

10/21/2005

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

RIGHT NUMBER: 22-7090

NAME AND ADDRESS: ZOLLINGER FARMS
8611 BRYNWOOD DR
BOISE ID 83704

LAVINIA POWELL
8611 BRYNWOOD
BOISE ID 83704

WANDA PERCIVAL
8611 BRYNWOOD DR
BOISE ID 83704

H LE ROY ZOLLINGER
8611 BRYNWOOD DR
BOISE ID 83704

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 4.380 CFS
1,421.700 AFY

PRIORITY DATE: 04/12/1974

POINT OF DIVERSION:

T05N R40E S27 NESESW Within MADISON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/15

4.380 CFS

1,421.70 AFY

The use of water for irrigation under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION Within MADISON County

T05N R40E S27	NESW	37.0	T05N R40E S27	NWSW	35.0
T05N R40E S27	SWSW	39.0	T05N R40E S27	SESW	39.0
T05N R40E S27	NESE	38.0	T05N R40E S27	NWSE	39.0
T05N R40E S27	SWSE	39.0	T05N R40E S27	SESE	38.0
T05N R40E S28	NESE	36.0	T05N R40E S28	NWSE	8.0
T05N R40E S28	SWSE	20.0	T05N R40E S28	SESE	38.0

406 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Right No. 22-2215, 22-7493, 22-7495, and 22-7513 are also diverted through point of diversion described above.

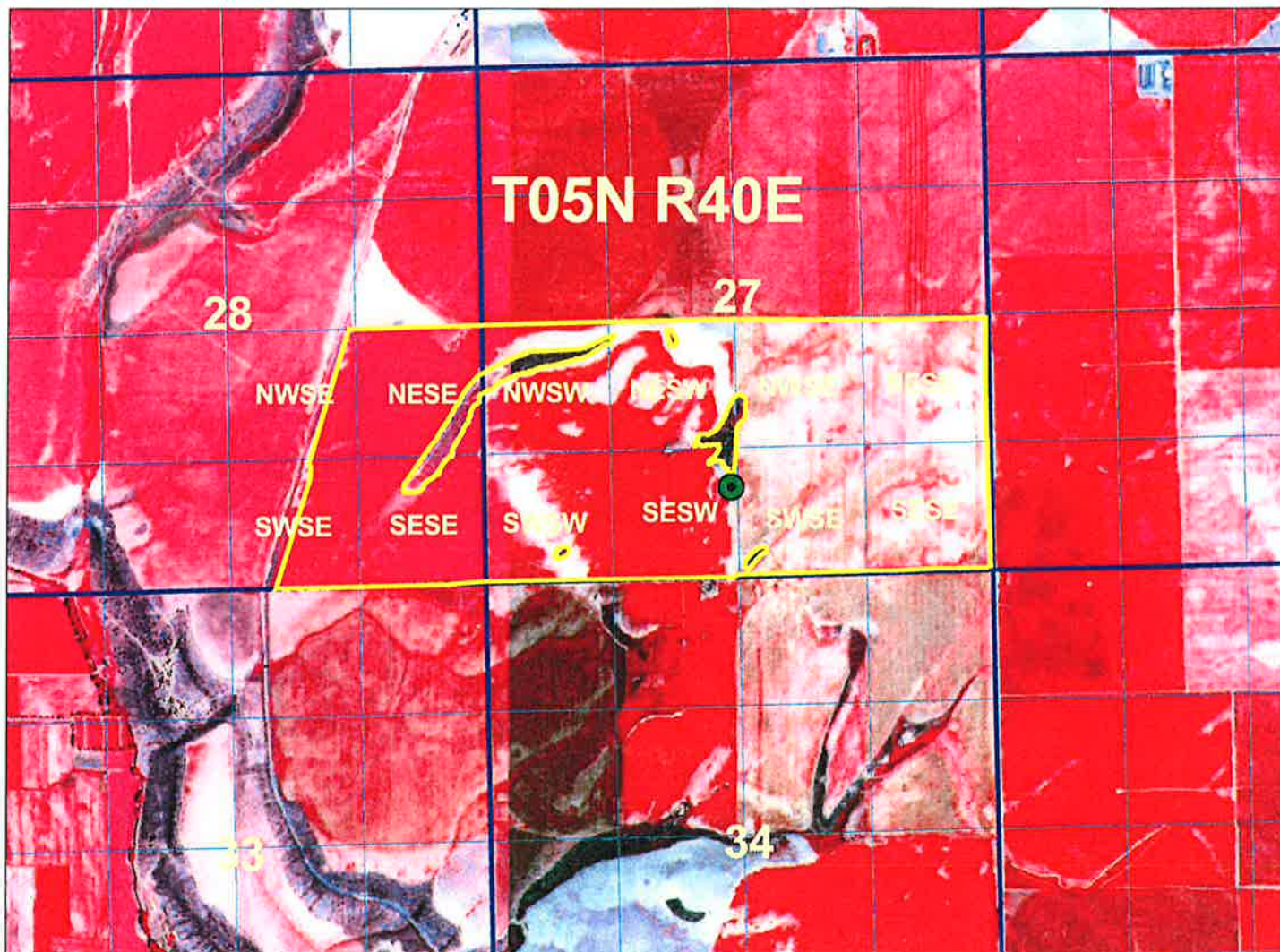


Department of Water Resources

Eastern Region

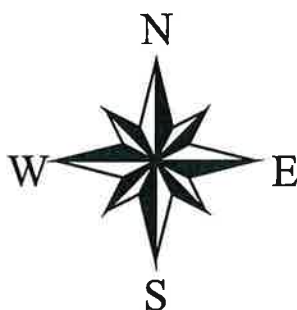


Claim No.: 22-7090



0 1320 2640 3960 5280 Feet

- Point of Diversion
- 22-7090
- Township/Range
- Sections
- QQ



GIS Place of Use Illustration
1987/88 NAPP Photography
Prepared by: Kristin Moore
Date Prepared: October 2005

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

RECEIVED

APR 15 2008

DEPARTMENT OF
WATER RESOURCES

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

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

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
PD 22-7493					
PD 22-7495					
FWD to →	22-7090				
Adj. →	22-2251				

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).
OR
- D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)
 Zollinger Farms Inc
 H Leroy Zollinger
 8611 Brynwood
4. New Owner/Claimant(s)
 Boise ID 83704
 Name Connector (Check one): ☐ and, ☒ for, ☐ and/or
 Stan or Pauline Sutton
- New Mailing Address
 City, State and ZIP Code
 578 EAST 7000 South Rexburg ID. 83440
- New Telephone Number
 (208) 356-3562 Email: _____
5. Date you acquired the property
 February 4th 1994

Notice of Change in Water Right Ownership - Form, Page 1 of 2

SCANNED

MAY - 6 2008

SUPPORT DATA

IN FILE # 22-7493

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

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right will not be split, skip this area and proceed to line 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		

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

7. Signature(s) of New Owner(s) or Claimant(s) Stanley Sutton (title if applicable)
Pauline Sutton (title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by _____
 Received by AW
 Processed by _____ AJ

Date _____
 Date 4/15/09
 Date _____

Receipt Amt. 00810024
 Receipt No. 25.00
 WR _____ Date _____

RECEIVED

FEB 29 2008

DEPARTMENT OF WATER RESOURCES

C/O: Emalee Rushing
2/28/08

In November 2007 a request was made to change ownership for water rights, by adding Kirt and Lori Sutton and deleting Bret Sutton who is, "deceased," and deleting Frankie Sue Sutton his wife, from the water rights. I was sent a notice that Kirt and Lori Sutton had been added as co-owners to the water rights, however Bret and Frankie Sue had not been deleted. I have included a Grant deed showing the transfer of property and all water rights wells, pumps, etc. At this time all we need to do is delete Bret and Frankie Sue Sutton from co-ownership of water rights. In February of 2009 I will be making final payment on the property and all water rights will be transferred to Kirt and Lori Sutton as new ownership by warranty deed from Zollinger Farm Inc. Feel free to contact Leroy Zollinger on this matter if you need to, or contact me for more information.

Kirt Sutton
864 East 7156 South
Rexburg, ID 83440
1-208-356-6356 - Home
1-208-390-6356 - Cell
1-208-356-7483 - Fax

Kirt Sutton

SCANNED

MAY - 6 2008

GRANT DEED**COPY**

FOR VALUE RECEIVED, **FRANKIE SUE SUTTON**, as Personal Representative of the **ESTATE OF BRET J. SUTTON**, deceased, with the Estate pending in the Seventh Judicial District in and for the County of Madison, Case No. CV-05-251, and **FRANKIE SUE SUTTON**, a widow, of 390 East 7000 South, Rexburg, Idaho 83440, collectively as to an undivided Fifty Percent (50%) interest, hereinafter "Grantors," do hereby grant and convey to **STANLEY B. SUTTON** and **PAULINE SUTTON**, as Co-Trustees, or their successors in trust, under the **STAN & PAULINE SUTTON LIVING TRUST**, dated November 24, 1999, of 578 East 7000 South, Rexburg, Madison County, Idaho 83440, hereinafter "First Grantees," an undivided Twenty-five Percent (25%) interest, and **KIRT SUTTON** and **LORI SUTTON**, husband and wife, of 864 E. 7156 S., Rexburg, Idaho 83440, hereinafter, "Second Grantees", an undivided Twenty-five Percent (25%) interest, in and to the following described property, situated in Madison County, Idaho, to-wit:

Twp. 5 N., Rge. 40 E., Boise Mer., Madison County, Idaho

- Sec. 27: S½
Sec. 28: E½SE¼ and that part of W½SE¼ lying and being East of the Railroad right-of-way
Sec. 33: NE¼ less Railroad right-of-way
Also: E½NE¼NW¼;
Also: The West 2 rods of NW¼SE¼;
Also: Commencing at a point 522 feet North of the Southeast corner of NW¼NW¼ and running thence West 50 feet; thence South 60 feet; thence East 50 feet; thence North 60 feet to the point of beginning, **together with** an easement for ingress and egress thereto 20 feet wide, the center line of which commences at a point 494 feet North of the Southwest Corner of NW¼NW¼ and running thence East 1320 feet.
Sec. 34: All

TOGETHER WITH any and all water rights, wells, pumps and irrigation systems and improvements and appurtenances thereto.

SUBJECT TO Easements of record or in existence for roads, railroads, ditches, pipelines and utilities.

Grant Deed - Page 1 of 5
SUTTONS.GD9

Instrument # 329836

REXBURG, MADISON, IDAHO

2006-07-27

10:55:00

No. of Pages: 5

Recorded for : GORDON THATCHER

MARILYN R. RASMUSSEN

Ex-Officio Recorder Deputy

Fee: 15.00

SCANNED

MAY - 6 2008

THIS CONVEYANCE is subject to all the rights of Sellers under that "Contract of Sale," dated February 1, 1994, with "Notice of Purchasers Interest," recorded on February 10, 1994, as Instrument No. 250527, records of Madison County, Idaho. There is owing on the Contract of Sale three remaining amortized installments of \$109,800.00 each, due on February 1, 2007, February 1, 2008 and February 1, 2009 (with the final installment to include any balance of principal and interest then unpaid). Second Grantees are obligated to make all of those payments, when due, and to hold Grantors and First Grantees harmless of any liability thereunder.

AS A RESULT of this conveyance the property is owned, subject to the Contract of Sale above described, Twenty-five Percent (25%) by First Grantees and Seventy-five Percent (75%) by Second Grantees [who already owned Fifty Percent (50%) thereof under the Contract of Sale.]

THIS CONVEYANCE is in partial furtherance of a Real Estate Exchange Agreement dated February 10, 2006. The property included herein may be referred to as the "Hill Property" or the "Zollinger Property."

"GRANTORS"


FRANKIE SUE SUTTON,
as Personal Representative of the
Estate of Bret Sutton, deceased.


FRANKIE SUE SUTTON

Acknowledgment by Personal Representative

STATE OF IDAHO)
 ss.
County of Madison.)

On this 21st day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Frankie Sue Sutton**, known to me to be the Personal Representative of the Estate of Bret J. Sutton, deceased, and acknowledged to me that she executed the same as such Personal Representative.



A handwritten signature of Anne Wieben in cursive script.

Notary Public for Idaho

Residing at Rigby

My Commission expires: 7/27/2007

Acknowledgment

STATE OF IDAHO,)
 ss.
County of Madison)

On this 21st day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Frankie Sue Sutton**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.



A handwritten signature of Anne Wieben in cursive script.

Notary Public for Idaho

Residing at Rigby

My Commission Expires: 7/27/2007

ACCEPTED BY FIRST GRANTEES AND SECOND GRANTEES this 10th day of February, 2006.

“FIRST GRANTEES”

Stanley B. Sutton
STANLEY B. SUTTON, as Co-Trustee
of the Stan & Pauline Sutton
Living Trust


PAULINE SUTTON, as Co-Trustee
 of the Stan & Pauline Sutton
 Living Trust

“SECOND GRANTEES”

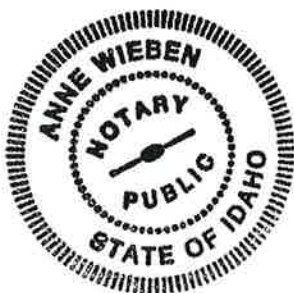
Kirt Sutton
KIRT SUTTON

Lori Sutton
LORI SUTTON

Acknowledgment by Co-Trustees

STATE OF IDAHO,)
County of Madison. ss.
)

On this 26th day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Stanley B. Sutton and Pauline Sutton**, known to me to be persons whose names are subscribed to the within instrument as the Trustees of the **STAN & PAULINE SUTTON LIVING TRUST**, and acknowledged to me that they executed the same as such Trustees.

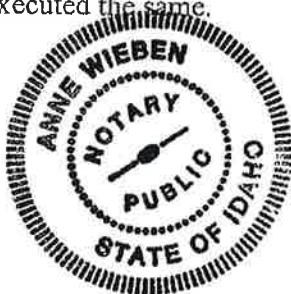


Anne W. W. W.
Notary Public for Idaho
Residing at Rigby
My Commission expires: 7/27/2007

Acknowledgment

STATE OF IDAHO,)
 ss.
County of Madison)

On this 7 day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Kirt Sutton** and **Lori Sutton**, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



A handwritten signature of Anne Wieben in cursive script.

Notary Public for Idaho

Residing at Rigby

My Commission Expires: 7/27/2007



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

JAMES E. RISCH
GovernorKARL J. DREHER
Director

October 12, 2006

KIRT SUTTON
BRET SUTTON
390 E 7000 S
REXBURG ID 83440RE: NOTICE(S) OF CHANGE OF WATER RIGHT OWNERSHIP
NOTICE(S) OF CLAIM TO A WATER RIGHT 22-2251, 22-7090

Dear Claimants:

The request for Change of Water Right Ownership concerning the above-referenced Notice(s) of Claim has been processed and the Department's records updated to reflect you as another current owner. When you have completed paid off the sale contract, and a deed is issued in your name, then we will list you as the sole owner.

The enclosed report shows this change along with listing the elements of the water right being claimed. Please review this report and contact this office if there are corrections or questions.

Respectfully yours,

Jennifer Crabtree
Technical Records Specialist

Enclosure

cc: Zollinger Farm

Please Change address

Kirt Sutton

864 E 7156 S.

Rexburg, ID. 83440.



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

JAMES E. RISCH
Governor

KARL J. DREHER
Director

October 12, 2006

KIRT SUTTON
BRET SUTTON
390 E 7000 S
REXBURG ID 83440

RE: NOTICE(S) OF CHANGE OF WATER RIGHT OWNERSHIP
NOTICE(S) OF CLAIM TO A WATER RIGHT 22-2251, 22-7090

Dear Claimants:

The request for Change of Water Right Ownership concerning the above-referenced Notice(s) of Claim has been processed and the Department's records updated to reflect you as another current owner. When you have completed paid off the sale contract, and a deed is issued in your name, then we will list you as the sole owner.

The enclosed report shows this change along with listing the elements of the water right being claimed. Please review this report and contact this office if there are corrections or questions.

Respectfully yours,

Jennifer Crabtree

Technical Records Specialist

Enclosure

cc: Zollinger Farm

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

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

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

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
22-7493					
22-7495					
	22-7090				
	22-2251				

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

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

OR

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

3. Name and Address of Former Owner/Claimant(s) LeRoy Zollinger.
4. New Owner/Claimant(s) Kirt Sutton.
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 864 E 7156 S
- City, State and ZIP Code Rexburg Idaho 83440
- New Telephone Number (208) 356-6356.
5. Date you acquired the property 1994.

10/17/2005

**NOTICE OF ERROR
REPLY**

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 22-7090

ZOLLINGER FARMS
8611 BRYNWOOD DR
BOISE ID 83704
Telephone Number: (208)376-8285

LAVINIA POWELL
8611 BRYNWOOD
BOISE ID 83704
Telephone Number: (208)376-8285

WANDA PERCIVAL
8611 BRYNWOOD DR
BOISE ID 83704
Telephone Number: (208)376-8285

H LE ROY ZOLLINGER
8611 BRYNWOOD DR
BOISE ID 83704
Telephone Number: (208)376-8285

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

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

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

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

DATE: 10-6-06. SIGNATURE: Kirt Sutton Pres. Current Owner

Please print your name: Kirt Sutton

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

Claim no. 422-07090
A22-11435

Claimant Contact Log

Date 12-20-04 Remarks Agent initials

SWF

1/ I met on-site with Kirt Sutton who is buying these farms. Claimant Zellinger want release water rights till contract of sale is paid off in 4 years.

2/ Contact phone for Kirt Sutton is 356-6356 - home or 390-6356 - cell.

3/ I advised Kirt that evidence of priority for the enlargement claim A22-11435 had not been provided. The documents he sent on March 15, 2004 pertain to the well & water lines under claim A22-07090.

Kirt needs to show that the ground under A22-11435 was irrigated as of 1984.

10-17-05

Recommending as licensed. Combined use w/ other licenses 22-2215, 22-7493, 22-7495, and 22-7513. The last three are past-AJ so there are no claims Aled.

Water Right No(s). A22-7090 + A22-11435

See attached photos

GPS DATA:

Tag # A0000251 Location: 2682451
1394444 Tag on wooden Post
GB File # 22-7090

Diversion Data:

Source: Groundwater Trib to: _____

MOTOR

Make: G.E. Model: _____ Hp: 600
SN: SK6328XC333A

PUMP

Make: Layne Bowler Model: _____ Disch: _____
SN: _____

NOTES:

Well to 12" mainline & 4 pivots. Pivots rotated in
use as only 2 are used at any one time. PAD located on
Ryan Mikersill computer. File name is 22-7090. Kirk Sutton is
buying farm but Zollinger want release water right till contract is
paid off in 4 more years.

Field Exam Date: 12-20-04 Agent: HL Jones

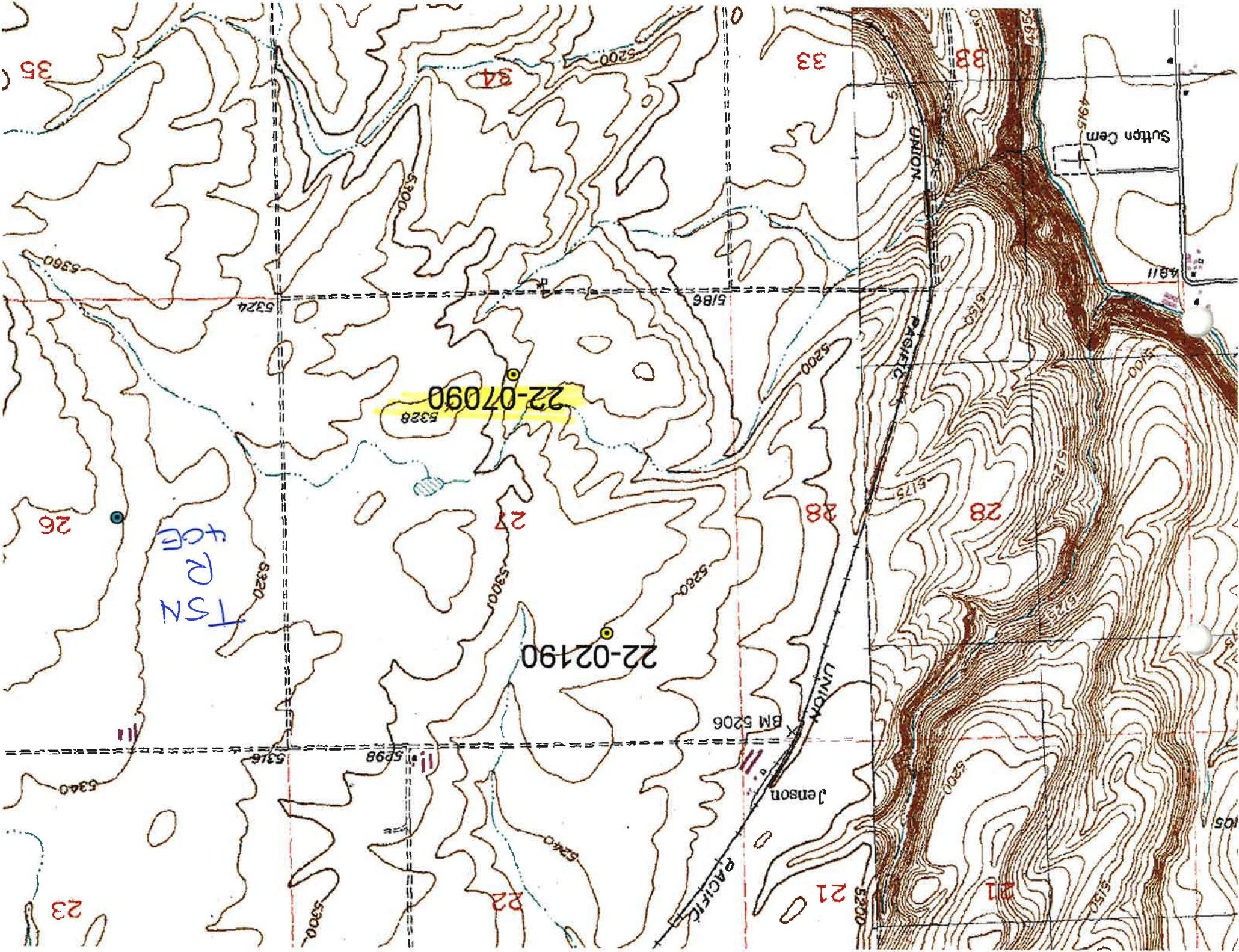


A22-7090+ A22-11435

Looking South



A22-7090 + A22-11434



State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 22-7090 Priority April 12, 1974 Amount 4.38 cfs

THIS IS TO CERTIFY, that Zollinger Farms, Inc.
of Rexburg, Idaho, has complied with the terms and conditions of Permit
No. 22-7090 issued pursuant to Application for Permit dated April 12, 1974,
and has submitted proof to the Department of Water Resources on May 1, 1979,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 4.38 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>October 15</u>	at <u>4.38</u> cfs and	<u>1421.7</u> acre feet
	from _____ to _____	at _____ cfs and	
	from _____ to _____	at _____ cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than 4.38 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
1421.7 acre feet per year, said waters to be diverted within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 27, Twp.
5N, Rge. 40E in the County of Madison

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
5N	40E	27									35	35	39	40	40	40	40	31	300
		28													36	11	19	40	106

Total number of acres irrigated 406

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 31ST day of
October, 19 81.

Acting for the Director

Norman C Young

Pew, Lori

From: Rushing, Emalee
Sent: Friday, February 29, 2008 9:33 AM
To: Pew, Lori
Subject: FW: From " 356 7483"(Fax Message NO.8766)

Attachments: 20080228223442488.tif



2008022822344248
8.tif (291 KB)...

Lori,

I'm forwarding this fax to you as it appears that there are 2 active adjudication claims. There is a prior ownership change request that is scanned to claim # 22-7090 & 22-2251.

I did phone Kirt Sutton to let him know that based on the documents submitted, I cannot just remove Frankie Sue & Bret Sutton as current owners of the water right. I am faxing him another blank copy of the notice of change in water right ownership (for Stan & Pauline Sutton's use).

Emalee

-----Original Message-----

From: Mitchell, Camille On Behalf Of IDWR Fax
Sent: Friday, February 29, 2008 8:18 AM
To: Rushing, Emalee; Gibson, Deborah
Subject: FW: From " 356 7483"(Fax Message NO.8766)

-----Original Message-----

From: idwrfax@idwr.idaho.gov [mailto:dwrfax@idwr.idaho.gov]
Sent: Thursday, February 28, 2008 8:35 PM
To: IDWR Fax
Subject: From " 356 7483"(Fax Message NO.8766)

This E-mail was sent from "State_507_BW" (Aficio 2045e).

Queries to: webmaster@idwr.idaho.gov

GRANT DEED**COPY**

FOR VALUE RECEIVED, **FRANKIE SUE SUTTON**, as Personal Representative of the **ESTATE OF BRET J. SUTTON**, deceased, with the Estate pending in the Seventh Judicial District in and for the County of Madison, Case No. CV-05-251, and **FRANKIE SUE SUTTON**, a widow, of 390 East 7000 South, Rexburg, Idaho 83440, collectively as to an undivided Fifty Percent (50%) interest, hereinafter "Grantors," do hereby grant and convey to **STANLEY B. SUTTON** and **PAULINE SUTTON**, as Co-Trustees, or their successors in trust, under the **STAN & PAULINE SUTTON LIVING TRUST**, dated November 24, 1999, of 578 East 7000 South, Rexburg, Madison County, Idaho 83440, hereinafter "First Grantees," an undivided Twenty-five Percent (25%) interest, and **KIRT SUTTON** and **LORI SUTTON**, husband and wife, of 864 E. 7156 S., Rexburg, Idaho 83440, hereinafter, "Second Grantees", an undivided Twenty-five Percent (25%) interest, in and to the following described property, situated in Madison County, Idaho, to-wit:

Twp. 5 N., Rge. 40 E., Boise Mer., Madison County, Idaho

- Sec. 27: S½
Sec. 28: E½SE¼ and that part of W½SE¼ lying and being East of the Railroad right-of-way
Sec. 33: NE¼ less Railroad right-of-way
Also: E½NE¼NW¼;
Also: The West 2 rods of NW¼SE¼;
Also: Commencing at a point 522 feet North of the Southeast corner of NW¼NW¼ and running thence West 50 feet; thence South 60 feet; thence East 50 feet; thence North 60 feet to the point of beginning, **together with** an easement for ingress and egress thereto 20 feet wide, the center line of which commences at a point 494 feet North of the Southwest Corner of NW¼NW¼ and running thence East 1320 feet.
Sec. 34: All

TOGETHER WITH any and all water rights, wells, pumps and irrigation systems and improvements and appurtenances thereto.

SUBJECT TO Easements of record or in existence for roads, railroads, ditches, pipelines and utilities.

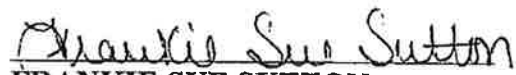
THIS CONVEYANCE is subject to all the rights of Sellers under that "Contract of Sale," dated February 1, 1994, with "Notice of Purchasers Interest," recorded on February 10, 1994, as Instrument No. 250527, records of Madison County, Idaho. There is owing on the Contract of Sale three remaining amortized installments of \$109,800.00 each, due on February 1, 2007, February 1, 2008 and February 1, 2009 (with the final installment to include any balance of principal and interest then unpaid). Second Grantees are obligated to make all of those payments, when due, and to hold Grantors and First Grantees harmless of any liability thereunder.

AS A RESULT of this conveyance the property is owned, subject to the Contract of Sale above described, Twenty-five Percent (25%) by First Grantees and Seventy-five Percent (75%) by Second Grantees [who already owned Fifty Percent (50%) thereof under the Contract of Sale.]

THIS CONVEYANCE is in partial furtherance of a Real Estate Exchange Agreement dated February 10, 2006. The property included herein may be referred to as the "Hill Property" or the "Zollinger Property."

"GRANTORS"


FRANKIE SUE SUTTON,
as Personal Representative of the
Estate of Bret Sutton, deceased.


FRANKIE SUE SUTTON

Acknowledgment by Personal Representative

STATE OF IDAHO)
 ss.
County of Madison.)

On this 21st day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Frankie Sue Sutton**, known to me to be the Personal Representative of the Estate of Bret J. Sutton, deceased, and acknowledged to me that she executed the same as such Personal Representative.



A handwritten signature of Anne Wieben in cursive script.

Notary Public for Idaho

Residing at Rigby

My Commission expires: 7/27/2007

Acknowledgment

STATE OF IDAHO,)
 ss.
County of Madison)

On this 21st day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Frankie Sue Sutton**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.



A handwritten signature of Anne Wieben in cursive script.

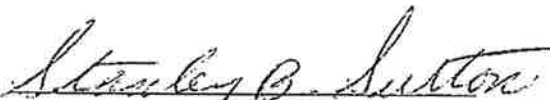
Notary Public for Idaho

Residing at Rigby

My Commission Expires: 7/27/2007

ACCEPTED BY FIRST GRANTEES AND SECOND GRANTEES this 10th day of
February, 2006.

"FIRST GRANTEES"

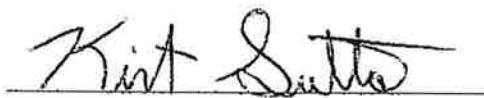


STANLEY B. SUTTON, as Co-Trustee
of the Stan & Pauline Sutton
Living Trust

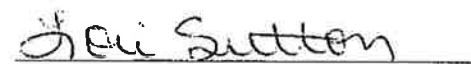


PAULINE SUTTON, as Co-Trustee
of the Stan & Pauline Sutton
Living Trust

"SECOND GRANTEES"



KIRT SUTTON



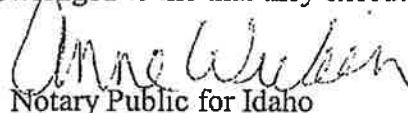
LORI SUTTON

Acknowledgment by Co-Trustees

STATE OF IDAHO,)
 ss.
County of Madison.)

On this 26th day of July, 2006, before me, the undersigned, a Notary Public in and for
said State, personally appeared **Stanley B. Sutton** and **Pauline Sutton**, known to me to be
persons whose names are subscribed to the within instrument as the Trustees of the **STAN &
PAULINE SUTTON LIVING TRUST**, and acknowledged to me that they executed the same
as such Trustees.





Notary Public for Idaho

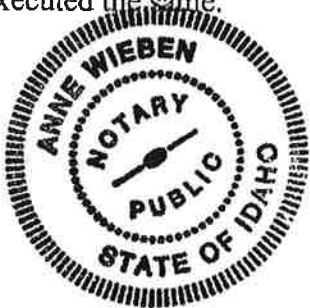
Residing at Rigby

My Commission expires: 7/27/2007

Acknowledgment

STATE OF IDAHO,)
 ss.
County of Madison)

On this 7 day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Kirt Sutton** and **Lori Sutton**, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



A handwritten signature of Anne Wieben in cursive script, positioned above a horizontal line.

Notary Public for Idaho

Residing at Rigby

My Commission Expires: 7/27/2007

**State of Idaho****DEPARTMENT OF WATER RESOURCES**

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

November 27, 2007

C. L. "BUTCH" OTTER
GovernorDAVID R. TUTHILL, JR.
DirectorKIRT & LORI SUTTON
864 E 7156 S
REXBURG ID 83440BRET & FRANKIE SUE SUTTON
390 E 7000 S
REXBURG ID 83440

RE: Change of Ownership for Water Right 22-7493 & 22-7495

Dear Water Right Holders:

The department acknowledges receipt of fee and correspondence changing ownership of the above referenced water rights to you. The department has modified its records to reflect the change in ownership and has enclosed computer-generated reports for your records.

Zollinger Farms will continue to be listed as a current owner of the water rights until proof of conveyance, such as a Warranty Deed, is received.

Please note that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office, or at the department's website at: www.idwr.idaho.gov.

Please feel free to contact this office if you have any questions regarding this matter.

Sincerely,

Emalee Rushing
Office Services Supervisor
Water Allocations Bureau

Enclosures

cc Zollinger Farms Inc
c/o H Leroy Zollinger
8611 Brynwood
Boise ID 83704SCANNED
MAR 27 2008

C/O: Emalee Rushing
2/28/08

In November 2007 a request was made to change ownership for water rights, by adding Kirt and Lori Sutton and deleting Bret Sutton who is, "deceased," and deleting Frankie Sue Sutton his wife, from the water rights. I was sent a notice that Kirt and Lori Sutton had been added as co-owners to the water rights, however Bret and Frankie Sue had not been deleted. I have included a Grant deed showing the transfer of property and all water rights wells, pumps, etc. At this time all we need to do is delete Bret and Frankie Sue Sutton from co-ownership of water rights. In February of 2009 I will be making final payment on the property and all water rights will be transferred to Kirt and Lori Sutton as new ownership by warranty deed from Zollinger Farm Inc. Feel free to contact Leroy Zollinger on this matter if you need to, or contact me for more information.

Kirt Sutton
864 East 7156 South
Rexburg, ID 83440
1-208-356-6356 - Home
1-208-390-6356 - Cell
1-208-356-7483 - Fax

Kirt Sutton

SCANNED

MAR 2 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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A22-07090
Date Received: 8/12/1988
Receipt No: E001901
Received By: AK

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ZOLLINGER FARMS 208-376-8285
Address: 8611 BRYNWOOD DR. 83704
BOISE, ID
OR
Name: WANDA PERCIVAL 208-376-8285
Address: 8611 BRYNWOOD DR. 83704
BOISE, ID
OR
Name: LAVINIA POWELL 208-376-8285
Address: 8611 BRYNWOOD 83704
BOISE, ID
OR
Name: H. LE ROY ZOLLINGER 208-376-8285
Address: 8611 BRYNWOOD DR. 83704
BOISE, ID



2. Date of Priority: APR 12, 1974

3. Source: GROUNDWATER Trib. to: SNAKE RIVER ACQUIFER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05N	40E	27	SE	SW			MADISON

5. Description of diverting works:
16" WELL, 850' DEEP, ELEC. MOTOR & PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	4.380		

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

A22-07090

Page 1

Date: 01/18/89

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OCT 29 1992

8. Total consumptive use is 1015.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	40E	27	NE	SW		IRR	35.0
			NW	SW		IRR	35.0
			SW	SW		IRR	39.0
			SE	SW		IRR	40.0
			NE	SE		IRR	40.0
			NW	SE		IRR	40.0
			SW	SE		IRR	40.0
			SE	SE		IRR	31.0
						Section Acres	300.0
		28	NE	SE		IRR	36.0
			NW	SE		IRR	11.0
			SW	SE		IRR	19.0
			SE	SE		IRR	40.0
						Section Acres	106.0
						Total Acres	406.0

11. Place of use in counties: MADISON

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: LICENSE
Water Right Number: 227090

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____
My Commission Expires _____

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: 39356

Ident. Number A22-07090Date Received 8/12/88Receipt Number E001901

NOTICE OF CLAIM
TO A
WATER RIGHT

ACQUIRED UNDER STATE LAW

RECEIVED
AUG 12 1988
Department of Water Resources
Eastern District Office

1 check
for (3)
\$206.00

Please type or print clearly

1. Name of Claimant (s) WANDA PERCIVAL OR LAVINIA POWELL OR Phone (208) 376-8285Mailing Address ZOLLINGER FARMS
OR (H. LEROY ZOLLINGER)8611 BRYNWOOD DR. Boise Id. Zip 837042. Date of Priority (Only one (1) per claim) APRIL 12, 1974 PROOF OF 5/1/19793. Source of water supply (a) WELL (GROUND WATER)which is tributary to (b) SNAKE RIVER ACQUIVER4. a. Location of existing point of diversion is: Township 5N Range 40E Section 27,SE 1/4 of SW 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of MADISON

Additional points of diversion if any: _____

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.

16" DIA. WELL, 850 FT
deep - ELEC. MOTOR & PUMP.

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 4/1 to 11/1 amount 4.38 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 4.38 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 1015 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. 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 instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
5N	40E	27									35	35	39	40	40	40	40	31	300
		28													36	11	19	40	106

Total number of acres irrigated 406

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

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.

or None (X)

14. Remarks:

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OCT 29 1992

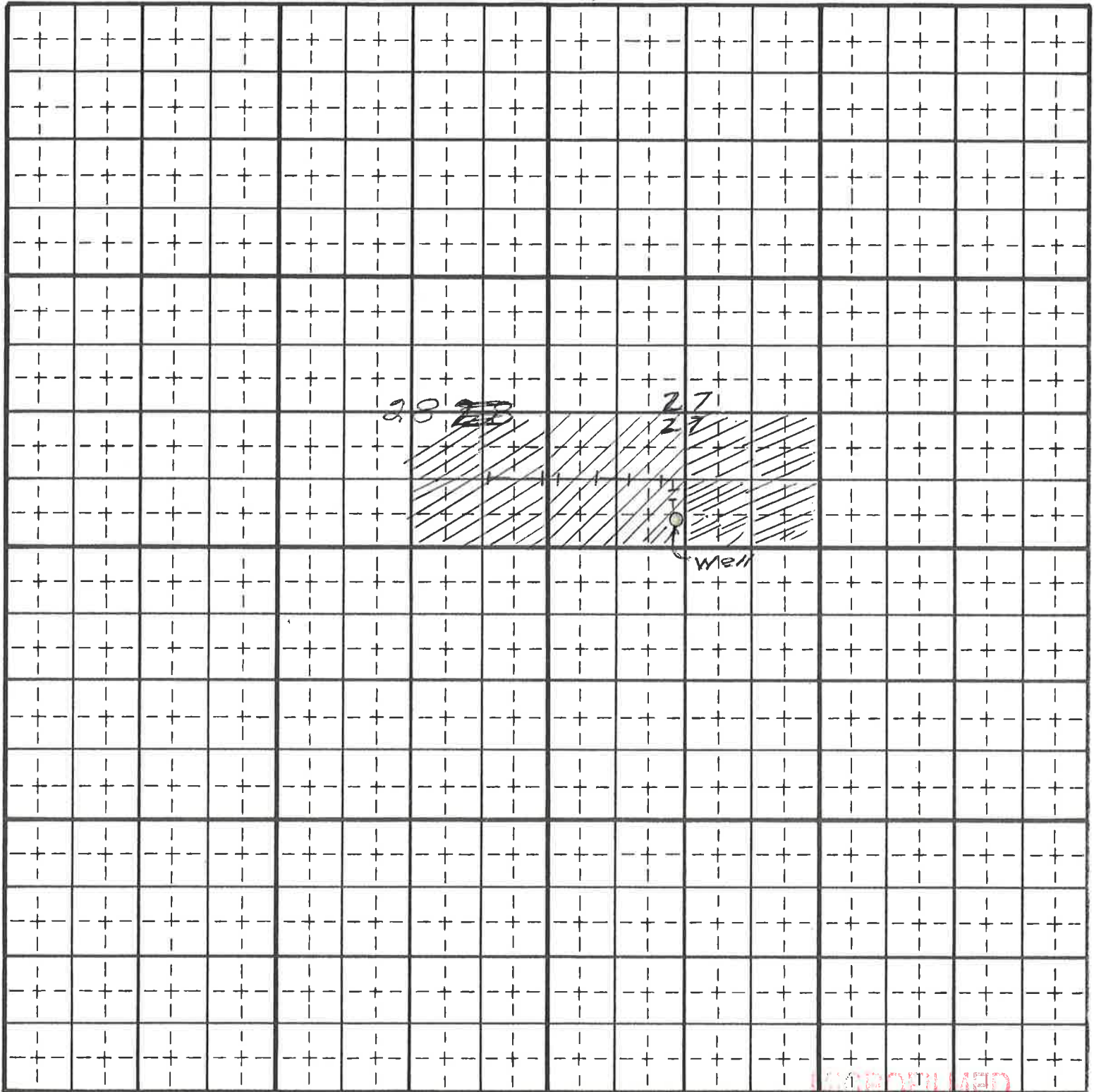
Last Name ZOLLINGER (FARMS) Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

T5N R40E



RECEIVED

OCT 29 1992

Last Name ZOLLINGER Ident No. _____

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License ☒ Permit _____
Decree _____
If applicable provide IDWR Water Right Number A22-17090
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

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

Signature of Claimant (s) *Heidi Zollinger*

Date 8/4/88

Date _____

For Organizations: I do solemnly swear or affirm that I am _____

Title _____

of _____, that I have signed the foregoing

Organization

document in the space below as _____

Title

of _____

Organization

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

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or _____)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 11th day of August 19 88

SEAL

Notary Public *Nancy M. Lindgren*

Residing at Boise

My Commission Expires 1-19-1994

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ 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 _____

Date _____

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OCT 29 1992

Last Name ZOLLINGER Ident. Number _____

Copies White-State, Yellow-Claimant

10/19/1988

SRBA CLAIMS RECEIVING CHECKLIST

CLAIMANT'S NAME Zollinger Farm CLAIM I T. NO. A22-02090
DATE RECEIVED 8-12-88 CK # 180 AMOUNT \$ 1206

1. Is the name and address complete with zip code? YES ☒ NO ☐
2. Is a priority date entered? YES ☒ NO ☐
- Is the water use exempt from the Permit requirements, or if it is not exempt, has a Permit been approved or a License issued?
A Permit is required: (1) for groundwater developed after March 25, 1963 (except single family domestic and stockwater wells using less than 13,000 gpd), or (2) for surface water developed after May 20, 1971 (except for instream stockwater). USE CARE IF CLAIM IS RETURNED. REFER TO ADJUDICATION MEMOS # 1 (ADJ. CLAIMS/APPLICATIONS) AND # 9 (REJECTION OF CLAIMS). EXPLAIN IN COMMENTS. 1961
3. (a) Is a source entered? YES ☒ NO ☐
(b) Is a tributary to entered? (if required) N/A ☐
4. Is the legal description of the p.d. sufficient? YES ☒ NO ☐
5. Is there a description of the diverting works? YES ☒ NO ☐
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. YES ☒ NO ☐
Is the period of use included? YES ☒ NO ☐
Is a quantity claimed for each use? YES ☒ NO ☐
7. Is a total quantity claimed entered? YES ☒ NO ☐
8. If required is a consumptive use entered? N/A ☐
Is the consumptive use correct? N/A ☐
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, each household must file a separate claim. See Adjudication Memo # 4. YES ☒ NO ☐
10. Is (are) the place(s) of use entered? YES ☒ NO ☐
11. Is (are) the county(ies) entered? YES ☒ NO ☐
12. Is the ownership of p.u. checked? YES ☒ NO ☐
13. Are other water rights listed or "none" indicated? YES ☒ NO ☐
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) N/A ☐
15. Is the basis of the claim checked? YES ☒ NO ☐
16. Is the claim signed by the claimant, and is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?) YES ☒ NO ☐
- Has the claim been signed, sealed, and dated by a notary? YES ☒ NO ☐
- Was this claim filed on time, or was an extension granted? YES ☒ NO ☐
- Is the fee enclosed correct? YES ☒ NO ☐
- If this claim is based on an existing water right, has the identification number been entered? N/A ☐
- Should this claim be receipted and data entered? YES ☒ NO ☐

Claim checked by: ESR

Comments: _____

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OCT 29 1992