

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

TRIBUTARY: MALAD RIVER

T06S R14E S15 SENW Within GOODING County  
T06S R14E S16 NESE Within GOODING County  
T06S R14E S16 NESE Within GOODING County

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|-----------------------|----------------------|-----------------|
| IRRIGATION            | 03/15 11/15          | 1.200 CFS       |

|               |      |      |               |      |      |
|---------------|------|------|---------------|------|------|
| T06S R14E S16 | SWNE | 10.0 | T06S R14E S16 | SENE | 4.0  |
| T06S R14E S16 | NESE | 30.0 | T06S R14E S16 | NWSE | 16.0 |

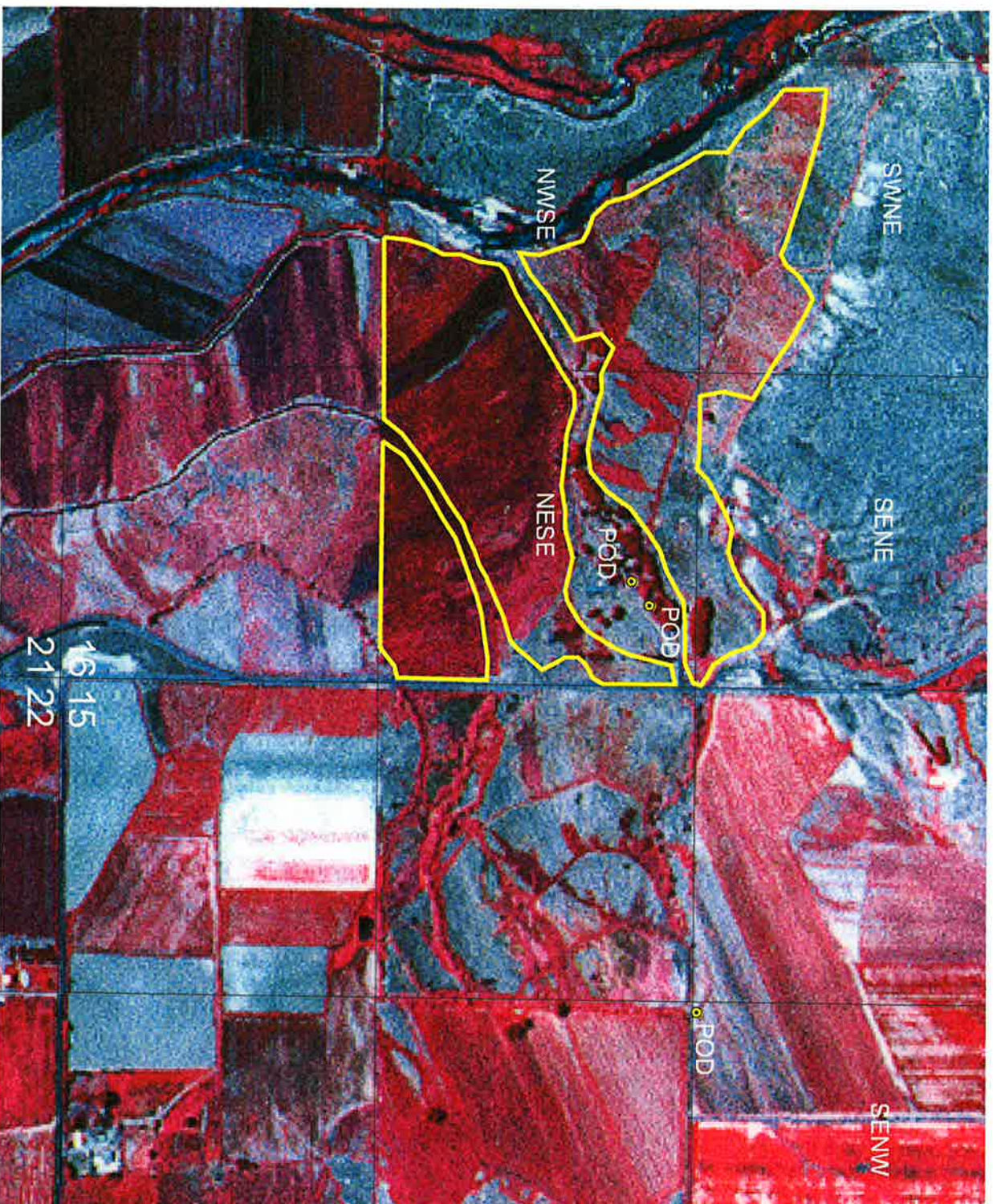
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

EXPLANATORY MATERIAL: Beneficial Use

Use of this right is combined with water from American Falls Reservoir Dist. No. 2.

# 37-4167

## T06S R14E S16



Map prepared by: Carter Fritschle  
Date prepared: 03/11/05  
1987-1988 NAPP photography  
Idaho Department of Water Resources



## State of Idaho

### DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866 www.idwr.state.id.us

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

July 30, 2004

37-4166 AND 37-4167

ALAN C OPPIO

PO BOX 381

GOODING ID 83330

Re: Evidence of Priority Date

Dear Claimant:

**RESPONSE DEADLINE**  
**AUGUST 27, 2004**

The Notices of Claim to a Water Right (claim) identified with the numbers shown above your name has been filed in the Snake River Basin Adjudication (SRBA). The claims indicate your water usage is based on "Beneficial Use" or a "Statutory Claim." Water rights of this type are established by the historic use of water, dating back to when water was first used for the purpose claimed, and are termed beneficial use rights. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. Since the priority date and historic use of a beneficial use right cannot be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed and the historic use of the water.

If you no longer own the property to which the claims are appurtenant please forward this correspondence to the present owner, or return it to Idaho Department of Water Resources (IDWR). 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 IDWR in order to receive future mailings and to participate in the adjudication.

Enclosed you will find a computer printouts of your claims and the pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

**PLEASE NOTE:** IDWR will recommend the SRBA Court decree the claims disallowed if no evidence of the priority date and of the historic use 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 should be in the form of a notarized affidavit.

Please submit the required evidence supporting the priority date and the historic use by the date shown above, referencing all documents with the corresponding claim numbers. If you have questions not covered by this letter or the enclosed pamphlet, please contact this office. Our toll free number is 1-800-451-4129.

Sincerely,

Carter Fritschle  
Water Rights Supervisor

Enclosures

## Contacts Data Entry Form

Claim Number 37-4167

| Owner Type    | Full Name    | Address    | City    | State | Zip   | Phone         |
|---------------|--------------|------------|---------|-------|-------|---------------|
| Current Owner | ALAN C OPPIO | PO BOX 381 | GOODING | ID    | 83330 | (208)934-9474 |

Date of Field Exam: 9-8-04 Time: 11 AMAccompanied By: A/127 Phone Number: 934-9474

Relationship to Claimant: \_\_\_\_\_

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

4 mi. West & 1 1/2 South of Gooding

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Lee R. Peterson  
234 S View Rd  
Jerome, ID 83338-6448

Date: 9-8-04

## Point of Diversion and Source Data Entry Form

Color Photo &amp; Picture of POD on claim

Claim Number 37-4167

## Claimed Point of Diversion and Source

T06S R14E S15 NENSW Within GOODING County Source: WASTE WATER MALAD RIVER

T06S R14E S15 NWNWS Within GOODING County Source: WASTE WATER MALAD RIVER

T06S R14E S16 NENESE Within GOODING County Source: WASTE WATER MALAD RIVER

## Use Claimed POD and Source as Recommended POD and Source

## Water Right Point of Diversion and Source

T06S R14E S15 NWSW Within GOODING County

T06S R14E S16 NESE Within GOODING County

## Recommended Point of Diversion and Source

## Source Information

## Source

## Tributary To

|            |  |  |  |            |                             |
|------------|--|--|--|------------|-----------------------------|
| ① oppio 1  |  |  |  |            | Big wood river              |
| A- Allen A |  |  |  |            | Big wood cc live water only |
| B- Allen B |  |  |  | wastewater | Big wood river              |
| C- " C     |  |  |  | "          | " " "                       |

|   | Twp | Rge | Sec | Gov Lot | QQQ of QQ of Q | County  | Source               |
|---|-----|-----|-----|---------|----------------|---------|----------------------|
| ① | 6S  | 14E | 15  |         |                | Gooding | Big wood cc. AF Res. |
| A | 6S  | 14E | 15  |         |                | Gooding | B Wood cc only       |
| B | 6S  |     |     |         |                |         | WASTE                |
| C | 6S  | 14E | 16  |         |                | Gooding | WASTE                |

Other rights from this POD? waste &amp; BW Canal

## Document how the POD and Source were verified:

By 2/1/27 oppio

|      |           |                                        |         | plate    | Photo   |
|------|-----------|----------------------------------------|---------|----------|---------|
| 7-30 | ① oppio 1 | 2435809                                | 1300462 | Acc13740 | 1020257 |
| 9-9- | ② Allen B | 2435290                                | 1300400 | 781      | 1030308 |
| "    | ③ " C     | 2435259                                | 1300377 | 780      | 307     |
|      | ④ NONE    | This T.O.U.T is for B.W.C.C water only |         |          |         |

Reviewer: 9-8-04Date: 9-8-04

## Place Of Use Data Entry Form

Claim Number 37-4167

## Claimed Place Of Use

|               |      |      |               |      |      |
|---------------|------|------|---------------|------|------|
| T06S R14E S16 | SWNE | 10.0 | T06S R14E S16 | SENE | 2.0  |
| T06S R14E S16 | NESE | 35.0 | T06S R14E S16 | NWSE | 13.0 |

Total Acres 60

☐ Use Claimed POU as Recommended POU

## Water Right Place Of Use

|               |      |      |               |      |      |
|---------------|------|------|---------------|------|------|
| T06S R14E S16 | SWNE | 10.0 | T06S R14E S16 | SENE | 2.0  |
| T06S R14E S16 | NESE | 35.0 | T06S R14E S16 | NWSE | 13.0 |

Total Acres 60

*Allen said the map  
and acre appears OK*

## Recommended Place of Use

☐ See corrections to claimed POU above

| Tw | Rge | Sec | QQ | Q | County  | Lot Num | Acres | Purpose of Use |
|----|-----|-----|----|---|---------|---------|-------|----------------|
| 6S | 14E | 16  |    |   | Gooding |         |       |                |
|    |     |     |    |   |         |         |       |                |
|    |     |     |    |   |         |         |       |                |
|    |     |     |    |   |         |         |       |                |

Total Acres \_\_\_\_\_

Document how the POU was verified:

*Allen and I reviewed Photos-maps etc  
and he said all appears good*

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

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

9-8-04

## Period of Use and Quantity Data Entry Form

Claim Number 37-4167

Claimed Period of Use and Diversion Rate

Water Use

Start

End

Rate

Volume

IRRIGATION

4/01

10/15

1.2

*SOME YEARS THESE DATES OR OTHER YEARS POSSIBLY  
NONE LIKE THIS  
YEAR.*

Overall Diversion Rate 1.2

Overall Diversion Volume

*NO SOURCE OF MTD.*

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

Water Right Period of Use and Diversion Rate

Water Use

Start

End

Rate

Volume

IRRIGATION

4/01

10/15

1.2 *ok*

*VARIES*

Overall Diversion Rate 1.2

Overall Diversion Volume

Recommended Period of Use and Diversion Rate

Water Use

Start

End

Rate

Volume

*Stock & Irrig AS SOON AS POSSIBLE WHENEVER VARIES EACH DAY*

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|  |  |  |  |

Overall Diversion Rate \_\_\_\_\_

Overall Diversion Volume \_\_\_\_\_

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

*THERE IS NO WAY TO EVALUATE A SET AMOUNT  
FOR WASTE WATER IT IS UP & DOWN CONTINUALLY*

---



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

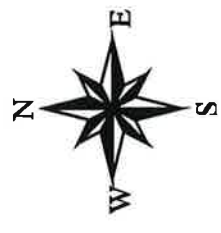
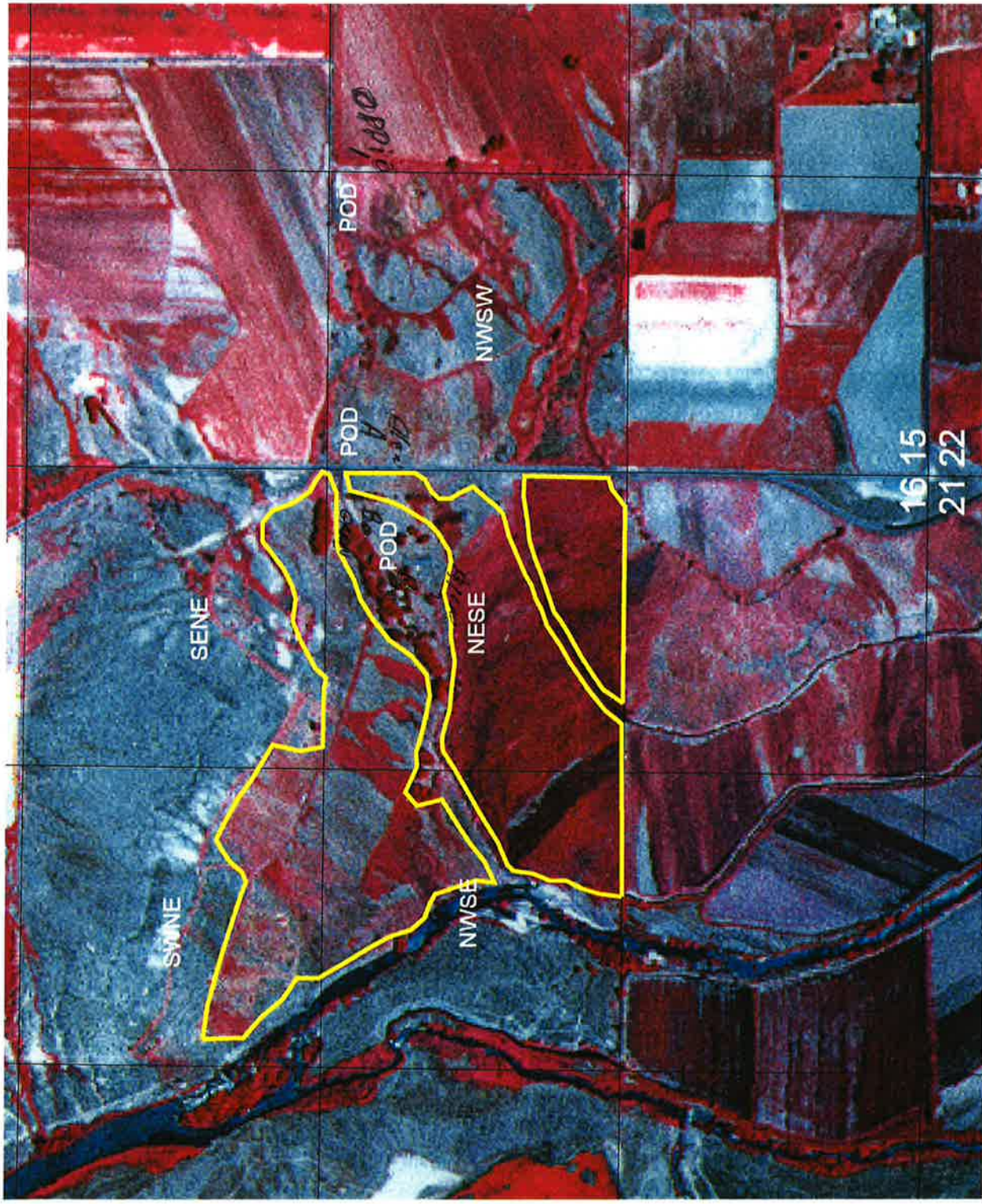


Date: \_\_\_\_\_

*9-8-04*

37-4167

T06S R14E  
S16



68 20 89

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 37-4167  
Date Received: 8/23/1988  
Receipt No: S001640  
Received By:

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

ALAN C OPPIO Phone: (208) 934-9474  
PO BOX 381  
GOODING ID 83330

2. Date of Priority: 05/05/1935

3. Source: WASTE WATER Trib. to: MALAD RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot |    |    | County  | Type |
|----------|-------|---------|-----------------------|----|----|---------|------|
| 06S      | 14E   | 15      | NE                    | NW | SW | GOODING |      |
| 06S      | 14E   | 15      | NW                    | NW | SW | GOODING |      |
| 06S      | 14E   | 16      | NE                    | NE | SE | GOODING |      |

5. Description of diverting works:

DIVERSION DAM

6. Water is used for the following purposes:

| Purpose    | From | To    | C.F.S. | (or) A.F.A |
|------------|------|-------|--------|------------|
| IRRIGATION | 4/01 | 10/15 | 1.2    |            |

7. Total Quantity Appropriated is:  
1.2 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 |
|----------|-------|---------|------------|-----|---------------|-------|
| 06S      | 14E   | 16      | SW         | NE  | IRRIGATION    | 10    |
|          |       |         | SE         | NE  | IRRIGATION    | 2     |
|          |       |         | NE         | SE  | IRRIGATION    | 35    |
|          |       |         | NW         | SE  | IRRIGATION    | 13    |
|          |       |         |            |     | Section Acres | 60    |
|          |       |         |            |     | Total Acres   | 60    |

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:

14. Remarks:

SOURCE IS SPILLAGE FROM AMERICAN FALLS RES. DIST. #2 CANAL.

15. Basis of Claim: Statutory Claim



**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**

**February 13, 2002**

**DIRK KEMPTHORNE  
GOVERNOR**

**KARL J. DREHER  
DIRECTOR**

ALAN C OPPIO  
PO BOX 381  
GOODING ID 83330

Re: SRBA Claim(s) 37-4166, 37-4167  
Decreed Water Right 37-10885

Dear Mr. Oppio:

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,

A handwritten signature in black ink, appearing to read 'Trish Fawcett', is written over a horizontal line.

Trish Fawcett  
Technical Records Specialist

Enc.

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

**RECEIVED****FEB 13 2002**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<br>Right No(s). | Adjudication<br>Claim No(s). | Split | Water<br>Right No(s). | Adjudication<br>Claim No(s). | Split |
|-----------------------|------------------------------|-------|-----------------------|------------------------------|-------|
| 37-10885              |                              |       |                       |                              |       |
|                       | 37-4166                      |       |                       |                              |       |
|                       | 37-4167                      |       |                       |                              |       |
|                       |                              |       |                       |                              |       |
|                       |                              |       |                       |                              |       |
|                       |                              |       |                       |                              |       |

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) E. Estate of Charles M. Luther, deceased  
Gooding, ID 83330
4. New Owner/Claimant(s) Alan C. Oppio  
 Name Connector (Check one): [ ] and, [ ] or, [ ] and/or
- New Mailing Address P.O. Box 381
- City, State and ZIP Code Gooding, ID 83330
- New Telephone Number (208) 934-9474
5. Date you acquired the property February 2002

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<br>(cubic feet per second or acre-feet per annum) | Description<br>(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<br>(cubic feet per second or acre-feet per annum) | Description<br>(acres, number and type of stock, homes, etc) |
| Irrigation                                         | _____                                                                      | _____                                                        |
| Stock                                              | _____                                                                      | _____                                                        |
| Domestic                                           | _____                                                                      | _____                                                        |
| Other _____                                        | _____                                                                      | _____                                                        |
| Total                                              | _____                                                                      | _____                                                        |

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

Alan C. Oppio  
Alan C. Oppio

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 <u>[Signature]</u>  | Date <u>2/13/02</u> | Fee <u>25.00</u>            |
| Received by <u>[Signature]</u>  | Date <u>2/13/02</u> | Receipt No. <u>50241001</u> |
| Processed by <u>[Signature]</u> | AI Date _____       | WR _____ Date _____         |

# WARRANTY DEED

RECEIVED

FEB 13 2002

#GG-03193

For Value Received

Department of Water Resources  
Southern Region

Nancy Ballard, Personal Representative of the Estate of Charles M. Luther, also known as C.M. Luther, deceased, pursuant to Letters Testamentary, dated March 13, 2001, Case Number SP-01-00041, Gooding County Fifth Judicial District, recorded as Instrument Number 189746, Gooding County records.

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

Alan C. Oppio, a single man  
Address: P.O. Box 381, Gooding, ID 83330

Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to-wit:

**SEE ATTACHED SCHEDULE A**

## SUBJECT TO:

All reservations in patents or deeds in the chain of title.

Taxes for 2002 and subsequent years, taxes are an accruing lien, not yet due or payable.

Assessments of the American Falls Reservoir District No. 2 and the rights and powers of said District as by law provided.

Assessments of the Big Wood Canal Company and the rights and powers of said Company as by law provided.

Right of way for canals, laterals and waste ditches of Big Wood Canal Company.

Power Line Easement given by Edw. M. Harness and Theora M. Harness, his wife, to Idaho Power Company, a corporation, dated January 13, 1947, recorded January 31, 1947 in Book 5 of Misc., at Page 174, as Instrument Number 99547, Gooding County records, affecting the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 16, Township 6 South, Range 14, East Boise Meridian.

Ditch Right-of-Way given to William M. Cady by the United States Department of the Interior dated October 17, 1950, recorded April 5, 1951 in Book 6 at Page 610 as Instrument Number 115038, Gooding County records, affecting the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 15, Township 6 South, Range 14, East of the Boise Meridian.

**TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto including but not limited to 16.0 Shares of Capital Stock of the Big Wood Canal Company and 46 acres in American Falls Reservoir District #2, along with Water Right Nos. 37-4167; 37-4166 and 37-10885 of the State of Idaho.**

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: February 11, 2002

Estate of Charles M. Luther, deceased

By

  
Nancy Ballard as Personal Representative

**Instrument # 193947**

GOODING, GOODING, IDAHO

2002-02-12

11:48:03

No. of Pages: 3

Recorded for : LAND TITLE

HELEN EDWARDS

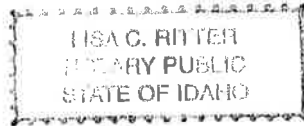
Ex-Officio Recorder Deputy

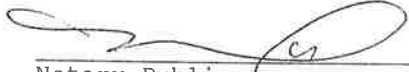
Fee: 9.00



STATE OF IDAHO                    )  
                                          ) ss.  
COUNTY OF Gooding                )

On this 11 day of February, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Nancy Ballard, known or identified to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of Charles M. Luther, deceased, and acknowledged to me that she executed the same as such Personal Representative.



  
\_\_\_\_\_  
Notary Public  
Residing at: Hagerman, ID  
My Commission expires: 10/06/04

## SCHEDULE A

Order Number: GG-03193

**Parcel No. 1:**

TOWNSHIP 6 SOUTH, RANGE 14, EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO

Section 16: N $\frac{1}{2}$ SE $\frac{1}{4}$ ;

**Parcel No. 2:**

TOWNSHIP 6 SOUTH, RANGE 14, EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO

Section 16: S $\frac{1}{2}$ NE $\frac{1}{4}$ ;

EXCEPTING therefrom a parcel of land located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ , said parcel being all that part of the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 16 that lies Northeasterly of the Easterly right of way boundary of a county road and more particularly described as follows:

Commencing at the Northeast corner of said Section 16, from which the East one-quarter corner of said Section 16 bears South 00°05'30" West, 2689.73 feet;

Thence South 00°05'30" West along the East boundary of the NE $\frac{1}{4}$  of said Section 16 for a distance of 1344.87 feet to the Northeast corner of the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 16 and being the TRUE POINT OF BEGINNING;

Thence continuing South 00°05'30" West along the East boundary of the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 16 for a distance of 467.31 feet to a point on the Northeasterly right of way boundary of a county road, said point being on the arc of a curve left;

Thence Northwesterly along the arc of the curve left for a distance of 185.78 feet to the point of tangent, said arc having a radius of 741.20 feet and a long cord bearing and distance of North 21°56'13" West, 185.29 feet;

Thence North 29°09'28" West along the Northeasterly right of way boundary of the county road for a distance of 339.67 feet to a point on the North boundary of the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 16;

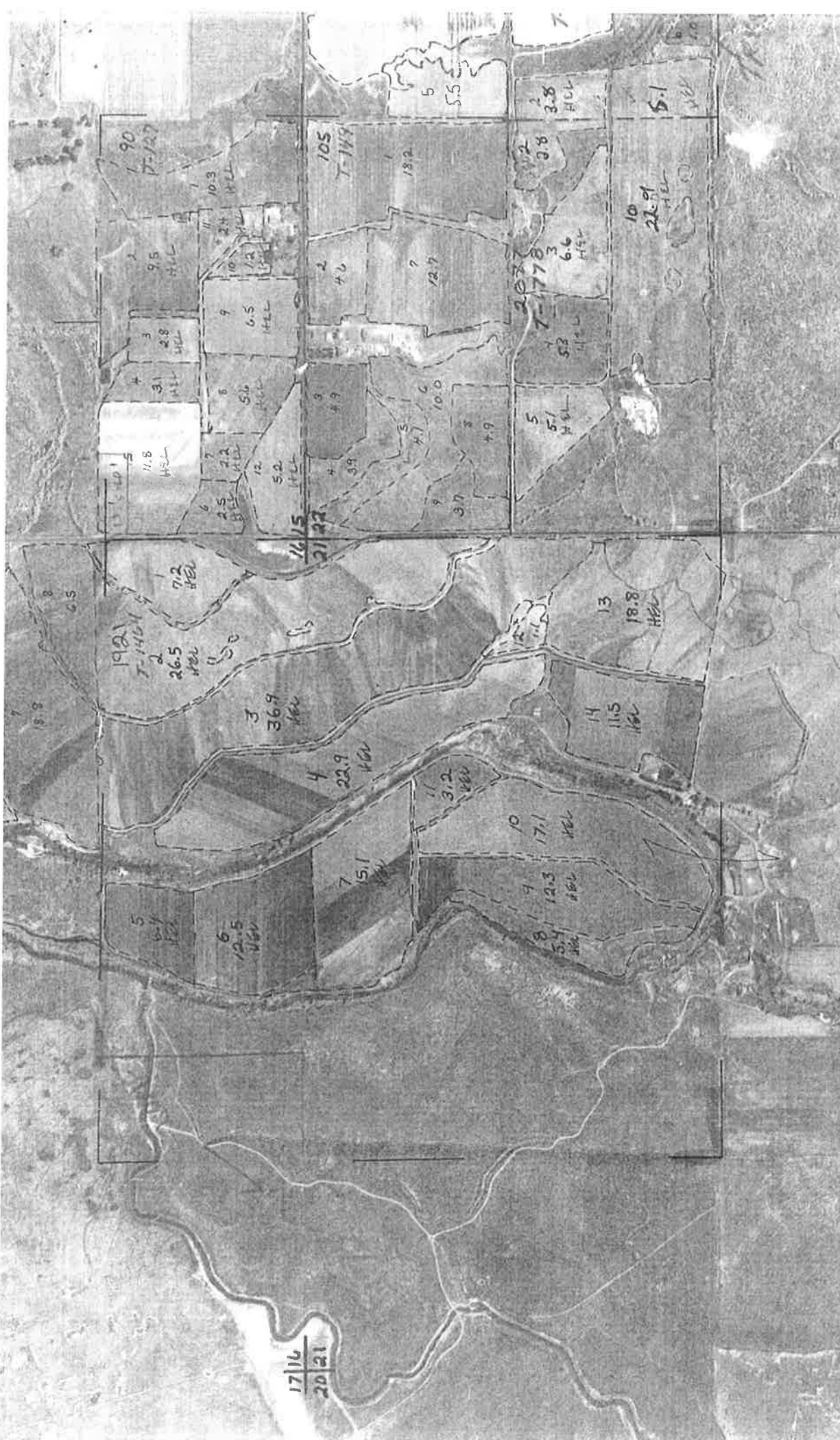
Thence South 89°42'35" East along the North boundary of the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 16 for a distance of 235.47 feet to the TRUE POINT OF BEGINNING.

**Parcel No. 3:**

TOWNSHIP 6 SOUTH, RANGE 14, EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO

Section 15: NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;

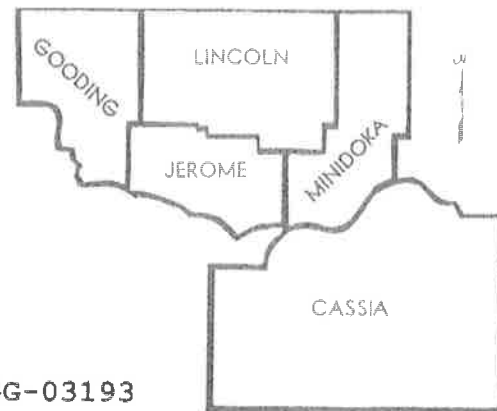
G.O.





# Land Title and Escrow, Inc.

A FULL SERVICE TITLE COMPANY



REFER TO:

OFFICE:

GG-03193

Gooding

February 12, 2002

Department of Water Resources  
Southern Region  
1341 Fillmore Suite 200  
Twin Falls, Idaho 83301

RECEIVED

FEB 13 2002

Department of Water Resources  
Southern Region

RE: Notice of Change of Water Right Ownership  
Luther to Oppio  
Cert Mail #7000 0520 0015 3076 1728

Dear Sirs:

At the request of the buyer, we are forwarding to your office the following in connection with the above referenced:

- Notice of Change of Water Right Ownership on  
on Charles M. Luther  
for Water Right Number 37-10885; 37-4166 and 37-4167
- Copy of Deed # 193947
- Copy of Map
- Check #11516 in the amount of \$25.00 for the transfer fee

Thank you,

LAND TITLE AND ESCROW, INC.

  
Lisa Ritter  
(208) 934-8477  
P.O. Box 473, 546 Main Street  
Gooding, Idaho 83330

cc:

BOX 177, BURLEY, IDAHO 83318  
PHONE 678-3524 - FAX 678-4435

BOX 349, JEROME, IDAHO 83338  
PHONE 324-3357 - FAX 324-8961

BOX 473, GOODING, IDAHO 83330  
PHONE 934-8477 - FAX 934-5890

BOX 111, RUPERT, IDAHO 83350  
PHONE 438-0608 - FAX 436-1199

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: A37-04167  
Date Received: 8/23/1988  
Receipt No: 5001640  
Received By: JP

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: CHARLES M. LUTHER 208-934-5153  
Address: RT. 2, BOX 236  
1817 S., 1750 E.  
GOODING, ID 83330

2. Date of Priority: MAY 05, 1935

3. Source: WASTE WATER Trib. to: MALAD RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County  |
|----------|-------|---------|--------|--------|--------|-----|---------|
| 06S      | 14E   | 15      | NE     | NW     | SW     |     | GOODING |
|          |       |         | NW     | NW     | SW     |     | GOODING |
|          |       | 16      | NE     | NE     | SE     |     | GOODING |

5. Description of diverting works:  
DIVERSION DAM

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 04/01 | 10/15 | 1.200  |      |        |

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

8. Total consumptive use is 180.0 Acre Feet Per Annum.

9. Non-irrigation uses:  
NONE

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use           | Acres |
|----------|-------|---------|--------|-----|-----|---------------|-------|
| 06S      | 14E   | 16      | SW     | NE  |     | IRR           | 10.0  |
|          |       |         | SE     | NE  |     | IRR           | 2.0   |
|          |       |         | NE     | SE  |     | IRR           | 35.0  |
|          |       |         | NW     | SE  |     | IRR           | 13.0  |
|          |       |         |        |     |     | Section Acres | 60.0  |
|          |       |         |        |     |     | Total Acres   | 60.0  |

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:  
AMERICAN FALLS WATER

14. Remarks:  
SOURCE IS SPILLAGE FROM AMERICAN FALLS RES. DIST. #2 CANAL.

15. Basis of Claim: STATUTORY CLAIM

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: 1

For Individuals:

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

Signature of Claimant(s): Charles M. Luther Date: 8-23-88  
\_\_\_\_\_  
Date: \_\_\_\_\_

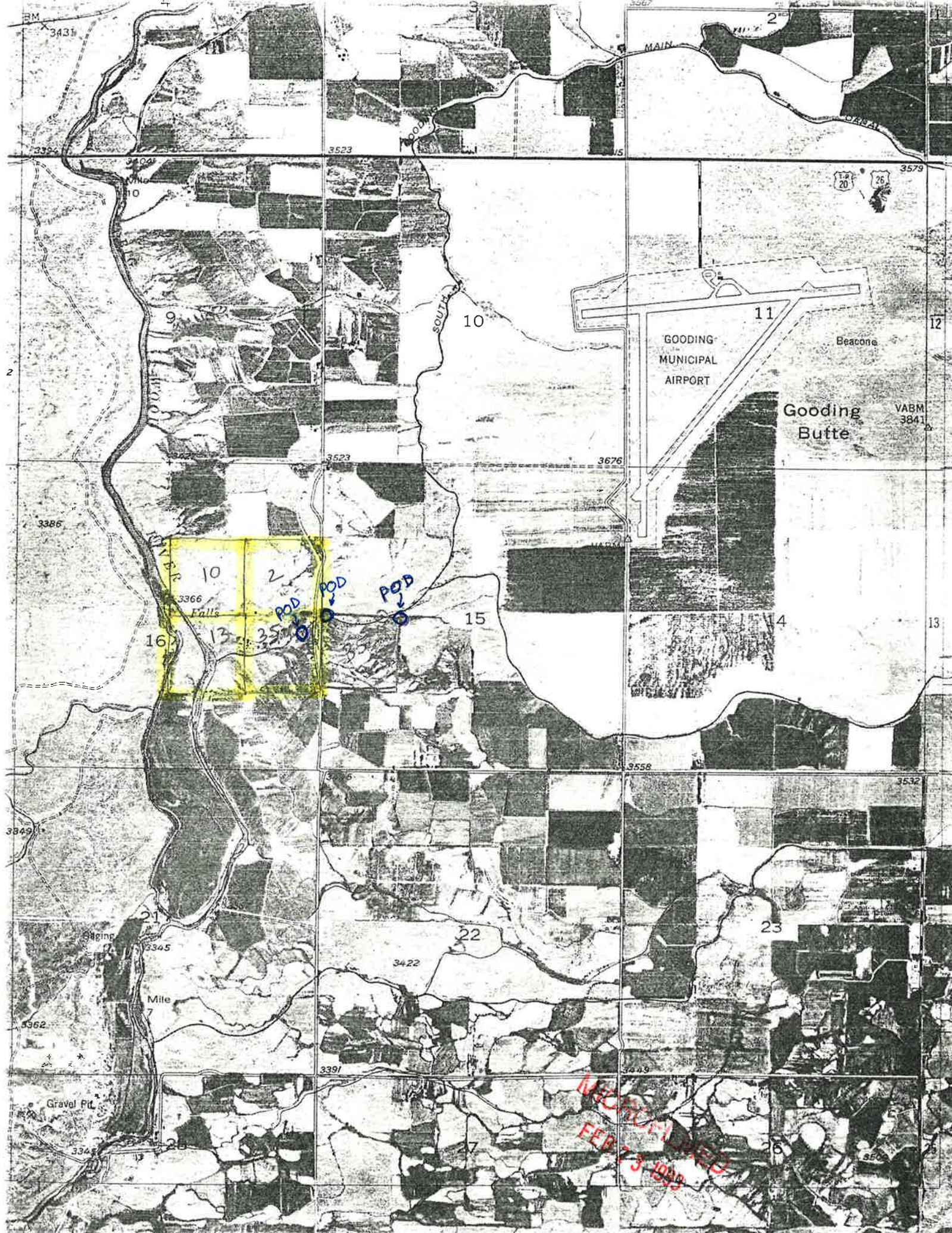
State of Idaho )  
County of Twin Falls ) SS.

Subscribed and sworn (or affirmed) before me this 23rd day  
of August 19 88

Roxanne Storey  
Notary Public

Seal

Residing at Buhl, Id  
My Commission Expires 6-30-94





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

December 27, 2001

RECEIVED

APR 04 2002

Department of Water Resources  
Southern Region

CHARLES M LUTHER  
PO BOX 207  
GOODING ID 83330-0207

Re: Snake River Basin Adjudication (SRBA)  
Water Right(s) #~~37-193B~~, 37-2069, 37-4166, 37-4167, 37-10881, 37-10682,  
~~37-10883~~, ~~37-10684~~ 37-10885 37-8338  
Change of Address ~~WR~~ ~~WR~~

Dear Water Right Holder: *Records updated 1/11/02 up*

IDWR has been notified the address presently in our records is incorrect. Although we have reached you at the address above, we need your written confirmation this is your correct mailing address before we can change our records. Future notices related to your water right can be sent only to the address on your water right or as otherwise changed by you.

Please sign your name at the bottom of this letter and return it to this office. Make corrections to your name and address if necessary and list any other water rights you may have before returning this letter by January 18, 2002. Thank you for your help.

If your mail delivery address changes in any form, please contact us in writing so we can update our records.

If there has been a change in ownership of the property connected with the water rights referenced above, please call this office toll-free at 1-800/451-4129 to obtain a form to make this required change to the water right record.

~~CHANGE OF OWNERSHIP  
LETTER SENT~~

Sincerely,

*Sally*  
Sally Sherman  
Technical Records Specialist  
Adjudication Bureau

SS:region

#####

The address is correct as shown above or as otherwise changed.

*Charles M Luther Estate*  
Claimant Signature

*934-4595*  
Telephone No.

RETURN TO SENDER

First Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

fee due 60¢

U.S. POSTAL SERVICE  
PS FORM 3547

RETURN TO SENDER

First Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

fee due 60¢

U.S. POSTAL SERVICE  
PS FORM 3547

Snake River Basin Adjudication  
Office of the Attorney General  
PO Box 44449  
Boise ID 83711-4449

LUTH817 833302223 1301 07 11/29/01  
LUTHER, CHARLES M  
PO BOX 207  
GOODING ID 83330-0207

LUTHER, CHARLES M  
RT2  
GOODING ID 83330

37-1933  
37-2069  
4166  
4167  
10881-80  
10882-80  
10883  
10884

CIDS  
10/28/01  
10/28/01  
10/28/01  
10/28/01

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Charles M. Luther  
(Name of Claimant)

Route #2, Gooding, Idaho 83330 Telephone No. 934-5153  
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) April 25, 1946

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) South Gooding Main and Lateral South Tail End of tributary to Malad River

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:  
American Falls Res. Dist #2

| Quantity | (cfs, gpd, AFA) | Use | (Domestic, Irrigation, Stock, Etc.) | (Both dates inclusive)        |                 |
|----------|-----------------|-----|-------------------------------------|-------------------------------|-----------------|
|          |                 |     |                                     | (Mo., Day)                    | (Mo., Day)      |
| Quantity | <u>1.2 cfs</u>  | Use | <u>irrigation</u>                   | Period of Use From <u>4-1</u> | To <u>10-15</u> |
| Quantity |                 | Use |                                     | Period of Use From            | To              |
| Quantity |                 | Use |                                     | Period of Use From            | To              |
| Quantity |                 | Use |                                     | Period of Use From            | To              |
| Quantity |                 | Use |                                     | Period of Use From            | To              |

- (4) 1.2 cfs TOTAL QUANTITY USED.  
(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)  
NE ¼, Sec. 16 Twp. 6 S Rge. 14 E B.M., County of Gooding (2 Points)  
Additional points of diversion: NW ¼ SW ¼, Sec 15 Twp 6 S Rge 14 EBM, Gooding County,  
(One Point)

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Diversion Dam

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

| T  | R   | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTAL |
|----|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------|
|    |     |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |       |
| 6S | 14E | 16   |     |     | 10  | 2   |     |     |     |     |     |     |     |     | 35  | 13  |     |     | 60    |
|    |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|    |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|    |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|    |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|    |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|    |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|    |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|    |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |

Acreage estimated from enclosed ASCS photo map.

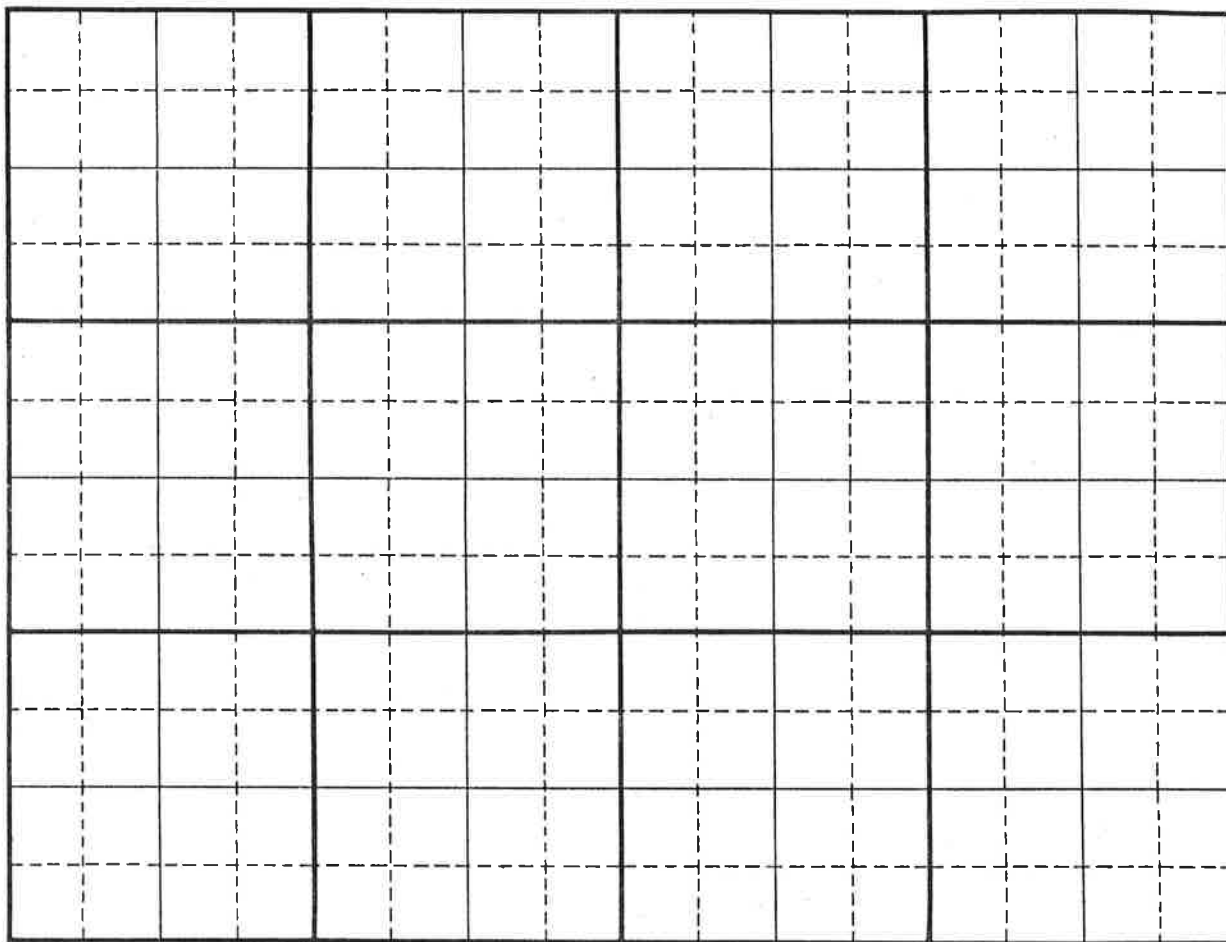
No. of acres 60

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: NA

NOTE: Include here the type and number of stock watered: \_\_\_\_\_  
If you are claiming water as a member of an organization, list name of organization: NA

Microfilm

(8) Remarks \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho )  
County of GOODING ) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 10 day of March

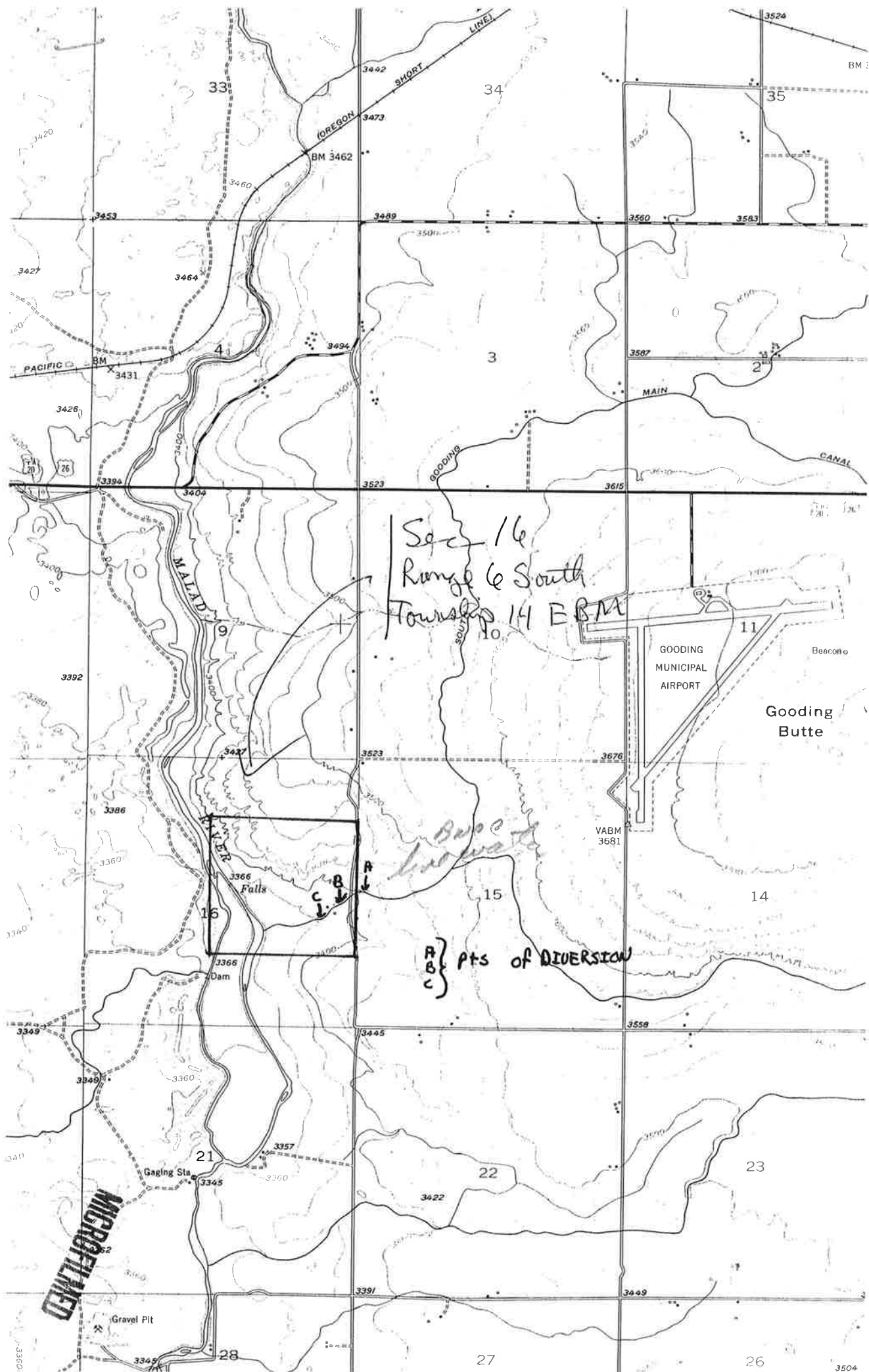
Charles M. Luther  
(Claimant)

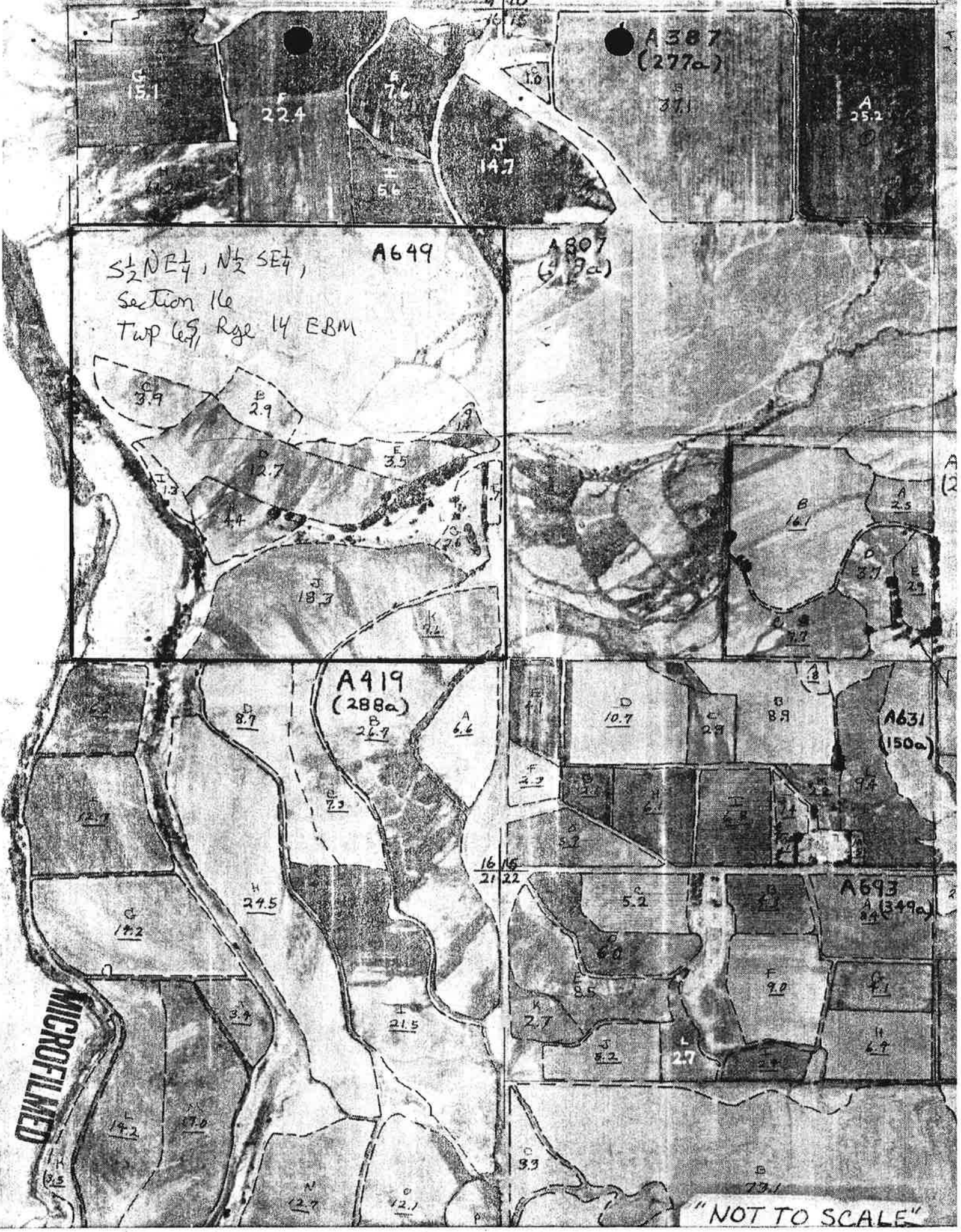
John C. Arkoosh  
Notary Public  
Residing at Gooding, Idaho

My commission expires Lifetime

FOR DEPARTMENT USE ONLY

Received by Marjorie Date 3/18/81 Exception filed by: \_\_\_\_\_ Date \_\_\_\_\_  
Prelim. check OK Date 3-23-81  
\$20.00 fee received by Marjorie Date 3-24-81 # 16922  
Published in Gooding Co. Leader  
Dates Mar 4 1981





$S\frac{1}{2}NE\frac{1}{4}$ ,  $N\frac{1}{2}SE\frac{1}{4}$ ,  
Section 16  
Twp 6S, Rge 14 EBM

A649

A807  
(273a)

A419  
(288a)

A631  
(150a)

A693  
(349a)

MICROFILMED

"NOT TO SCALE"

AFFIDAVIT

STATE OF IDAHO       )  
                              ) SS.  
County of Gooding )

Clyde Medford, being first duly sworn deposes and says:

1. That he is the son of J. F. Medford.

2. That as of January 1, 1946, J. F. Medford was the owner of or purchasing on a contract the following described real property, to-wit:

South one-half of the Northeast quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$ ), and the North one-half of the Southeast quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$ ) Section 16, Township 6 South, Range 14 East, Boise Meridian.

3. That J. F. Medford irrigated those parts of the above-described real property that are presently in cultivation, by using waste water off of the South Gooding Main and Lateral South Tail-end, during the farming season of 1946, and thereafter until such time he sold the said real property to C. M. Luther.

DATED this 13<sup>th</sup> day of March, 1981.

Clyde Medford

STATE OF IDAHO       )  
                              ) SS.  
County of Gooding )

On this 13<sup>th</sup> day of March, 1981, before me, the undersigned, a Notary Public in and for said State, personally appeared CLYDE MEDFORD known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

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

John C. Johnson

Notary Public for the State of Idaho  
Residing at Gooding, Idaho

MICROFILMED  
SERIALS  
SECTION  
JAN 1982

# Gary W. Shaw

ATTORNEY AT LAW

P. O. BOX 238

237 MAIN STREET

GOODING, IDAHO 83330

March 17, 1981

GARY W. SHAW  
JOHN C. ARKOOSH

TELEPHONE:  
(208) 934-8421

RECEIVED

MAR 18 1981

State of Idaho  
Department of Water Resources  
1041 Blue Lakes Blvd. North  
Twin Falls, ID 83301

Department of Water Resources  
Southern District Office

Re: Luther claim of water right

Dear Sir:

Enclosed herewith are the following:

1. A claim for a water right for a 1.2 cfs of irrigation water located in Section 15, Township 6 South Range 14 East, Boise Meridian, Gooding County, State of Idaho.

2. A claim to a water right for .7 cfs of irrigation water located in Section 15, Township 6 South, Range 14 East, Boise Meridian, Gooding County, State of Idaho.

As supporting documents for the first claim to the water right listed above enclosed herewith are the following:

1. A certified copy of a deed from the State of Idaho to Charles M. Luther for the SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 16, Township 6 South, Range 14 East, Boise Meridian, dated the 16th day of December, 1980.

2. A certified copy of a deed from the State of Idaho to Charles M. Luther covering the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 16, Township 6 South, Range 14 East, Boise Meridian dated the 16th day of December, 1980.

3. A certified copy of a deed from Edward M. Harness and Theora M. Harness to J. F. Medford covering among other things, the N $\frac{1}{2}$ SE $\frac{1}{4}$ , Section 16, Township 6 South, Range 14 East, Boise Meridian, dated September 15, 1954.

4. A deed from J. F. Medford to C.M. Luther covering the N $\frac{1}{2}$ SE $\frac{1}{4}$ , Section 16, Township 6 South, Range 14 East, Boise

MICROFILMED

March 17, 1981  
State of Idaho  
Department of Water Resources  
Re: Luther claim of water right  
Page #2.

Meridian, dated September 17, 1954.

5. Affidavit from Clyde Medford, dated the 13th day of March, 1981.

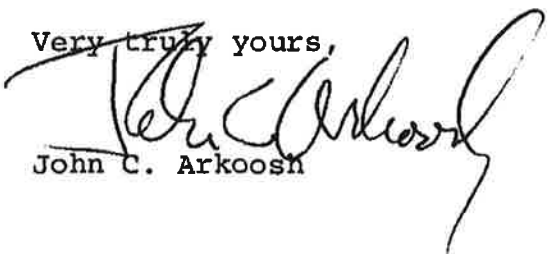
In support of the second claim to a water right listed above, please find enclosed a certified copy of the patent covering the NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 15, Township 6 South, Range 14 East, Boise Meridian, from the United States of America to Charles M. Luther.

Also, enclosed herewith a check for \$60.00 to cover the filing fee for these two applications.

Concerning the priority date for the claim for 1.2 cfs, according to Leon Grieve, of the Big Wood Canal Company, the canal company records show water being turned in as of the 21st day of April, 1946. Mr. Grieve assures me that it would have been through the system by the 25th day of April, 1946.

If there are any questions or problems concerning any of this, please feel free to contact me.

Very truly yours,

  
John C. Arkoosh

JCA/lm

Encl.

MICROFILMED

AFFIDAVIT

STATE OF IDAHO       )  
                              ) SS.  
County of Gooding )

Clyde Medford, being first duly sworn deposes and says:

1. That he is the son of J. F. Medford.

2. That as of January 1, 1946, J. F. Medford was the owner of or purchasing on a contract the following described real property, to-wit:

South one-half of the Northeast quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$ ), and the North one-half of the Southeast quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$ ) Section 16, Township 6 South, Range 14 East, Boise Meridian.

3. That J. F. Medford irrigated those parts of the above-described real property that are presently in cultivation, by using waste water off of the South Gooding Main and Lateral South Tail-end, during the farming season of 1946, and thereafter until such time he sold the said real property to C. M. Luther.

DATED this 13<sup>th</sup> day of March, 1981.

Clyde Medford

STATE OF IDAHO       )  
                              ) SS.  
County of Gooding )

On this 13<sup>th</sup> day of March, 1981, before me, the undersigned, a Notary Public in and for said State, personally appeared CLYDE MEDFORD known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

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

John C. Johnson

Notary Public for the State of Idaho  
Residing at Gooding, Idaho

MICROFILMED