

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: A63-00161T
Date Received: 9/08/1989
Receipt No: C011305
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MERVIN NELSON
Address: 10755 WEST GOLDENROD
BOISE, ID 83704
OR
Name: PCL INC.
Address: 3356 CHICORY WAY
BOISE, ID 83705
2. Date of Priority: MAY 01, 1866
3. Source: BOISE RIVER Trib. to: SNAKE RIVER
4. Point of Diversion:
Township Range Section 1/4 of 1/4 of 1/4 Lot County
03N 02E 9 NW NW ADA
5. Description of diverting works:
CONCRETE DAM AND EARTHEN LATERALS
6. Water is used for the following purposes:
Purpose From To C.F.S. (or) A.F.A.
IRRIGATION 03/15 11/15 0.150
7. Total Quantity Appropriated is:
0.150 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 0.1 Acre Feet Per Annum.
9. Non-irrigation uses:
NA

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10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	01E	34	SE NE		IRR	5.0
Section Acres						5.0
Total Acres						5.0

11. Place of use in counties: ADA

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

13. Other Water Rights Used:

63-230, 63-231, 63-5262, 63-3618, 63-3614

14. Remarks:

P/U IN LOTS 13-16, EAGLESON USTICK SUBD.
TRANS. 739.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

FARMERS CO-OP DITCH CO.
Decree Plaintiff

vs

RIVERSIDE IRR. DIST.
Decree 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 _____ 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

Date Received

Receipt Number

403-001617

9-08-89

C011305

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) See Exhibit D Phone ()

Mailing Address Zip

2. Date of Priority (Only one (1) per claim) May 1, 1866

3. Source of water supply (a) Boise River
which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 3N Range 2E Section 9,
1/4 of NW 1/4 of NW 1/4, Govt. Lot, B.M., County of Ada

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. Reinforced concrete diversion dam
in river to earthen canal, to earthen lateral ditch system.

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HOW YOU WILL RECEIVE NOTICES IN THE SNAKE RIVER BASIN ADJUDICATION

All documents filed in the Snake River Basin Adjudication other than notices of claims are filed with the court. Notices of claims to water rights filed in the Snake River Basin Adjudication are filed with the Idaho Department of Water Resources. Copies of all documents filed in the Snake River Basin Adjudication will not be mailed to all parties (claimants) in the adjudication.

By order of the court, any document filed with the court will be mailed only to those parties who may be directly affected by it. A monthly docket sheet will be prepared by the department which contains a summary of all documents filed with the court in the previous month and the dates and locations of hearings scheduled for the following three months. The docket sheet will be filed with the district court clerk in each county within the Snake River Basin in Idaho. Copies of the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying. If you wish to receive a copy of the docket sheet each month, you should mark the appropriate place on your notice of claim form. You will be charged a small annual subscription fee to cover the cost of copying and mailing. Copies of any document listed on the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying.

Copies of all notices of claims filed with the department will be available for inspection from all offices of the department. Copies of the notices of claims may be obtained in person or by mail, but you will be charged for the cost of copying and mailing. (A claimant will not be charged for a copy of his or her own notice of claim, and a person who acquires property with water rights for which a notice of claim was filed will not be charged for a copy of the notice of claim filed by the previous owner.)

After the notices of claims have been reviewed, the director will prepare and file a report with the court. Part 1 of the report will contain the director's recommendations as to each water right claimed under state law. Part 2 of the report will list each federal reserved water right claimed. A number of reports will be prepared, one or more for each sub-basin in the Snake River Basin. When the report for your sub-basin is filed with the court, you will be mailed a notice informing you that the report for your sub-basin has been filed. The notice will be sent to the most recent address shown by the department's files. Attached to the notice will be a copy of those portions of the report describing the water rights you have claimed. If you do not agree with the way your water right is described, you may file an objection to the report with the court. You can also file an objection if you disagree with the way other claimant's water rights are described, and the notice will tell you where a copy of the full report is available for inspection. The notice will tell you when and where to file your objection. The notice of filing for each sub-basin report will also be published state-wide in local newspapers.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

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

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .15 (cfs) and/or (b) _____ (acre feet)

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
4N	1E	34	SEE EXHIBIT C																

Total number of acres irrigated _____

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

12. Do you own the property listed above as place of use? Yes _____ No X
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.

Water Right Nos. 63-0230, 63-0231, 63-05262, 63-03618 and 63-03614 or None ()

14. Remarks: A power of attorney (Exhibit A) provides written authorization
for the Chairman of Settlers Irrigation District to file this claim.
This water right is evidenced by transfer no. 739 (Exhibit C).

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Last Name Nelson, etc. Ident No. _____

Copies: White -State, Yellow-Claimant

It is very important that you inform the department in writing of any change in your address. This is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

If you are acquiring property with water rights in the Snake River Basin water system in Idaho (either by purchase, gift, inheritance, or other means), it is very important that you inquire of the department whether a notice of claim has been filed. If not, you must file a notice of claim or the water right may be declared by the court to no longer exist. If a notice of claim has been filed, it is very important that you file a written notice of change in ownership with the department. The notice of change in ownership must be accompanied by some evidence of the change in ownership, such as a copy of the deed or a property tax statement showing the name of the new owner. Again, this is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

The cost of the subscription to the docket sheet is \$7.50 for calendar year 1988. The cost of the subscription may increase a small amount for calendar year 1989 if the cost of copying and/or mailing should increase.

If you are planning to file a motion or other pleading (not a notice of claim) with the court (not IDWR), the court has issued an order setting a special procedure that is different from the usual civil rules. A copy of the order may be obtained from any office of IDWR; you may be charged for the cost of mailing and/or copying.

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X
If applicable provide IDWR Water Right Number 63-0161
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 4

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 Chairman
Title
of Settlers Irrigation District , that I have signed the foregoing
Organization
document in the space below as Chairman of Settlers Irrigation District
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Don Smithger

Title and Organization President / Chairman

Date 9/5/89

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

Subscribed and sworn (or affirmed) before me this 5th day of Sept 19 89

SEAL

Notary Public Zeke M. Bicknell

Residing at Meridian, Id

My Commission Expires 8-1-93

Please Print Name

17. Notice of Appearance:

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

Signature _____

Address _____

Date _____

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AUG 14 1992

Last Name Nelson, etc. Ident. Number _____

Copies White-State, Yellow-Claimant

Scale: 2 inches equals 1 mile

[illegible]

Copies: White-State, Yellow-Claimant

129

LIMITED POWER OF ATTORNEY

I/We do hereby authorize and appoint Settlers Irrigation District and its duly elected and authorized officers and their agents to take all actions necessary or appropriate to prepare or cause to be prepared Notice of Water Right Claims and to execute and file the same on our behalf with the Idaho Department of Water Resources.

This authorization is limited to those Notice of Water Right Claims which describe and refer to water rights which allow the diversion and delivery of surface water from the Boise River through the Settlers Irrigation District water diversion and delivery system.

Date 8/25/89

PCL Inc. [Signature]
Signature

PCL Inc.
(Please print full name)

Date _____

Signature _____

(Please print full name)

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AUG 14 1992

EXHIBIT A

LIMITED POWER OF ATTORNEY

I/We do hereby authorize and appoint Settlers Irrigation District and its duly elected and authorized officers and their agents to take all actions necessary or appropriate to prepare or cause to be prepared Notice of Water Right Claims and to execute and file the same on our behalf with the Idaho Department of Water Resources.

This authorization is limited to those Notice of Water Right Claims which describe and refer to water rights which allow the diversion and delivery of surface water from the Boise River through the Settlers Irrigation District water diversion and delivery system.

8-4-89
Date

Mervyn C. Nelson
Signature

MERVYN C. NELSON
(Please print full name)

8-4-89
Date

Gladys M. Nelson
Signature

GLADYS M. NELSON
(Please print full name)

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AUG 14 199

EXHIBIT A

IRRIGATION WATER SOURCES

Data based on 1975 agricultural season



Private groundwater diversions



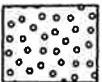
Combined small district and private Boise River diversions



Boise - Kuna Irrigation District (Boise River diversion)



Eagle Island Water Users (Boise River diversion)



Farmers Union Ditch Co. (Boise River diversion)



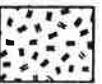
Little Pioneer Ditch Co. (Boise River diversion)



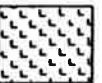
Nampa - Meridian Irrigation District (Boise River diversion)



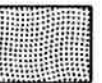
New York Irrigation District (Boise River diversion)



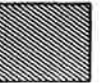
Pioneer Irrigation District (Boise River diversion)



Settlers Irrigation District (Boise River diversion)



Private Boise River tributary diversions



District surface water and supplemental private groundwater diversion

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AUG 14 1984

Blumberg No. 5119

EXHIBIT

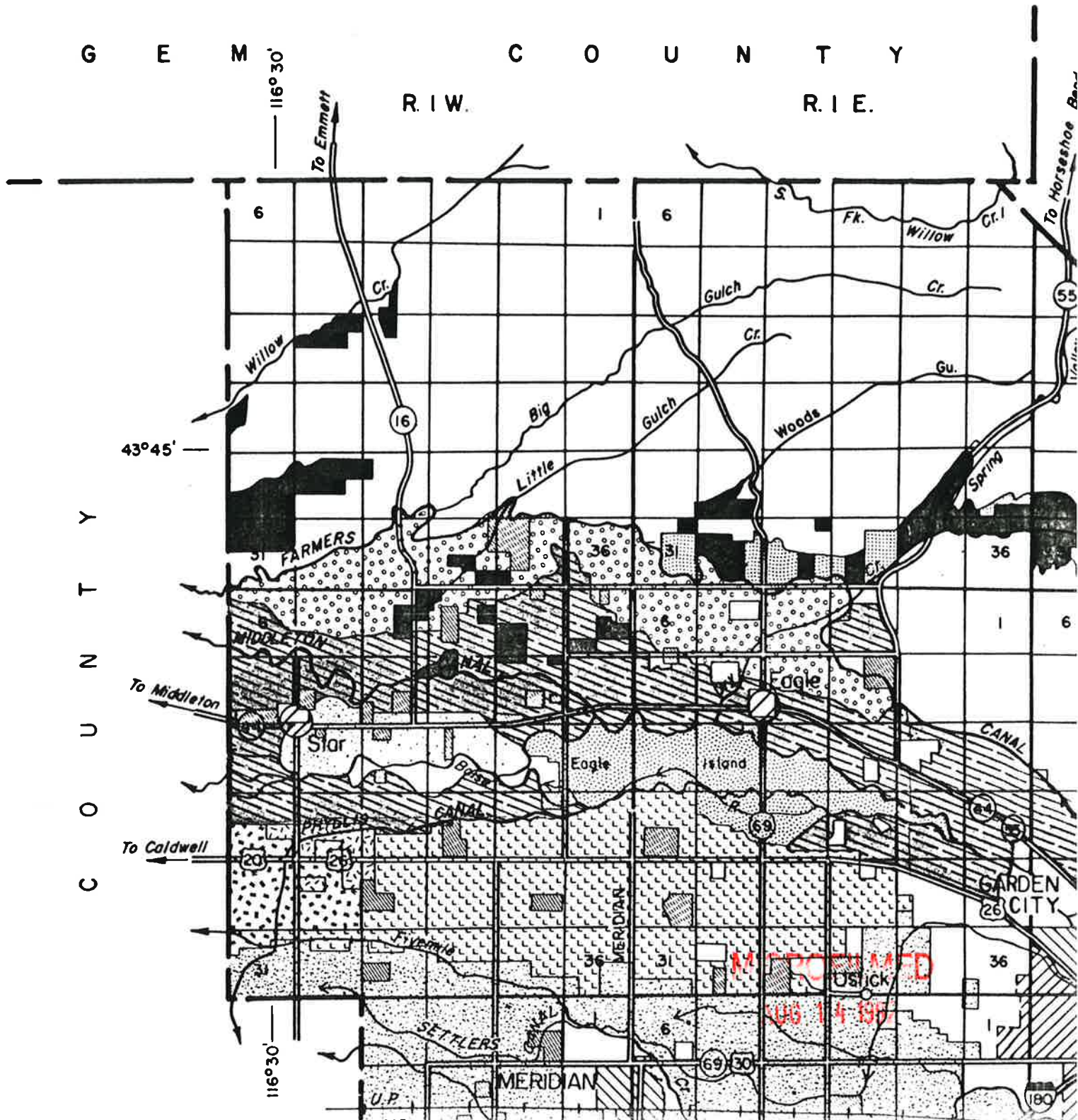
B



G E M C O U N T Y

R. I. W.

R. I. E.



STATE OF IDAHO

DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transferred Right No. 739

THIS IS TO CERTIFY That CONSUMERS' WATER CORPORATION, through W. W. Howell, President, of Boise, Idaho, is the owner of and using a certain water right, bearing priority date of May 1, 1866, for 2500 inches, or 50 cubic feet per second, of the waters of Boise River, County of Ada, State of Idaho, decreed to Joseph Parrault and Richard Z. Johnson, by decree of Judge George H. Stewart, of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Canyon, bearing date of January 18, 1906, in the case of

FARMERS' COOPERATIVE DITCH COMPANY

Plaintiffs,

vs.

RIVERSIDE IRRIGATING DISTRICT, et al,

Defendants,

(Being Right No. 30 of the above decree), being appurtenant to the following described lands, situate, lying and being in Water District No. 12-A, County of Ada, and State of Idaho, to-wit:

Town lots and agricultural lands lying under what is known as the Walling Ditch, or Boise Valley Water Ditch, or Consumers' Canal, adjacent to and in the city limits of Boise, Idaho.

That the said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume 5 of Decrees, beginning at page 410 thereof.

That the said Consumers' Water Corporation has become the owner of said water right through mesne conveyance.

And that now, upon the application of CONSUMERS' WATER CORPORATION, through W. W. Howell, President, of Boise, Idaho, for a Certificate of Transfer of Water Right, made before the State Reclamation Engineer of the State of Idaho, and the said application having been granted, the right to the use of 7.5 inches, (or 0.15 cubic feet per second) of the waters of Boise River from the lands above described is HEREBY ABANDONED, and the tracts of land to be irrigated under such right, and to which the water right HEREBY CONFIRMED shall be made appurtenant by this certificate, for a more efficient and economical distribution and use of applicant's water right, are described as follows, to-wit:

Lots 13, 14, 15, and 16 of Eagleson's Ustick Subdivision
in Section 34, Township 4 N., Rge. 1 E., Ada County, Idaho.

RECORDED

EXHIBIT C

Said water to be limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

7.5 inches or 0.15 cubic feet per second,
with date of priority of May 1, 1866.

That the water right hereby transferred has heretofore been conducted to the first above described lands through what is known as the Walling Ditch, or Boise Valley Water Ditch, or Consumers' Canal, with point of diversion in Section 24, Township 3 North, Range 2 East, B.M.

That the water right hereby transferred will hereafter be conducted to the last above described lands through the Settlers' Canal, with point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9, Township 3 North, Range 2 East, B.M.

That the right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above described, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 2nd day of April, A. D. 1949.

Mark R. Kulp

MARK R. KULP
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Certificate of Water Right
Transferred Right No. 753.

THIS IS TO CERTIFY That CONSUMERS' WATER CORPORATION, through J. R. Field, President, of Boise, Idaho, is the owner of and using a certain water right, bearing priority date of May 1, 1866, for 2500 inches, or 50 cubic feet per second, of the waters of Boise River, County of Ada, State of Idaho, decreed to Joseph Perrault and Richard Z. Johnson, by decree of Judge George H. Stewart, of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Canyon, bearing date of January 18, 1906, in the case of

FARMERS' COOPERATIVE DITCH COMPANY

Plaintiffs,

vs.

RIVERSIDE IRRIGATING DISTRICT, et al,

Defendants,

(Being Right No. 30 of the above decree), being appurtenant to the following described lands, situate, lying and being in Water District No. 12-A, County of Ada, and State of Idaho, to-wit:

Town lots and agricultural lands lying under what is known as the Walling Ditch, or Boise Valley Water Ditch, or Consumers' Canal, adjacent to and in the city limits of Boise, Idaho.

That the said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume 5 of Decrees, beginning at page 410 thereof.

That the said Consumers' Water Corporation has become the owner of said water right through mesne conveyance.

And that now, upon the application of CONSUMERS' WATER CORPORATION, through J. R. Field, President, of Boise, Idaho, for a Certificate of Transfer of Water Right, made before the State Reclamation Engineer of the State of Idaho, and the said application having been granted, the right to the use of 23 inches (or .46 cubic foot per second) of the waters of Boise River from the lands above described is HEREBY ABANDONED, and the tracts of land to be irrigated under such right, and to which the water right HEREBY CONFIRMED shall be made appurtenant by this certificate, for a more efficient and economical distribution and use of applicant's water right, are described as follows, to-wit:

Eight (8) inches on the John F. Hager Tract, described as the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34, Township 4 North, Range 1 East, Ada County.

Fifteen (15) inches on the W. L. Kimble Tract, described as the S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 29, Township 4 North, Range 1 East, Ada County.

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EXHIBIT C

Said water to be limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

23 inches or .46 cubic feet per second,
with date of priority of May 1, 1866.

That the water right hereby transferred has heretofore been conducted to the first above described lands through what is known as the Walling Ditch, or Boise Valley Water Ditch, or Consumers' Canal, with point of diversion in Section 24, Township 3 North, Range 2 East, B.M.

That the Water Right hereby transferred will hereafter be conducted to the last above described lands through the Settlers' Canal, with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9, Township 3 North, Range 2 East, B.M.

That the right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above described, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 14th day of April, A. D. 1930.

Mark R. Kulp

MARK R. KULP
State Reclamation Engineer

EXHIBIT D

The claimants to this Notice of Claim to a Water Right (Water Right No. 63-0161/Water Right Transfer No. 739) are:

Names and Addresses

1. Mervin Nelson
10755 West Goldenrod
Boise, Idaho 83704
Telephone: (208) 375-4185
2. PCL Inc.
3356 Chicory Way
Boise, Idaho 83705

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AUG 14 1992

Water Right Number - 63-00161T Adj. Flag Translation: Standard Water Right Number Old (D) Number -
+ - - - - Last Name - - - - + + - First Name - - + + - - - - Address - - - - - +

*** C - CURRENT OWNER ***
CONSUMERS WATER CORP.

1 -
2 -
3 -
City- State- Zip-
Phone -

*** O - ORIGINAL OWNER ***
PERRAULT

JOSEPH

1 -
2 -
3 -
City- State- Zip-
Phone -

JOHNSON

RICHARD Z.

1 -
2 -
3 -
City- State- Zip-
Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
05/01/1866 14 D - DECREED

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
BOISE RIVER SNAKE RIVER

+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)
03N 02E 9 NW NW (1) ADA

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 0.150

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
0.150

+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
04N 01E 34 SE NE 01 IRRIGATION (1) ADA

Total Acres:

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

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AUG 14 1992

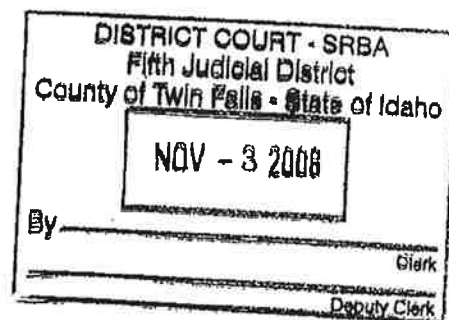
Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Start Work Date	- 00/00/0000	Verified Date	- 06/18/1985	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	- 63
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	- P
Decree Date	- 01/18/1906	Presumption Flag	-		
				Microfilm Roll Number	-

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RECEIVED

NOV - 4 2008

Department of Water Resources
Adjudication Bureau



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

In Re SRBA

Case No. 39576

) SPECIAL MASTER'S REPORT
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 63-00161T

A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

Although no objections were filed to this water right claim, IDWR identified the claim as an uncontested water right which may be affected by the outcome of contested water right claim 63-00161Q (subsequently split into water rights 63-32816, 63-32948, and 63-32949). The objection in the related contested subcase(s) has been resolved.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 63-00161T be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated Nov 3, 2008

A handwritten signature in black ink, appearing to read "Theodore R. Booth".

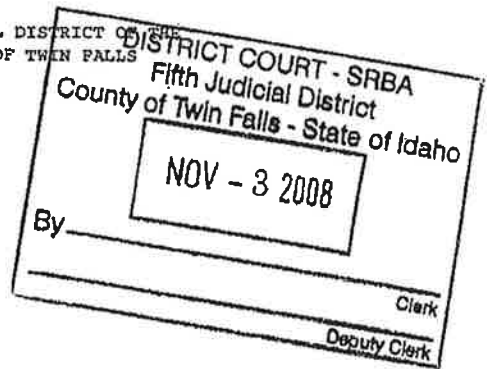
Theodore R. Booth
Special Master
Snake River Basin Adjudication

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

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-00161T



NAME AND ADDRESS: MERVIN NELSON
10755 W GOLDENROD
BOISE, ID 83704

PCL INC
3356 CHICORY WAY
BOISE, ID 83705

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.15 CFS

This right when combined with Right No. 63-161Q shall provide no
more than .02 cfs per acre.

PRIORITY DATE: 05/01/1866

POINT OF DIVERSION: T03N R02E S09 LOT 7 (SWNE) Within Ada County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-01 TO 11-15	0.15 CFS

Diversion for irrigation under this water right prior to April 1
and after October 31 shall occur only as authorized by the Water
District 63 Water Master and only when water is being released
for flood control by the United States from the Lucky Peak Dam
outlet under procedures and requirements for the Memorandum of
Agreement between the U.S. Department of the Army and the U.S.
Department of the Interior for Flood Control Operations of the
Boise River Reservoirs, dated November 20, 1953, the Water
Control Manual for Boise River Reservoirs dated April 1985 and
any future amendments or revisions made thereto pursuant to
state or federal procedures or law; provided that any such use
of this water right prior to April 1 and after October 31 shall
be subordinated to water rights for storage in Lucky Peak
Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson
Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: Irrigation Within Ada County
T04N R01E S34 SENE 5.0
5.0 Acres Total

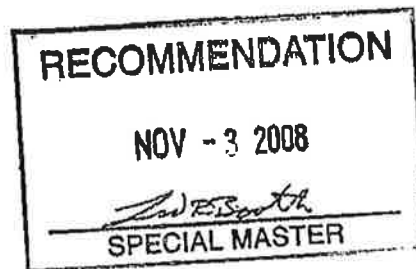
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



County of Twin Falls - State of Idaho
NOV - 3 2008
By _____ Clerk
Deputy Clerk

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

In Re SRBA)

Case No. 39576)
_____))

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 63-00161T

On November 03, 2008, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a..

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

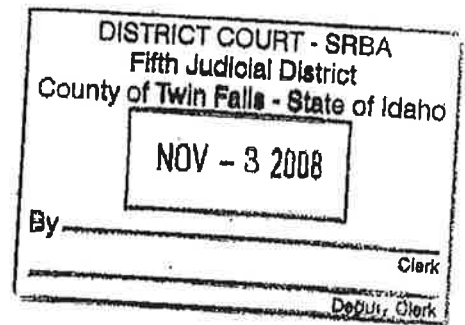
DATED November 03, 2008.



DIANA R DELANEY
Deputy Clerk

NOTICE OF ISSUANCE

PAGE 1
11/03/08



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

In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 63-00161T

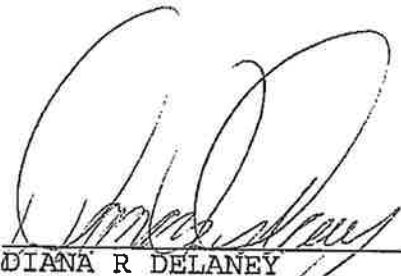
CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on November 03, 2008, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

MERVIN NELSON
10755 W GOLDENROD
BOISE, ID 83704
Phone: 208-375-4185

PCL INC
3356 CHICORY WAY
BOISE, ID 83705



DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
11/03/08

10/30/2005

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

RIGHT NUMBER: 63-161T

NAME AND ADDRESS: PCL INC
3356 CHICORY WAY
BOISE ID 83705

MERVIN NELSON
10755 W GOLDENROD
BOISE ID 83704

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.150 CFS

This right when combined with Right No. 63-161Q shall provide no more than .02 cfs per acre.

PRIORITY DATE: 05/01/1866

POINT OF DIVERSION:

T03N R02E S9 SWNE Lot 7 Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.150 CFS
Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.		

PLACE OF USE: IRRIGATION Within ADA County

T04N R01E S34 SENE 5.0

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: BASIS OF CLAIM - Decreed

This right is delivered via the Settlers Irrigation District Canal system.

This right is also designated as Right No. 30 in the Boise River Decree and Boise River Water Distribution Report.

Place of use is located within Lots 13, 14, 15 & 16, Eagleson Ustick Subdivision.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-161T V1

WATER RIGHT NUMBER: 63-161T V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PCL INC 3356 CHICORY WAY BOISE, ID 83705
Current Owner	MERVIN NELSON 10755 W GOLDENROD BOISE, ID 83704 (208)375-4185
Original Owner	RICHARD Z JOHNSON BOISE, ID
Original Owner	JOSEPH PERRAULT BOISE, ID
Original Owner	CONSUMERS WATER CORP BOISE, ID

Priority Date: 05/01/1866

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.150 CFS	
	<u>Total Diversion:</u>	0.150 CFS	

Location of Point(s) of Diversion

BOISE RIVER	L7 (SW1/4NE1/4)	Sec. 9, Twp 03N, Rge 02E, B.M.
ADA County		

Place of Use

IRRIGATION Within ADA County

T04N R01E S34 SENE 5.0

Total Acres: 5

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-161T V1

1. S45 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
2. This right is delivered via the Settlers Irrigation District Canal system.
3. This right is also designated as Right No. 30 in the Boise River Decree and Boise River Water Distribution Report.
4. E62 This right when combined with Right No. 63-161Q shall provide no more than .02 cfs per acre.
5. X60 Place of use is located within Lots 13, 14, 15 & 16, Eagleson Ustick Subdivision.
6. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:Comments:

1. jshurte 10/30/2005 Diversion amount

Comment: Diversion amount is based upon the .03 cfs per acre for 5 acres and under which justifies this right having .15 cfs.

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>
Contacts	10/30/2005 6:13:03 PM	jshurte			Active
POD	10/30/2005 6:14:07 PM	jshurte			Active
Source	10/30/2005 6:16:04 PM	jshurte			Active
Use	10/30/2005 6:16:47 PM	jshurte			Active
Season	10/30/2005 6:17:42 PM	jshurte			Active
Quantity	10/30/2005 6:18:22 PM	jshurte			Active
Summary			10/30/2005	jshurte	Active
Priority Date	10/30/2005 6:30:17 PM	jshurte			Active
POU	10/30/2005 6:30:18 PM	jshurte			Active

Water Supply Bank:

IDAHO DEPT OF WATER RESOURCES

Claim No. 63-161T

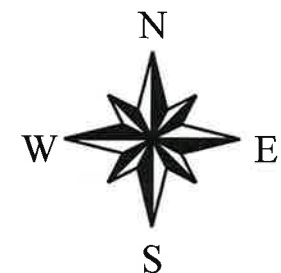
Twp.4N Rge. 1E
Section 34



-  Place of Use
-  1/41/4 Lines
-  Section Lines
-  Pt. of Diversion

Prepared by:
Jan Shurte
10-30-05

1000 0 1000 Feet



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720
Boise, Idaho, 83720-0098

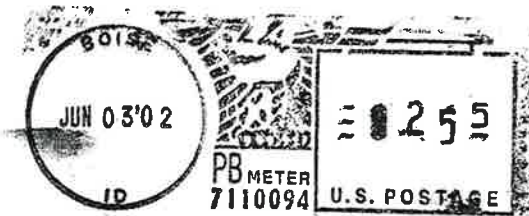
Return Service Requested

63-161 T

Fish

PCL INC
3356 CHICORY WAY
BOISE ID 83706

PRESORTED
FIRST CLASS



RECEIVED

JUN 12 2002

WATER RESOURCES
WESTERN REGION

FISH356 837062006 1302 05 06/06/02
RETURN TO SENDER
FISH
3904 N BRUMBY LN
KUNA ID 83634-1471
RETURN TO SENDER

06/06/02 83706



Sent again 6/13/02

MEMORANDUM

June 22, 1995

TO: SRBA Claims Submitted by Settler's Irrigation District

FROM: KAY WALKER *Kay*

RE: Correspondence prior to June 22, 1995

See File A63-00230F for all correspondence concerning
Settler's claims and claims they submitted for private individuals.

MICROFILMED
OCT 02 1998

AJ5809NP
No. A63-00161T

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 08/18/94
PAGE: 6

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MERVIN NELSON 10755 WEST GOLDENROD BOISE ID 83704 (208) 375-4185	05/01/1866	IRRIGATION	03-15 11-15	0.15 CFS	
				TOTAL DIVERSION:	0.15 CFS	
				CONSUMPTIVE USE:		0.10 AFA

C PCL INC.
3356 CHICORY WAY
BOISE ID 83705

Water Source: BOISE RIVER

Tributary to: SNAKE RIVER

Stage: DECREED

Point(s) of Diversion: T03N R02E S09 NWNW

ADA County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
04N	01E	34	:																	:	5.0
																				TOTAL ACRES	5.0

POU County: ADA

Non-Irrigation Uses: NA

Other Rights: 63-230, 63-231, 63-5262, 63-3618, 63-3614

Remarks: P/U IN LOTS 13-16, EAGLESON USTICK SUBD.
TRANS. 739.

Dates: Exam Made Date: Verified Date: 06/18/1985

Misc: Water District Number: 63 Field Inspection Flag:
Presumption Flag:

*Correct
per visit w/ letters
8-19-94 kw*

MICROFILMED
OCT 02 1996

NOV 03 2006

WATER RESOURCES
WESTERN REGION

WA

10-27-06

To Diana Delaney,

I wrote to you a few weeks ago concerning
a State case in Re-S RBA, Case # 39576,
sub case 63-161T. This was in reference to
my Father Mervyn Nelson

10755 Goldenrod Ave.

Boise, Idaho 83704

having sold his property two years ago and
getting his name off of this.

You called and told me we had to show
proof. I talked to IDWR and he said this should
show proof that when he sold he also sold his
water rights. I hope this will suffice. If
not please call me.

Thank you,
Sharon Dill



Sharon C. Dill
414 Elgin
Caldwell, ID 83605

Jan

SCANNED

NOV 02 2006

RECEIVED

OCT 31 2006

DEPARTMENT OF
WATER RESOURCES



COMMERCIAL/INVESTMENT REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS IS A LEGALLY BINDING CONTRACT. BEFORE SIGNING, READ THE ENTIRE DOCUMENT, INCLUDING THE GENERAL PRINTED PROVISIONS AND ATTACHMENTS. IF YOU HAVE ANY QUESTIONS BEFORE SIGNING, CONSULT YOUR ATTORNEY AND/OR ACCOUNTANT.

DATE: 10/13/2003

ID# 101320032

1. REAL ESTATE OFFICES:

LISTING AGENCY	N/A	Office Phone #	N/A
Office Fax #	N/A	Other Phone #	N/A
Listing Agent	N/A	Phone #	N/A
SELLING AGENCY	N/A	Office Phone #	N/A
Office Fax #	N/A	Other Phone #	N/A
Selling Agent	N/A	Phone #	N/A

2. BUYER: Heartland Development LLC and/or assigns.

(Hereinafter called "BUYER") agrees to purchase, and the undersigned SELLER agrees to sell the following described real estate hereinafter referred to as "Property."

3. PROPERTY ADDRESS AND LEGAL DESCRIPTION: The Property commonly known as 10755 W. Goldenrod Ave. City of Boise County of Ada, Idaho legally described as a PAR #R2024703065 LOT 15 EAGLESONS USTICK SUB #9070475

OR ☐ Legal Description Attached as addendum # (Addendum must accompany original offer).

4. PRICE/TERMS: Total Purchase Price is Two hundred seventy nine thousand Dollars (\$ 279,000.00).
a) \$ See Attached Addendum cash down payment, including Earnest Money deposit.
b) \$ See Attached Addendum Balance of the purchase price to be paid as follows: See Attached Addendum

☐ Additional financial terms are contained in a FINANCING ADDENDUM of same date, attached hereto, signed by both parties.

5. EARNEST MONEY: BUYER hereby deposits \$5,000.00 DOLLARS as Earnest Money evidenced by:
☐ cash ☐ personal check ☐ cashier's check ☐ note due ☒ other Company Check and a receipt is hereby acknowledged.
Earnest Money to be deposited in trust account upon acceptance by all parties and shall be held by: ☐ Listing Broker ☐ Selling Broker ☒ other (Broker) shall hold the
Pioneer Title for the benefit of the parties hereto, and N/A
completely executed Broker's copy of this Agreement. The responsible Broker shall be N/A

6. INCLUDED ITEMS:

- All attached floor coverings, attached television antennae, satellite dish(es) and receiving equipment, attached plumbing, bathroom and lighting fixtures, window screens, screen doors, storm windows, storm doors, window coverings, exterior trees, plants or shrubbery, water heating apparatus and fixtures, attached fireplace equipment, awnings, ventilating, cooling and heating systems, built-in and "drop-in" ranges (but excepting all other ranges), fuel tanks that are now on or used in connection with the premises shall be included in the sale unless otherwise provided herein.
- Irrigation fixtures and equipment, and any and all, if any, water and water rights, and any and all, if any, ditches and ditch rights that are appurtenant thereto that are now on or used in connection with the premises shall be included in the sale unless otherwise provided herein.
- Other items specifically included in this sale: All real property, easements and water rights associated with this property.
- Items specifically excluded in this sale: All personal property

SCANNED

NOV 02 2006



Fred DePold

114 E. Idaho Avenue #230
Meridian, ID 83642

Cell: (208) 895-9915
Fax: (208) 895-0714

Addendum/Amendment #1

THIS IS AN ADDENDUM/AMENDMENT TO A PURCHASE AND SALE AGREEMENT. READ THE ENTIRE DOCUMENT, INCLUDING ANY ATTACHMENTS, CAREFULLY BEFORE SIGNING.

This is an **ADDENDUM X** or an **AMENDMENT I** to the Real Estate Purchase and Sale Agreement and Receipt for Earnest Money.

Earnest Money Dated: 10/13/03 **ID#** 101320032

ADDRESS: 10755 W GOLDENROD AVE BOISE, IDAHO 83713 Parcel# R2024703065 LOT 15
EAGLESONS USTICK SUB #9070475

BUYER(S): Heartland Development, LLC and or assigns

SELLER(S): Nelson Family Trust

The undersigned Parties hereby agree as follows:

1. Purchase Price to be Two Hundred Seventy Nine Thousand Dollars & no/100 (\$279,000.00).
2. Buyer to deposit Five Thousand Dollars & no/100 (\$5,000.00) earnest money upon acceptance of this agreement.
3. Buyer to have a 30-day feasibility period. Upon the completion of the feasibility period, Buyer to deposit an additional Fifteen Thousand Dollars & no/100 (\$15,000.00) and release the earnest money to the Seller. Said earnest money to be non-refundable and applicable to the purchase price. Should Buyer in its sole discretion disapprove of the feasibility in writing the \$5,000.00 earnest money deposit to be returned to Buyer.
4. This offer is subject to approval of the preliminary plat map by City of Boise and Buyers acceptance of corresponding approval conditions. All approval and engineering costs shall be at Buyer's expense.
5. Upon approval of the preliminary plat map by City of Boise, Buyer to release to the seller an additional Twenty Five Thousand Dollars and no/100 (\$25,000.00), said release to be non-refundable and applicable to the purchase price.
6. Buyer to close 90 days from approval date of preliminary plat or on or before 10/08/04 whichever occurs first.
7. This offer is subject to the availability and ability to connect to Municipal Services.
8. To the best of Seller's knowledge, there are no toxic substances or deposits of underground tanks, or any other circumstances that would restrict the development of this property.
9. Buyer, engineer, and surveyor have the right to access the property and to proceed with platting, engineering design and approvals at Buyer's expense from the date of acceptance of this agreement.

SCANNED

NOV 02 2006

Heartland Development LLC

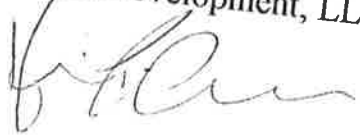
869-9915
5-0714

10. Should Buyer fail to close on or before the time stipulated in this agreement Buyer and Seller shall have no further obligation to one another. This is in reference to the paragraph that is headed DEFAULT in the Real Estate Purchase and Sale Agreement. The only remedy will be Seller shall keep any and all deposits made to date and Seller will be free to openly market the property.
11. Seller to cooperate with Buyer during the approval process and provide any necessary easements and cooperation that is necessary for the approval of this subdivision at no cost to the Buyer.
12. This agreement may not be changed or altered without signatures by both Buyer and Seller.
13. Seller's heirs and assigns are bound by this agreement.
14. There are no active Real Estate Agents involved in this transaction therefore no commissions will be paid to an active Real Estate Agent by the Buyer or the Seller.

The herein agreement, upon its execution by both parties, is made an integral part of the aforementioned agreement.

Buyer: Heartland Development, LLC

Date: 10/13/03

Signature: 

Seller:

Date:

Signature:

Seller:

Date:

Signature: