

03/29/2004

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

RIGHT NUMBER: 23-11239
NAME AND ADDRESS: FOSTER LAND & CATTLE CO
PO BOX 308
RIGBY ID 83442
SOURCE: ANTELOPE CREEK TRIBUTARY: SOUTH FORK SNAKE RIVER
QUANTITY: 16.730 CFS
USE OF THIS RIGHT WITH RIGHT NO. 23-11241 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 41.78 CFS.

PRIORITY DATE: 06/01/1890

POINT OF DIVERSION:
T02N R42E S5 NESESE Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	16.730 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T02N R42E S04 Lot 1 NENE	10.0	T02N R42E S04 Lot 2 NWNE	39.0
T02N R42E S04 SWNE	40.0	T02N R42E S04 SENE	38.0
T02N R42E S04 Lot 3 NENW	41.0	T02N R42E S04 Lot 4 NWNW	39.0
T02N R42E S04 SWNW	40.0	T02N R42E S04 SENW	40.0
T02N R42E S04 NESW	40.0	T02N R42E S04 NWSW	40.0
T02N R42E S04 SWSW	40.0	T02N R42E S04 SESW	40.0
T02N R42E S04 NWSE	40.0	T02N R42E S04 SWSE	40.0
T02N R42E S05 SENE	21.0	T02N R42E S05 NESE	19.0
T02N R42E S05 SESE	5.6	T02N R42E S08 NENE	29.0
T02N R42E S08 NWNE	2.6	T02N R42E S08 SWNE	26.0
T02N R42E S08 SENE	40.0	T02N R42E S09 NWNE	7.3
T02N R42E S09 NENW	40.0	T02N R42E S09 NWNW	40.0
T02N R42E S09 SWNW	40.0	T02N R42E S09 NWSW	36.0
T03N R42E S33 NESW	13.0	T03N R42E S33 SESW	39.0
T03N R42E S33 SWSE	11.0		

896.5 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: Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT NO. 23-11241 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

1



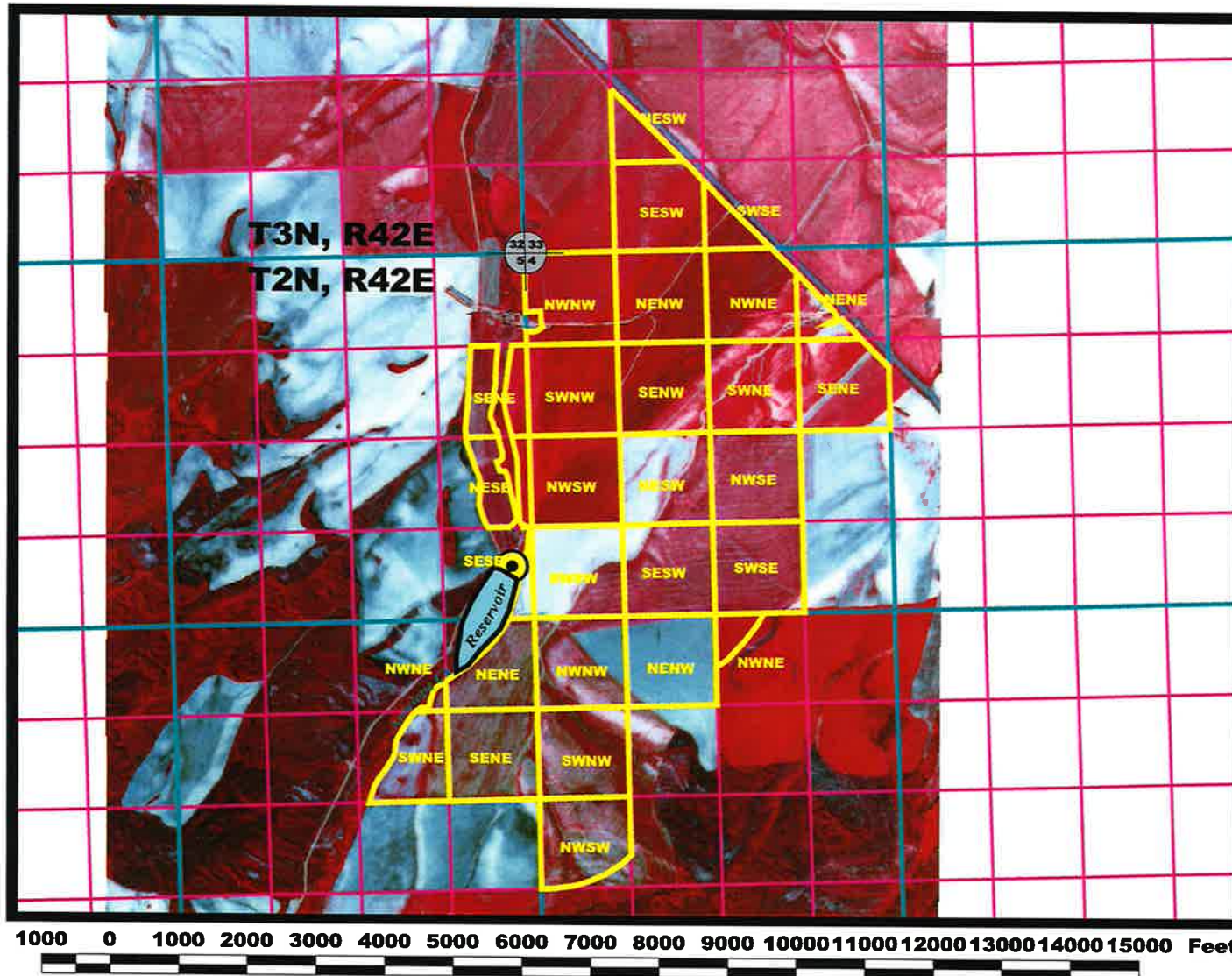
JUL 22 2004

SCANNED

State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):

23-11239

23-11241

Place of Use: (parts of)

T3N, R42E Sec. 33

T2N, R42E Secs. 4, 5, 7, 8

Point(s) of Diversion:

T2N, R42E Sec. 5 NESESE

LEGEND

-  Point of Diversion
-  SESE Place of Use
-  Section
-  Quarter-Quarter



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: A. Ruberry
Date: March 2004

02/17/2004

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: 23-11239

FOSTER LAND & CATTLE CO

PO BOX 308

RIGBY ID 83442

Telephone Number: (208)243-6936

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

correct place of use per photo

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: _____

SIGNATURE: *Erud Loster*

Please print your name: _____

IDWR Regional Office,

3/29/04 ① CORRECTED POU AND OTHER DOCUMENTS

ACCORDINGLY.

② ALSO SEE 23-11241.

*③ ALSO CAUSING CONNECTIONS
TO BSM MAPS TO HAMILTON'S
23-11240 AND 23-11242*

MEMORANDUM

10 December 2004

To: The file of 23-11239, 11240, 11241, and 11242

From: A. Ruberry

Subject: Future Changes of Ownership involving 22-11239 and 11241

Today, Clayton Hamilton visited this office to discuss filing additional changes of ownership for the land transaction(s) completed this year and the land transactions to be completed over the next five years. The referenced land transactions are between Foster Land and Cattle Co. and The Foster Co., the "GRANTOR", and Hamilton Land Development, LLC, the "GRANTEE".

I advised Mr Hamilton that in the end the result would be the same, meaning that all the water rights portions split off would total the original rights, except that they would have some twelve rights instead of just four (current splits were done to satisfy a lender). In addition, I advised that the cost would be \$100 for each portion split off each year, further, that from an administrative perspective, for IDWR and them, it would be bothersome. Therefore, with the above considered, I further advised Mr. Hamilton to wait until the final land transaction was completed, which should be about 2010, then, file one Notice of Change of Ownership for the outstanding rights. I also, advised Mr. Hamilton to discuss this matter with his legal counsel.

It was further explained: there is a statute that requires submitting a change of ownership "promptly" or a fine could be levied. The purpose of this memo is to declare the intent of Mr. Hamilton wanting to file the Change(s) of Ownership today, but being advised **NOT** to do so due to the above.

Attachments:

1. Grant Deed; Foster, et al and Hamilton Land Dev, LLC, w/ Exhibit "A"
2. Amendment to Water Rights and Irrig. System Use Agreement (part 1.)
3. Amendment to Water Rights and Irrig. System Use Agreement (part 2.) with Water Rights and Irrigation Systems Use Agreement.

CC: Hamilton Land Development, LLC
ATTN Clayton Hamilton
4860 West 13400 South
Riverton, Utah 84065

Foster Land and Cattle Co
PO Box 308
Rigby, ID 83442

GRANT DEED

THIS INDENTURE is made this 14 day of April, 2003, between Foster Land and Cattle Co. and The Foster Company, the "Grantor", and Hamilton Land Development, LLC, whose mailing address is 4860 West 13400 South, Riverton, Utah, 84065, the "Grantee".

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, and by these presents does grant and confirm unto the Grantee, and to Grantee's heirs and assigns forever, all of the following described property in the County of Bonneville, State of Idaho, to-wit:

See Attached Exhibit "A"

SUBJECT to all existing easements or claims of easements, patent reservations, rights of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, and rents, issues and profits therefrom; and all estate, right, title and interest in and to said property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD, the premises and the appurtenances unto the Grantee, and to Grantee's heirs and assigns forever.

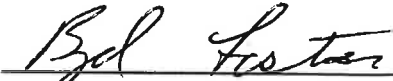
In construing this deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

INSTRUMENT NO.	<u>1110482</u>
DATE	<u>4-15-03</u>
INST. CODE	<u>200</u>
IMAGED PGS	<u>5</u>
FEE	<u>15.00</u>
STATE OF IDAHO) COUNTY OF BONNEVILLE) ss	
I hereby certify that the within instrument was recorded.	
Ronald Longmore, County Recorder	
By <u>M. Sellen</u>	Deputy
Request of	

FOSTER LAND AND CATTLE CO.

By: 
Bradley D. Foster, General Partner

By: 
Boyd S. Foster, General Partner

THE FOSTER COMPANY

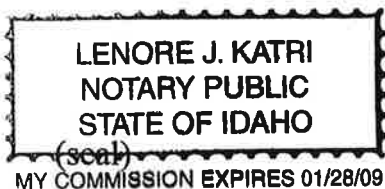
By: 
Bradley D. Foster, General Partner

By: 
Boyd S. Foster, General Partner

STATE OF IDAHO)
)ss.
County of Bonneville)

On the 14 day of April, 2003, before me the undersigned, a notary public in and for said State, personally appeared Bradley D. Foster and Boyd S. Foster, known or identified to me to be the partners in the partnership of Foster Land and Cattle Co. and the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that they executed the same in said partnership name.

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

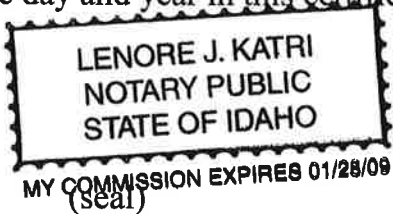



Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of Bonneville)

On the 14 day of April, 2003, before me the undersigned, a notary public in and for said State, personally appeared Bradley D. Foster and Boyd S. Foster, known or identified to me to be the partners in the partnership of The Foster Company and the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that they executed the same in said partnership name.

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



A handwritten signature in cursive script, appearing to read "Lenore J. Katri", written over a horizontal line.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

EXHIBIT "A"

TRACT 1:

Beginning at the Southwest Corner of the SE1/4 SE1/4 of Section 32, Township 3 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho; running thence North along the Sixteenth line of said Section 32 a distance of 1057.3 feet; thence N89°E 167 feet; thence S19°35'E 684 feet; thence S32°15'E 432.5 feet, more or less, to the West line of a County Road; thence Southerly along the West line of said County Road to the South line of said Section 32; thence Westerly along said South line to the point of beginning.

TRACT 2:

That portion of the SE1/4 NE1/4 of Section 32, Township 3 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho, lying East of the center line of Antelope Creek Road.

EXCEPTING THEREFROM ALL OF THE FOLLOWING DESCRIBED PROPERTY:

- a. A triangular parcel of land being on the Southwesterly side of the center line of Highway as surveyed and shown on the official plat of U.S. Highway 26 - Project No. F-6501(2) Highway Survey on file at the office of the Department of Highways of the State of Idaho, and lying in a portion of the SE1/4 NE1/4 of said Section 32, more particularly described as follows: Beginning at the Northeast Corner of the SE1/4 NE1/4 of said Section 32, approximately 1334.8 feet South from the Northeast Corner of said Section 32; thence West along the North line of the SE1/4 NE1/4 of said Section 32 a distance of 127.4 feet to a point; thence S43°31'E along a line parallel to and 100.0 feet distant Southwesterly from the center line of U.S. Highway No. 26 - Project No. F-6501(2) Highway Survey 185.2 feet to the East line of the SE1/4 NE1/4 of said Section 32; thence North along said East line 135.7 feet to the point of beginning.

TRACT 3:

E1/2 SE1/4 of Section 32, Township 3 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho.

EXCEPTING THEREFROM ALL OF THE FOLLOWING DESCRIBED PROPERTY:

- a. Beginning at the Southwest Corner of the SE1/4 SE1/4 of Section 32, Township 3 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho; running thence North along the Sixteenth line of said Section 32 a distance of 1057.3 feet; thence N89°E 167 feet; thence S19°35'E 684 feet; thence S32°15'E 432.5 feet, more or less, to the West line of a County Road; thence Southerly along the West line of said County Road to the South line of said Section 32; thence Westerly along said South line to the point of beginning.

ALSO: SW1/4 NW1/4 and W1/2 SW1/4 of Section 33, Township 3 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho, all of the property lying South and Westerly of U.S. Highway 26.

TRACT 4:

Section 5, Township 2 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho, being more particularly described as follows: That portion of Government Lot 1 lying East of the existing County Road, which road runs more or less along the following courses from a point East along the Sixteenth line 645.4 feet, more or less, from the Southwest Corner of the NE1/4 of the SE1/4 of said Section 5, said point being the intersection of said Sixteenth line with the West right of way line of the County Road through said Section 5 (and said point not being located in this parcel); thence N21°8'W 306.3 feet; thence N2°43'E 403.9 feet; thence N16°57'W 683.7 feet; thence N4°15'E 1466.7 feet; thence N7°17'E 412.3 feet; thence N70°29'E 887.3 feet.

**AMENDMENT
TO
WATER RIGHTS AND IRRIGATION SYSTEMS
USE AGREEMENT**

Effective as of the 3 day of November, 2003, and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, **The Foster Company**, an Idaho general partnership, and **Foster Land and Cattle Co.**, an Idaho general partnership, hereinafter collectively referred to as "Seller," and **Hamilton Land Development, LLC**, a Utah limited liability company, hereinafter referred to as "Buyer," hereby amend that certain Water Rights and Irrigation Systems Use Agreement dated April __, 2003, by and between Seller and Buyer (the "Agreement"), by adding the following legal description to the end of paragraph 4:

The location of the irrigation reservoir is more specifically described as follows:

Said reservoir is located in the NW ¼ of the SE ¼ of Section 5 Township 2 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho.

Irrigation water is delivered from the reservoir into an underground concrete pipeline running Northeasterly to a point in the NW ¼ of Section 4 Township 2 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho where water is again diverted through an underground concrete pipeline running Northwesterly to the SW ¼ of Section 33 Township 3 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the
day and year first above written.

THE FOSTER COMPANY,
an Idaho General Partnership

By Bradley D. Foster
Bradley D. Foster, General Partner

FOSTER LAND AND CATTLE CO.
an Idaho General Partnership

By Bradley D. Foster
Bradley D. Foster, General Partner

HAMILTON LAND DEVELOPMENT, LLC
a Utah Limited Liability Company

By Clayton Hamilton
Clayton Hamilton, Managing Member

STATE OF IDAHO)
)ss.
 County of Bonneville)

On the 3 day of November, 2003, before me the undersigned, a notary public in and for said State, personally appeared **Bradley D. Foster**, known or identified to me to be one of the partners in the partnership of **The Foster Company** and the partner or one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.

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



Laurie Foster
 Notary Public for Idaho
 Residing at Idaho Falls, Idaho
 My Commission Expires: 5-11-09

STATE OF IDAHO)
)ss.
 County of Bonneville)

On the 3 day of November, 2003, before me the undersigned, a notary public in and for said State, personally appeared **Bradley D. Foster**, known or identified to me to be one of the partners in the partnership of **Foster Land and Cattle Co.** and the partner or one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.

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



Laurie Foster
 Notary Public for Idaho
 Residing at Idaho Falls, Idaho
 My Commission Expires: 5-11-09

STATE OF IDAHO)
)ss.
County of Bonneville)

On the 3 day of November, 2003, before me the undersigned, a notary public in and for said State, personally appeared **Clayton Hamilton**, known or identified to me (or proved to me on the oath of Clayton Hamilton) to be one of the managers or a member of **Hamilton Land Development, LLC**, the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company 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.



Laurie Foster
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 5-11-09

BUT

**AMENDMENT
TO
WATER RIGHTS AND IRRIGATION SYSTEMS
USE AGREEMENT**

Effective as of the 3 day of November, 2003, and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, **The Foster Company**, an Idaho general partnership, and **Foster Land and Cattle Co.**, an Idaho general partnership, hereinafter collectively referred to as "Seller," and **Hamilton Land Development, LLC**, a Utah limited liability company, hereinafter referred to as "Buyer," hereby amend that certain Water Rights and Irrigation Systems Use Agreement dated April __, 2003, by and between Seller and Buyer (the "Agreement"), by adding the following legal description to the end of paragraph 4:

The location of the irrigation reservoir is more specifically described as follows:

Said reservoir is located in the NW ¼ of the SE ¼ of Section 5 Township 2 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho.

Irrigation water is delivered from the reservoir into an underground concrete pipeline running Northeasterly to a point in the NW ¼ of Section 4 Township 2 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho where water is again diverted through an underground concrete pipeline running Northwesterly to the SW ¼ of Section 33 Township 3 North, Range 42 East of the Boise Meridian, Bonneville County, Idaho.

1st one
✓

S/B NE ¼, SE ¼, SE ¼

WATER RIGHTS AND IRRIGATION SYSTEMS USE AGREEMENT

This Agreement is made and entered into this 17 day of April, 2003, by and between **The Foster Company**, an Idaho general partnership, and **Foster Land and Cattle Co.**, an Idaho general partnership, hereinafter collectively referred to as "Seller" and **Hamilton Land Development, LLC**, a Utah limited liability company, hereinafter referred to as "Buyer";

WITNESSETH:

That for and in consideration of the sale of Property from Seller to Buyer, and the mutual covenants and agreements herein set forth, the parties hereto agree as follows:

1. The parties hereto entered into a real estate sale Agreement on the 7th day of April, 2003, pursuant to the terms of which Seller agreed to sell to Buyer approximately 210 acres of farm land in Bonneville County, Idaho. Seller also granted to Buyer certain options to purchase additional farm real property. The property subject to the sale and to the options is located in Bonneville County, Idaho, in Sections 32 and 33, T.3N., R.42E., and in Sections 4, 5, 8, 9 and 10 of T.2N., R.42E. The legal description of said property is attached hereto as Exhibit "A" and Exhibit "B", and hereafter referred to as the "Property".

2. The following described water rights are appurtenant to portions of said Property, and, as claimed in the pending Snake River Basin Adjudication proceeding (an ongoing adjudication proceeding for the determination of the elements of all rights to the use of surface or ground water of the Snake River and all of its tributaries located within the State of Idaho) are used for the irrigation of about 1,109 acres thereof:

Water Right ID No.	Source	Priority	Amount
23-83	Antelope Creek	June 1, 1890	20 cfs
23-84	Antelope Creek	June 1, 1890	50 cfs

It is understood that said water rights will be the subject of review by the Idaho Department of Water Resources in connection with the processing of the ongoing Snake River Basin Adjudication Proceeding, and that there will be an opportunity as well for scrutiny of said water rights by the public and the courts. While said water rights have been used by Seller and Seller's predecessors in interest for many years for the irrigation of the irrigable portions of the "Property", Seller makes no warranties with respect to the ultimate outcome of the Snake River Basin Adjudication proceeding as to the determination of the elements of such water rights.

3. The water rights appurtenant to the approximately 210 acres deeded to Buyer have passed to Buyer. If Buyer exercises the option to purchase additional property, the applicable portions of the described water rights will pass with title to the Property as appurtenances thereto.

4. There are irrigation water delivery systems located upon the Property for the purpose of delivering water diverted pursuant to the above listed water rights to be applied for the irrigation of the Property. Such systems include reservoirs, pumps and mainline, as well as center pivot, linear and hand line sprinklers. However, the division of the parcels of land subject to the sale and the option Agreement are not consistent with the locations or configuration of any of such existing irrigation water diversion and delivery systems. Pursuant to a Lease Agreement between the parties Seller will operate all of the Property during the 2003 crop season. Thereafter, it is contemplated that Buyer will operate all of the property pursuant to lease arrangements with Seller until all options have been exercised and title to all of the property has passed to Buyer, or the options have lapsed.

add description
5. If all of the options are not exercised by Buyer, for any reason, the parties agree to share any and all costs of operation, maintenance, repair, rehabilitation or replacement of such diversion and delivery systems pro rata, in accordance with the number of acres authorized for irrigation under the above referenced water rights to which each party holds title. Any dispute as to the need for maintenance, repairs, rehabilitation or replacement, or the timing of the diversion and use of water through such diversion and delivery systems, shall be resolved by Seller in a manner that is equitable to the parties. If Buyer disagrees with Seller's proposed resolution of the issue, the matter shall be resolved by Blair J. Grover, Esq. of Rigby, Idaho, in a manner that is equitable to the parties.

6. The Seller will take responsibility for initial payment of all costs of operation, maintenance, repair, rehabilitation or replacement of said systems, and all accounts shall remain in Seller's name until such time as title to all Property has been conveyed to Buyer. Seller shall present to Buyer copies of all bills, charges, invoices and the like evidencing such costs as soon as practicable following receipt thereof, together with an appropriate allocation of such costs according the number of acres with appurtenant water rights of each party. Buyer shall reimburse Seller for Buyer's proportionate share thereof within thirty (30) days of such notification. If all of the Property is operated as a unit under a lease, the terms of said lease shall supersede the terms of this paragraph.

7. All notices, writings, information, documents or other communications that are required or permitted to be given hereunder (a) shall be in writing; (b) shall be deemed to be given and received either (i) on the date of delivery, if personally delivered; (ii) on the third business day following mailing, if delivered by certified mail, return receipt requested; or (iii) on the next business day, if marked for next business day delivery and delivered by

guaranteed overnight express courier, such as Federal Express; (c) shall be addressed to the applicable party at the address that is indicated below for such party or as to each party at such other address that may be designated by such party in a written notice to the other party:

Seller:

The Foster Company
P. O. Box 308
Rigby, ID 83442

Foster Land & Cattle Co.
P. O. Box 308
Rigby, ID 83442

Buyer:

Clayton Hamilton, Manger
Hamilton Land Development, LLC
4860 W. 13400 S.
Riverton, UT 84065

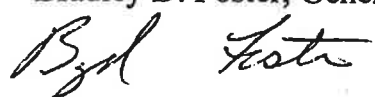
8. Should either party default in the performance of any of the covenants or agreements contained herein, such defaulting party shall pay to the other party all costs and expenses, including, but not limited to, a reasonable attorney fee, including such fees on appeal, which the offended party may incur in enforcing this Agreement or in pursuing any remedy allowed by law for breach hereof, whether such is incurred by the filing of suit or otherwise.

9. This Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, administrators, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

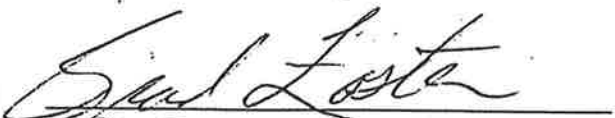
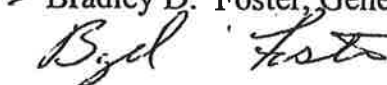
THE FOSTER COMPANY

By:


Bradley D. Foster, General Partner


FOSTER LAND AND CATTLE CO.

By:


Bradley D. Foster, General Partner


HAMILTON LAND DEVELOPMENT, LLC

By: 
Clayton Hamilton, Managing Member

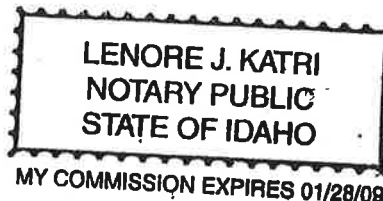
STATE OF IDAHO)
)ss.
County of Bonneville)

On the 14 day of April, 2003, before me the undersigned, a notary public in and for said State, personally appeared Bradley D. Foster, known or identified to me to be one of the partners in the partnership of Foster Land and Cattle Co. and the partner or one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.

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

(seal)

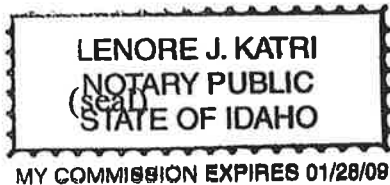

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____



STATE OF IDAHO)
)ss.
County of Bonneville)

On the 14 day of April, 2003, before me the undersigned, a notary public in and for said State, personally appeared Bradley D. Foster, known or identified to me to be one of the partners in the partnership of The Foster Company and the partner or one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.

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

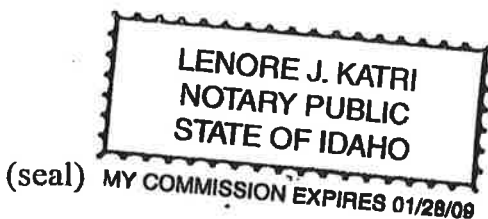


Lenore J. Katri
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of Bonneville)

On this 14 day of April, in the year 2003, before me a notary public in and for said State, personally appeared Clayton Hamilton known or identified to me (or proved to me on the oath of Clayton Hamilton) to be the manager or a member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company 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.



Lenore J. Katri
Notary Public for Idaho
Residing at _____
My commission expires: _____

10 December 2004

Hamilton Land Development, LLC
Attn Clayton Hamilton
4860 West 13400 South
Riverton UT 84065

Re: Change of Ownership Memorandum - attached

Dear Clayton:

Attached you will find the Memorandum (to the files: 22-1123, 11240, 11241, and 11242) which recaps our discussion today regarding the changes of ownership for additional portions of the referenced water rights.

Please keep this letter and memo for your files should there be some question in the future. And, again, I advise a short conference with your attorney regarding this matter. If I can be of further assistance please call.

Respectfully submitted,

Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

Cc; files

Contacts Data Entry Form

Water Right No. 25-00083

Owner Type	Full Name	Address	City	State	Zip	Phone
Current Owner	<u>Foster Land & Cattle Co.</u>					
Name connector: and _____, or _____, and/or _____						
Current Owner	_____					
Current Owner	_____					

Representing Attorney: _____ Phone Number: _____

Accompanied By: _____ Phone Number: _____

Relationship to Claimant: _____

Date of Field Exam: _____ Time: _____

Directions to Property (if different from above) and/or update owner information:

DECREED UNDER H.H. FREEMAN VS G.D. LAMBERT, 1944DECREED 23-6 TO H.H. FREEMAN AS CO-OWNERRIGHT IS SPLIT BY CO. SENT BACK TO HAMILTON REQUESTING
A SURVEY PLAT MAP.FE. BY Nick Olson BRAD FOSTER TOLD
SHE THE SYSTEM + DAM WENT
IN TO OPERATION IN 1984 20 years

when did Syst
go in?
GPS on POD.

SEE 23-83 FOR REMAINDER OF NOTES

Reviewer: _____

Date: _____

SCANNED
JUL 22 2004

Claim Number: _____

Water Right Priority Date: _____ **Water Right Basis:** _____

Claimed Priority Date: 1 JUNE 1890 Claimed Basis: Discovered

Recommended Priority Date: 1 June 1890 Recommended Basis "

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

Matchos Doceros

Reviewer: _____

Date: _____

Point of Diversion and Source Data Entry Form

Claim Number: _____

Water Right Point of Diversion: T 2N, R 42E, Sec. 5, _____, _____, SE County: BONNSource: ANTELOPE CROOK Tributary: _____Claimed Point of Diversion: T 2N, R 42E, Sec. 5, NE, SE, SE County: BONNSource: ANTELOPE CK Tributary: SNAKE RIVER, So Rk OK

Recommended Point of Diversion: T _____, R _____, Sec. _____, _____, _____, _____ County: _____

Source: _____ Tributary: _____

____ Use Claimed POD and Source as Recommended POD and Source

Twp	Rge	Sec	Gov Lot	OOQ of QQ of Q	County	Source
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Other rights from this POD? _____

Document how the POD and Source were verified and/or Pump and Motor data:

POD DETERMINED BY DECRETS AS SHOWN ABOVE "1" AND THE OTHER
POINTS OF DIVERSION AT VARIOUS POINTS DOWN THE STREAM."
CLAIMED POD IN SESE SEC. 5 IS FROM A RESERVOIR THEN
PUMPED TO PLOTS, etc.

Transfers Changing POD _____

Reviewer: _____

Date: _____

That the plaintiffs' lands described in paragraph "III" of the findings of fact and hereinafter described are arid in character and require for the successful growing of crops thereon by irrigation an amount of water equal to one cubic foot per second for each 50 acres of land.

IX

That the plaintiff, Harold H. Freeman and Mary J. Freeman, his wife, have the right to the use of, and there is hereby decreed to them, with a priority date of June 1st, 1890, the use of all of the normal flow water of Antelope Creek and all its tributaries, but subject, nevertheless, to the decrees herein set out in paragraphs V and VI, to the amount of 20 cubic feet per second, and there is further decreed to them of the spring run-off or flood waters of said Antelope Creek and its tributaries the use of 50 cubic feet per second, which latter amount shall include the aforesaid 20 cubic feet per second of normal flow of water. The said water so decreed to be diverted from Antelope Creek at various points on said channel, the upper stream point of diversion being located in the Southeast Quarter of Section 5, Township 2 North, Range 42 East Boise Meridian, and the other points of diversion at various points down the stream. Said water being for use upon the following described land situated in Bonneville County, State of Idaho:

Lots 3 and 4, the Southwest Quarter of the Northwest Quarter ($SW\frac{1}{4}NW\frac{1}{4}$), and the Northwest Quarter of the Southwest Quarter ($NW\frac{1}{4}SW\frac{1}{4}$) of Section 4; Lot 1 and the Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$) of Section 5; all being in Township 2 North; and East Half of the Southeast Quarter ($E\frac{1}{2}SE\frac{1}{4}$) of Section 32; the Southwest Quarter of the Northwest Quarter ($SW\frac{1}{4}NW\frac{1}{4}$), the West Half of the Southwest Quarter ($W\frac{1}{2}SW\frac{1}{4}$), and the Southeast Quarter of the Southwest Quarter ($SE\frac{1}{4}SW\frac{1}{4}$) of Section 32; all being in Township 3 North; and all of said property being in Range 42 East Boise Meridian; together with all ditch and water rights thereunto belonging or appertaining.

The Northeast Quarter, the Southeast Quarter of the Northwest Quarter ($NE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$), the Northeast Quarter of the Southwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}$) of Section 4; the West Half of the Northeast Quarter ($W\frac{1}{2}NE\frac{1}{4}$), and the Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}SE\frac{1}{4}$) of Section 5; all being in Township 2 North; the West Half of the Southwest Quarter ($W\frac{1}{2}SW\frac{1}{4}$), of Section 27; the South Half of the South Half ($S\frac{1}{2}S\frac{1}{2}$), of Section 28; the Northeast Quarter of the Southwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}$), and the Southeast Quarter ($SE\frac{1}{4}$) of Section 33; the West Half of the Northwest Quarter ($W\frac{1}{2}NW\frac{1}{4}$), and the Southwest Quarter ($SW\frac{1}{4}$), of Section 34; all being in Township 3 North; and all of said property being in Range 42 East Boise Meridian. Together with all ditch water rights belonging thereto or appertaining thereto.

X

That the plaintiffs, Harold H. Freeman and Mary J. Freeman, his wife, are entitled to have the channels of Antelope Creek and all Creeks tributary thereto, including Horse Creek, Cow Creek and North Twin Springs Creek, kept open at all times so that water will flow freely through them, and it is, therefore, decreed that the plaintiffs have the right to freely enter, at all reasonable times, in and upon the various premises and lands through which said Antelope Creek and all of its

23-0083

23-0084

EXCEPT FROM
FREEMAN vs LOMBARD
7/26/1944
DECREES 2369

R42E

T3N

PAVAs DECKWOOD
KROGMAN 15 Lambert
1944

T2N

TWP	RANGE		COUNTY		RANGE		TWP
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6

40 QP's x 40ac
1600ac

Place Of Use Data Entry Form

Claim Number: _____

_____ Use Claimed POU as Recommended POU

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 _____

Document how the POU was verified:

Decrease cites sums 40 QQ's @ 40 ac/QQ = 1600 ac - Acres NOT DECREASED
 BY DECREASE - Claims 1109² ACRES → OK SPTS 6.85 FOR AC
 Distribution RECOMMENDED.
 CLAIMED POU DOES NOT MATCH w/ DECREASED POU.

COND
 45

Transfers Changing POU _____

Reviewer: _____

Date: _____

Period of Use and Quantity Data Entry Form

Claim Number: _____

☐ Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____ Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
<i>Pring</i>	<i>4/1</i>	<i>11/1</i>	<i>20^g</i>	

Overall Diversion Rate _____ Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
<i>Pring</i>	<i>4/15</i>	<i>10/31</i>	<i>20^g</i>	

Overall Diversion Rate _____ Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

*SQL NOT ADDRESSED by DECROS - RECOMMEND DEPT. STD AS
4/15-10/31.*

Overlap RPL w/ 23-B4. Q and Ac Limits apply.

Remark

Reviewer: _____

Date: _____

T3N, R42E
T2N, R42E

32 33
5 4

SENE

NWNW

NESW

SESW

SW9E

NENW

NWNE

NENE

NESE

NWSW

NESW

NWSE

SESE

SWSW

SESW

SWSE

NWNE

NENE

NWNW

NENW

SWNE

SENE

Reservoir

NOTE
Connecting
Broad Fork
3-15-04

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 23-83

WATER RIGHT NUMBER: 23-83

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	HAROLD H FREEMAN
	RIRIE, ID
Original Owner	MARY J FREEMAN
	, ID
Original Owner	FOSTER LAND & CATTLE CO
	PO BOX 308
	RIGBY, ID 83442
	(208)243-6936

SEE 23-11240 FOR
DOCUMENTS OF SALE
AND SPLIT.

Priority Date: 06/01/1890

Basis: Decreed

Status: **Parent: SEE 23-11239 AND 23-11240**

<u>Source</u>	<u>Tributary</u>
ANTELOPE CREEK	SOUTH FORK SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	20.000 CFS	
	<u>Total Diversion:</u>	20.000 CFS	

Location of Point(s) of Diversion

ANTELOPE CREEK	NE1/4SE1/4SE1/4	Sec. 5, Twp 02N, Rge 42E, B.M.
BONNEVILLE County		

Place of UseIRRIGATION Within BONNEVILLE County

T02N R42E S04	NENE 16.0	T02N R42E S04	NWNE 39.0
T02N R42E S04	SWNE 40.0	T02N R42E S04	SENE 38.0
T02N R42E S04	NENW 40.0	T02N R42E S04	NWNW 33.0
T02N R42E S04	SWNW 40.0	T02N R42E S04	SENW 40.0
T02N R42E S04	NESW 40.0	T02N R42E S04	NWSW 40.0
T02N R42E S04	SWSW 40.0	T02N R42E S04	SESW 40.0
T02N R42E S04	NWSE 40.0	T02N R42E S04	SWSE 40.0
T02N R42E S05	NENE 14.0	T02N R42E S05	SENE 31.0
T02N R42E S05	NESE 28.0	T02N R42E S05	SESE 7.0
T02N R42E S08	NENE 31.0	T02N R42E S08	NWNE 3.0
T02N R42E S08	SWNE 27.0	T02N R42E S08	SENE 40.0
T02N R42E S09	NENW 40.0	T02N R42E S09	NWNW 40.0
T02N R42E S09	SWNW 40.0	T02N R42E S09	NWSW 40.0

$\frac{20 \text{ cfs}}{1109 \text{ ac}} = 0.018 \text{ cfs/ac}$

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 23-83

T03N R42E S32	NESE	35.0	T03N R42E S32	SESE	32.0
T03N R42E S33	SWNW	20.0	T03N R42E S33	NESW	19.0
T03N R42E S33	NWSW	40.0	T03N R42E S33	SWSW	40.0
T03N R42E S33	SESW	39.0	T03N R42E S33	SWSE	17.0

Total Acres: 1109

SEC. 32 SENE NOT
CLAIMED, BUT FARMED
CDS

Conditions of Approval:Remarks:

1. General SPLIT BY CHANGE OF OWNERSHIP: SEE RIGHT NOS. 23-11239 AND 23-11240.

Comments:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
----------------	---------------------------	-----------------	---------------------------	-----------------	---------------

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
----------------	------------------------	-----------------	-----------------

23-00083

SPLIT BY SEE NOTES OF SPLIT
CB 10/17/03 IN CVR (PAPER).

23-11239 FOSTER

933³ ac @ 16⁸⁴ cfs
$$NOB AC = 896^E ac \times 0.019 = 16^{73} cfs$$

By Claim Split

$$\begin{array}{r} 20^0 cfs \\ - 3^{16} cfs - HAMILTON \\ \hline 16^{84} cfs - FOSTER \end{array}$$

$$\frac{20 cfs}{1072 ac} = 0.01866$$

$$175^E ac @ 3^{27} cfs$$

23-11240 HAMILTON

$$POU BY GIS = 175^E ac @ 0.018 cfs/ac = 3^{16} cfs$$

POU: SAME AS 23-11242. SEE GIS LAYOUT
OR SPLIT HISTORY.

POD: NESESE SEC. 5 T.2N., R.42E.