

RECEIVED

APR 18 2012

DEPARTMENT OF
WATER RESOURCES

Dylan B. Lawrence, ISB No. 7136
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
22377.0000

Attorneys for Petitioner Snake River Dairies, LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF A PETITION TO
RESCIND TRANSFER NO. 73927
INVOLVING WATER RIGHT NO. 63-7270B

AFFIDAVIT OF DYLAN LAWRENCE

STATE OF IDAHO)
) ss.
County of Ada)

DYLAN B. LAWRENCE, having been duly sworn upon oath, deposes and states
as follows:

1. I am an attorney duly licensed to practice law in the state of Idaho. I am
representing Snake River Dairies, LLC ("SRD") in this matter. I have access to the client's files
in this matter, and I make this affidavit based upon my personal knowledge.

2. Attached hereto as Exhibit A is a true and correct copy of materials I
obtained from the Idaho Secretary of State's online database pertaining to SRD.

3. Attached hereto as Exhibit B is a true and correct copy of the SRBA *Partial Decree* for water right 63-7270B, which I obtained from the IDWR online electronic water rights database.

4. Attached hereto as Exhibit C is a true and correct copy of the amended *Application for Transfer of Water Right* (Transfer No. 73927, Water Right No. 63-7270B), dated February 29, 2008, which I obtained from the IDWR online electronic water rights database.

5. Attached hereto as Exhibit D is a true and correct copy of the approved Transfer No. 73927 of April 23, 2008, which I obtained from the IDWR online electronic water rights database.

6. Attached hereto as Exhibit E is a true and correct copy of a *Notice of Change in Water Right Ownership* submitted to IDWR by Jerry and Mary Lou Tlucek on or about August 29, 2008, and a *Warranty Deed* dated March 29, 2008, that accompanied that *Notice*. I obtained copies of these documents from the files that my firm maintains on behalf of the Tluceks at 101 S. Capitol Boulevard, Boise, Idaho 83702.

7. I have reviewed the documents associated with water right 63-7270B that are available through IDWR's online electronic water rights database. I was unable to locate any written approval by the Tluceks for water right 63-7270B to be transferred to their property in the NWNE of Section 29, Township 1 South, Range 1 West, at the time Transfer No. 73927 was approved.

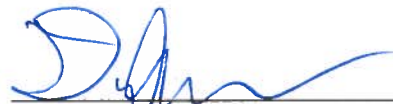
8. Attached hereto as Exhibit F is a true and correct copy of a *Notice of Change in Water Right Ownership*, which I submitted to IDWR on behalf of SRD on or about February 10, 2012.

9. Attached hereto as Exhibit G is a true and correct copy of relevant excerpts of the SRBA district court's decision in its *Wood v. Troutt* opinion, *In re SRBA, Memorandum Decision and Order on Challenge*, pp. 1, 14-22, 36-37 (Case No. 39576, Subcase No. 65-05663B) (5th Dist., May 9, 2002), which I obtained from IDWR's online electronic database.

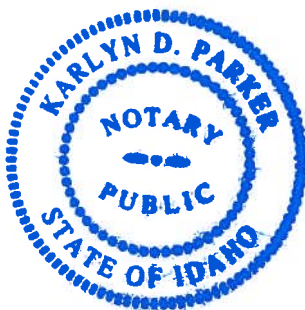
10. Attached hereto as Exhibit H is a true and correct copy of correspondence from IDWR dated March 22, 2012, accepting water right 63-7270B into the State Water Supply Bank.

11. Attached hereto as Exhibit I are true and correct copies of various documents relating to water right 63-7270 and 63-7270B that I obtained from IDWR's online electronic database.

Further your affiant sayeth naught.


Dylan B. Lawrence

SUBSCRIBED AND SWORN to before me this 18th day of April, 2012.




NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My Commission Expires 5/24/15

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of April, 2012, I caused a true and correct copy of the foregoing **AFFIDAVIT OF DYLAN LAWRENCE** to be served by the method indicated below, and addressed to the following:

There are no other parties of record to this matter at this time

- ☐ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ Facsimile



Dylan B. Lawrence

EXHIBIT A



IDAHO SECRETARY OF STATE Viewing Business Entity

Ben Ysursa, Secretary of State

[[New Search](#)] [[Back to Summary](#)]
[[Get a certificate of existence for SNAKE RIVER DAIRIES, L.L.C.](#)]

SNAKE RIVER DAIRIES, L.L.C.

15188 S CAN ADA RD
MELBA, ID 83641

Type of Business: LIMITED LIABILITY COMPANY

Status: EXISTING, 2ND AR NOTICE SENT 01 Mar 2012

State of Origin: IDAHO

Date of 16 Feb 2006

Origination/Authorization:

Current Registered Agent: JERRY TLUCEK
15188 S CAN ADA RD
MELBA, ID 83641

File Number: W47607

Date of Last Annual Report: 02 Mar 2012

Original Filing:

Filed 16 Feb 2006 ARTICLES OF
ORGANIZATION

[[Help Me Print/View TIFF](#)]
[View Image](#) (PDF format)
[View Image](#) (TIFF format)

Annual Reports:

Report for year 2012 ANNUAL
REPORT

[[Help Me Print/View TIFF](#)]
[View Image](#) (PDF format) [View](#)
[Image](#) (TIFF format)

Report for year 2011 ANNUAL
REPORT

[View Image](#) (PDF format) [View](#)
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Report for year 2010 ANNUAL
REPORT

[View Image](#) (PDF format) [View](#)
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Report for year 2009 ANNUAL
REPORT

[View Image](#) (PDF format) [View](#)
[Image](#) (TIFF format)

Report for year 2008 ANNUAL
REPORT

[View Image](#) (PDF format) [View](#)
[Image](#) (TIFF format)

Report for year 2007 ANNUAL
REPORT

[View Image](#) (PDF format) [View](#)
[Image](#) (TIFF format)

[Idaho Secretary of State's Main Page](#)

[State of Idaho Home Page](#)

Comments, questions or suggestions can be emailed to: sosinfo@sos.idaho.gov

No. W 47607 Return to: SECRETARY OF STATE 450 N 4th STREET PO BOX 83720 BOISE, ID 83720-0080	Due no later than Feb 29, 2012 Annual Report Form 1. Mailing Address; Correct in this box if needed. SNAKE RIVER DAIRIES, L.L.C. JERRY TLUCEK 15188 S CAN ADA RD MELBA ID 83641	2. Registered Agent and Office (NOT A P.O. BOX) JERRY TLUCEK 15188 S CAN ADA RD MELBA ID 83641 3. <u>New</u> Registered Agent Signature.
NO FILING FEE IF RECEIVED BY DUE DATE		
4. Limited Liability Companies: Enter Names and Addresses of Managers OR Members. See Instructions.		
Manager of <u>Member</u> Name Manager Member (circle one) <u>Jerry L. Tlucek</u> Snake River Dairies LLC	Street or PO Address 15188 So. Can Ada Rd Melba ID 83641	City State Country Postal Code Melba ID 83641
5. Organized Under the Laws of: IDAHO W 47607	6. Signature: <u>Jerry L. Tlucek</u> Date: <u>2-25-12</u> Name (type or print): <u>Jerry L. Tlucek (Registered Member)</u>	
Issued 02/22/2012 by SLD 106541		

INSTRUCTIONS FOR THE IDAHO ANNUAL REPORT FORM

Block 1: Entity name may not be altered through the use of this form. Pay special attention to the mailing address. If the correct mailing address is not given in Block 1, strike it out and write in the correct address. **Note:** To ensure future mailings, the corrected address **must** be inside Block 1.

Block 2: To change the registered agent or office, strike the incorrect information and write in the correct information. **Note:** The office of the registered agent must be at a street address in Idaho; not a Post Office Box or Personal Mail Box.



ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

FILED EFFECTIVE

2006 FEB 16 AM 9:08

1. The name of the limited liability company is: SNAKE RIVER DAIRIES, L.L.C.

2. The street address of the initial registered office is: 15188 SOUTH CAN-ADA ROAD,

MELBA, IDAHO 83641 and the name of the initial registered agent at the above address is: JERRY TLUCEK

3. The mailing address for future correspondence: 15188 SOUTH CAN-ADA ROAD,
MELBA, IDAHO 83641

4. Management of the limited liability company will be vested in:

Manager(s) ☐ or Member(s) ☒ (please check the appropriate box)

5. If management is to be vested in one or more manager(s), list the name(s) and address(es) of at least one initial manager. If management is to be vested in the members, list the name(s) and address(es) of at least one initial member.

Name

Address

Jerry Tlucek

15188 South Can-Ada Road, Melba, ID 83641

Mary Lou Tlucek

15188 South Can-Ada Road, Melba, ID 83641

Kevin Tlucek

15222 South Can-Ada Road, Melba, ID 83641

Rebekah Tlucek

15222 South Can-Ada Road, Melba, ID 83641

6. Signature of at least one person responsible for forming the limited liability company:

Signature Jerry Tlucek

Typed Name Jerry Tlucek

Capacity Member; Registered Agent

Signature _____

Typed Name _____

Capacity _____

Secretary of State use only

IDAHO SECRETARY OF STATE
02/16/2006 05:00
CK: 11157 CT: 3632 BH: 938190
1 @ 100.00 = 100.00 ORGAN LLC # 2

W4-1607

EXHIBIT B

RECEIVED

APR 13 2007

DEPARTMENT OF
WATER RESOURCES

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

APR 13 2007

By _____
Deputy Clerk

Water Right: 63-07270B

ORDER OF PARTIAL DECREE

On December 16, 2005, the Idaho Department of Water Resources filed it *Director's Report for Basin 63, Part II, Reporting Area 13, for Irrigation and Other Water Rights*, which included recommendations for the above named water right. No objections were filed and the time period for filing objections has expired.

On April 10, 2006, the Idaho Department of Water Resources filed a *Notice of Completed Administrative Proceeding and Amended Director's Report* notifying the Court that water right 63-07270 had been split into water rights 63-07270A and 63-07270B. No objections were filed to the *Amended Director's Report* and the time period for filing objections has expired.

Therefore, IT IS ORDERED that the above-captioned water right be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED April 3, 2007.

JOHN M. MELANSON
Presiding Judge
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 63-07270B

NAME AND ADDRESS: GLENN VANDER WOUDE
RHEA VANDER WOUDE
5312 RIDGEWOOD RD
NAMPA, ID 83687

SOURCE: GROUND WATER

QUANTITY: 1.39 CFS
629.90 AFY

PRIORITY DATE: 10/07/1969

POINT OF DIVERSION: T01S R01W S20 NESE Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-15	1.39 CFS 629.90 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS MARCH 1, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT
EXCEEDED. THE USE OF WATER BEFORE APRIL 1 UNDER THIS REMARK IS
SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR
LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A
PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

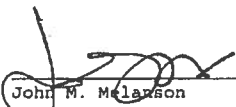
PLACE OF USE:	Irrigation	Within Ada County
	T01S R01W S20	NESE 38.0 NWSE 10.0 SWSE 22.0 SESE 40.0
	S29	NENE 30.0
	140.0 Acres Total	

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

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR 11 2007	
By _____	Clerk
_____	Deputy Clerk

2007 APR 11 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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) : 63-07270B

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 63-07270B was mailed
on April 11, 2007, with sufficient first-class postage prepaid
to the following:

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

GLENN VANDER WOUDE
RHEA VANDER WOUDE
5312 RIDGEWOOD RD
NAMPA, ID 83687

JULIE MURPHY
Chief Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
04/11/07

EXHIBIT C

RECEIVED
Page 1 of 8

FEB 29 2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 73927

WATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of applicant: Glen Vander Woude and Rhea Vander Woude

Phone: (208) 895-7870

Post Office address: 5312 Ridgewood, Nampa, ID 83687

A. PURPOSE OF TRANSFER

1. Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☒ Change nature of use ☒ Change period of use ☐ Other

2. Describe the reason for the proposed changes: Applicant intends to construct and operate a new dairy facility on land currently irrigated with groundwater. Applicant wishes to transfer groundwater rights from irrigation use to stockwater and commercial use. Applicant intends to use the existing irrigation well for stockwater use and construct a new irrigation well

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use		
63- 7270B	10/07/1969	.84/ 382.4	Irrigation	04/01	to	11/15
		.24/ 75	Stock water	01/01	to	12/31
		.31/ 95.5	Commercial	01/01	to	12/31

2. Total amount of water being transferred 1.39 cubic feet per second and/or 552.9 acre-feet per annum.

3. Source of water Ground water tributary to

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp	Rge.	County	Local Name for diversion
		SE	SE	20	01 S	01 W	Ada	Stockwater/ Dairy Well (existing)
		NE	SE	20	01 S	01 W	Ada	New Irrigation Well

5. Lands irrigated or place of use:

TWP.	RGE.	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
01S	01W	20													35	10	9	6	60
															C	C	S,C	S,C	
		29	25																25
			C	C															
																			85

Total Acres Irrigated 85

AMENDED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 73927

PART 1**6. General Information:**

a. Description of diversion system: Existing irrigation well will be refitted with pressure tanks and piping to provide stock water for 2000 cows, and commercial (process) water for the milking center. A new irrigation well will be constructed.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: The land formerly irrigated has been used for corrals, structures and buildings associated with the dairy operation.

d. Remarks: See Attached Documents:

Attachments: **A. Proof of Ownership / Lien holder permission**

B. Daily fresh water requirement for Dairy

C. Crop history and calculation of historic consumptive use and annual diversion

D. Flow, Volume, and Allocation Calculations

E. Aerial photo

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____
And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

Transfer No. 73927

(Attach one copy for each right)

1. Right evidenced by:

in case of

b. License No. 63-7270B (Attached)

d. Transfer No. _____ which produced this right.

Tax Notice	☒ Warranty Deed	Other
------------	---	-------

5. Water is used for the following purpose:

6. Total amount of water under right cubic feet per second and/or acre-feet per annum

7. Point(s) of Diversion:

8. Lands irrigated or place of use:

9. Describe any other water right used for the same purpose as described above:

None

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED NA
(If the entire right is to be changed by the applicant, omit part B and C.)

1.

Amount (cfs/ac-ft)						
	for	Irrigation	purposes from	4/01	to	11/15
	for		purposes from		to	
	for		purposes from		to	
	for		purposes from		to	

2. Point(s) of Diversion:

[illegible]3. Lands irrigated or place of use:[illegible]

C. Description of unchanged portion of right

1.

Amount (cfs/ac-ft)						
	for		purposes from		to	
	for		purposes from		to	
	for		purposes from		to	
	for		purposes from		to	

2. Point(s) of Diversion:

Lot	¼	¼	Sec.	Twp	Rge.	County	Local Name for diversion
		SE	20	01S	01W	Ada	Irrigation Well

3. Lands irrigated or place of use:

[illegible]

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 73927

PART 3

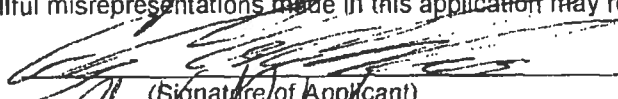
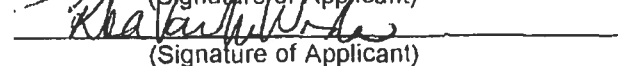
B. CHANGES IN NATURE OF USE

1. New Nature of use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use		
Stockwater	.24 / 75	365	01/01	to	12/31
Commercial	.31 / 95.5	365	01/01	to	12/31

2. Quantity and quality of return flows and location of discharge: Process water in the amount of 95.5 afa will be collected and stored in a lagoon and land applied on the total irrigation PPU. Wastewater will be applied to growing crops.

3. Describe effects on other water uses resulting from the proposed change: No effect on other users.

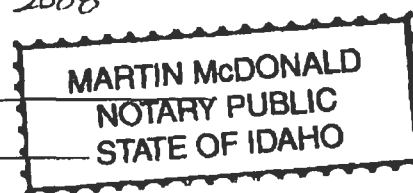
I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.
I understand that any willful misrepresentations made in this application may result in voiding its approval.


(Signature of Applicant)

(Signature of Applicant)

Subscribed and sworn to before me this 29th day of Feb, 2008


(Notary Public)

My commission expires Sep. 15, 2011



FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and 6 attachments

Received by DB Date 2/29/08 Protest filed by _____

Prelim. check by SL Fee \$290 *PER ORIGINAL APPL.*

Receipted by SL for DB Date 7/14/06 W034464

Published in _____ Copies of protest forwarded by _____

Pub. Dates _____ Hearing held by _____ Date _____

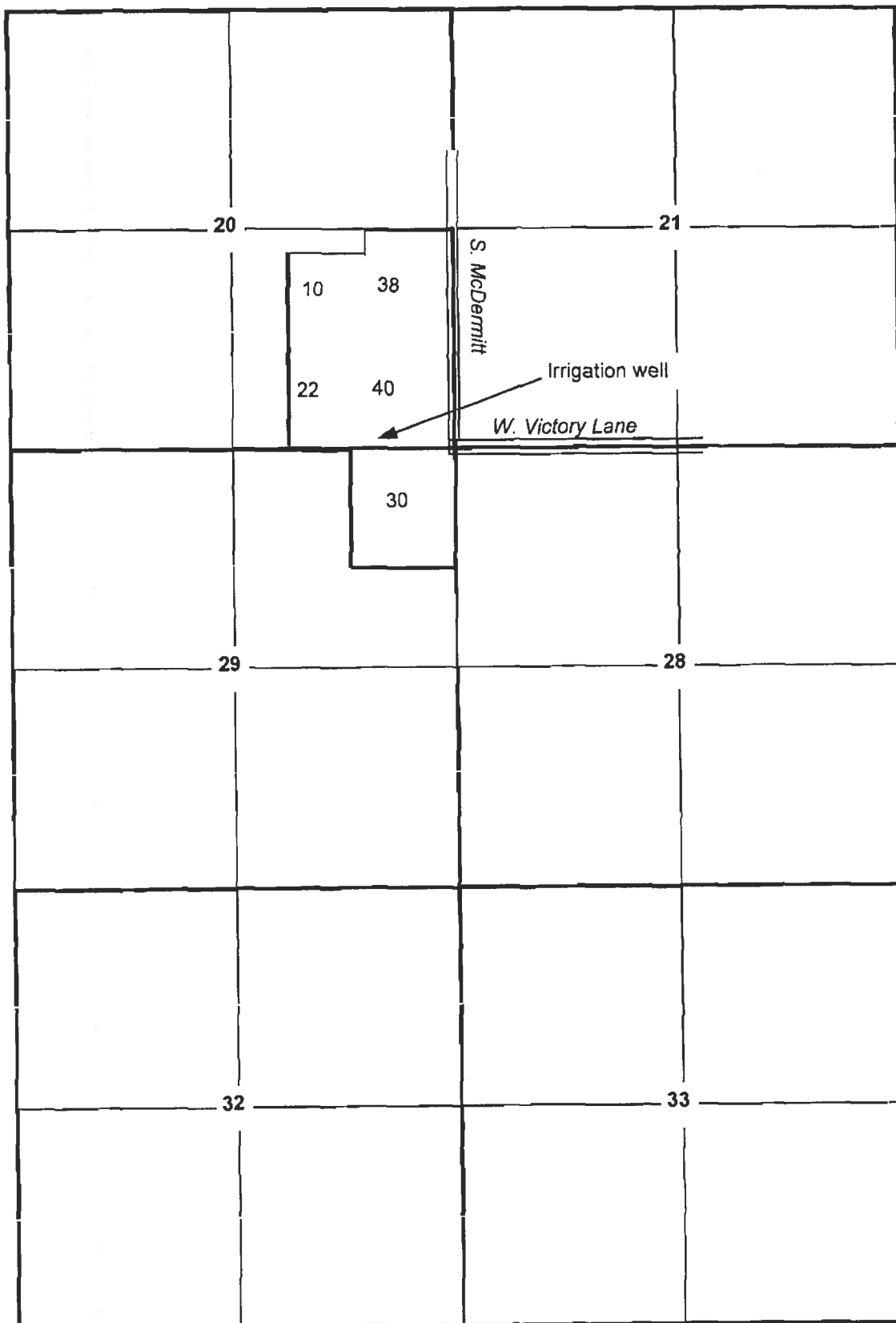
Watermaster recommendation requested on _____ Recommended for approval denial

_____ rec'd _____ by _____

Copy of transfer sent to lien holder _____

State of Idaho Dept of Water Resources
Application for Transfer of Water Right Part 3

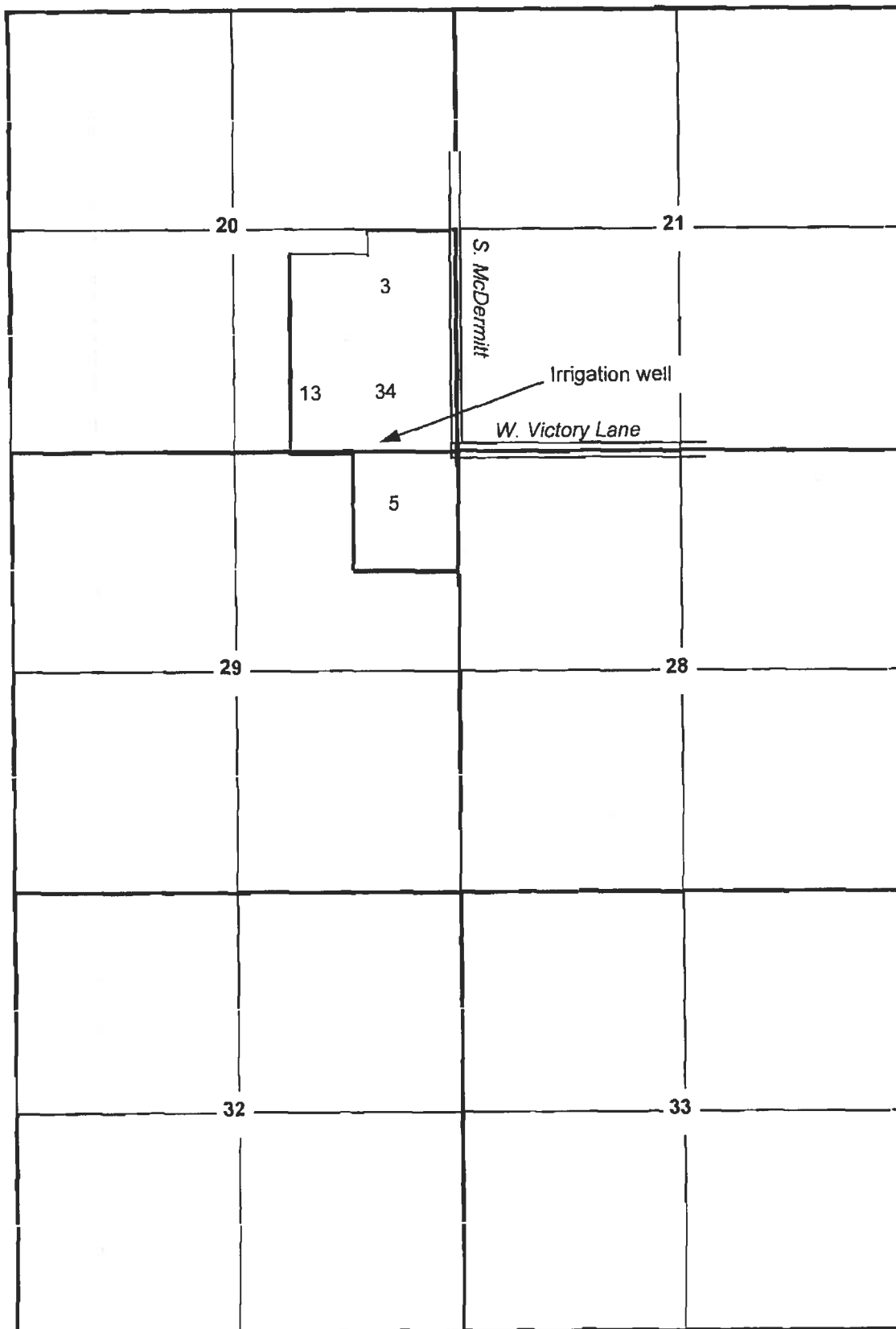
Transfer no. _____



Glenn Vander Woude	Acres Irrigated before Transfer	
T 01S, R 01 W, portions of sec 20 and 29	Scale 3" = 1 mile	
	Prepared by: Darwin Vander Stelt	

State of Idaho Dept of Water Resources
Application for Transfer of Water Right Part 3

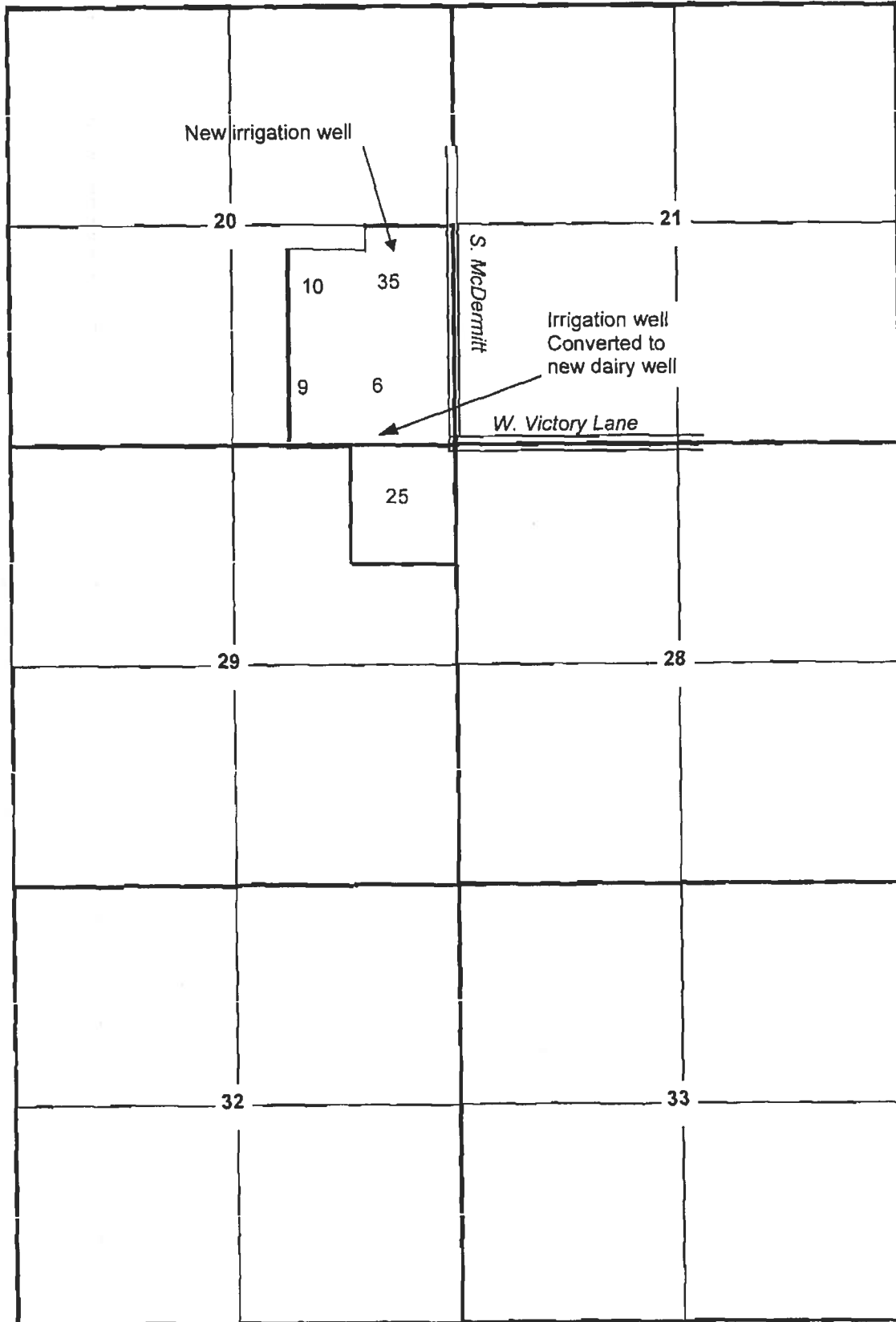
Transfer no. _____



Glenn Vander Woude	Acres Dried up and transferred to Stock Water and Commercial	
T 01S, R 01 W, portions of sec 20 and 29		Scale 3" = 1 mile
		Prepared by: Darwin Vander Stelt

State of Idaho Dept of Water Resources
 Application for Transfer of Water Right Part 3

Transfer no. _____



Glenn Vander Woude	Acres Irrigated After Transfer	
T 01S, R 01 W, portions of sec 20 and 29		Scale 3" = 1 mile
		Prepared by: Darwin Vander Stelt

Attachment A

WARRANTY DEED

FOR VALUE RECEIVED DUANE PANCHERI and LAURA ELLEN PANCHERI, the Grantors, does hereby grant, bargain, sell and convey unto GLENN F. VANDER WOUDE and RHEA H. VANDER WOUDE, the Grantees, whose address is 5312 Ridgewood, Nampa, Idaho 83687, the following described premises, including any homestead claim pursuant to the Idaho Homestead Law, Idaho Code, Section 55-1001, et seq., to-wit:

The Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, Section 29, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho.

AND

A parcel of land located in the Southeast $\frac{1}{4}$ of Section 20, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho, and being more particularly described as follows:

BEGINNING at the Southeast corner of said Section 20 from which the South $\frac{1}{4}$ corner bears North $89^{\circ}30'13''$ West, 2642.46 feet,

thence North $00^{\circ}01'51''$ West along the East boundary of said Section for a distance of 2641.80 feet to the Northeast corner of the Southeast $\frac{1}{4}$ of said Section 20;

thence North $89^{\circ}25'17''$ West along the North boundary of said Southeast $\frac{1}{4}$ for a distance of 1421.36 feet;

thence South $05^{\circ}12'34''$ West for a distance of 38.65 feet;

thence North $88^{\circ}15'57''$ West for a distance of 124.70 feet;

T. 73927 ATTACHMENTS
A-F

RECORDED A,

thence South 33°19'21" West for a distance of 193.66 feet;

thence South 70°24'36" West for a distance of 191.47 feet;

thence South 00°18'56" East for a distance of 2379.69 feet to the South boundary of said Section 20;

thence South 89°30'13" East for a distance of 1824.59 feet to the POINT OF BEGINNING.

Together with all water rights appurtenant thereto.

Reserving unto the Grantors an easement for ingress and egress with vehicles, equipment, and livestock over and across the North 9 feet of the above described real property located in Section 29, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho, and over and across the South 9 feet of the above described real property located in Section 20, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho. This easement shall be appurtenant to the following real property owned by the Grantors, to-wit:

North ½ of Section 27, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho.

Northeast ¼, Southeast ¼, Section 27, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho.

Northeast ¼, Section 28, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho.

SUBJECT TO United States patent restrictions and/or State of Idaho deed restrictions;

SUBJECT TO all taxes and assessments for the year 2006 and all subsequent years;

SUBJECT TO any easements or rights-of-way of record and/or usage.

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said Grantees, their heirs and assigns, forever. And the Grantors do hereby covenant to and with the said Grantees that they are the owners in fee simple of said premises; that said premises are free from all encumbrances save and except as above set forth; and that they will warrant and defend the same from all lawful claims whatsoever.

DATED this 12 day of January, 2006.

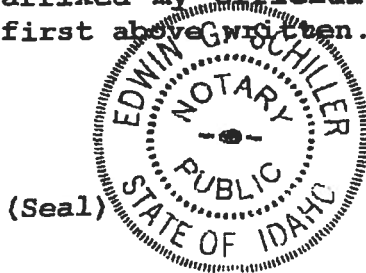
Duane Pancheri
DUANE PANCHERI

Laura Ellen Pancheri
LAURA ELLEN PANCHERI

STATE OF IDAHO)
 : ss
County of Canyon)

On this 12 day of January, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared DUANE PANCHERI and LAURA ELLEN PANCHERI, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing instrument, and acknowledged to me that they executed the same.

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



[Signature]
Notary Public for Idaho
Residing at Nampa, Idaho
My Commission expires: 4/7/2011

WARRANTY DEED - 3

A3

Attachment B

Daily Fresh Water Requirement For Dairy Facility Worksheet

For: **Glen VW**

Drinking Water Estimates (see Table 1 & 2):

	Number	Use/day	Size Adjustment 100%	Use/day	Total Gal/Day	Total Gals/Yr.	Acre-feet/Yr (Af/a)
Milking Cows	1700	37	37.0	62900	62900		
Dry Cows	300	15	15.0	4500	4500		
Total Cows	2000				67400	24,601,000	
Total Herd Drinking Water							75.50

Holstein weight 100% 1400
Jersey 71% 1000

Milk House and Parlor Estimate (from Idaho Oneplan)

Dairy Water Values

Dairy Process Water:	1600	Milk Parlor Cleaning Water:	4700
Dairy Parlor Water:	800	Hose Volume:	2000
Bulk Tank Water:	800	Flush Volume:	0
Cow Prep Water:	680	Deck Flush Volume:	2700
Automatic Backflush:	0	Other Volume:	0
Sprinkler Volume:	0	Holding Pen Cleaning Water:	16000
Manual Cow Prep:	680	Hose Volume:	0
Dairy Equipment Water:	47651	Flush Volume:	16000
Compressor Water:	0	Other Volume:	0
Vacuum Pump Water:	18000	Freestall/Alley Flush:	0
Pre-Cooler Water:	29651	Excess Water	0
Glycol Chiller Water:	0	Cow Water:	0
Miscellaneous Equipment Water	429	Group 1:	47651
Washing Machine Water:	229	Group 2:	20700
Miscellaneous Water:			
Milkhouse Water	200	Total Dairy (Commercial) Water:	50360
The Oneplan software nets out recycled water used first in the pre-cooler etc.			18,381,400
			56.41

Because the Dairy footprint plus feed storage plus run-off containment is approximately 55 acres, and because quantities actually used may be higher, the applicant wishes to transfer additional water to commercial use:

Total Gals/(Day, year, afa) 85000 31,025,000 95.21

Relative percentage needed:			rounded
Stock water needed	75.5	44.2%	44%
Commercial water needed	95.2	55.8%	56%

Acres to be taken out of production @ 3.1 afa/acre 55.00 acres (from Attachment D)
Round to 55 acres x's 3.1 170.5 afa

Acres out for stock water	44% x 55=	24.2	x's 3.1	75.0 afa
Acres out for Commercial	56% x 55=	30.8	x's 3.1	95.5 afa
		55.0 acres		170.5 afa

Attachment C Flow, Volume, and Allocation Calculations

Amount of water (afa) to be transferred			170.5	(From Dairy worksheet, Attachment A)
	%	Volume	Acres to dry	
Stockwater	44%	75.0	24.2	(volume needed/consumptive use/acre)
Commercial	56%	95.5	30.8	(volume needed/consumptive use/acre)
Historic consumptive use per acre			3.10	(From Attachment C. Crop history etc)
Acres to dry up in Section 20 & 29			55	(From Dairy worksheet, Attachment A)

Acres irrigated and flow WR # 63-7270- before transfer:

Priority	Acres	Flow (cfs)	Flow/ acre (cfs)	Total Diversion	Tot. Div. /acre
10/7/1969	142	1.41	0.010	639.3	4.50
Allocation of flow under license			63-7270	after transfer:	
acres irrigable			87		(142 - 55 acres out of production)
flow for irrigation			0.86		(acres irrigable X's licensed flow/acre)
acres out for stockwater			24.2		(from dairy worksheet)
flow for stock water			0.24		(acres out X's licensed flow/acre)
acres out for Commercial			30.8		(from dairy worksheet)
flow for Commercial			0.31		(acres out X's licensed flow/acre)
total flow after transfer			1.41	cfs	(total of the three flows)

Allocation of Volume after transfer:

Total Diversion:			
irrigation (afa)	391.5	(87 ac x's 4.5)	
commercial (afa)	95.5	(from dairy worksheet)	
stockwater (afa)	75.0	(from dairy worksheet)	
Total allowable diversion after transfer	562		

Attachment D

Crop history

Glen Vander Woude							
Field	Acres	2005 Crop	% Total				
All	142	Alfalfa	100.0%				
				142	100%	-	
Allen and Brockway report site:				Kuna			
Crop	Acres	Method	App. Eff. %**	IR for Crop mm/season	Crop Div Vol AF/Ann	Crop CU AF/Ann	
Alfalfa Hay	142.00	sprinkler	70%	946	629.60	440.72	
Totals				142	630	440.72	

Summary for typical 5 year period:

Average Acres Irrigated	142	Acres	Average Diversion Vol/acre	4.43
Total Diversion	630	AF/ann	Average Consumptive Use/acre	3.10
Total Consumptive Use	441	AF/ann		

RECEIVED

JUL 06 2006

WATER RESOURCES
WESTERN REGION

To Whom It May Concern:

I, Duane Pancheri, approve of the proposed change of water rights from irrigation use to stockwater use on WR # 63-7270. I am currently carrying the loan on the land for Glenn and Rhea Vander Woude. Thank you.



Duane Pancheri

E,

15. DOCUMENTS IN ESCROW

Enclosed are the following Documents to be placed in escrow:

Promissory Note, Mortgage, Satisfaction of Mortgage, Security Agreement
UCC-1, Financing Statement and UCC-3 Termination Statement

16. PAYMENTS OF PRINCIPAL AND INTEREST

A. Interest is to be calculated at the rate of 7 % per annum and shall commence on 1-1-2006 and shall be computed on the unpaid principal balance to date of payment each time a payment is made.

B. Principal and interest (including balloon payments) shall be payable as follows:

~~Regular monthly payments of accrued interest due on the last day January, 2006, and like payments due on the last day of each and every month thereafter in addition annual payments of \$19,305.00 due with the first payment due December 31, 2006 and like payments on the 31st day of December of each and every year thereafter until December 31, 2025 when the entire principal balance~~

C. Check one: ☐ All payments shall be credited first to the interest then due, and the balance to the principal. plus accrued interest is due.
☐ Interest shall be paid in addition to principal payments.

17. When you receive the unpaid principal of \$386,100.00 and interest for SELLER, you shall deliver all of the above documents except the contract, subsequent assignments, supplemental agreements, and escrow instruction, to BUYER, or his order, and thereby, close your escrow.

18. BUYER: ☐ MAY ☒ MAY NOT assign their interest in documents without written consent of Seller.
☒ MAY ☐ MAY NOT prepay at any time.

19. REMITTANCE INSTRUCTIONS

Until further written notice by Seller, payments as received on this escrow shall be remitted as follows:

☐ Checking account ☐ Savings account Account No. _____ In Name of: _____

Financial Institution: _____ Address: _____

Other Instructions: _____

20. Any instrument or document placed in escrow herewith at this time, or hereafter, is accepted upon the condition that the escrowholder may at its option for any reason, within 15 days from the deposit of such instrument, refuse to accept the same; in which event the escrowholder shall notify all parties hereto in writing of such refusal and shall return such instruments, together with the fee paid in connection therewith to the party or parties depositing the same.

21. It shall be the sole responsibility of the buyer and seller to see that insurance is kept in force on the property and that Real Property taxes are paid in the proper manner and the escrowholder shall have no responsibility or liability for lack or insufficiency of insurance or lack of payment of taxes.

22. The escrowholder shall have a lien upon all monies, papers and properties held by it in connection herewith for any fees, costs or expenses due it hereunder.

23. In case any party shall assign his rights under any documents deposited hereunder, or should any party create in a third party any right, interest, lien or encumbrance under any document deposited hereunder or in the property covered by these escrow instructions, if such assignment or creation of rights in a third party is made without payment of the escrowholder's filing fee, the escrowholder, as a matter of accommodation to the parties will make a reasonable effort to comply with such assignment or creation of rights upon satisfactory notification given to it. The escrowholder shall not, however, be bound by any such notification given it by a party hereto or a third party and shall under no circumstances and in no manner be liable to the parties hereto on any third party, for any damages arising out of or related to its acts connected with such assignment or creation of rights. The escrowholder shall not be held to notice of any restrictions upon or prohibition against any such assignment or creation of rights contained in any document deposited hereunder.

24. We have read the foregoing instructions, understand the contents thereof, and agree that Pioneer Title Company, in the administration of this escrow, is bound only and solely by the foregoing written instructions, and such further written and signed instructions as we may, hereafter, deliver to said company and the same be accepted by it in writing.

IN WITNESS WHEREOF, The undersigned have hereunto set their hands and seals the _____ day of _____

25. SIGNATURES:

COMPLETE ADDRESS (Please Print):

x [Signature] _____
Social Security Number _____ Telephone: 208) 495-2513

x [Signature] _____
Social Security Number _____ Telephone: 495-2513

x [Signature] _____
Social Security Number _____ Telephone: 208-395-7870

x [Signature] _____
Social Security Number _____ Telephone: 5312 Ridgewood Rd. Nampa, ID 83859;
same as above

x _____
Social Security Number _____ Telephone: _____

x _____
Social Security Number _____ Telephone: _____

25. The undersigned company hereby acknowledges receipt of the documents described in the foregoing agreement, and agrees to hold and dispose of the same in accordance with the instructions and upon the terms and conditions above set forth.

PIONEER TITLE COMPANY OF CANYON COUNTY:

Date Received _____ By _____

Received from: _____

E2

SRBA

PARTIAL DECREE 63-07270B

Issued on 04-11-2007.

This is not an official copy.

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS: GLENN VANDER WOUDE
RHEA VANDER WOUDE
5312 RIDGEWOOD RD
NAMPA, ID 83687

SOURCE: GROUND WATER

QUANTITY: 1.39 CFS
629.90 AFY

PRIORITY DATE: 10/07/1969

POINT OF DIVERSION: T01S R01W S20 NESE Within Ada County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTIT
Irrigation 04-01 TO 11-15 1.39 C
629.90

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN EARLY AS MARCH 1, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE EXCEEDED. THE USE OF WATER BEFORE APRIL 1 UNDER THIS REMA SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE D PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: Irrigation Within Ada Cou
T01S R01W S20 NESE 38.0 NWSE 10.0
SWSE 22.0 SESE 40.0
S29 NENE 30.0
140.0 Acres Total

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIO
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFI
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN T
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

[Return to SRBA Home Page](#)

EXHIBIT D

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 73927**

This is to certify that: GLEN VANDER WOUDE And
RHEA VANDER WOUDE
5312 RIDGEWOOD RD
NAMPA ID 83687
(208)895-7870

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-7270B	WR/Decreed	10/07/1969	1.39 cfs	629.9 af	N/A	140.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-7270B	NO	NO	YES	YES	YES	YES

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-7270B	63-7270B	1.39 cfs	629.9 af	N/A	85.0		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		1.39 cfs	552.9 af	N/A	85.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 23rd day of April, 2008



John Westra, Western Regional Manager

WATER RIGHT NO. 63-7270B
As Modified by Transfer No. 73927

In accordance with the approval of Transfer No. 73927, Water Right No. 63-7270B is now described as follows.

Right Holder: GLEN VANDER WOUDE And
 RHEA VANDER WOUDE
 5312 RIDGEWOOD RD
 NAMPA ID 83687

Priority Date: October 07, 1969

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	01/01 to	12/31	0.24 CFS	75.0 AF
COMMERCIAL	01/01 to	12/31	0.31 CFS	95.5 AF
IRRIGATION	04/01 to	11/15	0.84 CFS	382.4 AF
			1.39 CFS	552.9AF

LOCATION OF POINTS OF DIVERSION:

GROUND WATER NESE Sec. 20 Twp 01S Rge 01W ADA County
 GROUND WATER SESE Sec. 20 Twp 01S Rge 01W ADA County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				<u>Totals</u>
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
01S 01W 20															X	X	

PLACE OF USE: COMMERCIAL

Twp Rge Sec	NE				NW				SW				SE				<u>Totals</u>
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
01S 01W 20													X	X	X	X	
01S 01W 29	X	X															

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				<u>Totals</u>
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
01S 01W 20													35.0	10.0	9.0	6.0	60.0
01S 01W 29	25.0																25.0

Total Acres: 85

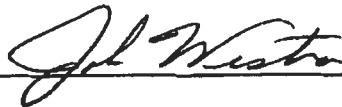
WATER RIGHT NO. 63-7270B
As Modified by Transfer No. 73927

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
8. Commercial use is for a dairy.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 23rd day of April, 2008



John Westra, Western Regional Manager

EXHIBIT E

RECEIVED

AUG 29 2008

WATER RESOURCES
WESTERN REGION

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

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

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

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
63-161BQ PD			63-18361 PD		
63-4042 PD			63-18363 PD		
63-7270A PD					
63-8604 PD					
63-11777 permit					
63-18360 PD					

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

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

3. Name and Address of Former Owner/Claimant(s) Duane Pancheri and/or Laura Pancheri
19010 S. Can-Ada Rd., Melba, ID 83641
4. New Owner/Claimant(s) Jerry Lee Tlucek and Mary Louise Tlucek
Name Connector (Check one): ☒ and, ☐ or, ☐ and/or
- New Mailing Address 15188 S. Can-Ada Rd.
- City, State and ZIP Code Melba, ID 83641
- New Telephone Number (208) 495-2550

COPY

5. Date you acquired the property

March 29, 2008

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

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

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

7. Signature(s) of New Owner(s) or Claimant(s)

Jimmy R. Ducik (title if applicable)
Mary Lou Ducik (title if applicable)

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

For IDWR Office Use Only:

Received by Jm HDate 8-29-08Receipt Amt. 206.⁰⁰Received by Jm HDate 8-29-08Receipt No. W036871Processed by AJ

Date _____

WR _____ Date _____



ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 04/01/08 10:33 AM
DEPUTY Patti Thompson
RECORDED-REQUEST OF
Pioneer

AMOUNT 15.00 5



882
Chert

610 South Kimball Avenue / Caldwell, Idaho
83605 / (208) 459-1651

291807-61

200802680

WARRANTY DEED

For Value Received Duane Pancheri and Laura Ellen Pancheri, husband and wife

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Jerry Lee Thucek and Mary Louise Thucek, husband and wife

hereinafter referred to as Grantee, whose current address is 15188 S. Can-Ada Rd., Melba ID 83641
the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: March 29, 2008

Duane Pancheri

Laura Ellen Pancheri

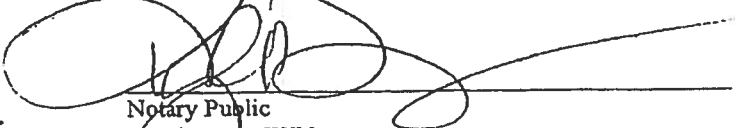
State of Idaho

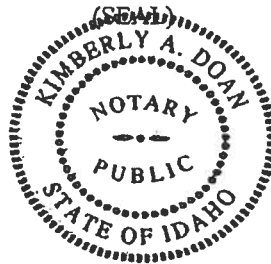
ss.

County of Canyon

On this 31st day of March, 2008, before me, the undersigned, a Notary Public, in and for said State, personally appeared Duane Pancheri and Laura Ellen Pancheri known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL


Notary Public
Residing at: Wilder
Commission Expires: 1-27-11



**Pioneer Title Co.**

GOING BEYOND

Pioneer Title Co. is an authorized agent for Old Republic National Title Insurance Company

**COMMITMENT
SCHEDULE A**

Order No. 291807

EXHIBIT A**PARCEL 1:**

The Southeast quarter of the Southwest quarter of Section 19, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho.

PARCEL 2:

The Southeast quarter of the Southeast quarter of Section 19, Township 1 South, Range 1 West, Boise the Boise Meridian, Ada County, Idaho.

PARCEL 3:

Government Lot 4 of Section 19, Township 1 South, Range 1 West of the Boise Meridian, Ada County, Idaho.

SAVE AND EXCEPT from said Parcel No. S2319330000:

A parcel of land located in Government Lot 4 of Section 19, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho, described as follows:

Commencing at a 5/8 inch rebar in the intersection of Can Ada Road and Victory Road which marks the Southwest corner of said Section 19;

Thence North 01°04'46" East, 565.70 feet along the West line of said Section 19 (centerline of said Can Ada Road) to a PK nail set at the POINT OF BEGINNING, said point also marked by a 1/2 inch rebar witness corner set North 86°38'31" East, 25.08 feet from said point;

Thence, North 01°04'46" East, 540.27 feet along said West line (centerline) to a PK nail, said point also marked by a 1/2 inch rebar witness corner set South 60°18'13" East, 28.48 feet from said point;

Thence, South 60°18'13" East, 198.54 feet to a 1/2 inch rebar;

Thence, South 10°45'53" East, 46.42 feet to a 1/2 inch rebar set at the bank of an irrigation pond;

Thence South 38°40'40" East, 198.78 feet along the approximate center of said pond;

Thence, South 29°30'37" East, 150.00 feet along said approximate center;

Thence, South 75°54'36" East, 55.92 feet along said approximate center to a 1/2 inch rebar set at the bank of said irrigation pond;

Thence, South 75°37'47" West, 171.64 feet to a 1/2 inch rebar;

Thence, South 71°56'01" West, 149.41 feet to a 1/2 inch rebar;

Thence, South 86°38'31" West, 135.57 feet to the POINT OF BEGINNING.

PARCEL 4:

The Southwest quarter of the Southwest quarter of Section 20, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho.

PARCEL 5:

ORT Form 4308 A

ALTA Commitment Form 2006

Schedule A page 2 of 4 page(s)

**Pioneer Title Co.**

GOING BEYOND

Pioneer Title Co. is an authorized agent for Old Republic National Title Insurance Company

**COMMITMENT
SCHEDULE A**

Order No. 291807

The Southeast quarter of the Southwest quarter of Section 20, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho.

PARCEL 6:

A portion of the West half of the Southeast quarter of Section 20, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho, more particularly described as follows:

Commencing at the Northwest corner of the Southeast quarter of Section 20, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho, the REAL POINT OF BEGINNING,

Thence South 00°00'23" West 2,645.58 feet to the Southwest corner of the Southeast quarter of Section 20,

Thence South 89°30'12" East 817.87 feet to a point,

Thence North 00°18'56" West 2,379.69 feet to a point,

Thence North 70°24'35" East 191.47 feet to a point,

Thence North 33°19'22" East, 193.66 feet to a point;

Thence South 88°15'58" East, 124.70 feet to a point,

Thence North 05°12'35" East, 38.65 feet to the North boundary line of the Southeast quarter of Section 20,

Thence North 89°25'17" West along the North boundary of the Southeast quarter of Section 20, a distance of 1,219.43 feet to the Northwest corner of the Southeast quarter of Section 20, the REAL POINT OF BEGINNING.

PARCEL 7:

The North half of the Southwest quarter and one-half acre in the Southeast corner of the Southwest quarter of the Northwest quarter, as described in Instrument No. 306992 filed in Book 351 of Deeds at Page 273, records of Ada County, Idaho; all in Section 20, Township 1 South, Range 1 West of the Boise Meridian, Ada County, Idaho.

SAVE AND EXCEPT

A parcel of land located in the Northwest quarter of the Southwest quarter of Section 20, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho, described as follows:

Beginning at the Northwest corner of said Northwest quarter of the Southwest quarter (West quarter of said Section 20), marked by an aluminum cap set at a 90 angle point of the centerline of Robinson Boulevard; the REAL POINT OF BEGINNING.

Thence South 88°42'01" East 747.54 feet along the North line of said Section 20 to a ½ inch rebar set at the point of intersection of said North section line with an existing fence line;

Thence South 21°17'36" West, 125.10 feet along said existing fence line to a ½ inch rebar set at an angle point in said fence line;

Thence South 88°39'21" West 703.78 feet to a point on the West line of said Section 20,

Thence North 00°38'20" East 150.04 feet along said section line to the REAL POINT OF BEGINNING.

PARCEL 8:

The Northwest quarter of the Northeast quarter of Section 29, Township 1 South, Range 1 West, Boise Meridian Ada County, Idaho.

ORT Form 4308 A
ALTA Commitment Form 2006

Schedule A page 3 of 4 page(s)

**Pioneer Title Co.**

GOING BEYOND

Pioneer Title Co. is an authorized agent for Old Republic National Title Insurance Company

**COMMITMENT
SCHEDULE A**

Order No. 291807

PARCEL 9:

The Northeast quarter of the Northwest quarter of Section 29, Township 1 South, Range 1 West, Boise Meridian Ada County, Idaho.

PARCEL 10:

The Southeast quarter of the Northwest quarter of Section 29, Township 1 South, Range 1 West, Boise Meridian Ada County, Idaho.

PARCEL 11:

The Northwest quarter of the Northwest quarter of Section 29, Township 1 South, Range 1 West, Boise Meridian Ada County, Idaho.

PARCEL 12:

The East half of the Northwest quarter of Section 30, Township 1 South, Range 1 West, Boise Meridian Ada County, Idaho.

PARCEL 13:

The South half of the Northeast quarter of Section 30, Township 1 South, Range 1 West, Boise Meridian Ada County, Idaho.

PARCEL 14:

Lots 1 and 2 of Section 30, Township 1 South, Range 1 West, Boise Meridian Ada County, Idaho.

EXHIBIT F

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column.

Water Right/Claim No.	Split?	Water Right/Claim No.	Split?	Water Right/Claim No.	Split?
63-7270B	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐

2. Previous Owner's Name: Glenn Vander Woude, Rhea Vander Woude
Name of current water right holder/claimant

3. New Owner(s)/Claimant(s): Snake River Dairies, L.L.C.
Name of each new owner as listed on the conveyance document

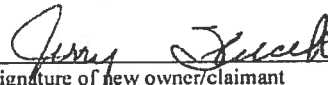
New owner continued Name connector ☐ and ☐ or ☐ and/or
15188 S. Can-Ada Rd.
Mailing address
Melba ID 83641
City State ZIP
(208) 495-2034 jerryt@flylogic.com
Telephone Email

4. If the water rights and/or adjudication claims were split, how did the division occur?
- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
 - ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

5. Date you acquired the water rights and/or claims listed above: 2/1/2012

6. This form must be signed and submitted with the following **REQUIRED** items:

- A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
- Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
- Filing fee (see instructions for further explanation):
 - \$25 per *undivided* water right.
 - \$100 per *split* water right.
 - No fee is required for pending adjudication claims.

7. Signature:  Jerry Tluczek, Member & Registered Agent 2/4/12
Signature of new owner/claimant Title, if applicable Date

Signature: _____ _____ _____
Signature of new owner/claimant Title, if applicable Date

For IDWR Office Use Only:

Received by _____ Date _____ Receipt No. _____ Receipt Amt. _____

Approved by _____ Processed by _____ Date _____ CLIENT:2328518.1

ORIGINAL



Pioneer Title Co.

GOING BEYOND

610 South Kimball Avenue / Caldwell, Idaho
83605 / (208) 459-1651

LEGALLY RECORDED - DO NOT
REMOVE THE COUNTY STAMPED FIRST
PAGE AS IT IS NOW INCORPORATED AS
PART OF THE ORIGINAL DOCUMENT.

201200495 KM
334022 GL

WARRANTY DEED

For Value Received Glenn F. Vander Woude and Rhea H Vander Woude, husband and wife
hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Snake River Dairies, LLC, an Idaho Limited Liability Company

, hereinafter referred to as Grantee, whose current address is 15188 S. Can-Ada Road, Melba ID 83641
the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and
Grantees(s) heirs and assigns forever. And the said Grantor(s) does (do) hereby covenant to and with the
said Grantee(s), the Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free
from all encumbrances EXCEPT those to which this conveyance is expressly made subject and those made,
suffered or done by the Grantee(s); and subject to U.S. Patent reservations, restrictions, dedications,
easements, rights of way and agreements, (if any) of record, and current years taxes, levies, and
assessments, including irrigation and utility assessments, (if any) which are not yet due and payable, and
that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: January 31, 2012

Glenn F. Vander Woude

Rhea H Vander Woude

State of Idaho

ss.

County of Canyon

On this 1 day of February, 2012, before me, the undersigned, a Notary Public, in and for said State, personally
appeared Glenn F. Vander Woude and Rhea H. Vander Woude, known to me, and/or identified to me on the basis of
satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged

State of Idaho

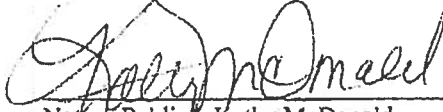
ss.

County of Canyon

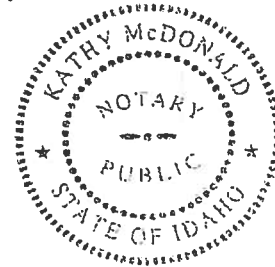
On this 1 day of February, 2012, before me, the undersigned, a Notary Public, in and for said State, personally appeared Glenn F. Vander Woude and Rhea H. Vander Woude, known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL

(SEAL)



Notary Public Kathy McDonald
Residing at: Caldwell
Commission Expires: 5/27/17





PioneerTitleCo.

BEING BEYOND

Pioneer Title Co. is an authorized agent for Old Republic National Title Insurance Company.

COMMITMENT
SCHEDULE A

Order No. 334022

EXHIBIT A

The Northeast Quarter of the Northeast Quarter of Section 29, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho.

AND

A parcel of land located in the Southeast Quarter of Section 20, Township 1 South, Range 1 West, Boise Meridian, Ada County, Idaho, and being more particularly described as follows:

BEGINNING at the Southeast corner of said Section 20 from which the South Quarter corner bears
North 89°30'13" West, 2642.46 feet; thence
North 00°01'51" West along the East boundary of said Section for a distance of 2641.80 feet to the Northeast corner of the Southeast Quarter of said Section 20; thence
North 89°25'17" West along the North boundary of said Southeast Quarter for a distance of 1421.36 feet; thence
South 05°12'34" West for a distance of 38.65 feet; thence
North 88°15'57" West for a distance of 124.70 feet; thence
South 33°19'21" West for a distance of 193.66 feet; thence
South 70°24'36" West for a distance of 191.47 feet; thence
South 00°18'56" East for a distance of 2379.69 feet to the South boundary of said Section 20; thence
South 89°30'13" East for a distance of 1824.59 feet to the REAL POINT OF BEGINNING.

EXHIBIT G

RECEIVED

MAY 15 2002

Department of Water Resources

MAY -9 PM 3: 52

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED RB

**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

) Subcase 65-05663B
)
)
)
)
)
)
)

**MEMORANDUM DECISION AND
ORDER ON CHALLENGE; AND,**

**ORDER OF PARTIAL DECREE
(Wood v. Troutt)**

SUMMARY OF RULINGS: Recommendation of the Special Master that water right 65-05663B was not forfeited or abandoned is **affirmed**. Ruling:

- 1) The Special Master correctly applied the prior legal ruling of the SRBA District Court as law of the case holding that the five-year statutory period of non-use for establishing forfeiture tolls upon the filing of a claim in the SRBA;
- 2) Confirming prior ruling of the SRBA District Court that the five-year statutory period of non-use for establishing forfeiture tolls upon the filing of a claim in the SRBA until a partial decree is issued. Decreed rights are not insulated from forfeiture and statute begins to run anew for any period of non-use subsequent to issuance of partial decree;
- 3) Objector was not precluded from asserting forfeiture prior to the 1989 administrative transfer under the doctrine of judicial estoppel;
- 4) The Special Master's finding that irrigation took place on subject property between 1986 and 1992 was supported by substantial evidence. Objector did not establish forfeiture by clear and convincing evidence;
- 5) The use of the subject water right from unauthorized alternative points of diversion did not result in non-use of the subject water right for purposes of forfeiture under the facts and circumstances of the case; and,
- 6) Issue of "wrongful interference" with use of the water right by Objector is not necessary to resolution of issues in the case.

The SRBA district court denied the challenge on two bases. First, that the determination of whether to allow the introduction of new or additional evidence is discretionary with the special master and that the special master did not abuse his discretion. Secondly, the district court ruled as a matter of law that the running of the five-year statutory period had tolled once the claim had been filed until the partial decree had been entered and therefore unless the five-year period accrued prior to the filing of the claim a cause of action for forfeiture did not exist. Once the partial decree is entered the statutory period for non-use begins to run anew. Subject to some elaboration and clarification, this Court adopts and affirms the reasoning set forth in the *Facility Volume Decision*.⁶

⁶ Because of the significance of the issue and the potential for appeal the district court's prior analysis is included in its entirety.

A claim to a water right made in the SRBA is essentially akin to a quiet title action. See e.g., *Federal Land Bank of Spokane v. Union Central Life Ins. Co.*, 51 Idaho 490, 6 P.2d 486 (1931) (pre-adjudication quiet title action for water right); *Sutton v. Brown*, 91 Idaho 396, 422 P.2d 63 (1966) (quiet title action can necessarily include claim for water right). A notice of claim is a pleading within the SRBA. *Fort Hall Water Users Ass'n v. United States*, 129 Idaho 39, 41, 921 P.2d 739, 741 (1995) *reh'g denied* (1996); AO1 § 2(r). The filing of a notice of claim initiates the procedure for making claim to a water right in the SRBA. I.C. § 42-1409. A partial decree with a rule 54(b) certificate is akin to a final judgment for purposes of appealing as a matter of right. I.C. § 42-1412(6); I.R.C.P. 54(b); AO1 §§ 14, 15. As a result, a water right claimant's action is pending from the time a claim is filed until a partial decree is entered.

It is a settled legal principle that the filing of a quiet title action tolls the running of the statute of limitations for establishing title by adverse possession or prescription to the property that is the subject of the action. In *Smith v. Long*, 76 Idaho 265, 281 P.2d 483 (1955), the Idaho Supreme Court held that: "Defendant's title by adverse possession not having matured at the time this action commenced, plaintiffs are entitled to a decree quieting their title as against the claims of the defendants." *Id.* at 494-95, 76 P.2d at 276-77. In *Yorba v. Anaheim Union Water Co.*, 259 P.2d 2 (1953) the California Supreme Court stated: "[O]rdinarily the filing of an action, either by the person asserting a prescriptive right, or by the person against whom the statute of limitations is running, will interrupt the running of the prescriptive period and the statute will be tolled while the action is actively pending." *Id.* at 5. See also 25 Am. Jur. 2d Easements and Licenses § 69 (suit brought by claimant interrupts prescriptive period); 3 Am. Jur. 2d Adverse Possession § 127 (effect of suit relates back to date of its commencement, and claimant can acquire no additional advantages by remaining in possession during its pendency). Thus, any period supporting a claim for title by adverse possession or prescription must have accrued prior to the claim being filed. This rule applies to the extent the action is being prosecuted or defended by the legal title holder, and in the event the action is abandoned, the statute is not tolled. 3 Am. Jur. 2d Adverse Possession § 130. Since forfeiture is a species of adverse possession and prescription, it follows that once a claimant files a claim in the SRBA, for a particular water right, the forfeiture provisions of I.C. § 42-222(2) are also tolled for purposes of establishing forfeiture, so long as the claimant continues to prosecute the claim to partial decree. In *Smith v. Hawkins*, 42 P.

- 2) **Idaho Code section 42-222 is silent on the relationship between the operation of 42-222 and the SRBA because, among other things, the application of 42-222 extends beyond the confines of the SRBA.**

Although Idaho Code section 42-222 is silent on the issue of tolling, the application of such a principle does not necessarily require the adoption of a new principle of law, nor is it inconsistent with existing law. The forfeiture provisions of Idaho Code section 42-222 are not unique or specific to the SRBA. In fact the statute does not even address the operation of the SRBA. Idaho Code section 42-222 establishes an administrative procedure for bringing a forfeiture action before the Director of the Idaho Department of Water Resources with the right of judicial review pursuant to the Administrative Procedures Act. The forfeiture provisions of Idaho Code section 42-222 have been in existence in substantially similar form since 1903. The SRBA was commenced in 1986 and is steadily working towards completion. Once completed many of the general adjudication statutes will have fulfilled their intended purpose and become more or less obsolete. However, the forfeiture provisions of Idaho Code section 42-222 will continue to operate just as before the SRBA was commenced. Consequently, the issue turns on the effect of filing a claim in the SRBA, which is akin to a quiet title action, on an existing statute that operates to terminate a property (water) right strictly by operation of law. Although Idaho Code section 42-222 is silent on the matter, there is

453 (1895), the California Supreme Court, in construing California's then existing water right forfeiture statute, applied by analogy the same standards for establishing prescriptive title to real property. *Id.* at 454. In *Federal Land Bank of Spokane v. Union Central Life Ins. Co.*, 51 Idaho 490, 6 P.2d 486 (1931), the Idaho Supreme Court, in resolving a water right transfer claim, concurred with the reasoning of the California Supreme Court in *Smith* which applied the standards of prescription and adverse possession to forfeiture. *Id.* at 488 (citing *Smith v. Hawkins*, 42 P. 453 (1895)). Therefore, pursuant to this reasoning, unless a claimant ultimately abandons their claim within the SRBA (which could result in the failure of the entire water right), any alleged time period of non-use subsequent to the filing of the notice of claim cannot be used to establish forfeiture. That being the case, NSGWD cannot be denied due process protections for attempting to present itself in a case with a hearing on the merits to assert a cause of action (i.e. partial forfeiture) which has not yet matured. Further, and on the contrary, if the cause of action for forfeiture has ripened before the claim is filed, it is incumbent on the person seeking to prosecute the forfeiture to get timely involved, (i.e. file an objection/response to the quantity element).

Facility Volume Decision at 26-28.

nonetheless an established body of common law that delineates the affect that the filing of a quiet title action has on the running of statutory periods affecting real property. *See infra* sections VI.1.B.3) and 4). Idaho Courts have also historically required that the five-year statutory period contained in earlier versions of Idaho's forfeiture statute fully accrue prior to the filing of a quiet title action in order to support a cause of action for forfeiture. *Id.* Therefore, as set forth below, even though Idaho Code section 42-222 is silent as to the effect of a pending quiet title action, the adoption of a new principle of law is not necessary to find that the running of the statute tolls upon the filing of a claim in the SRBA.

- 3) **Past Idaho courts have applied the rule that the running of the forfeiture statute tolls upon the filing of a quiet title action. This same rule is applied in other jurisdictions with similar forfeiture statutes.**

Wood argues that the analogy between forfeiture and adverse possession as discussed in the *Facility Volume Decision* is not a strong analogy. This Court respectfully disagrees. Wood's argument however, first assumes that the *Facility Volume Decision* was fully based on that analogy. The *Facility Volume Decision* did not rely exclusively on drawing an analogy between adverse possession and forfeiture. Idaho Courts have previously acknowledged that the five-year forfeiture period had to fully accrue before the filing of an action to quiet title to water rights.

The case of *Federal Land Bank of Spokane v. Union Central Life Ins. Co.*, 51 Idaho 490, 6 P.2d 486 (1931), involved a suit to quiet title to a water right to determine whether a water right appurtenant to one ranch property was impliedly transferred by operation of law to another ranch property. (Idaho's early forfeiture statute provided that water could be abandoned (forfeited) on one parcel and used on another parcel to effectuate a transfer. *See e.g.* Act of March 8, 1915, ch. 34 § 3264, 1969 Idaho Sess. Laws 104.) At the time of the alleged transfer the same person owned both ranch properties. In determining whether a transfer could be implied under the forfeiture statute the Court's analysis focused on whether there was a consecutive five-year period of non-use on the ranch property to which the water right was appurtenant and a corresponding period of use on the ranch property to which the water was being applied. The Court

limited the relevant time period for considering five consecutive years of non-use and corresponding use to between the period of time the non-use/use was alleged to have started and the time the quiet title action was filed. *Id.* at 492, 6 P.2d at 488. "Therefore no five-year period elapsed . . . between 1926 and the date of this suit June 6, 1929." *Id.* (emphasis added). In determining the five-year time standard to be applied the Court followed the reasoning of other courts where the standards of prescription and adverse possession had been applied by analogy to forfeiture provisions. *Id.*

In *Chill v. Jarvis*, 50 Idaho 531, 298 P. 373 (1931), in a quiet title action the Court declined to find a prescriptive title to a water right because the subject water right had been previously statutorily "abandoned" (forfeited) under Idaho's then existing forfeiture statute.⁷ The lower court found and the appellate court affirmed that the respondents failed to apply the subject water to a beneficial use "for a period of more than five years prior to the commencement of the plaintiff's complaint." *Id.* at 532, 298 P. at 374 (emphasis added).

Other jurisdictions have also tolled the running of the statutory period upon the filing of a claim. In *Smith v. Hawkins*, 42 P. 453, 455-56 (1895), the California Supreme Court held that "[t]he failure of the plaintiffs to make any beneficial use of the water for a period of more than five years next preceding the commencement of the action...results... in a forfeiture of their rights as appropriators." *Id.* Because California's early forfeiture statute did not specify a length of non-use before the water right was forfeited, the *Smith* Court applied by analogy the standards for adverse possession and prescription:

In this state five years is the period fixed by law for the ripening of an adverse possession into a prescriptive title. Five years is also the period declared by law after which a prescriptive right depending upon enjoyment is lost for non-user; and, for analogous reasons, we consider it to be a just and proper measure of time for the forfeiture of an appropriator's rights for a failure to use the water for a beneficial purpose.

⁷ Historically, courts have used the term abandonment and forfeiture interchangeably. This is because earlier versions of predecessor statutes to Idaho Code section 42-222, used the term "abandonment" as opposed to "forfeiture." The Idaho Supreme Court discussed why past courts used the terms interchangeably in *State v. Hagerman Water Right Owners*, 130 Idaho 727, 729-30 fn.1, 947 P.2d 400, 402-03 fn.1 (1997). As such, the cases have to be read carefully to determine whether the Court was referring to the common law doctrine of abandonment or the statutory cause of action which is today referred to as forfeiture. In *Chill*, the Court was referring to the statute.

Id.

In *Escalante Valley Drainage Area, Water Users Claims Nos. 551, et al., v. Criddle*, 363 P.2d 777 (Utah 1961), in conjunction with a general stream adjudication in Utah, the Utah Supreme Court held that the filing of the state engineer's proposed determination of water rights before the five years had run on Utah's forfeiture statute interrupted the running of the statute. *Id.* at 779. Although general adjudications are structured differently between states, the Utah Court nonetheless recognized that the running of the statute tolled upon the commencement of the action. The above-cases demonstrate that this Court is not the first to find that the running of the statutory forfeiture period tolled upon the commencement of an action to quiet title in a water right.

- 4) **The analogy between adverse possession, prescription and forfeiture for purposes of tolling the running of the statutory period upon the filing of a quiet title action is also appropriate.**

In regards to drawing an analogy between adverse possession, prescription and forfeiture for purposes of tolling the running of the applicable statute upon the filing of a quiet title action, Wood argues the analogy is not strong as applied to the SRBA. This Court respectfully disagrees. Causes of action for adverse possession and prescription in effect prevent the record owner against which the action is brought from asserting title to real property against the adverse claimant upon the accrual of the applicable statutory period. The record owner can interrupt the running of the statute by either taking some physical action (e.g. physically interrupt exclusive possession or one of the other elements) or by filing a quiet title action in a court of appropriate jurisdiction. As explained in the *Facility Volume Decision*, it is a general rule that the commencement a quiet title action tolls the running of the statute, so long as the action is being prosecuted. *Facility Volume* at 27 (citing *Smith v. Long*, 76 Idaho 265, 281 P.2d 483 (1955)). Of particular significance is the fact that the record owner need not take the physical action route or otherwise engage in a self-help remedy in order to preserve his or her rights. Simply stated, seeking redress in a court of appropriate jurisdiction so long as the action is prosecuted to a final judgment does not prejudice the record owner.

Although Idaho Code section 42-222 is silent as to this general rule, the underlying concept of avoiding prejudice by coming into court, as opposed to engaging in self-help, applies equally to the running of the forfeiture statute relative to the SRBA. The magnitude and procedural mechanics of the SRBA make the application of this rule even more necessary. Typically, in disputes involving forfeiture, the party asserting the forfeiture is either claiming a right to the water that has been allegedly forfeited or for a more senior priority among the interrelated priorities (*inter sese*) on a given water source. The adverse party may already be making use of the water or benefiting from its non-use. This is a fairly common situation in the SRBA. Under Idaho Code section 42-222, a party can avoid forfeiture by resuming use before the five years has elapsed or before another water user claims the water.⁸ However, in lieu of disrupting the status quo of existing uses and potentially breaching the peace, as well as potentially being liable for damages by wrongfully depriving another user of water if the water right is ultimately determined to be forfeited, a party seeking to prevent a forfeiture should be able to file an action akin to a quiet title action (a claim in the SRBA), preserve his or her right and not be prejudiced. Among other things, the SRBA is akin to a *quasi in rem* quiet title action.⁹ In *Escalante Valley Drainage Area, Water Users Claims Nos. 551, et al., v. Criddle, supra*, in tolling the forfeiture statute in conjunction with a general adjudication, the Utah Supreme Court reasoned that it would be “arbitrary and anomalous” to require that claimants defending against forfeiture be required to use their water right during the pendency of the adjudication where such use would disrupt the orderly process of distributing water during the pendency of the adjudication. *Id.* at 778.

In the SRBA further difficulty arises if a party takes physical action to resume use before the expiration of the five years and a dispute erupts because the existing uses are disrupted. Parties would be required to take such action if the running of the statute

⁸ The Court acknowledges that the issue of resumption of use prior to an intervening claim for the water is currently on appeal. *Sagewillow Inc., v. Idaho Dept. of Water Resources*, 135 Idaho 24, 13 P.3d 855 (2000)(currently on appeal following remand). However, heretofore, the law has supported the resumption defense. See e.g., *Jenkins v. Idaho Dept. of Water Resources*, 103 Idaho 384, 389, 647 P.2d 1256 (1982).

⁹ Historically, disputes involving water rights were brought pursuant to Idaho’s quiet title statutes. I.C. § 6-401 *et seq.* In 1981, Idaho Code section 6-401 was amended to provide that quiet title actions involving water rights shall henceforth be brought under Chapter 14, title 42, Idaho Code.

failed to toll. Because of the number of subcases in the SRBA and the way the SRBA is structured, holding proceedings akin to a preliminary injunction for purposes of fashioning a preliminary or temporary remedy pending the ultimate adjudication of the water right is highly impractical and inconsistent with the timely completion of the SRBA. It is also highly impractical for IDWR to have to file a director's report in advance of the reporting schedule for an individual water right for purposes of conducting preliminary injunction proceedings or other temporary relief or to reinvestigate and re-report a water right claim because a forfeiture period subsequently accrued after the initial director's report was filed.¹⁰ For efficiency and due process concerns, IDWR collectively reports water right claims within a particular subbasin and reporting area. The comprehensive statutory notice requirements of the SRBA make reporting water rights on an individual basis prohibitive not only from an efficiency standpoint but also from a due process perspective. See I.C. § 42-1411(6).

Wood also argues that the holding in the *Facilities Volume Decision* is against public policy because of the considerable length of time between when a claim is filed and the time when a partial decree is entered, tolling the statute permits a party to refrain from beneficially using the water right during the entire period. While there may be some validity to this argument, in this Court's view the timely completion of the SRBA outweighs the potential that a period of non-use may be temporarily extended in a few situations.¹¹ In the instant case, the claim was filed October 11, 1996, IDWR filed the Director's Report March 7, 2000, the objection was filed on April 7, 2000, and the trial on the merits was held March 16, 2001. Hence even if the subject water right was not being put to beneficial use the period between the filing of the claim and the trial on the merits was about five years, six months. Although tolling the statute may allow a period of non-use to be extended during the pendency of the SRBA, even Idaho Code section 42-222 allows for an extension of the forfeiture period for an additional five years and therefore such period of non-use is not necessarily out of line with the policy of the state

¹⁰ IDWR would have to reinvestigate and re-report the water right claim on the granting of a motion to file a late objection based on a newly accrued cause of action for forfeiture because the filing of the director's report is what provides notice to the rest of the SRBA.

¹¹ Many of the subcases involving considerable lengths of time between the filing of the claim and the entry of partial decree involve federal reserved rights which are not subject to state forfeiture.

of Idaho. For purposes of evaluating policy concerns, the time between the filing of the claim and the issuance of the partial decree in this case is well within that additional time frame and therefore not out of line with public policy.

The SRBA would never be able to be completed if every time a forfeiture period accrued prior to the issuance of the partial decree the Court had to entertain a new cause of action within a particular subcase.¹² Hence from a public policy perspective there is a degree of balancing between the competing interests of temporarily being able to forego the beneficial use of the water and the timely completion of the SRBA. Failure to toll the running of the forfeiture statute during the pendency of the SRBA would inundate the SRBA with motions to file late objections alleging forfeiture at all stages of the proceedings.

The SRBA is a lawsuit not a permanent water court. Because of the magnitude of the case and the way the SRBA is procedurally structured a "point in time" approach must be taken with respect to investigating, reporting, and adjudicating the rights. For example, absent subsequent administrative changes, IDWR reports the status of a water right as of the date of inception of the SRBA.

This does not mean the decreed right is insulated from forfeiture. Once the partial decree is issued for the water right, the non-user has five years within which to put the water to beneficial use before the decreed right is subject to forfeiture. In Idaho a decreed water right is not insulated from forfeiture, however, it has long been established that once the decree is issued the statutory time period for non-use begins to run anew. Thus after the partial decree is issued five years of non-use must accrue before the water right is again subject to forfeiture. In *Graham v. Leek*, 65 Idaho 279, 283, 144 P.2d 475, 479, the Idaho Supreme Court made this point clear in holding: "[A] decreed right is not immune from a showing that it has been abandoned [forfeited], and such showing does not impeach the decree upon which the right was based, **where evidence received with reference to the abandonment [forfeiture] relates to a time subsequent to the**

¹² Again, this is what occurred in the *Facility Volume Decision*. The party sought to state a new cause of action for forfeiture after the trial on merits had already concluded. The cause of action for forfeiture could not have been brought earlier because the five years had not accrued.

decree.” *Id.* (citing *Albrethesen v. Wood River Land Co.*, 40 Idaho 49, 231 P.418, 422 (1924))(emphasis added).

For the foregoing reasons, the Court affirms the prior ruling of the *Facility Volume Decision* holding that the running of the statutory forfeiture provision of Idaho Code section 42-222 tolls upon the filing of a claim in the SRBA until a partial decree is entered. After the partial decree is entered the statutory period begins to run anew.

2. THE SPECIAL MASTER ERRED IN CONCLUDING THAT UNDER PRINCIPLES OF JUDICIAL ESTOPPEL WOOD WAS BARRED FROM ASSERTING PERIODS OF NON-USE PRIOR TO THE 1989 ADMINISTRATIVE PROCEEDING TO SPLIT THE 65-05663 ROOT RIGHT.

In 1989, Wood applied for an administrative transfer of the portion of the root right 65-05663 that was purchased in conjunction with his land purchase. The Special Master ruled that under principles of judicial estoppel Wood was precluded from asserting that any period of time that accrued prior to the transfer application could be counted toward the five-year statutory period. The doctrine of judicial estoppel prevents a party from assuming a position in one proceeding and then taking an inconsistent position in a subsequent proceeding. *Robertson Supply Co. v. Nicholls*, 131 Idaho 99, 101, 952 P.2d 914, 916 (1998)(citing 31 C.J.S. *Estoppel and Waiver* § 139, § 144 (1996)). The Special Master reasoned that in the administrative proceeding Wood took the position that the root right 65-05563 was a valid water right for the purpose of completing the administrative transfer of a portion of the right and then in the subsequent SRBA judicial proceeding, Wood took the inconsistent position that the root right or portion thereof was forfeited for non-use. This Court respectfully disagrees with the Special Master’s conclusion and holds that under the circumstances of the transfer proceeding, for purposes of proving forfeiture Wood may present evidence of non-use prior to 1989, but not prior to the date water right 65-05663 was previously decreed in the Payette Adjudication (Oct. 1986).

The purpose of the 1989 administrative proceeding was to transfer ownership of that portion 65-05663 purchased by Wood. Although the transfer provisions of Idaho Code section 42-222 can subject the entire water right to review, an administrative

whatever action IDWR may pursue, if any, with respect to the unauthorized point of diversion. Troutt may have a statutory right (*see* I.C. § 49-1102), or other easement by operation of law, to access the correct points of diversion and should either pursue appropriate legal remedies to gain proper access or alternatively seek to have the points of diversion changed through the appropriate administrative processes.

D) The issue of Wood's wrongful interference with use of the water right.

The Special Master concluded additionally that Wood was precluded from asserting forfeiture because Wood wrongfully interfered with Troutt's use of the water right by erecting the fence, posting no-trespassing signs and displaying violent behavior towards people accessing his property. Having decided the merits on other grounds it is not necessary to address the issue.

VIII.

CONCLUSION

For the above stated reasons, this Court affirms the recommendation of the Special Master, except on the issue of judicial estoppel.

IX.

ORDER OF PARTIAL DECREE

THEREFORE, based on the resolution of all pending matters in the above-captioned subcase and this Court's affirmation of the *Special Master's Report and Recommendation* as herein set forth, IT IS ORDERED that water right 65-05663B is hereby decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

IT IS SO ORDERED

DATED: MAY 9th 2002

SIGNED: _____

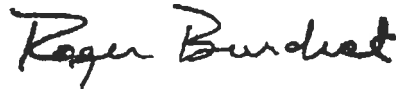


Roger S. Burdick
Administrative District Judge and
Presiding Judge of the Snake River
Basin Adjudication

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.

DATED: MAY 9, 2002



SIGNED: _____

Roger S. Burdick
Administrative District Judge and
Presiding Judge of the Snake River
Basin Adjudication

EXHIBIT H



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

RECEIVED

MAR 23 2012

MOFFATT, THOMAS, BARRETT,
FELZ & FELLOWS, CHTD

March 22, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

SNAKE RIVER DAIRIES LLC
15188 S CAN ADA RD
MELBA ID 83641

RE: APPLICATIONS TO LEASE AND RENT WATER RIGHT NO. 63-7270B FROM THE
WATER SUPPLY BANK

Dear Applicants:

The Department of Water Resources received your applications to lease and rent the above-mentioned water right. The offered water right is accepted into the Bank in accordance with the attached Water Supply Bank Lease Acceptance. If you do not agree with the conditions of the Lease Acceptance and would like to withdraw your water right from the Bank, you must contact the Department within thirty (30) days of receipt of this notification. The right will automatically be released on **December 31, 2016**, unless the right is released earlier by the Board, or upon request by the lessor. To change the term of the lease or to release the right from the Bank, submit a written request to the Department prior to the release date.

Enclosed is a Water Supply Bank Rental Agreement for your review and signature. Upon signature and return of the original agreement, together with the rental fee, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

The rental fee of \$8,818.60 was calculated based on the current rental rate of \$14.00 per acre-foot times a diversion volume of 629.9 acre-feet. Since you are the lessor and the renter under this agreement, the Department requires that you submit only the 10% administrative fee. Therefore, a rental fee of **\$881.86** must be paid in accordance with the rental agreement. Please send a check made payable to the Idaho Department of Water Resources together with the signed rental agreement, within fourteen (14) days so I can complete the processing. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice to the Department at least 30 days prior to the fee due date. If you have any questions, please contact me at (208) 287-4907.

Sincerely,

Monica Van Bussum
Sr. Water Resource Agent

Enclosure: Lease Acceptance (copy)
Rental Agreement (original)

c: John Westra – IDWR Western Regional Office
Dylan Lawrence – Moffatt Thomas

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK LEASE ACCEPTANCE**

This is to certify that: SNAKE RIVER DAIRIES LLC
15188 S CAN ADA RD
MELBA ID 83641
(208) 495-2034

has requested to lease the water right(s) listed below to the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board") being authorized to operate a bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director", "Department") the acquisition of water rights for the Board's Bank, agrees to lease the water right to the Bank as follows:

Summary of Water Rights or Portions Leased to the Bank

	Water Right	Lease Rate	Lease Volume	Acre Limit	Total Leased Acres
	63-7270B	1.39 CFS	629.9 AF	NA	140.0 AC
COMBINED LEASE TOTALS:		1.39 CFS	629.9 AF	NA	140.0 AC

TERM OF LEASE:

Lease Begin Date: March 1, 2012

Expiration Date: December 31, 2016

RENTAL AVAILABILITY:

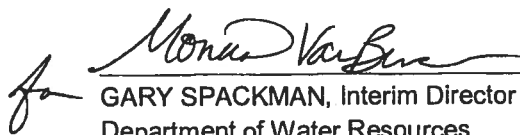
Season of Use: April 1 to November 15 annually

MINIMUM PAYMENT ACCEPTABLE:

Current Rental Rate

Detailed Lease Acceptance attached.

Dated this 21st day of March, 20 12


GARY SPACKMAN, Interim Director
Department of Water Resources

WATER RIGHT NO. 63-7270B
WATER SUPPLY BANK LEASE ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: SNAKE RIVER DAIRIES LLC
 15188 S CAN ADA RD
 MELBA ID 83641
 (208) 495-2034

Priority Date: 10/07/1969

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/15	1.39 CFS	629.9 AF
	Total:		1.39 CFS	629.9 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE¼SE¼ Sec. 20 Twp 01S Rge 01W ADA County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	01W	20													38	10	22	40	110
01S	01W	29	30																30

Total Acres: 140.0

CONDITIONS OF ACCEPTANCE

1. This right is accepted for lease into the Water Supply Bank based on historic beneficial use prior to approval of Transfer 73927. No actual beneficial use change has occurred pursuant to Transfer 73927. Therefore, this lease reflects the elements of the water right prior to approval of Transfer 73927. The authorized water right elements remain as described in the approval of Transfer 73927 until action is taken by the right holder.
2. The water rights referenced above will be rented from the bank at the current rental rate.
3. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
4. While a right is in the bank, the lessor may not use the right without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
5. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease.
6. While a water right is in the bank, forfeiture provisions are stayed.
7. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
8. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

**WATER RIGHT NO. 63-7270B
WATER SUPPLY BANK LEASE ACCEPTANCE**

CONDITIONS OF ACCEPTANCE

9. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.
10. In accordance with Idaho Code § 42-248 and 42-1409(6), all owners of water rights are required to notify the department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
11. Upon acceptance of a water right into the Board's water supply bank, the owner of the right may withdraw the right within thirty (30) days of acceptance into the bank if the owner does not agree with the conditions of acceptance.
12. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
13. The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before April 1 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT

This is to certify that: **SNAKE RIVER DAIRIES LLC**
 15188 S CAN ADA RD
 MELBA ID 83641
 (208) 495-2034

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board") being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

	Water Right	Rented Rate	Annual Rented Volume	Total Rented Acres
	63-7270B	1.39 CFS	629.9 AF	140.0 AC
COMBINED RENTAL TOTALS:		1.39 CFS	629.9 AF	140.0 AC

TERM OF RENTAL:

March 1, 2012 to November 15, 2012
March 1, 2013 to November 15, 2013
March 1, 2014 to November 15, 2014
March 1, 2015 to November 15, 2015
March 1, 2016 to November 15, 2016

RENTAL FEE:

\$8,818.60

The fee for rental of the above-described water is \$8,818.60 per year. The undersigned renter is also the lessor under this agreement, and is therefore obligated to pay only the administrative fee of **\$881.86**. An annual payment shall be received by the Department prior to March 1 each year for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. To terminate the agreement prior to the end of the rental period, written notice must be received by the Department at least 30 days prior to the rental fee due date.

Detailed water right specific limitations and conditions attached.

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

Dated this _____ day of _____, 20_____.

By: _____
 (Print Name)

 (Signature)

 (Title if on behalf of company or organization)

Having determined that this agreement satisfies the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and conditions herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board this ____ day of _____, 20____.

 GARY SPACKMAN, Interim Director
 Department of Water Resources

**WATER RIGHT NO. 63-7270B
WATER SUPPLY BANK RENTAL AGREEMENT**

The renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described below:

Renter: SNAKE RIVER DAIRIES LLC
15188 S CAN ADA RD
MELBA ID 83641
(208) 495-2034

Priority Date: 10/07/1969

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/15	1.65 CFS	523.6 AF
	Total:		1.65 CFS	523.6 AF

LOCATION OF RENTER'S POINT(S) OF DIVERSION:

GROUND WATER	SE¼SE¼	Sec. 20	Twp 01S	Rge 01W	ADA County
GROUND WATER	NW¼NW¼	Sec. 29	Twp 01S	Rge 01W	ADA County

RENTER'S PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	01W	20													40	25	26	40	131
01S	01W	29	33																33

Total Acres: 164

Acre Limit within Place of Use described: 140

CONDITIONS OF WATER USE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.
5. This rental agreement does not authorize the construction of a well.
6. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
7. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
8. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.

**WATER RIGHT NO. 63-7270B
WATER SUPPLY BANK RENTAL AGREEMENT**

CONDITIONS OF WATER USE

9. Renter acknowledges and agrees that the Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
10. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
11. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
12. This right when combined with all other rights shall provide no more than 0.02 cfs per acre no more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

EXHIBIT I

STATE OF IDAHO,) ss.
COUNTY OF ADA)

NOTICE OF
APPLICATION FOR WATER
Notice is hereby given that Sonya
J. Anderson and/or Byron V. Ander-
son, P.O. Box 277, Nampa, Idaho,
have on October 7, 1969, applied for
permit under application No. 100270
to divert 4.00 cubic feet per second
of water from a groundwater
source. Water will be diverted by
well, pump, motor, pipe and sprink-
ler system within the SE 1/4 of
Sec. 20, T. 1 S., R. 1 W., B.M. Ada
County and is to be used from April
1 to December 1 for irrigation and
stockwatering purposes in the SE 1/4
of Sec. 20, NE 1/4 of Sec. 23, T.
1 S., R. 1 W., B.M.
No protest against this appli-
cation must be filed with the De-
partment of Reclamation within ten
days from the last date of this no-
tice.
R. KEITH HIGGINSON
State Reclamation Engineer
Pub. Oct. 14, 1969

Georgene Davis, being duly
sworn, deposes and says: That she is the Principal
Clerk of The Idaho Statesman, a daily newspaper printed
and published at Boise, Ada County, State of Idaho, and
having a general circulation therein and which said
newspaper has been continuously and uninterruptedly
published in said County during a period of twelve con-
secutive months prior to the first publication of the
notice, a copy of which is attached hereto; that said
notice was published in the regular edition of The Idaho

Statesman for Two consecutive insertions,
beginning with the issue of October 16, 1969,
and ending with the issue of October 23, 1969.

Georgene Davis

Subscribed and sworn to before me this 23rd
day of October, 1969.

Anna A. Gunning
Notary Public for Idaho, Residing at Boise, Idaho

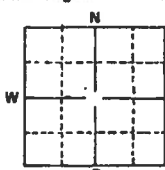
Bill submitted 10-27-69
63-1670

USE TYPEWRITER OR
BALL POINT PEN

State of Idaho
Department of Reclamation

WELL DRILLER'S REPORT

State law requires that this report be filed with the State Reclamation Engineer
within 30 days after completion or abandonment of the well.

1. WELL OWNER Name <u>Varde & Son</u> Address <u>Meridian, Idaho</u> Owner's Permit No. <u>63-7270</u>		7. WATER LEVEL Static water level <u>106</u> feet below land surface Flowing? ☐ Yes ☒ No G.P.M. flow _____ Temperature _____ ° F. Quality _____ Artesian closed-in pressure _____ p.s.i. Controlled by ☐ Valve ☐ Cap ☐ Plug																																																																																																																																																					
2. NATURE OF WORK ☒ New well ☐ Deepened ☐ Replacement ☐ Abandoned (describe method of abandoning)		8. WELL TEST DATA ☒ Pump ☐ Bailer ☐ Other Discharge G.P.M. <u>1100</u> Draw Down <u>54 ft.</u> Hours Pumped <u>8</u>																																																																																																																																																					
3. PROPOSED USE ☐ Domestic ☒ Irrigation ☐ Test ☐ Municipal ☐ Industrial ☐ Stock		9. LITHOLOGIC LOG <table border="1"><thead><tr><th rowspan="2">Hole Diam.</th><th colspan="2">Depth</th><th rowspan="2">Material</th><th colspan="2">Water</th></tr><tr><th>From</th><th>To</th><th>Yes</th><th>No</th></tr></thead><tbody><tr><td>10</td><td>0</td><td>11</td><td>Soil.</td><td></td><td></td></tr><tr><td></td><td>11</td><td>73</td><td>Gray lava.</td><td></td><td></td></tr><tr><td></td><td>73</td><td>92</td><td>Clay and boulders.</td><td></td><td></td></tr><tr><td></td><td>92</td><td>107</td><td>Brown lava, firm.</td><td></td><td></td></tr><tr><td></td><td>107</td><td>152</td><td>Brown lava, clay seams.</td><td></td><td></td></tr><tr><td></td><td>152</td><td>182</td><td>Gray lava, firm.</td><td></td><td></td></tr><tr><td></td><td>182</td><td>275</td><td>Clay, boulders and cinders.</td><td></td><td></td></tr><tr><td></td><td>275</td><td>205</td><td>Clay and some clay.</td><td></td><td></td></tr><tr><td></td><td>285</td><td>350</td><td>Sand, fine.</td><td></td><td></td></tr><tr><td></td><td>350</td><td>372</td><td>Granulated sand.</td><td></td><td></td></tr><tr><td></td><td>372</td><td>412</td><td>Blue clay.</td><td></td><td></td></tr><tr><td></td><td>412</td><td>423</td><td>Sand and some gravel.</td><td>X</td><td></td></tr><tr><td></td><td>423</td><td>451</td><td>Sand, fine.</td><td></td><td></td></tr><tr><td></td><td>451</td><td>465</td><td>Blue clay.</td><td></td><td></td></tr><tr><td></td><td>465</td><td>481</td><td>Sandy clay.</td><td></td><td></td></tr><tr><td></td><td>481</td><td>521</td><td>Blue clay and gravel.</td><td>X</td><td></td></tr><tr><td></td><td></td><td></td><td>water seams.</td><td></td><td></td></tr><tr><td></td><td>521</td><td>562</td><td>Blue clay and some gravel.</td><td>X</td><td></td></tr><tr><td></td><td>562</td><td>605</td><td>Blue clay and fine sand.</td><td></td><td></td></tr><tr><td></td><td>605</td><td>627</td><td>Limestone, frag. water.</td><td>X</td><td></td></tr><tr><td></td><td>627</td><td>630</td><td>Blue clay.</td><td></td><td></td></tr><tr><td></td><td>630</td><td>635</td><td>White sand.</td><td></td><td></td></tr><tr><td></td><td>635</td><td>706</td><td>Sandy clay.</td><td></td><td></td></tr></tbody></table>		Hole Diam.	Depth		Material	Water		From	To	Yes	No	10	0	11	Soil.				11	73	Gray lava.				73	92	Clay and boulders.				92	107	Brown lava, firm.				107	152	Brown lava, clay seams.				152	182	Gray lava, firm.				182	275	Clay, boulders and cinders.				275	205	Clay and some clay.				285	350	Sand, fine.				350	372	Granulated sand.				372	412	Blue clay.				412	423	Sand and some gravel.	X			423	451	Sand, fine.				451	465	Blue clay.				465	481	Sandy clay.				481	521	Blue clay and gravel.	X					water seams.				521	562	Blue clay and some gravel.	X			562	605	Blue clay and fine sand.				605	627	Limestone, frag. water.	X			627	630	Blue clay.				630	635	White sand.				635	706	Sandy clay.		
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USE ADDITIONAL SHEETS IF NECESSARY

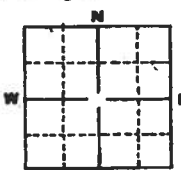
FORWARD THE WHITE, BLUE, AND PINK COPIES TO THE DEPARTMENT

USE TYPEWRITER OR
BALLPOINT PEN

State of Idaho
Department of Reclamation

WELL DRILLER'S REPORT

State law requires that this report be filed with the State Reclamation Engineer
within 30 days after completion or abandonment of the well.

1. WELL OWNER Name <u>Varde Anderson</u> Address <u>Meridian, Idaho</u> Owner's Permit No. <u>63-7270</u>		7. WATER LEVEL Static water level <u>1406</u> feet below land surface Flowing? ☐ Yes ☒ No G.P.M. flow _____ Temperature _____ F. Quality _____ Artesian closed-in pressure _____ p.s.i. Controlled by ☐ Valve ☐ Cap ☐ Plug																																																																																																																																															
2. NATURE OF WORK ☒ New well ☐ Deepened ☐ Replacement ☐ Abandoned (Indicate method of abandonment)		8. WELL TEST DATA ☒ Pump ☐ Sailer ☐ Other <table border="1"><thead><tr><th>Flow Rate</th><th>Draw Down</th><th>Hours Pumped</th></tr></thead><tbody><tr><td></td><td></td><td>8</td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr></tbody></table>		Flow Rate	Draw Down	Hours Pumped			8																																																																																																																																								
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3. PROPOSED USE ☐ Domestic ☒ Irrigation ☐ Test ☐ Municipal ☐ Industrial ☐ Stock		9. LITHOLOGIC LOG <table border="1"><thead><tr><th rowspan="2">Hole Diam.</th><th colspan="2">Depth</th><th rowspan="2">Material</th><th colspan="2">Water</th></tr><tr><th>From</th><th>To</th><th>Yes</th><th>No</th></tr></thead><tbody><tr><td>16</td><td>0</td><td>11</td><td>Soil.</td><td></td><td></td></tr><tr><td></td><td>11</td><td>73</td><td>Gray lava.</td><td></td><td></td></tr><tr><td></td><td>73</td><td>92</td><td>Clay and boulders.</td><td></td><td></td></tr><tr><td></td><td>92</td><td>107</td><td>Brown lava, firm.</td><td></td><td></td></tr><tr><td></td><td>107</td><td>152</td><td>Brown lava, clay seams.</td><td></td><td></td></tr><tr><td></td><td>152</td><td>182</td><td>Gray lava, firm.</td><td></td><td></td></tr><tr><td></td><td>182</td><td>275</td><td>Clay, boulders and cinders.</td><td></td><td></td></tr><tr><td></td><td>275</td><td>285</td><td>Sand and some clay.</td><td></td><td></td></tr><tr><td></td><td>285</td><td>350</td><td>Sand, fine.</td><td></td><td></td></tr><tr><td></td><td>350</td><td>372</td><td>Granulated sand.</td><td></td><td></td></tr><tr><td></td><td>372</td><td>412</td><td>Blue clay.</td><td></td><td></td></tr><tr><td></td><td>412</td><td>423</td><td>Sand and some gravel.</td><td>X</td><td></td></tr><tr><td></td><td>423</td><td>451</td><td>Sand, fine.</td><td></td><td></td></tr><tr><td></td><td>451</td><td>465</td><td>Blue clay.</td><td></td><td></td></tr><tr><td></td><td>465</td><td>481</td><td>Sandy clay.</td><td></td><td></td></tr><tr><td></td><td>481</td><td>521</td><td>Blue clay and gravel. water seams.</td><td>X</td><td></td></tr><tr><td></td><td>521</td><td>562</td><td>Blue clay and some gravel.</td><td>X</td><td></td></tr><tr><td></td><td>562</td><td>605</td><td>Blue clay and some sand.</td><td></td><td></td></tr><tr><td></td><td>605</td><td>627</td><td>Sandstone, gray, water.</td><td>X</td><td></td></tr><tr><td></td><td>627</td><td>630</td><td>Blue clay.</td><td></td><td></td></tr><tr><td></td><td>630</td><td>685</td><td>White sand.</td><td></td><td></td></tr><tr><td></td><td>685</td><td>706</td><td>Sandy clay.</td><td></td><td></td></tr></tbody></table>		Hole Diam.	Depth		Material	Water		From	To	Yes	No	16	0	11	Soil.				11	73	Gray lava.				73	92	Clay and boulders.				92	107	Brown lava, firm.				107	152	Brown lava, clay seams.				152	182	Gray lava, firm.				182	275	Clay, boulders and cinders.				275	285	Sand and some clay.				285	350	Sand, fine.				350	372	Granulated sand.				372	412	Blue clay.				412	423	Sand and some gravel.	X			423	451	Sand, fine.				451	465	Blue clay.				465	481	Sandy clay.				481	521	Blue clay and gravel. water seams.	X			521	562	Blue clay and some gravel.	X			562	605	Blue clay and some sand.				605	627	Sandstone, gray, water.	X			627	630	Blue clay.				630	685	White sand.				685	706	Sandy clay.		
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USE ADDITIONAL SHEETS IF NECESSARY

FORWARD THE ORIGINAL AND PHOTOCOPY TO THE ENGINEER

RECEIVED

SEP 17 1970

Box 277, Nampa, ID 83651

Post office address

Phone

Person to contact

Department of Water Resources
Western Regional Office

(name spring, stream, etc.)

Tributary to

$$\begin{array}{r} 184 \\ 59 \text{ pm} \\ \hline 920 \end{array}$$

Amount 4.00 c.f.s. for Irrigation
 Af/Annum (nature of use)

Period of Use: from April 1 to Dec. 1
(mo.-day) inclusive (mo.-day)

Amount 0.04 c.f.s. for Stockwater (250 beef)
AF/Annum (nature of use)

Period of Use: from Jan. 1 to Dec. 31
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
 _____ AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Other uses:

Permit No. 63-7270
Examination for b/u

Max Rate of Diversion 4.00 cubic feet per second and annual volume _____ AF/Annum.

Township 1S N/S, Range 1W E/W, B.M., Section 20, Subdivision SE $\frac{1}{4}$ SE $\frac{1}{4}$ Ada
County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ _____ County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ _____ County

Other Points of Diversions:

Description of diverting works: 200 hp 10" pump, 12" well casing, 680' then 80' to 10" casing
total depth 755' then through a sprinkler system

Measuring device required: yes ☒ no ☐

6. Lands to be irrigated or place of use.

[illegible]

TOTAL ACREAGE _____ **200**

T
1
S

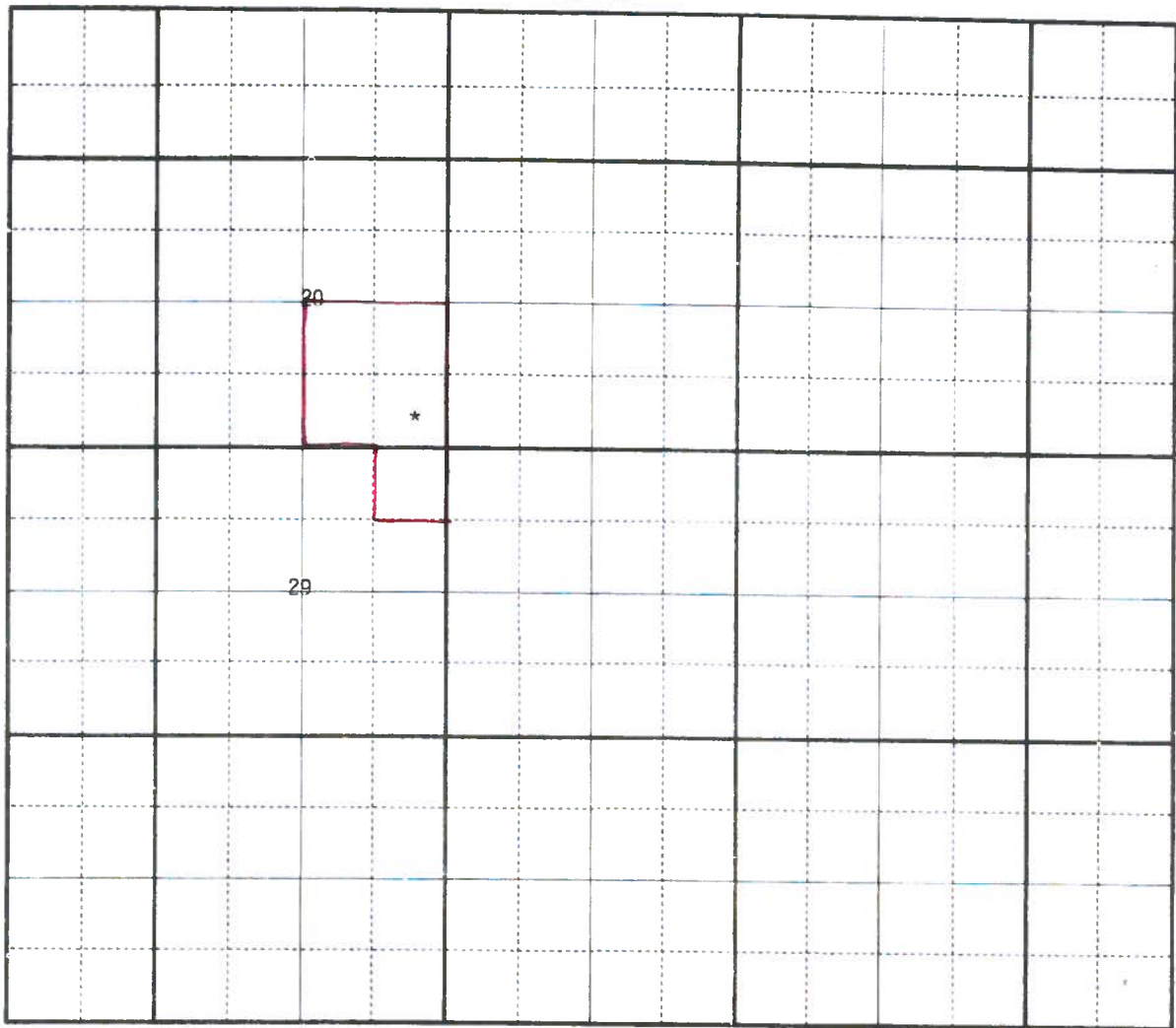


Diagram of System

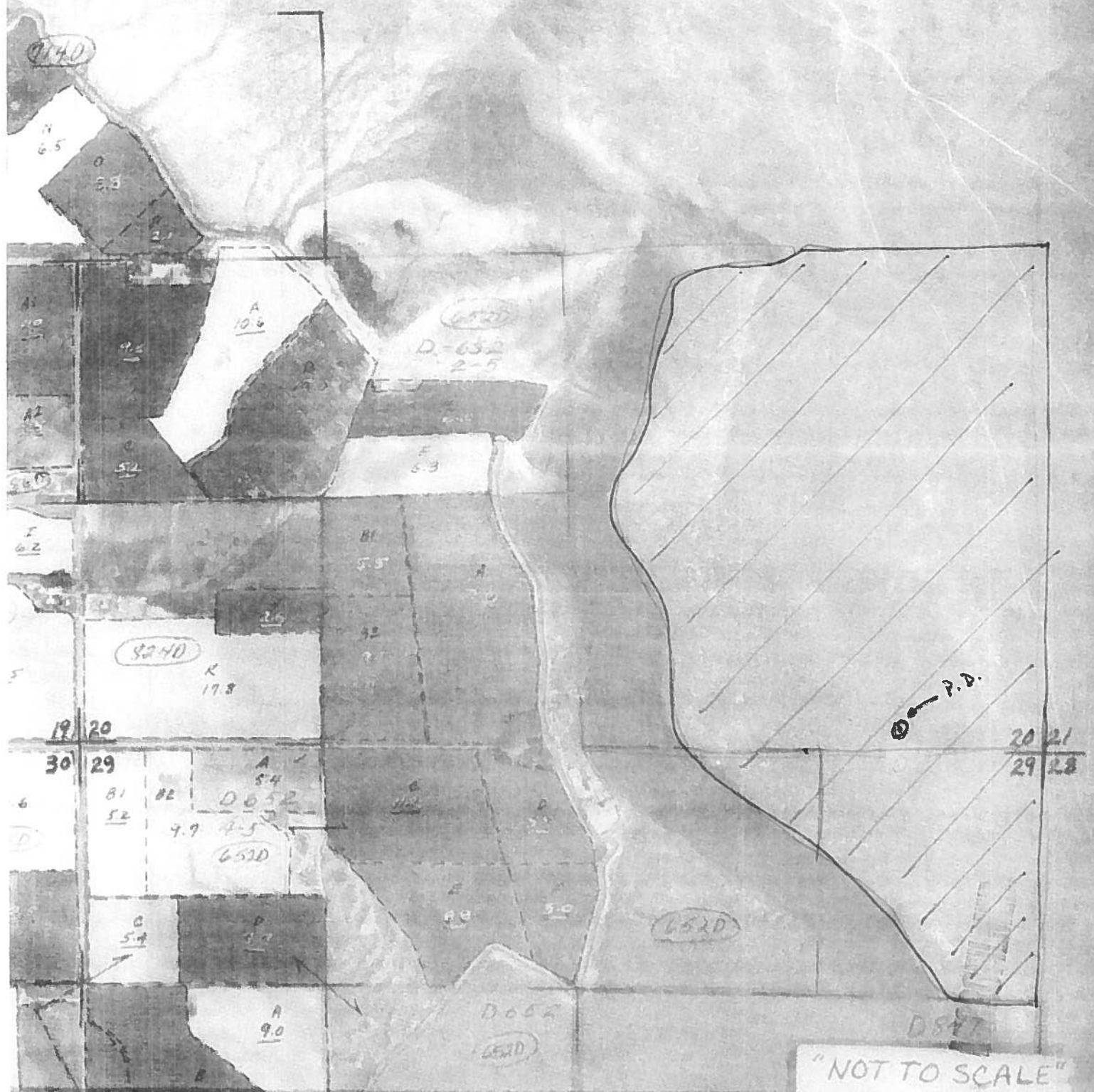
Examiner's Signature William A. Mac Allister Date 6/7/77
Checked by TSA Date 6-20-77
Approved by _____ Date _____

6/18/77

Land not irrigated on ASCS photos

13	17
19	20

17	16
20	21



October 13, 1977

Re: Permit No. 63-7270

Duane Pancheri
Route 1
Melba, Idaho 83641

Dear Mr. Pancheri:

A representative of this Department made an examination of the works covered by your Permit No. 63-7270 on June 8, 1977, and has found the following:

Amount of water that can be recognized as beneficially used under Idaho law: 1.41 cubic feet per second Source: groundwater

The maximum quantity diverted shall not exceed 639.3 acre feet per year.

Point of diversion: SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20, Twp. 1S, Rge. 1W, B.M.

Beneficial use: Irrigation of 155 acres within the SE $\frac{1}{4}$, Sec. 20; NE $\frac{1}{4}$, Sec. 29; All within Twp. 1S, Rge. 1W

Priority date established: October 7, 1969

In order for the Department to issue the above license, it will be necessary for you to amend the permit to correspond with the findings of the field examiner. We are enclosing a partially completed amendment form for your use in this matter. Also enclosed is an assignment of permit form which you must file before you can file the amendment. To complete the assignment form have Mr. or Mrs. Anderson sign the form before a notary and return it to us with the amendment. At the time you return the signed forms, please enclose a \$10.00 filing fee for the amendment in order that we might issue your license as set forth above. If you do not concur with these findings or have any questions, please contact us within 30 days.

Sincerely,

BOBBY D. FLEENOR
Chief, Operations Bureau

BDF:jfr
Encls.

*Put for
call-up in
another 20 days
to Dec 5th*

December 23, 1977

Re: Permit No. 63-7270

Sonya and Byron Anderson
Box 277
Nampa, ID 83657

Dear Mr. and Mrs. Anderson:

A representative of this Department made an examination of the works covered by your Permit No. 63-7270 on June 8, 1977, and has found the following:

Amount of water that can be recognized as beneficially used under
Idaho law: 1.41 cfs Source: groundwater

The maximum quantity diverted shall not exceed 639.3 acre feet per year.

Point of diversion: SE~~1~~SE~~4~~, Sec. 20, Twp. 1S, Rge. 1W, B. M.

Beneficial use: Irrigation of 155 acres within SE~~1~~, Sec. 20,
and NE~~1~~, Sec. 29, Twp. 1S, Rge. 1W, B. M.

Priority date established: October 7, 1969

In order for the Department to issue the above license, it will be necessary for you to amend the permit to correspond with the findings of the field examiner. We are enclosing a partially completed amendment form for your use in this matter.

Please sign the amendment application and return it to this office along with a \$10.00 filing fee within 30 days in order that we might issue your license as set forth above. If you do not concur with these findings or have any questions, please contact us within the 30-day period.

Sincerely,

BOBBY D. FLEENOR
Chief, Operations Bureau

BDF/cah
Enclosure

RECORDED

Identification No. 63-7270
Application No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
APPLICATION FOR PERMIT
To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

APPROVED

1. Name of applicant Sonya J. Anderson and/or Byron V. Anderson
post office address P.O. Box 277, Nampa, Idaho 83651
2. Source of water supply groundwater which is a tributary of _____
3. a. Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 20 Township 1 S
Range 1 W B.M. Ada County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 4.00 for irrigation purpose from April 1 to Dec. 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount .04 for stockwater purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 4.00 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Drilled well, pump, motor, pipe
and sprinkler system

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is 16 inches; proposed depth of well is 500 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.
b. Estimated construction cost is \$ 16,000.00.
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered 250 beef

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____.
(5) If water is to be used for other purposes describe: _____

63-7270

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

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
1 S	1 W	20													40	40	40	40	160
		29	40																40

Total number of acres to be irrigated 200

c. Describe any other water rights used for the same purposes None

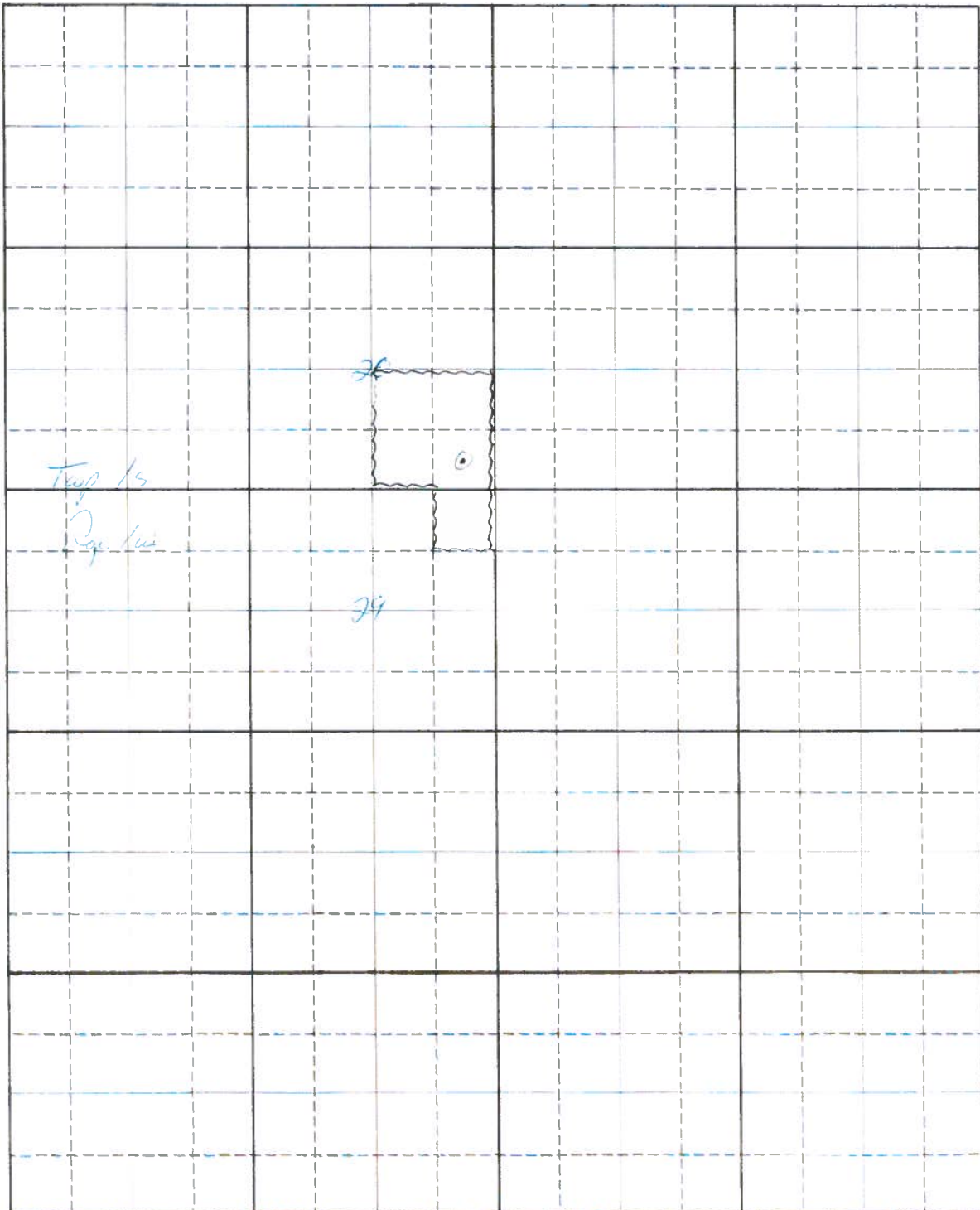
9. a. Who owns the property at the point of diversion BLM

b. Who owns the land to be irrigated or place of use BLM

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing D.E. # I-2824

10. Remarks

11. Map of proposed project:



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Spencer Anderson
(Applicant)

63-1270

Received by DLW Date 10-7-69 Time 2:25 P.M. 4.00
Preliminary check by DLW Fee \$ 35.00 plus BLM (copy) 2.00
Received by DLW Date 10-7-69 (3703 given)
Publication prepared by DLW Date 10-8-69
Published in Stateman
Publication dates 10-16 + 23-69
Publication approved DLW Date 10-27-69
Priority reduced to _____ Reason _____

Protests filed by: None

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by DLW MC RH ste

APPROVED

ACTION OF STATE RECLAMATION ENGINEER

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 63-7270, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 19 74.
- c. Other: The applicant shall permanently install and maintain a measuring device of a type approved by the department as part of the diverting works.

2. Denial of said application is for the following reasons: _____

Witness my hand this 20th day of November, 19 69.

R. Keith Higg
State Reclamation Engineer

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 63-7270 Priority October 7, 1969 Amount 1.41 cfs

THIS IS TO CERTIFY, that Sonya Anderson and Byron Anderson
of Box 277, Nampa, Idaho 83651, has complied with the terms and conditions of Permit
No. 63-7270 issued pursuant to Application for Permit dated October 7, 1969,
and has submitted proof to the Department of Water Resources on October 2, 1974,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 1.41 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from <u>April 1</u> to <u>November 15</u>	at <u>1.41</u> cfs and	<u>639.3</u> acre feet
	from _____ to _____	_____ cfs and	_____
	from _____ to _____	_____ cfs and	_____

(both dates inclusive)

Subject, however, to the condition that no more than 1.41 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
639.3 acre feet per year, said waters to be diverted within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20, Twp. 1S,
Rge. 1W, B. M. in the County of Ada

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
1S	1W	20																	122
		29	29	4															33

Total number of acres irrigated 155

A measuring device of a type approved by this Department shall be maintained
as part of the diverting works.

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

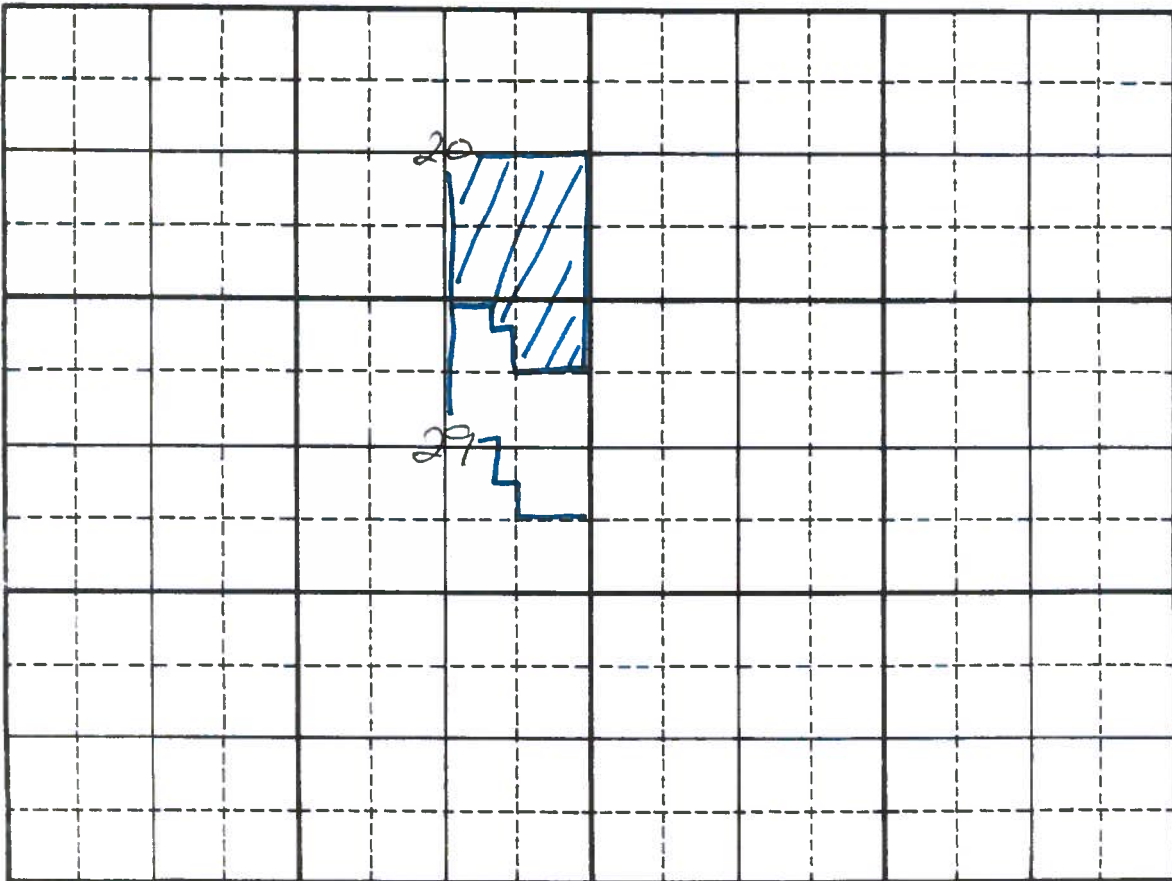
The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 18 day of

January, 19 78.

Director

Complete the following map by showing land and point of diversion as proposed by this amendment. Show 40-acre subdivisions, townships, ranges and ditches.



Scale: 2 inches equal 1 mile

That no one will be injured by such change, and that such change will be made at permit holders own risk.

Signed at Lawrence, Idaho, this 11th day of January, 19 78.

Byron H. Anderson
(signature)

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, C. STEPHEN ALLRED, Director of the Department of Water Resources
hereby approve the foregoing application for amendment for Permit No. 63-7270.

Witness my hand this 19th day of January, 19 78.

C. Stephen Allred
Director

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: A63-07270
Date Received: 8/31/1989
Receipt No: W005361
Received By: LC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DUANE PANCHERI 208-495-2513
Address: 19010 S. CAN-ADA RD.
MELBA, ID 83641
OR
Name: LAURA PANCHERI 208-495-2513
Address: 19010 S. CAN-ADA RD.
MELBA, ID 83641

2. Date of Priority: OCT 07, 1969

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01S	01W	20	SE	SE			ADA

5. Description of diverting works:
APPROX. 500' DEEP, 200 HP PUMP, 18" CS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/15	1.410		639.30

7. Total Quantity Appropriated is:
1.410 C.F.S. (and/or) 639.30 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

MICROFILMED
AUG 21 1992

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
01S	01W	20	NE		SE		IRR	40.0
			NW		SE		IRR	20.0
			SW		SE		IRR	22.0
			SE		SE		IRR	40.0
							Section Acres	122.0
		29	NE		NE		IRR	29.0
			NW		NE		IRR	4.0
							Section Acres	33.0
							Total Acres	155.0

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:
A63-08604

14. Remarks:

15. Basis of Claim: LICENSE

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: 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): Deane Sanchez Date: 8/31/89

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 31 day
of August 19 89

Seal

Notary Public

Linda A. Werner
Residing at _____ Residing at Boise, Idaho
My Commission Expires December 8, 1994
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 SNAIL RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-07270
Date Received: 8/31/1989
Receipt No: W005361
Received By: 22 5-18-92

RECEIVED

MAY 19 1992

Department of Water Resources
AMENDED Regional Office

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

AMENDED

1. Name: LAURA PANCHERI 208-495-2513
Address: 19010 S. CAN-ADA RD.
MELBA ID 83641
OR
Name: DUANE PANCHERI 208-495-2513
Address: 19010 S. CAN-ADA RD.
MELBA ID 83641

2. Date of Priority: OCT 7, 1969

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01S	01W	20	SE	SE			ADA

5. Description of diverting works:
APPROX. 500' DEEP, 200 HP PUMP, 18" CS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/15	1.410		639.30

7. Total Quantity Appropriated is:
1.410 C.F.S. (and/or) 639.30 A.F.A.

8. Total consumptive use is 497.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01S	01W	20	NE	SE		IRR	36.0

A63-07270

Page 1

Date: 05/13/92

MICROFILMED
SEP 23 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01S	01W	20	NW	SE		IRR	11.0
			SW	SE		IRR	22.0
			SE	SE		IRR	40.0
			Section Acres				109.0
		29	NE	NE		IRR	29.0
			NW	NE		IRR	4.0
			Section Acres				33.0
			Total Acres				142.0

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:
A63-08604

14. Remarks:
CLAIM IS AMENDED TO REFLECT ACTUAL PLACE OF USE.

15. Basis of Claim: LICENSE

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): Ricardo Sanchez Date: 5/18/92

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 18th day

of May 19 92


Notary Public

Seal

Residing at Boise, ID

My Commission Expires June 10, 1992

11/21/2005

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

RIGHT NUMBER: 63-7270

NAME AND ADDRESS: DUANE PANCHERI
19010 S CAN-ADA RD
MELBA ID 83641

LAURA ELLEN PANCHERI
19010 S CANADA RD
MELBA ID 83641

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.410 CFS
639.300 AFY

PRIORITY DATE: 10/07/1969

POINT OF DIVERSION:

T01S R01W S20 SESE Within ADA County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
4/01 11/15

QUANTITY
1.410 CFS
639.30 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:

IRRIGATION Within ADA County

T01S R01W S20	NESE	38.0	T01S R01W S20	NWSE	10.0
T01S R01W S20	SWSE	22.0	T01S R01W S20	SESE	40.0
T01S R01W S29	NENE	30.0	T01S R01W S29	NWNE	2.1

142.1 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

RECEIVED

APR 12 2006

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

COPY

APR 10 2006

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)

Water Rights: 63-7270 (Split)

63-7270A, 63-7270B

NOTICE OF COMPLETED

ADMINISTRATIVE

PROCEEDING

IDWR has completed the following administrative proceeding:

☐

Address change

XX

Substitution of Party

☐

IC § 42-222 transfer

☐

Point of diversion

☐

Place of use

☐

Period of use

☐

Nature of use

☐

Split of water right

☐

Change in ownership

☐

Other

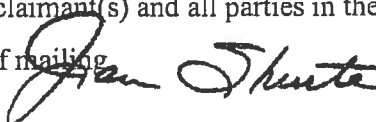
☐

IC § 42-219 license

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: April 7, 2006



Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on April 7, 2006, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

2. Copies to:

Clive Strong
Off ice of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

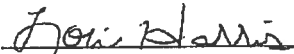
3. Copies to all parties to the subcase:

Duane Pancheri
Laura Pancheri
19010 S Can Ada Rd
Melba ID 83641

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

Glenn Vander Woude
Rhea Vander Woude
5312 Ridgewood Rd
Nampa ID 83687

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile



Signature of person mailing this document

COPY

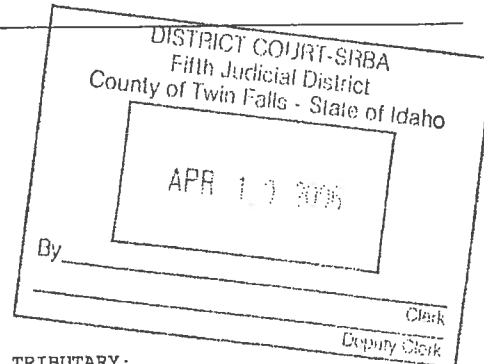
04/05/2006

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

RIGHT NUMBER: 63-7270A

NAME AND ADDRESS: DUANE PANCHERI
19010 S CAN-ADA RD
MELBA ID 83641

LAURA ELLEN PANCHERI
19010 S CAN-ADA RD
MELBA ID 83641



SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.020 CFS
9.400 AFY

PRIORITY DATE: 10/07/1969

POINT OF DIVERSION:

T01S R01W S20 SESE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 11/15	0.020 CFS 9.40 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: IRRIGATION Within ADA County

T01S R01W S29 NWNE 2.10

2.1 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right is a split from former right 63-7270.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

COPY

04/05/2006

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

RIGHT NUMBER: 63-7270B
NAME AND ADDRESS: GLENN VANDER WOUDE
5312 RIDGEWOOD RD
NAMPA ID 83687
RHEA VANDER WOUDE
5312 RIDGEWOOD RD
NAMPA ID 83687

SOURCE: GROUND WATER
QUANTITY: 1.390 CFS
629.900 AFY

PRIORITY DATE: 10/07/1969

POINT OF DIVERSION:

T01S R01W S20 NESE Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/01 11/15	1.390 CFS 629.90 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: IRRIGATION Within ADA County

T01S R01W S20	NESE	38.00	T01S R01W S20	NWSE	10.00
T01S R01W S20	SWSE	22.00	T01S R01W S20	SESE	40.00
T01S R01W S29	NENE	30.00			

140 ACRES TOTAL

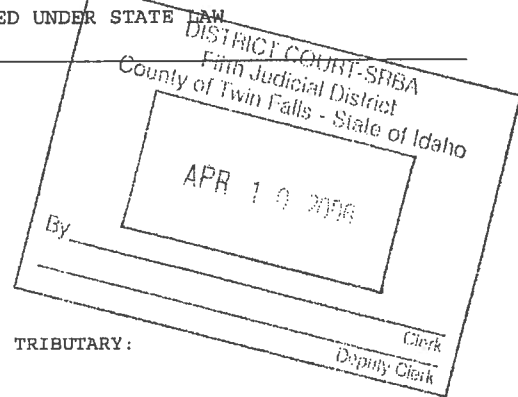
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right is a split from former right 63-7270.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.



RECEIVED

APR 13 2007

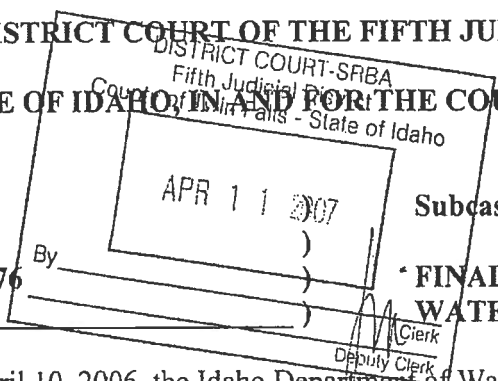
DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO

STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576



Subcase: 63-07270

FINAL ORDER DISALLOWING
WATER RIGHT CLAIM

On April 10, 2006, the Idaho Department of Water Resources filed a *Notice of Completed Administrative Proceeding* together with *Amended Director's Reports* notifying the Court that water right 63-07270 had been split into water rights 63-07270A and 63-07270B. No objections were filed to the *Amended Director's Reports* and the time period for filing objections has expired. *Partial Decrees* for water rights 63-07270A and 63-07270B were entered on April 11, 2007.

THEREFORE IT IS ORDERED AND ADJUDGED that water right claim 63-07270 is hereby **disallowed with prejudice** and shall not be confirmed in any partial decree or in any final decree entered in the SRBA, Case No. 39576, in whatever form that final decree may take or be styled.

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.

DATED April 3, 2007

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the FINAL ORDER
DISALLOWING WATER RIGHT CLAIM was mailed on April 11, 2007,
with sufficient first-class postage to the following:

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

DUANE PANCHERI
19010 S CAN-ADA RD
MELBA, ID 83641
Phone: 208-495-2513

LAURA ELLEN PANCHERI
19010 S CANADA RD
MELBA, ID 83641
Phone: 208-495-2513

A handwritten signature in cursive script, appearing to read "Julie Murphy", is written over a horizontal line.