

Memorandum

Idaho Department of Water Resource
Date: 5, February 2008
Subject: FGS Farms Notice of Violation

A letter was sent out on the 23rd of February 2008 to FGS Farms informing them of unauthorized irrigation practices of 15 acres located in the S ½ of Section 35, Township 03 North, Range 36 East. Chris Taylor, who is renting land from FGS Farms, contacted Blake to discuss the matter.

Chris has been running this land since 2004. At that time Chris and FGS Farms talked about transferring water to cover the southern half of a pivot in the SW ¼ of T03N 36E Section 35. Chris wasn't aware that this water right transfer (71066) actually took place. Chris wants the current place of use within water right 35-2697 changed back to the previous place of use. Ernie suggested that FGS Farms write a letter to Jeff Peppersack requesting to rescind transfer # 71066.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

FGS FARMS INC
C/O LAURALEE MCFARLAND
588 N 2600 E
ST ANTHONY ID 83445

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Lauralee McFarland

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Lauralee McFarland

C. Date of Delivery

1/26/04

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7004 2510 0006 5215 0093

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540



ERNEST CARLSEN
WATERMASTER

STATE OF IDAHO
WATER DISTRICT 120
900 N. SKYLINE DR., SUITE A
IDAHO FALLS, ID 83402
(208) 525-7171 FAX (208) 525-7177

IDWR DIRECTOR
DAVE TUTHIL

TREASURER
DALE ROCKWOOD

BOARD OF DIRECTORS

TIM DEEG
CHAIRMAN

SCOTT CLAWSON
REXBURG

CRAIG EVANS
BLACKFOOT

RICHARD MAYER
ABERDEEN

STEPHANIE MICKELSEN
IDAHO FALLS

TERRELL SORENSON
AMERICAN FALLS

GAYLEN VAN ORDEN
PINGREE

RALPH ISOM
IDAHO FALLS

DANE WATKINS
IDAHO FALLS

WALTER GAY
BLACKFOOT

NIC BEHREND
ABERDEEN

January 23, 2008

FGS Farms Inc.
C/O Lauralee McFarland
588 N 2600 E
St. Anthony, ID 83445

Certified Mail

RE: Unauthorized Water use

Dear Mrs. Mc Farland:

Water District No.120 staff has made an investigation of 2007 irrigated lands and water right authorizations within the district using aerial photos and/or satellite imagery. It has come to our attention that approximately 15 acres located in the S 1/2 of Section 35,Township 03 North (T3N), Range 36 East (R36E) have been irrigated without a valid water right. Records on file at the Idaho Department of Water Resources (IDWR) indicate that you are the owner of these lands.

Attached is a 2006 aerial photo and 2007 satellite image showing irrigation in the S 1/2 of Section 35,Township 03 North (T3N), Range 36 East (R36E). Review of IDWR records shows no water rights appurtenant to the 15 acres of irrigation in question. The attached aerial photo and satellite imagery provides evidence of irrigation in 2007.

The water use in question is under the jurisdiction of State Water District No. 120. As Watermaster of this district, I am authorized to curtail unlawful diversions of water. Irrigation without a valid water right is an unlawful diversion pursuant to Idaho Code §42-351. **You are instructed to cease and desist any further irrigation of the approximate 15 acres in the S 1/2 of Section 35,Township 03 North (T3N), Range 36 East (R36E) as described on the maps until a valid water right or transfer can be obtained.**

Please contact our office immediately if you are not the current owner of the lands in question, you believe you have valid water right(s) and or transfer application(s) filed with IDWR for these lands or you feel our records are in error. I ask that you contact our office within fourteen (14) days from the date of this letter to discuss these findings and any remedy of the unauthorized use. You may contact either Gene Hansen or Blake Jordan directly at 208-525-7161 regarding this matter.

Pending your response to this letter, **IDWR will determine whether to issue a Notice of Violation and commence any administrative enforcement action** that may include civil penalties and mitigation requirements for unlawful diversions during 2007.

Regards,

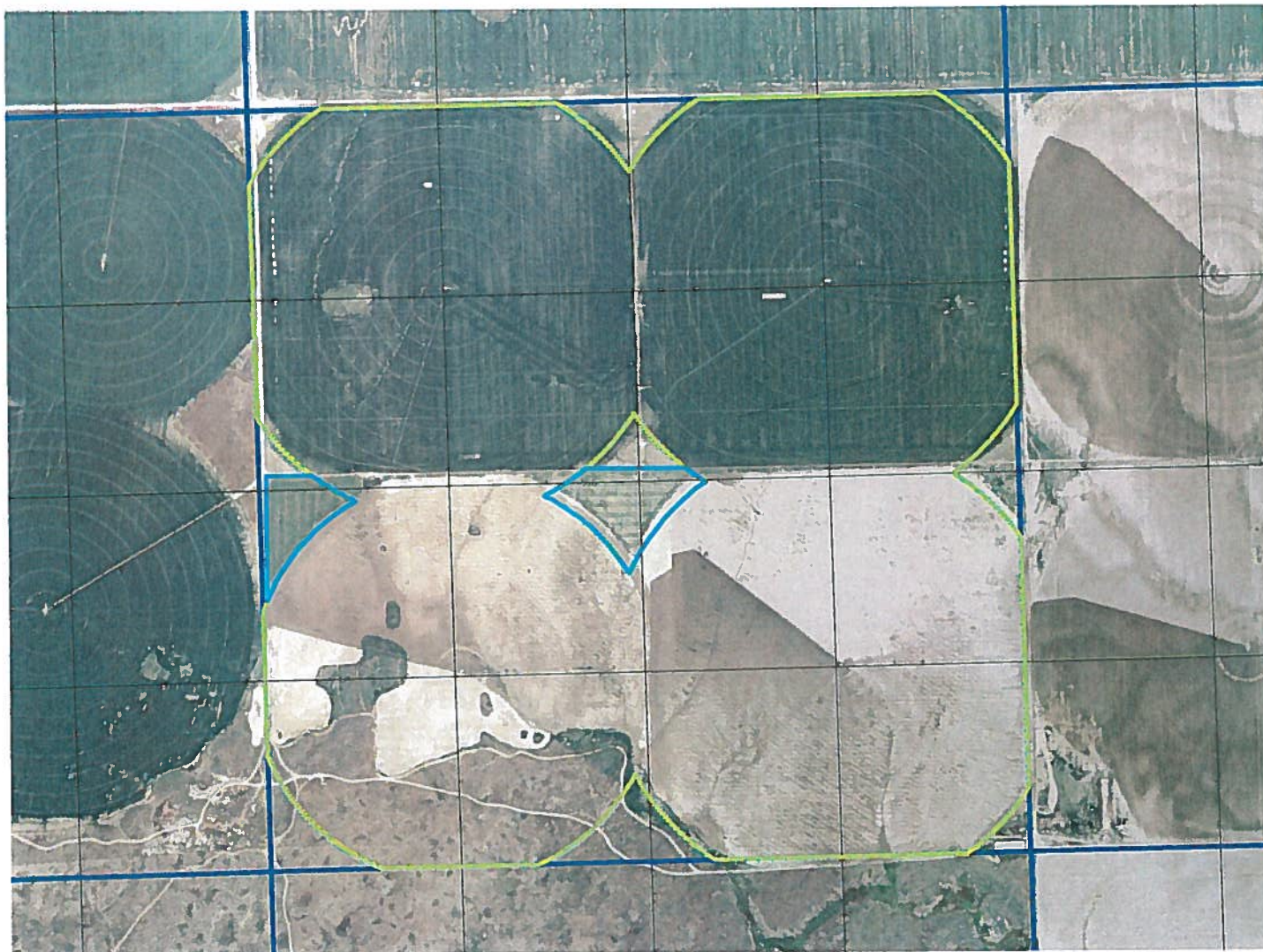
Ernie Carlsen
Water Master Water District 120

Cc: Tim Luke, IDWR
Bonneville-Jefferson Ground Water District

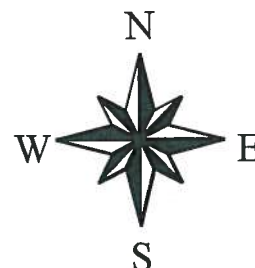
Enclosures: 2006 Aerial Photography, 2007 Satellite Imagery

T3N R36E Section 35 S 1/2

Owner: FGS Farms Inc.



-  **Unauthorized water use**
-  **Water Right 35-2697**
-  **Sections**
-  **Quarte Quarter**



0.3 0 0.3 0.6 Miles

A horizontal scale bar with four segments, corresponding to the distances 0.3, 0, 0.3, and 0.6 miles.

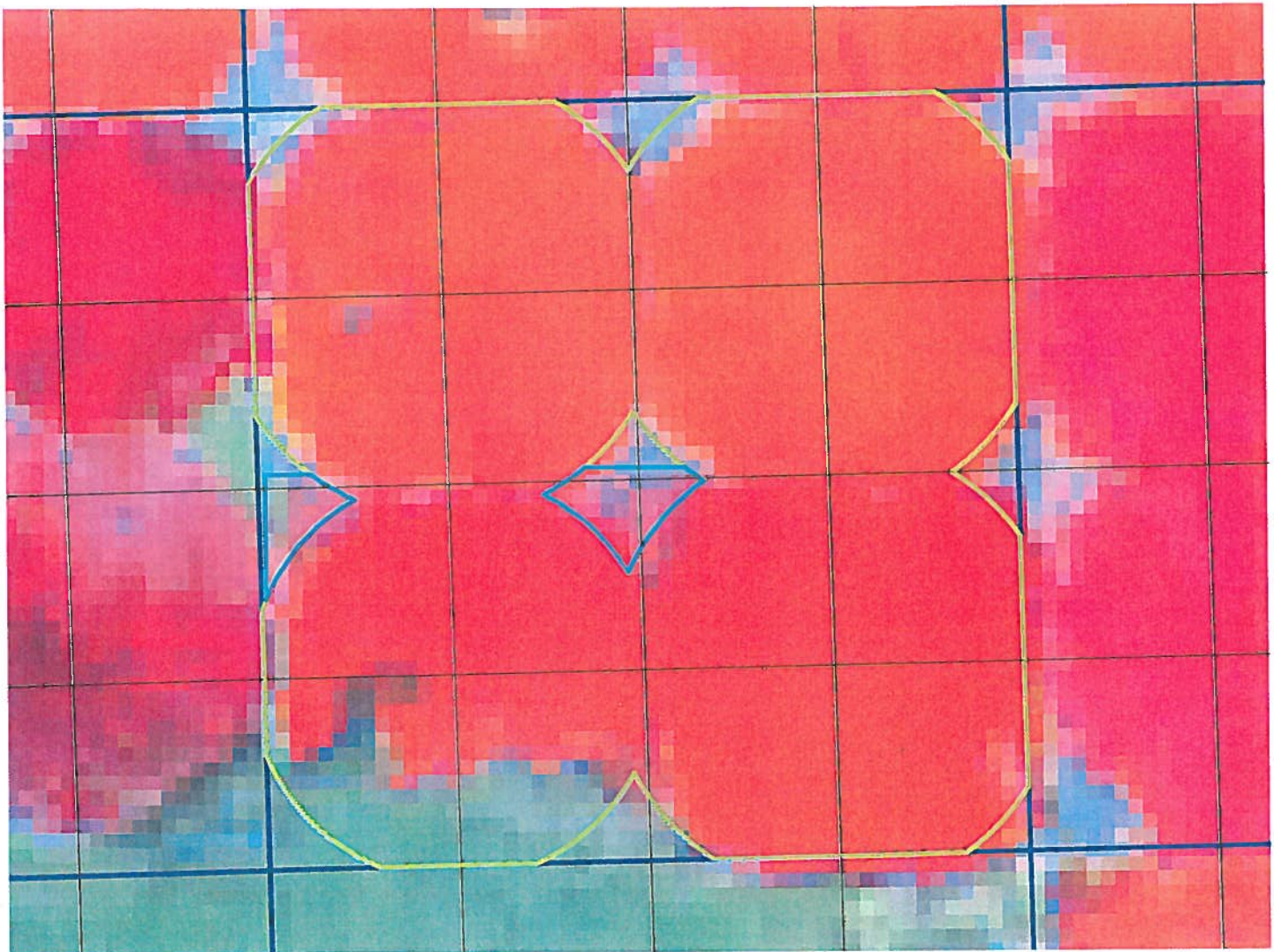
Imagery: NIAP 2006

Map prepared by Blake Jordan
23, January 2008

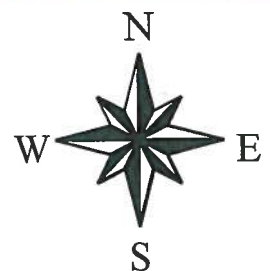
Source: Water District 120
Idaho Department of Water Resource

T3N R36E Section 35 S 1/2

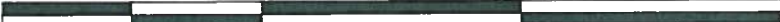
Owner: FGS Farms Inc.



-  Unauthorized water use
-  Water Right 35-2697
-  Sections
-  Quarter Quarter



0.3 0 0.3 0.6 Miles

A horizontal scale bar with alternating black and white segments, corresponding to the 0.3, 0, 0.3, and 0.6 mile markings.

Imagery: Landsat 2007 Mosaic

Map prepared by Blake Jordan
23, January 2008

Source: Water District 120
Idaho Department of Water Resource

SRBA PARTIAL DECREE 35-02697

Issued on 01-31-2002.

This is not an official copy.

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS:	FGS FARMS INC C/O LAURALEE MC FARLAND 588 N 2600 E ST ANTHONY, ID 83445		
SOURCE:	GROUNDWATER		
QUANTITY:	10.42 CFS 2324.00 AFY		
PRIORITY DATE:	01/10/1962		
POINT OF DIVERSION:	T03N R36E S35	NWSWNE	Within Bonneville County
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	10.42 CFS 2324.00 AFY
PLACE OF USE:	Irrigation	Within Bonneville County	
	T03N R36E S35	NENE 40.0	NWNE 40.0
		SWNE 40.0	SENE 40.0
		NENW 40.0	NWNW 40.0
		SWNW 40.0	SENW 40.0
		NESW 40.0	NWSW 38.0
		SWSW 13.0	SESW 15.0
		NESE 39.0	NWSE 40.0
		SWSE 38.0	SESE 38.0
	581.0 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).			

[Return to SRBA Home Page](#)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 71066

This is to certify that: FGS FARMS INC
C/O LAURALEE MC FARLAND
588 N 2600 E
ST ANTHONY ID 83445
(208)624-4347

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>
35-2697	WR/Decreed	01/10/1962	10.42 cfs	2324 af	N/A	581.0	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>
35-2697	NO	NO	YES	NO	NO	NO

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>
-----------------------	----------------------------------	----------------------	------------------------	-------------------	--------------------	------------------------------------	-----------------------	-------------------------	-----------------------------	------------------------------

35-2697	35-2697	10.42 cfs	2324 af	N/A	581.0		N/A	N/A	N/A	N/A
---------	----------------	-----------	---------	-----	-------	--	-----	-----	-----	-----

COMBINED

TOTALS		10.42 cfs	2324 af	N/A	581.0		N/A	N/A	N/A	N/A
---------------	--	-----------	---------	-----	-------	--	-----	-----	-----	-----

Detailed Water Right Description(s) attached

Dated this 15th day of May, 2004



Chief, Water Allocation Bureau

WATER RIGHT NO. 35-2697
As Modified by Transfer No. 71066

In accordance with the approval of Transfer No. 71066, Water Right No. 35-2697 is now described as follows.

Right Holder: FGS FARMS INC
C/O LAURALEE MC FARLAND
588 N 2600 E
ST ANTHONY ID 83445

Priority Date: January 10, 1962

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	10.42 CFS	2,324.0 AF
			10.42 CFS	2,324.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NWSWNE Sec. 35 Twp 03N Rge 36E BONNEVILLE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N	36E	35	38.0	38.0	37.0	38.0	38.0	37.0	38.0	38.0	32.0	32.0	32.0	33.0	37.0	38.0	38.0	37.0	581.0

Total Acres: 581

CONDITIONS OF APPROVAL

1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.
2. Prior to the diversion and use of water under Transfer approval 71066, the right holder shall install and maintain acceptable measuring device, including data logger, at the authorized point of diversion and in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
3. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. 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.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

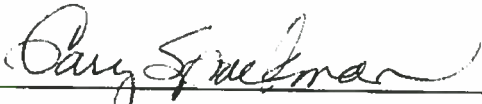
WATER RIGHT NO. 35-2697
As Modified by Transfer No. 71066

CONDITIONS OF APPROVAL

7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
8. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.

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 1st day of May, 2004



Chief, Water Allocation Bureau



IDAHO SECRETARY OF STATE Viewing Business Entity

Ben Ysursa, Secretary of State

[[New Search](#)] [[Back to Summary](#)]
[[Get a certificate of existence for FGS FARMS, INC.](#)]

FGS FARMS, INC.

588 N 2600 E
ST ANTHONY, ID 83445

Type of Business: CORPORATION, GENERAL BUSINESS

Status: GOODSTANDING, ANREPT SENT 02 Apr 2007

State of Origin: IDAHO

Date of 28 Jun 1977

Origination/Authorization:

Current Registered Agent: LAURALEE S MCFARLAND
588 N 2600 E
ST ANTHONY, ID 83445

Organizational ID / Filing Number: C55964

Number of Authorized Stock 1 Shares:

Date of Last Annual Report: 11 Apr 2007

Original Filing:

[[Help Me Print/View TIFF](#)]

Filed 28 Jun 1977 INCORPORATION

Amendments:

[[Help Me Print/View TIFF](#)]

Amendment Filed 04 Jun 1979 OTHER - R/A

Annual Reports:

[[Help Me Print/View TIFF](#)]

Report for year 2007 ANNUAL REPORT	View Image (TIFF format)
Report for year 2006 ANNUAL REPORT	View Image (TIFF format)
Report for year 2005 ANNUAL REPORT	View Image (TIFF format)
Report for year 2004 ANNUAL REPORT	View Image (TIFF format)
Report for year 2003 ANNUAL REPORT	View Image (TIFF format)
Report for year 2002 ANNUAL REPORT	View Image (TIFF format)
Report for year 2001 ANNUAL REPORT	View Image (TIFF format)
Report for year 1999 ANNUAL REPORT	View Image (TIFF format)
Report for year 1998 ANNUAL REPORT	View Image (TIFF format)
Report for year 1997 ANNUAL REPORT	View Image (TIFF format)
Report for year 1996 ANNUAL REPORT	View Image (TIFF format)
Report for year 1996 MISCELLANEOUS	View Image (TIFF format)

Report for year 1995 ANNUAL REPORT	View Image (TIFF format)
Report for year 1994 ANNUAL REPORT	View Image (TIFF format)
Report for year 1993 ANNUAL REPORT	View Image (TIFF format)
Report for year 1992 ANNUAL REPORT	View Image (TIFF format)
Report for year 1991 ANNUAL REPORT	View Image (TIFF format)
Report for year 1990 ANNUAL REPORT	View Image (TIFF format)
Report for year 1989 ANNUAL REPORT	View Image (TIFF format)
Report for year 1988 ANNUAL REPORT	View Image (TIFF format)
Report for year 1987 ANNUAL REPORT	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