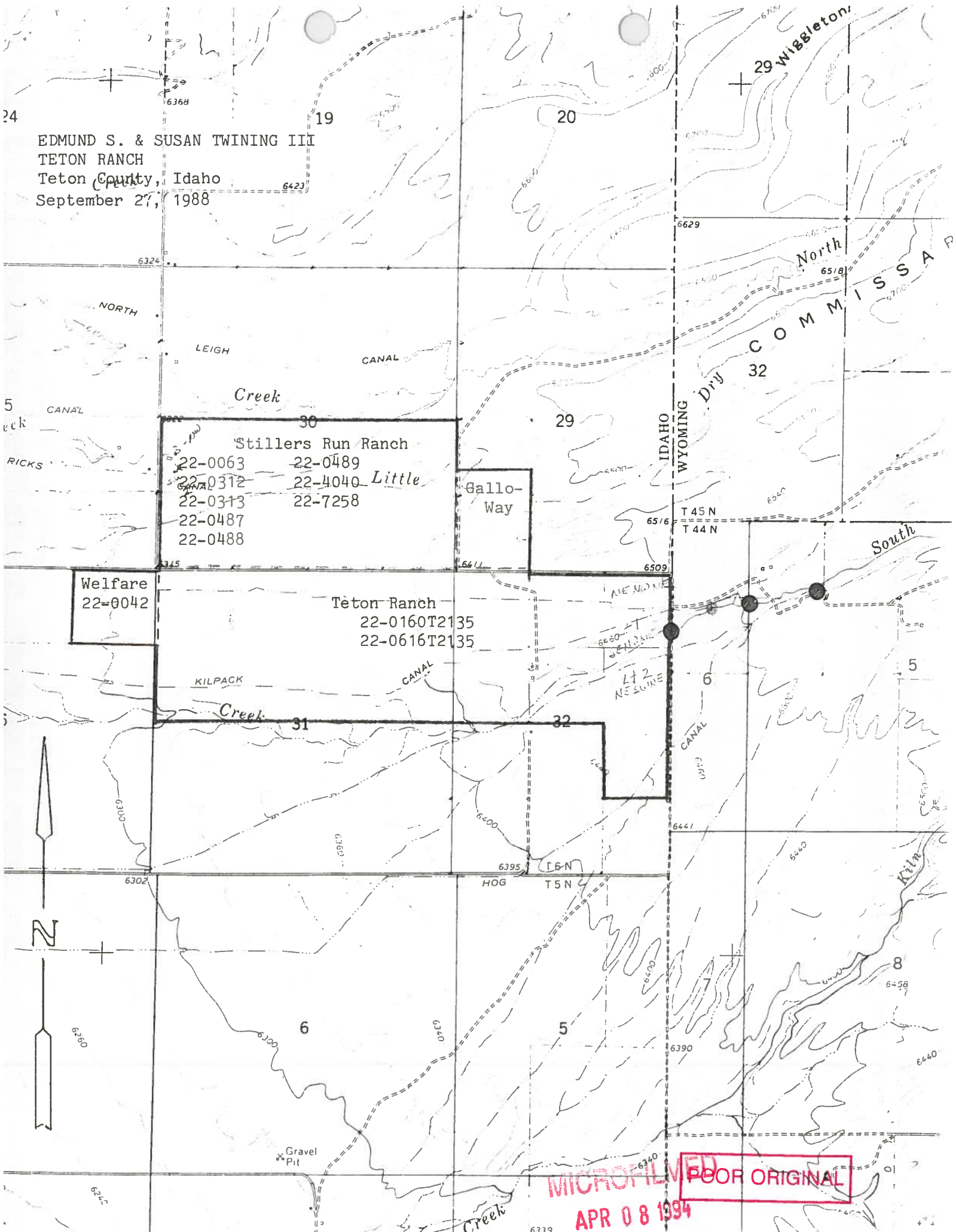
POOR ORIGINAL

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24

EDMUND S. & SUSAN TWINING III  
TETON RANCH  
Teton County, Idaho  
September 27, 1988



MICROFILMED  
APR 08 1994  
POOR ORIGINAL

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IDAHO  
WYOMING

R46E  
R. 118W

Pumps

Can / heading

MICROFILMED  
 APR 08 1984

POOR ORIGINAL

Twp 6N  
Rge 46E

Weaver Ditch  
Heading

North Irish Creek

|           |            |           |         |
|-----------|------------|-----------|---------|
| Lt 3      | 20.        | 30        | 30      |
| A22-00063 | A22-00487C | A22-00488 |         |
| Lt 4      | 36         | 38        | 40, 40, |

POOR ORIGINAL

RECORDED  
APR 08 1994