

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 47-12116
Date Received: 12/8/1988
Receipt No: S004352
Received By:

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

1. Name of Claimant(s)

TOLBERT FAMILY LTD PARTNERSHIP Phone: (208)733-8230
C/O PAUL SLIGAR
3975 N 2600 E
TWIN FALLS ID USA 83301

2. Date of Priority: 12/31/1925

3. Source: UNNAMED COULEE Trib. to: ROCK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
10S	16E	12	SW NW NE	TWIN FALLS	

5. Description of diverting works:

SIMPLE CONCRETE DIVERSION WORKS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	1	

7. Total Quantity Appropriated is:
1 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
10S	16E	12	NW NE	IRRIGATION	10
				Section Acres	10
				Total Acres	10

11. Place of use in counties: TWIN FALLS

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

13. Other Water Rights Used:

14. Remarks:

AUTHORITY FOR CLAIM CLAIMED BY BERT M. TOLBERT, GENERAL PARTNER OF TOLBERT PARTNERSHIP AND TRUSTEE OF ESTHER LILAH EWING TRUST, THE OWNER OF THE PROPERTY. BENEFICIAL USE OF THIS WATER WAS STARTED CIRCA 1925 WHEN MY FATHER, ED TOLBERT STARTED FARMING THIS LAND.

15. Basis of Claim: Beneficial Use

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CHANGE IN ADDRESS

This form can be used to notify the Department of a change in
address of the owners of record for the listed water rights.
(Please print or type)

[] Water Right Number(s): 47-12116

[] Name(s): Tolbert Family LTD Partnership

[] Old Mailing Address: _____

[] New Mailing Address: c/o Paul Sligar
3957 N. 2600 E
Twin Falls Id 83301-0191

Telephone Number: (208) 733 - 8230

[] Signature(s) of Owner(s) Beatrice Tolbert
General Partner
(Include your title if on behalf of company or organization)

Date: Oct 26 2004

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 47-12116
Date Received: 12/8/1988
Receipt No: S004352
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

TOLBERT FAMILY LTD PARTNERSHIP Phone: (303)447-8532
444 KALMIA AVE
BOULDER CO 80304-1732

2. Date of Priority: 12/31/1925

3. Source: UNNAMED COULEE Trib. to: ROCK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
10S	16E	12	SW	NW	NE	TWIN FALLS	

5. Description of diverting works:

SIMPLE CONCRETE DIVERSION WORKS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	1	

7. Total Quantity Appropriated is:
1 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
10S	16E	12	NW NE	IRRIGATION	10
				Section Acres	10
				Total Acres	10

11. Place of use in counties: TWIN FALLS

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

13. Other Water Rights Used:

14. Remarks:

AUTHORITY FOR CLAIM CLAIMED BY BERT M. TOLBERT, GENERAL PARTNER OF TOLBERT PARTNERSHIP AND TRUSTEE OF ESTHER LILAH EWING TRUST, THE OWNER OF THE PROPERTY. BENEFICIAL USE OF THIS WATER WAS STARTED CIRCA 1925 WHEN MY FATHER, ED TOLBERT STARTED FARMING THIS LAND.

15. Basis of Claim: Beneficial Use

RECEIVED

MAY 19 2004

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

Department of Water Resources
Southern Region

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
	47-4247		47-12118		
	47-12116		47-12119		
			47-12120		
			47-12121		
			47-12122		
			47-12123		

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) Tollut Partnership
4. New Owner/Claimant(s) Esther Lilah Ewing Trust
- Name Connector (Check one): ☐ and, ☐ or, ☐ and/or Kalmia
- New Mailing Address 444 Kalmia Ave.
- City, State and ZIP Code Boulder, Co 80304-1732
- New Telephone Number (303) 447-8532
5. Date you acquired the property _____

SUPPORT DATA

IN FILE # 47-4247

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

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

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

7. Signature of New Owner(s) or Claimant(s) Deot M. Tolbert
(include title if applicable)

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

For Office Use Only

Received by _____ Date _____ Fee _____
 Received by _____ Date _____ Receipt No. _____
 Processed by AJ Date _____ WR _____ Date _____

STEPHAN, KVANVIG, STONE & TRAINOR
Russell G. Kvanvig
P. O. Box 83
Twin Falls, Idaho 83303-0083
Telephone: 208-733-2721
Facsimile: 208-733-3619
ISB #1847
Attorney for Plaintiff
10811/qt-ord/jk

Twin Falls County, Idaho
Recorded for:
STEPHAN & KVANVIG
04:18pm Oct.09,2002
2002 - 020966
No. of Pages: 6 Fee: \$18.00
ROBERT S. FORT (Ex-Officio Recorder)
Deputy: CD

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

TOLBERT FAMILY LIMITED)
PARTNERSHIP, an Idaho Limited)
Partnership,)

Plaintiff,)

vs.)

TOLBERT FAMILY LIMITED)
PARTNERSHIP; BERT M. TOLBERT;)
MARIAN TOLBERT CHILDS;)
JUANITA J. EWING; HELEN)
ELIZABETH TOLBERT; CAROL L.)
TOLBERT; JAMES N. TOLBERT;)
DAVID J. HOWLAND; ELIZABETH)
D. TOLBERT; MARGARET A.)
TOLBERT; CAROLINE J. TOLBERT;)
SARAH H. TOLBERT; L. ALAN)
EWING; LILAH EWING BRUCE;)
CHARLES E. EWING; KENNETH H.)
EWING; ROBERT E. CHILDS;)
MARY E. CHILDS WALKER;)
RUTH E. CHILDS READE; AMY E.)
CHILDS; ELEANOR TOLBERT;)
THE ESTATE OF MORRIS E.)
CHILDS; THE ESTATE OF NATHAN)
E. TOLBERT; THE ESTATE OF)
ED TOLBERT; ESTHER LILAH)
EWING TRUST; AND ALL OTHERS)
KNOWN OR UNKNOWN WHO MAY)
CLAIM AN INTEREST ADVERSE)
TO THAT OF THE PLAINTIFF,)

Defendants.)

Case No. CV 01-3733

ORDER QUIETING TITLE IN
TOLBERT FAMILY LIMITED
PARTNERSHIP, AN IDAHO
LIMITED PARTNERSHIP

COPY

The Petition to Quiet Title came before this Court for hearing at 1:30 p.m. on Monday, September 9, 2002. The Plaintiff appeared through its attorney of record, Russell G. Kvanvig of the law firm of Stephan, Kvanvig, Stone & Trainor. No other parties appeared. Based upon the files, records and pleadings in this matter and being fully advised in the premises,

IT IS HEREBY ORDERED ADJUDGED AND DECREED:

1. The Plaintiff herein is the owner in fee simple and entitled to the quiet title and peaceful possession of the real property and water rights appurtenant thereto as described in Exhibit "A" attached hereto. Defendants, and each of them and all persons claiming under them, have no estate right, title, lien or interest in or to the property or any part thereof.

2. Defendants, and each of them and all persons claiming under them, are permanently enjoined from asserting any adverse claims to Plaintiff's title to the property.

DATED This 9th day of October, 2002

John C. Hohnhorst

Nathan Higer,
District Judge

State of Idaho
County of Twin Falls,
I hereby certify the foregoing to be a full, true
and correct copy of the original on file in the
above entitled action.

ROBERT S. PORT
CLERK OF THE DISTRICT COURT

Robert S. Port
COURT SERVICES

EXHIBIT "A"

PARCEL NO. 1

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho
Section 11:

NE $\frac{1}{4}$

AND that part of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ more particularly described as follows:

BEGINNING at the Northeast corner of said NW $\frac{1}{4}$ SE $\frac{1}{4}$, running;

THENCE South along the East boundary line thereof a distance of 320 feet;

THENCE West parallel to the North boundary of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 100 feet;

THENCE North parallel to the East boundary line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 320 feet;

THENCE East along the North boundary line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 100 feet to the POINT OF BEGINNING.

PARCEL NO. 2

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 11: A portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ described as follows:

BEGINNING at a point 995 feet East and 25 feet North from the Southwest corner of said SE $\frac{1}{4}$ of

Section 11, said POINT OF BEGINNING being on the North right-of-way boundary of U.S. Highway 30;

THENCE along the West bank of the Coulee by the following courses and distances:

North 25°54' East 215 feet;

North 15°59' East 401 feet;

North 21°54' West 151 feet;

North 57°08' West 222 feet

North 00°10' West 393 feet;

North 13°23' West 159.5 feet;

North 2°45' East 284.5 feet;

North 6°38' East 417 feet;

North 53°22' East 256 feet;

North 39°28' East 85 feet;

THENCE West 27 feet;

THENCE North 320 feet to the North line of the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 11;

THENCE West along the North line of said Section 11, 1220 feet to the Northwest corner of said Section 11;

THENCE South 2615 feet to a point 25 feet North of the Southwest corner of said Section 11;

THENCE East 995 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM:

BEGINNING at a point on the North right-of-way boundary of U.S. Highway No. 30 at 1655 feet West from the Southeast corner of Section 11;

THENCE West 284.3 feet along the highway boundary;

THENCE North 00°33' East 218 feet along irrigation ditch;

THENCE North 86°04' East 71 feet;

THENCE North 24°05' East 189 feet;

THENCE North 38°32' East 425 feet to West side of Canal Company Coulee;

THENCE South 57°08' East 20 feet along West side of Coulee;

THENCE South 21°54' East 151 feet;

THENCE South 15°59' West 401 feet;

THENCE South 25°54' West 215 feet to highway boundary, the POINT OF BEGINNING.

FURTHER EXCEPTING THEREFROM:

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 11: COMMENCING at the East quarter corner of Section 11;

THENCE North 89°36'26" West 1318.47 feet to the Northeast corner of the NW¼SE¼ of said Section 11;

THENCE South 0°05'18" West 215.42 feet along the Easterly boundary of the NW¼SE¼ of said Section 11;

THENCE South 39°28'00" West 214.22 feet to a point which is 320.00 feet South of the Northerly boundary of the NW¼SE¼ of said Section 11, said point being the REAL POINT OF BEGINNING;

THENCE South 39°28'00" West 79.50 feet along the Westerly boundary of Clear Brook Subdivision;

THENCE North 30°21'22" East 71.24 feet to a point which is 320.00 feet South of the Northerly boundary of the NW¼SE¼ of said Section 11;

THENCE South 89°36'26" East 14.53 feet along a line being parallel to the Northerly boundary of the NW¼SE¼ of said Section 11 to the REAL POINT OF BEGINNING.

AND FURTHER EXCEPTING THEREFROM:

Parcel 1: COMMENCING at a point which lies 995 feet East and 25 feet North of the Southwest corner of the said SE¼ of Section 11, being a point on the North right-of-way boundary of U.S. Highway 30;

THENCE along the West boundary of an irrigation coulee the following courses and distances:

North 25°54'00" East 215.00 feet;

North 15°59'00" East 401.00 feet;

North 21°54'00" West 151.00 feet;

North 57°08'00" West 20.00 feet;

THENCE leaving the West boundary of said coulee South 38°32'00" West 86.77 feet to the REAL POINT OF BEGINNING;

THENCE continuing South 38°32'00" West 338.23 feet along an irrigation ditch;

THENCE along said ditch the following courses and distances:

South 24°05'00" West 189.00 feet;

South 86°04'00" West 71.00 feet;

South 0°33'00" West 218.00 feet to a point on the North boundary of U.S. Highway 30;

THENCE West along the North boundary of U.S. Highway 30, 710.70 feet, more or less, to a point 25 feet North of the Southwest corner of the SE¼ of said Section 11;

THENCE North along the West line thereof 660.00 feet;

THENCE East 1071.47 feet to the POINT OF BEGINNING.

Parcel 2: An easement for ingress, egress, irrigation facilities and incidentals thereto and for public utilities appurtenant to Parcel 1, over and across the West 50 feet of the following described parcel of land:

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 11: That portion of the W½SE¼ described as follows:

COMMENCING at a point which lies 995 feet East and 25 feet North of the Southwest corner of the said SE¼ of Section 11, being a point on the North right-of-way boundary of U.S. Highway 30;

THENCE along the West boundary of an irrigation coulee the following courses and distances:

North 25°54'00" East 215.00 feet;

North 15°59'00" East 401.00 feet;

North 21°54'00" West 151.00 feet;

North 57°08'00" West 20.00 feet;

THENCE leaving the West boundary of said coulee South 38°32'00" West 86.77 feet to the REAL POINT OF BEGINNING;

THENCE continuing South 38°32'00" West 338.23 feet along an irrigation ditch;

THENCE along said ditch the following courses and distances:

South 24°05'00" West 189.00 feet;

South 86°04'00" West 71.00 feet;

South 0°33'00" West 218.00 feet to a point on the North boundary of U.S. Highway 30;

THENCE West along the North boundary of U.S. Highway 30, 710.70 feet, more or less, to a point 25 feet North of the Southwest corner of the SE¼ of said Section 11;

THENCE North along the West line thereof 660.00 feet;

THENCE East 1071.47 feet to the POINT OF BEGINNING.

PARCEL NO. 3

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 12: NE¼ South and West and lying above the rim rock of Rock Creek Canyon.

EXCEPT the East 55 feet for highway.

AND EXCEPT Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 12: A portion of the NW¼NE¼ described as follows:

BEGINNING at a point on the North section line of said Section and a distance of 3503 feet East of the Northwest corner of said Section, which POINT OF BEGINNING is marked with an iron pipe and witnesses 23 feet North by stake;

THENCE East along said North Section line a distance of 260 feet to a point on the West side of Rock Creek Canyon, which point is marked with an iron pipe together with a large stake and pile of rock;

THENCE in a Southerly direction along said rim rock a distance of 513 feet to a point under a certain East and West fence and 10 feet back from the rim rock;

THENCE in a Northwesterly direction a distance of 591 feet to the POINT OF BEGINNING.

AND ALSO EXCEPT Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 12: A triangular parcel of land situated in the SE¼NE¼ more particularly described as follows:

COMMENCING at the Southeast corner of said SE¼NE¼ of Section 12;

THENCE Northerly along the Easterly boundary of said SE¼NE¼ North 00°00'00" West 843.24 feet to its intersection with the Northeasterly boundary of Twin Falls Highway District road property and the TRUE POINT OF BEGINNING;

THENCE continuing Northerly along the Easterly boundary of said SE¼NE¼ North 00°00'00" West 367.00 feet to the top of the rim rock of Rock Creek Canyon;

THENCE Westerly along the top of said rim rock and its meander to a point;

THENCE South 41°40' West 20.00 feet to the Northeasterly boundary of Twin Falls Highway District road property;

THENCE Southeasterly along said Highway District road property South 48°20'00" East 439.08 feet to a point of curvature;

THENCE continuing Southeasterly along said Highway District road property 92.70 feet on the arc of a curve to the right having a central angle of 20°29'37", a radius of 259.18 feet, and a chord which bears South 38°05'10" East 92.21 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO the rights of a public road which affects the Easterly 25.00 feet.

PARCEL NO. 4

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho
Section 12: SW¼

SUBJECT TO: Twin Falls Highway District right of way.

EXCEPT Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 12: A parcel of land in the SW¼ being on both sides of the centerline of U.S. Highway No. 30, Project No. NH-F-2391(55) Highway Survey as shown on the plans thereof now on file in the office of the Idaho Transportation Department, described as follows, to-wit:

BEGINNING at the Southwest corner of said Section 12, a point that bears South 1°28'53" West 36.85 feet from Station 615+17.81 of said Highway Survey and being the **REAL POINT OF BEGINNING**;

THENCE North 0°13'51" East along the West line of said Section 12 a distance of 221.31 feet to a point that bears North 1°27'26" East 184.31 feet from Station 615+13.06 of said Highway Survey;

THENCE South 89°46'09" East 25.00 feet to a point that bears North 1°34'49" East 184.97 feet from Station 615+37.65;

THENCE South 5°27'58" East 100.74 feet to a point that bears North 1°38'30" East 85.0 feet from Station 615+49.92;

THENCE Southeasterly 599.23 feet along an 11,544.16-foot radius curve left that has a chord that bears South 86°52'17" East 599.17 feet to a point that bears North 4°36'57" East 85.0 feet from P.C. Station 621+44.74 of said Highway Survey;

THENCE South 85°23'03" East 151.87 feet to a point that bears North 4°36'57" East 85.0 feet from P.C. Station 622+96.61 of said Highway Survey;

THENCE Southeasterly 841.84 feet along an 11,374.16-foot radius curve left that has a chord that bears South 87°30'17" East 841.65 feet to a point that bears North 0°22'30" East 85.0 feet from P.T. Station 631+44.74 of said Highway Survey;

THENCE South 89°37'30" East 1012.42 feet to a point on the East line of the SE¼SW¼ of said Section 12 that bears North 0°22'30" East 85.0 feet from Station 641+57.16 of said Highway Survey;

THENCE South 0°19'26" West along said East line of SE¼SW¼ of Section 12 a distance of 50.0 feet to the South quarter corner of said Section 12, which point bears North 0°22'30" East 35.0 feet from Station 641+57.21 of said Highway Survey;

THENCE North 89°37'30" West along the South line of said Section 12 a distance of 2638.16 feet to the **REAL POINT OF BEGINNING**.

Highway Station Reference: 615+17.81 to 641+57.21

PARCEL NO. 5

That portion of Lot 13, **CLEAR BROOK ACRES SUBDIVISION**, Twin Falls County, Idaho, according to the official plat thereof recorded in Book 8 of Plats, page 21, records of Twin Falls County, Idaho, lying within the following described property:

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 11: That part of the NW¼SE¼ described as follows:

BEGINNING at the Northeast corner of said NW¼SE¼;

THENCE South along the East boundary line thereof 320 feet;

THENCE West parallel to the North boundary of said NW¼SE¼ 100 feet;

THENCE North parallel to the West boundary line of said NW¼SE¼ 320 feet;

THENCE East along the North boundary line of said NW¼SE¼ 100 feet to the **POINT OF BEGINNING**.

CERTIFICATE OF LIMITED PARTNERSHIP
OF TOLBERT FAMILY LIMITED PARTNERSHIP

STATE OF IDAHO)
 : ss.
County of Twin Falls)

The undersigned, parties desiring to form a limited partnership, do hereby swear and certify as follows:

(a) The name of the partnership is TOLBERT FAMILY LIMITED PARTNERSHIP.

(b) The character of the business of the partnership shall be to acquired, hold, operate, manage and dispose of, as liquidity is desired, the real and personal property owned by the partnership as set forth on Schedule A attached hereto and incorporated herein by reference and to hold, lease, exchange, sell, dispose of and otherwise deal with such property in any manner whatsoever and to carry on any and all business activities incident thereto, all for the purpose of which this partnership was formed.

(c) The location of the principal place of business of the partnership is Route 4, Twin Falls, Idaho 83301. The resident agent is Robert W. Stephan at 102 Main Avenue South, P. O. Box 83, Twin Falls, Idaho 83303-0083.

(d) The name and place of residence of the general partners are as follows:

<u>NAME</u>	<u>PLACE OF RESIDENCE</u>
NATHAN EDWARD TOLBERT	350 Winterberry Okemos, Michigan 48864

BERT M. TOLBERT

444 Kalmia
Boulder, Colorado 80302

MARIAN TOLBERT CHILDS

7857 56th Place, N.E.
Seattle, Washington 98115

(e) The name and place of residence of each of the limited partners in the partnership is as follows:

<u>NAME</u>	<u>PLACE OF RESIDENCE</u>
HELEN ESTELLE TOLBERT	Route #4 Twin Falls, Idaho 83301

(f) The Partnership shall exist indefinitely from the date hereof until terminated pursuant to the terms of this agreement.

(g) The amount of cash and a description of and the agreed values of the other property contributed by each partner and each Limited Partner are as follows:

<u>NAME</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
NATHAN EDWARD TOLBERT	see Exhibit "A"	\$214,525.69
BERT M. TOLBERT	see Exhibit "A"	\$214,525.69
MARIAN TOLBERT CHILDS	see Exhibit "A"	\$214,525.69
HELEN ESTELLE TOLBERT	see Exhibit "A"	\$185,814.94

(h) The general partners shall be required to make additional capital contributions if additional capital is needed to maintain partnership operations. The Limited Partners shall not be required to make additional contributions to the partnership unless they agree to do so.

(i) Cash available for distribution shall be determined on a cash basis for federal income tax purposes

adding back to this item all depreciation and any other noncash expenses items and subtracting all cash expenditures of the partnership not taken into account in determining taxable income. The cash available for distribution shall then be distributed annually to the partners in proportion to the number of interests that each partner has in his or her respective capital account to the total interests of the combined capital accounts of all partners.

(j) A limited partner may not assign or encumber all or any part of his interest in the partnership.

(k) A limited partner may not withdraw in whole or in part from the partnership. The general partner shall not withdraw from the partnership at any time if such withdrawal shall result in a termination of the partnership. Notwithstanding anything herein to the contrary, the representative of a deceased limited partner desiring to sell their interest in the partnership upon the death of a limited partner shall first offer the interest of the deceased limited partner to the partnership. The purchase price shall be defined to mean that partner's interest as determined by the percentage of that partner's capital account to the total of all capital accounts and the fair market value of the net assets of the partnership. If the partnership fails for whatever reason to purchase any or all of the limited partner's interest offered for sale within 90

days the remaining limited partners, if any, shall have the next option to purchase the limited partner's interest offered at the purchase price; said option to purchase to limited partners shall be for 60 days from the first date of offer to the limited partner. If the limited partner's interest offered for purchase remains unsold at the expiration of the option period set forth herein, then it may not be sold but the said deceased limited partner's interest shall be liquidated and paid to the estate of said deceased limited partner.

(l) Only upon termination of the partnership shall a partner be entitled to receive or a general partner be entitled to make distributions to a partner which include a return of all or any part of the partners contribution.

(m) The partnership shall be dissolved upon the occurrence of any of the following:

(1) The election of the General Partners to dissolve and terminate the Partnership; provided, that in such case the Limited Partners shall have the right to continue the Partnership upon approval of all of the Limited Partners by electing to convert the Partnership to a General Partnership.

(2) The final disposition of all interest in the assets of the Partnership.

(3) The death of the last of the Limited

Partners shall terminate the Partnership, but the executor, administrator or a trustee acting pursuant to a trust under the Last Will and Testament of such deceased Limited Partner shall have all of the rights of the deceased Limited Partner for the purpose of settling his or her estate; and such executor, administrator or trustee, shall have full power to constitute himself or his assigns a substituted Limited Partner solely for purposes of winding up the Limited Partner's affairs. The Limited Partners expressly agree to provide in their estate planning vehicles that the partnership assets or liabilities shall be distributed equally to their surviving children, under the condition that the General Partner have an option of buying the interest of each such surviving child by paying such the pro rata share of the capital account of the deceased Limited Partner to which said surviving child would otherwise be entitled.

(4) The death, retirement, dissolution or insanity of the last surviving General Partner shall operate as a dissolution of the Partnership.

(5) Any other event causing termination of Limited Partnerships generally at law unless the partners unanimously and specifically provide to the contrary.

(m) Upon the death or incapacity of a general partner, the remaining general partners shall have the right

to continue the partnership business or to wind up and liquidate the partnership. If the general partners elect to dissolve and terminate the partnership, the limited partners shall have the right to continue the partnership upon approval of all of the limited partners ing to convert the partnership to a general partners:

IN WITNESS WHEREOF, the undersigned have executed this certificate effective the 22 -

Subscribed and sworn to before me, this

30 day of January, A. D. 1985

Salvatore Mark Guastella
Notary Public, County, Michigan

My Commission expires 6-20-87

Salvatore Mark Guastella
Notary Public, Ingham County, MI
My Commission Expires June 20, 1987

Bert M. Tolbert
BERT M. TOLBERT

Marian Tolbert Childs
MARIAN TOLBERT CHILDS

"General Partners"

Helen Estelle Tolbert
HELEN ESTELLE TOLBERT

"Limited Partner"

STATE OF Colorado)
County of Boulder) : ss.

THE UNDERSIGNED, being first duly sworn on oath, state that they are the persons named in the foregoing CERTIFICATE OF LIMITED PARTNERSHIP, that they have read the same and know the contents thereof, and believe the same to be just, correct and true.

Subscribed and sworn to before me, this
30 day of January, A. D. 1985
Salvatore Mark Guastella
Notary Public, County, Michigan
My Commission expires 6-20-87

Notary Edward G. Thont

SAVATORE MARK GUASTELLA
Notary Public, Ingham County, MI
My Commission Expires June 20, 1987

Marian Tolbert Childs
MARIAN TOLBERT CHILDS

Helen Estelle Tolbert
HELEN ESTELLE TOLBERT

SUBSCRIBED AND SWORN to before me this 17th day of
December, 1984.
JANUARY 1985

STATE OF WASHINGTON }
County of KING } ss.

On this 16th day of January, A. D. 1985, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared Marian Tolbert Childs and Helen Estelle Tolbert to me known to be the individual s described in and who executed the foregoing instrument, and acknowledged to me that they signed and sealed the said instrument as my free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Christen C. Campbell
Notary Public in and for the State of Washington
residing at Seattle

No. 100952

TOLBERT FAMILY LIMITED PARTNERSHIP

Certificate of Limited Partnership

STATE OF IDAHO

Department of State

Boise, Idaho

Approved, filed and admitted to the
corporation records of the State of

Idaho

Date June 17, 1985

Time 10:26 a.m.

FEES PAID * \$60.00

Peta T. Cenarrusa

SECRETARY OF STATE

By: *Step J Clark*

Invoice # 51933

CCR # 6025

Filing Party

Stephan, Slavin, Kvanvi & Greenwood

P. O. Box 83

Twin Falls, Idaho 83303-3083

SCHEDULE "A"

- Parcel No. 1: Northeast Quarter and Northeast .7 acres of Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 11, Township 10 South, Range 16 E.B.M., Twin Falls County, State of Idaho.
- Parcel No. 2: Southwest Quarter including Tax No. 338 of Section 12, Township 10 South, Range 16 E.B.M., Twin Falls County, State of Idaho.
- Parcel No. 3: Northeast Quarter (NE $\frac{1}{4}$) South and West of Canyon EXCEPT Northeast 1.5 acres of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) and EXCEPT East 55 feet of highway and EXCEPT Northeast 1.50 acres of the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 12, Township 10 South, Range 16 E.B.M., Twin Falls County, State of Idaho.
- Parcel No. 4: North forty (40) feet of Lot 31, Township 10 South, Range 16 E.B.M., Twin Falls County, State of Idaho.

Farming Operation Assets:

1. 3/4 share of the assets of the operating partnership, Tolbert Agents.
2. Operating assets of the Helen Tolbert farm held in the Idaho First National Bank, Twin Falls, Idaho.
3. 3/4 share of all produce held by the Tolbert Agents partnership.
4. All Idaho farm produce held by Helen E. Tolbert.
5. Other contributions.
 - (a) \$170.00 cash

STEPHAN, SLAVIN, KVANVIG & GREENWOOD
ATTORNEYS AT LAW

FRANK L. STEPHAN 1886-1952

TWIN FALLS BANK AND TRUST CO. BUILDING

OFFICE ADMINISTRATOR

TWIN FALLS, IDAHO 83303-0083

ESTHER BOPP

ROBERT W. STEPHAN
DANIEL A. SLAVIN
RUSSELL G. KVANVIG, P.A.
RICHARD D. GREENWOOD

P. O. Box 83
TELEPHONE 208/733-2722

OF COUNSEL
WILLIAM J. LANGLEY, P.A.
TELEPHONE 208/733-8452

June 27, 1985

Mr. Bert M. Tolbert
444 Kalmia
Boulder, CO 80302

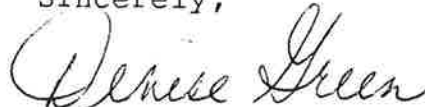
Re: Tolbert Family Limited Partnership

Dear Mr. Tolbert:

Enclosed please find a Certificate of Limited Partnership for the Tolbert Family Limited Partnership which have been filed with the Secretary of State's office in Boise. We have kept a copy for our file and the original is on file in Boise.

If you have any questions please feel free to contact our office.

Sincerely,



Denise Green
Sec. to Russell Kvanvig

Enclosure

SCANNED
4.7.57M

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: A47-12116
Date Received: 12/08/1988
Receipt No: S004352
Received By: SC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: TOLBERT PARTNERSHIP 208-733-8230
Address: C/O PAUL SLIGAR
RT. 4
TWIN FALLS, ID 83301

AND

Name: ESTHER LILAH EWING TRUST
Address: C/O PAUL SLIGAR
RT. 4
TWIN FALLS, ID 83301

2. Date of Priority: DEC 31, 1925

3. Source: UNNAMED COULEE Trib. to: ROCK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
10S	16E	12	SW	NW	NE		TWIN FALLS

5. Description of diverting works:
SIMPLE CONCRETE DIVERSION WORKS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.000		

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

8. Total consumptive use is 30.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A47-12116

Page 1

Date: 12/08/88

MICROFILMED

MAR 12 1993

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
10S	16E	12	NW NE		IRR	10.0
Section Acres						10.0
Total Acres						10.0

11. Place of use in counties: TWIN FALLS

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

13. Other Water Rights Used:
TFCC SHARES

14. Remarks:

AUTHORITY FOR CLAIM CLAIMED BY BERT M. TOLBERT, GENERAL PARTNER
OF TOLBERT PARTNERSHIP AND TRUSTEE OF ESTHER LILAH EWING TRUST,
THE OWNER OF THE PROPERTY.
BENEFICIAL USE OF THIS WATER WAS STARTED CIRCA 1925 WHEN MY
FATHER, ED TOLBERT STARTED FARMING THIS LAND.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

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

State of Idaho)
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: 39576

Ident. Number A47-12116

Date Received

Receipt Number 5004352 SCC

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

DEC 8 1988

Department of Water Resources
Southern Region Office

Please type or print clearly

Tolbert Partnership and
1. Name of Claimant (s) Esther Lilah Ewing Trust Phone (208) 733-8230

Mailing Address c/o Paul Sligar, Route 4, Twin Falls, Idaho Zip 83301

2. Date of Priority (Only one (1) per claim) circa 1925 12-31

3. Source of water supply (a) Drainage in coulee, from upstream sites
which is tributary to (b) Rock Creek to Snake River

4. a. Location of existing point of diversion is: Township 10 S Range 16 EBM Section 12,
SW 1/4 of NW 1/4 of NE 1/4, Govt. Lot, B.M., County of Twin Falls

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 _____

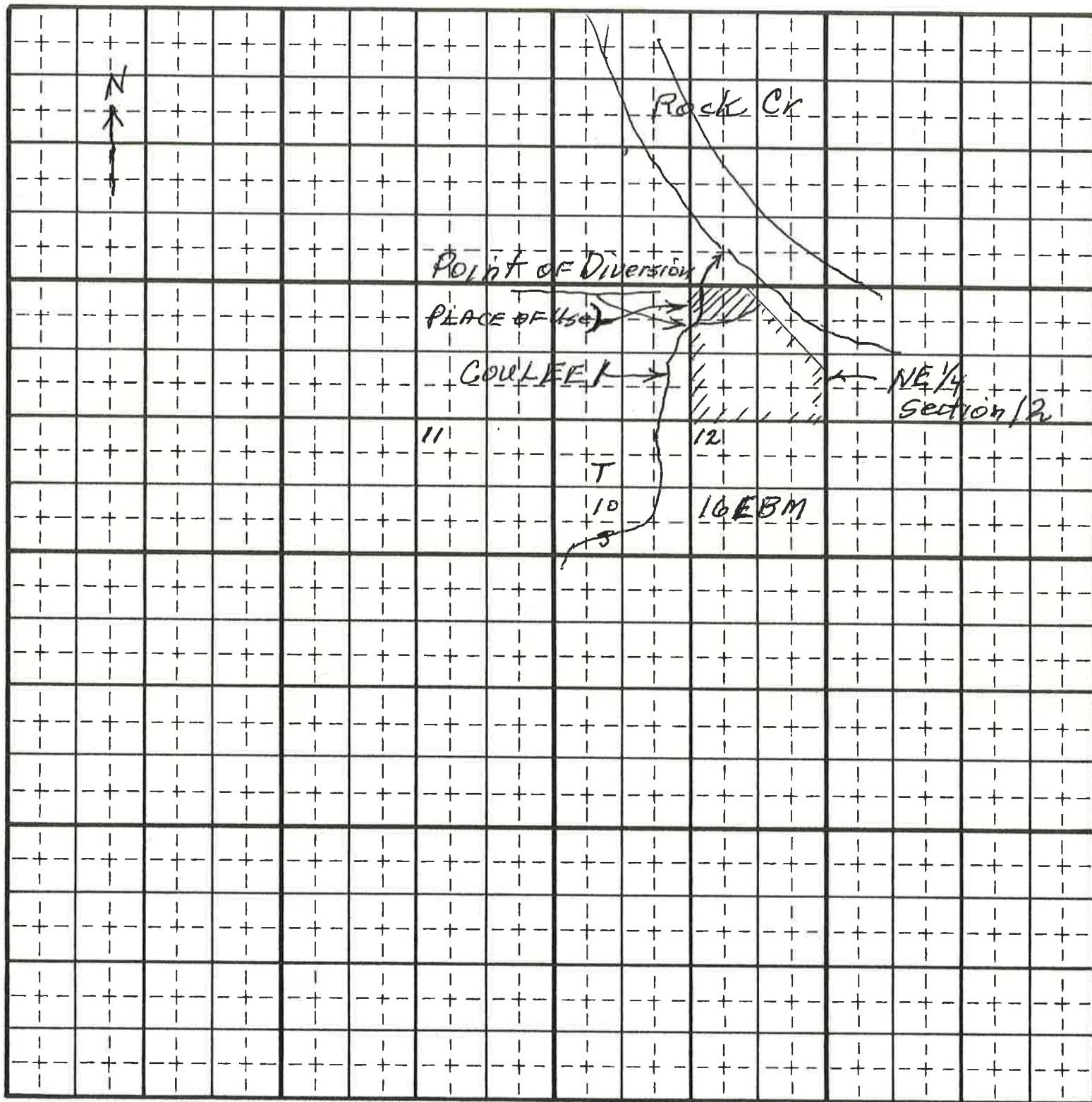
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. simple concret diversion works

MICROFILMED

MAR 12 1993

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

Scale: 2 inches equals 1 mile



MICROFILMED

Last Name TOLBERT PARTNERSHIP

Ident No. A47-12116

Copies: White-State, Yellow-Claimant
MAR 12 1993

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Suppl. irrigation purposes from 3/15 to 11/15 amount 1.0 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.0 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 30 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:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
10S	16 E	12		<u>10</u>															<u>10</u>

Total number of acres irrigated 10

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

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

Twin Falls Canal Co. water rights, but not enough to cover all of or None ()
this land.

14. Remarks:

Authority for claim claimed by Bert M. Tolbert, General Partner of
Tolbert Partnership and Trustee of Esther Lilah Ewing Trust, the owners of the Property.

Beneficial use of this water was initiated in circa 1925 when my father, Ed
Tolbert started farming this land.

MICROFILMED

MAR 12 1993

Last Name TOLBERT PARTNERSHIP Ident No. A47-12116

Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use XX Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number _____
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 _____ do not X
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments 0

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 _____

For Organizations: I do solemnly swear or affirm that I am General Partner and Trustee
Title
of Tolbert Partnership and Esther Lilah Ewing Trust., that I have signed the foregoing
Organization
document in the space below as Partner and Trustee of Tolbert Partnership and ELE Trust
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Bert M. Tolbert
Title and Organization Partner and Trustee, Tolbert Partnership Date Nov 16 - 1988
& ELE Trust

State of ~~Idaho~~ or Colorado)
County of Boulder) SS.

Subscribed and sworn (affirmed) before me this 16th day of November 19 88



Notary Public Emily B. Kaune

Residing at 1215 Spruce, Boulder, Co 80302

My Commission Expires 6/19/90

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 _____

MICROFILMED

MAR 12 1993

Last Name TOLBERT PARTNERSHIP Ident. Number A47-12116

Copies White-State, Yellow-Claimant

★
Governor PHILIP E. BATTR. KEITH HIGGINSON
Director

January 10, 1995

A47-12116
TOLBERT PARTNERSHIP
C/O PAUL SLIGAR
RT. 4
TWIN FALLS

ID 83301

A47-12116
ESTHER LILAH EWING TRUST
C/O PAUL SLIGAR
RT. 4
TWIN FALLS
ID 83301

RE: Evidence of Priority

Dear Claimant:

* RESPONSE DEADLINE *
* MARCH 15, 1995 *

The Notice of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates your water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will, at a later date, conduct reviews &/or field exams for the claims in your area. Since the priority date of a beneficial use water right can not be confirmed by field examination, proof must be provided by the claimant supporting the priority date claimed.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to the department. If you have received this correspondence from the previous owner of the property it is recommended that you file a Change of Ownership form with the Department in order to receive future mailings and to continue to be a party in the adjudication.

Please find enclosed a computer printout of your Notice of Claim and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

SPECIAL NOTE: The Department will not recommend the Notice be decreed by the court as claimed if no evidence of a priority date is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement must be in the form of a

January 10, 1995
page 2

notarized affidavit.

Please submit the required evidence supporting the priority date by March 15, 1995, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

Sincerely,


Douglas Jones, P.E.
Water Rights Supervisor

Enc.

NOV 28 1996

02/25/2005

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

RIGHT NUMBER: 47-12116

NAME AND ADDRESS: TOLBERT FAMILY LTD PARTNERSHIP
C/O PAUL SLIGAR
3975 N 2600 E
TWIN FALLS ID 83301

VERIFIED BY *KKC*

SOURCE: UNNAMED STREAM

TRIBUTARY: ROCK CREEK

QUANTITY: 0.200 CFS

PRIORITY DATE: 12/31/1925

POINT OF DIVERSION:

T10S R16E S12 SWNWNE Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.200 CFS

PLACE OF USE: IRRIGATION Within TWIN FALLS County

T10S R16E S12 NWNE 10.0

10 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: Beneficial Use

SOURCE IS ALSO KNOWN AS THE P1 COULEE.

THE SOURCE OF THIS RIGHT IS WASTE WATER ORIGINALLY DIVERTED BY TWIN FALLS CANAL CO.

THIS RIGHT REMAINS SUBJECT TO THE RIGHT OF THE ORIGINAL APPROPRIATOR, IN GOOD FAITH AND IN COMPLIANCE WITH STATE LAWS GOVERNING CHANGES IN USE AND/OR EXPANSION OF WATER RIGHTS, TO CEASE WASTING WATER, TO CHANGE THE PLACE OR MANNER OF WASTING IT, OR TO RECAPTURE IT.

02/25/2005

**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: See cover letter

Water right number: 47-12116

TOLBERT FAMILY LTD PARTNERSHIP
C/O PAUL SLIGAR
3975 N 2600 E
TWIN FALLS ID 83301
Telephone Number: (208)733-8230

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.

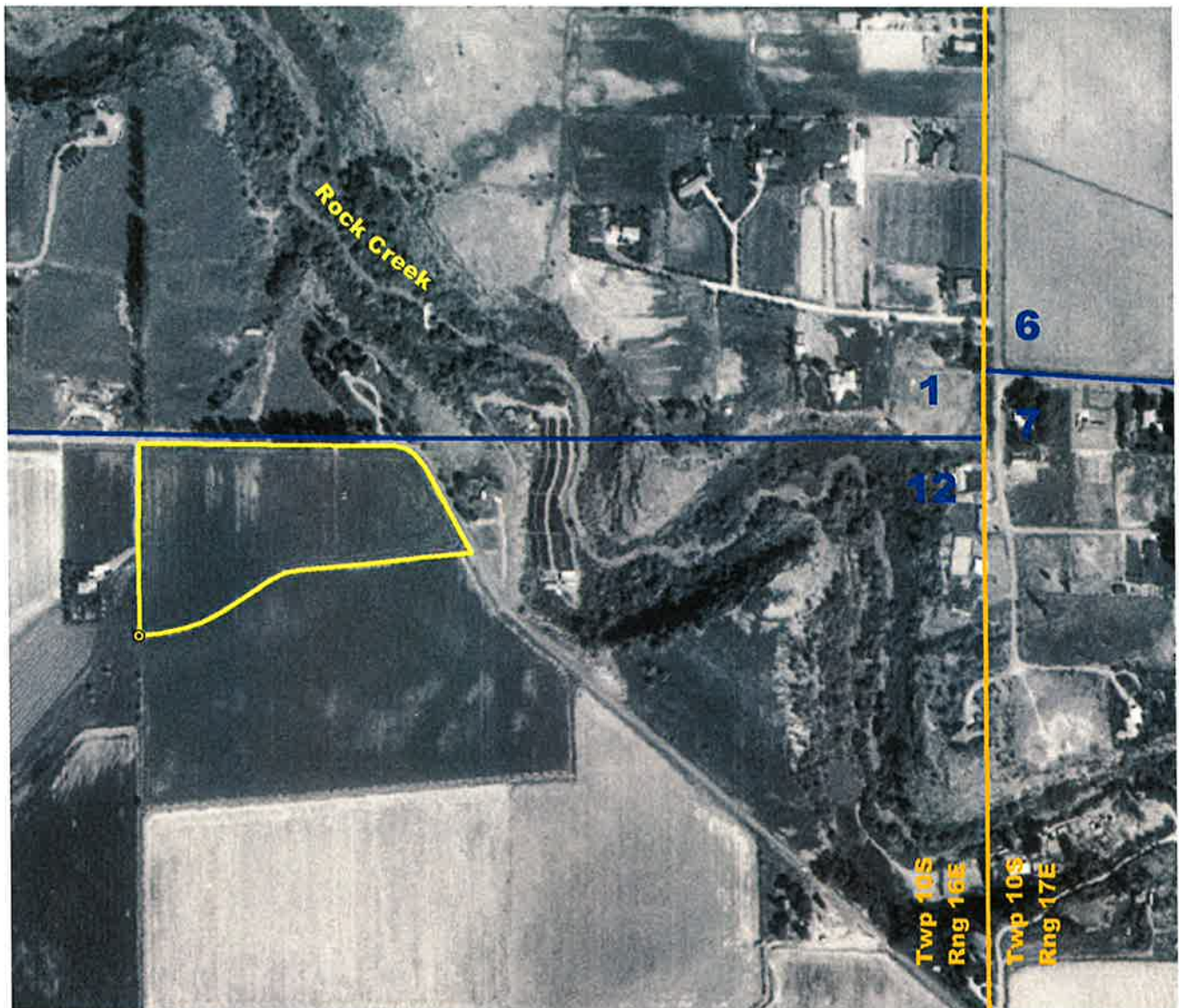
DATE: 4/1/06

SIGNATURE: Tolbert Family Limited Partnership

Please print your name: Marian Tolbert Childs, Gen Part

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301, 2087363033

RECOMMENDED PLACE OF USE FOR 47-12116



660 0 660 Feet

PLACE OF USE
TWP 10S, RNG 16E, SEC 12
Data entry on February 14, 2005



● RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

TOWNSHIP LINES

SECTION LINES

QUARTER/QUARTER LINES

LOCATION IN BASIN

GIS PLACE OF USE PRESENTATION
1993 ORTHO AERIAL PHOTOGRAPHY
DATA ENTRY BY KELLY K CHRISTENSEN

MOA

02/14/2005

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

RIGHT NUMBER: 47-12116

NAME AND ADDRESS: TOLBERT FAMILY LTD PARTNERSHIP
C/O PAUL SLIGAR
3975 N 2600 E
TWIN FALLS ID 83301

SOURCE: UNNAMED COULEE

TRIBUTARY: ROCK CREEK

QUANTITY: 0.200 CFS

PRIORITY DATE: 12/31/1925

POINT OF DIVERSION:

T10S R16E S12 SWNWNE Within TWIN FALLS County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

0.200 CFS

PLACE OF USE: IRRIGATION Within TWIN FALLS County

T10S R16E S12 NWNE 10.0

10 ACRES TOTAL

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

EXPLANATORY MATERIAL: Beneficial Use

Matt's Notes:

- 1) I used your draft POU and modified it to match the sketch by Bert Tolbert in the file. I digitized the POD based on the sketch in the file by Bert Tolbert.
- 2) Priority date of 12/31/1925 determined from claim application sheet.
- 3) They claimed 1 cfs for the diversion rate. I recommended 0.2 based on the 10 acres irrigated.
- 4) I created a final layout.

[Send To Printer](#)

[Back To TerraServer](#)

[Change to 11x17 Print Size](#)

[Show Grid Lines](#)

[Change to Landscape](#)

USGS 5 km W of Twin Falls, Idaho, United States 30 Aug 1993



0 100M

0 100yd

Image courtesy of the U.S. Geological Survey
2004 Microsoft Corporation. [Terms of Use](#) [Privacy Statement](#)

Tolbert Family Limited Partnership
Bert M. Tolbert, General Partner
c/o Paul Sligar, 3957 N 2600 E, Twin Falls, ID 83301-0191
Telephone 303-447-8432, email bert.tolbert@colorado.edu

Application for Permit for Appropriation of Water in the State of Idaho
For use as supplemental irrigation water from Drainage in the Twin Falls
Canal Company lateral from upstream sites. Water in this lateral subsequently
goes directly into Rock Creek and thence into the Snake River.

Use on 120 acre farm of the SW quarter of Section 12, T 10S, 16E B.M.,
County of Twin Falls.

Kind of Works: cement check

This 120 acre farm was bought in 1916 by Ed Tolbert, see Twin Falls county
Deed Record No 36, attached.. The north part of the NW quarter of this farm
only had irrigation water by diversion of the lateral that entered the property
along the west border. Attached are photos of the diversion point at this
present time.

There is no evidence that the land irrigated by this diversion has ever been
watered by any other ditches. I was born in 1921 and lived on this farm as
child and the diversion had always been used as it is today. The land watered
by this diversion is only pasture land, as it is too rocky to farm.

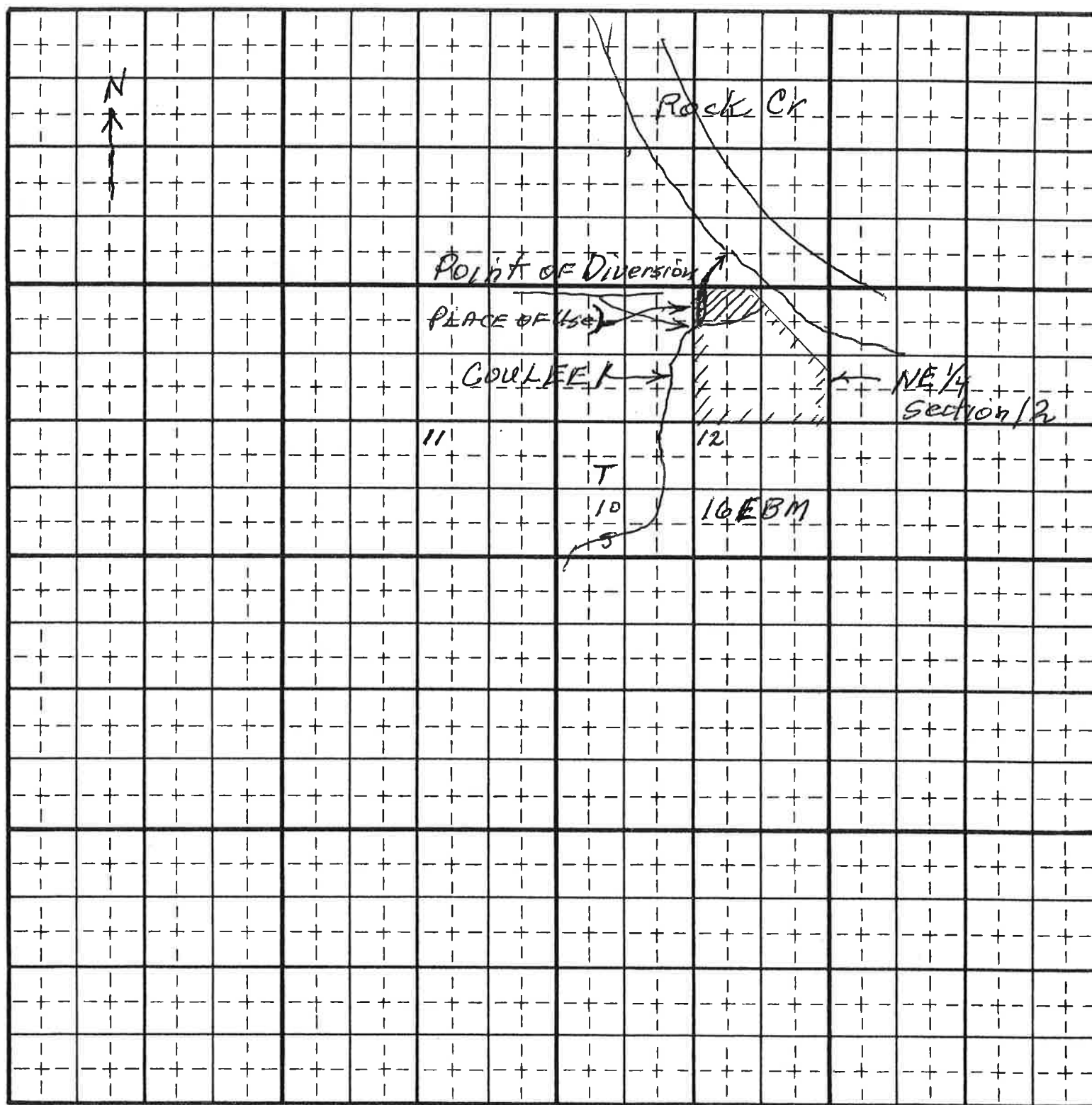
The diversion water is also used by the small acreages of land on the section
of land to the north, on the other side of the local road. The owners of this
house and land have claimed a right to part of this diversion water, which the
Tolbert Family has honored, but which never has been recorded or adjudicated
as far as I know.

The ownership of the 120 acre farm has remained with the Tolbert Family
ever since 1916. First it was converted to joint ownership with Ed Tolbert's
wife, Helen Tolbert, and then deeded to the Tolbert children, Nathan, Bert,
Esther and Marian. The land has now been deeded to the Tolbert Family
Limited Partnership to simplify ownership and management. It is farmed by
the Paul Sligar family, P&J Farms. The use of this diversion water as applied
here by the Tolbert Family has thus spanned 88 years for certain and with
previous owners since the Twin Falls tract was opened.

A claim to this water right was filed in 1988, See attached notice of claim.
It is the purpose of this filing to update this claim. A photographic picture of
this farm is attached and the diversion point indicated.

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

Scale: 2 inches equals 1 mile



TOLBERT FAMILY LIMITED PARTNERSHIP

RECORDED

Last Name TOLBERT PARTNERSHIP

Ident No. A47-12116

Copies: White State Yellow Claimant

TOLBERT FAMILY LIMITED PARTNERSHIP
CIVIL CASE NO. 39576

SEC 12, T10S 16E BM



LATERAL GOING
NORTH.

DIVERSION GOING
EAST

E

IRRIGATED
PASTURE ON
LEFT OF
DIVERSION
DITCH



DEED RECORD NO. 36.

Instrument No. 73368

This Indenture, Made this 2nd day of June in the year of our Lord one thousand nine hundred and Sixteen, between R. E. Bobier, and Lillie Bobier, his wife of Twin Falls County of Twin Falls State of Idaho the parties of the first part, and Ed. Tolbert of Twin Falls County of Twin Falls State of Idaho the party of the second part,

TOLBERT
FAMILY
LIMITED
PARTNERSHIP

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Twelve Thousand and no/100 DOLLARS, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm, unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate, situated in Twin Falls County, State of Idaho, to-wit:

West One half (W $\frac{1}{2}$) of the Northeast (NE $\frac{1}{4}$) Quarter, and Southeast Quarter of Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) Section Twelve (12) Township Ten (10) S. Range Sixteen (16) E. B. M.

Together with water right in Twin Falls Canal Co.

Subject to a mortgage of \$5000.00 in favor of Alliance Trust Co.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part:

TO HAVE AND TO HOLD, All and singular, the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever. And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

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

Signed, Sealed and Delivered in the Presence of

J. S. Keel
(Int. Rev. \$5.00)
(6-2-16 REB)

R. E. Bobier (SEAL.)
Lillie Bobier (SEAL.)

STATE OF IDAHO, } ss. On this 2nd day of June in the year 1916
County of Twin Falls }
before me, J. S. Keel a Notary Public in and for said County,
personally appeared R. E. Bobier and Lillie Bobier, his 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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.
(J. S. Keel Notary Public)
(Twin Falls County, Idaho)

J. S. Keel,
Notary Public

Filed for record at the request of Ed. Tolbert
this 19th day of July 1916.

at 12:40 o'clock P. M.,

Fees, \$1.25 paid.

E. J. Finch Recorder.

By S. Claud Stewart, Deputy.

EB



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 28, 2004

TOLBERT FAMILY LTD PARTNERSHIP
444 KALMIA AVE
BOULDER CO 80304-1732

Re: SRBA Claim(s) 47-4247, 47-12116

Dear Mr. Tolbert:

Pursuant to the change in ownership request that has been submitted to the Department, we have changed the record of current ownership to you. Please find the enclosed copies of the computer records of the claim(s) noting the change in claimant. Review these records and if there is an error, or you have any questions, please contact this office.

Sincerely,

Trish Fawcett
Technical Records Specialist

Enc.

SCANNED
4/25/01

Log for claim 47-12116

Spatial Dynamics LTD

2/5/01

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
10s16e	12	NWNE	10	8.3	
Totals:			10	8.3	

Water Right Claim Number 47-12116
Township , 10S16E

02/05/2001

