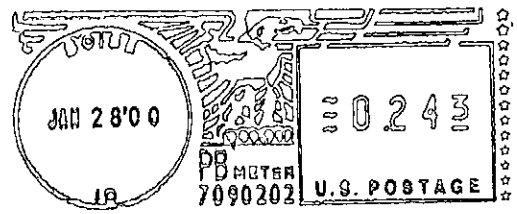
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

PRESORTED
FIRST CLASS



FOSN 290

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Department of Water Resources

ROBERT EARL FOSNOT
PO BOX 290
BELLEVUE ID 83313

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RETURN TO SENDER

AUMS 83720/0098 #5513

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 28, 2000

NOTICE OF MEETING

Dear Interested Party:

Re: Preliminary Order – Richard and Paula Ziker, Trustees of the Ziker Family Trust
Water Right No. 37-00353

On December 29, 1999, the Preliminary Order for the above-referenced matter was mailed. Since that time, several parties to the matter have asked the Department to conduct an informal meeting to discuss the matter.

A meeting has been scheduled for Tuesday, February 8, 2000 at the Blaine County Courthouse, Hailey, Idaho starting at 10:00 a.m. It will be held in the upstairs meeting room.

If you have any questions prior to this meeting, please contact the Department at (208) 327-7900.

Sincerely,

Rita I. Fleck
Administrative Assistant

c: Allen Merritt, Southern Region

Attachment: Names and Addresses of Parties

AVERY® Address labels Laser 5160®

JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

SCOTT CAMPBELL
ELAM & BURKE
PO BOX 1539
BOISE ID 83701

ROBERT AND KATHRYN GARDNER
PO BOX 470
BELLEVUE ID 83313

ROBERT EARL FOSNOT
PO BOX 290
BELLEVUE ID 83313

PAUL R FOSNOT
837 LAUREL AVENUE
POMONA CA 91767

REID KANTENWEIN
PO BOX 1525
HAILEY ID 83333

HARRY L OPPENHEIMER JR
246 SUMMIT DRIVE
CORDE MADERA CA 93925

EDWARD AND JEANNINE STRICKER
10767 STATE HIGHWAY 75
BELLEVUE ID 83313

DOUGLAS DRIEVER
PO BOX 2072
HAILEY ID 83333

J KARL AND JUDITH G BICK
PO BOX 2014
SUN VALLEY ID 83353

JUDITH GRIGSBY
PO BOX 254
BELLEVUE ID 83313

E LEE SCHLENDER
PO BOX 296
HAILEY ID 83333

JIM EAKIN
WOOD RIVER VALLEY
IRRIGATION DIST 45
PO BOX 296
BELLEVUE ID 83313-0296

BRUCE & SHERRY PRICE
PO BOX 1022
BELLEVUE ID 83313

TOM & ANNETTE GOICOECHEA
PO BOX 193
HAILEY ID 83333

LEE PETERSON
WATERMASTER
WATER DIST 37
PO BOX T
SHOSHONE ID 83352

E LEE SCHLENDER
300 2ND AVENUE SOUTH
HAILEY ID 83333-8404

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

Return Service Requested

RECEIVED
FEB - 3 2000
Department of Water Resources

DOUGLAS DRIEVER
PO BOX 2072
HAILEY ID 83333

PRESORTED FIRST CLASS

BOISE JAN 28'00 ID

PB METER 7090202 0.243 U.S. POSTAGE

Not Deliverable As Addressed
Unable To Forward
Insufficient Address
Moved, Left No Address
Unclaimed Refused
Attempted-Not Known
No Such Street Number
Illegible
No Such Number
Unacceptable
Closed-No Order
Returned For Better Address
Postage Due

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 28, 2000

NOTICE OF MEETING

Dear Interested Party:

Re: Preliminary Order – Richard and Paula Ziker, Trustees of the Ziker Family Trust
Water Right No. 37-00353

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A meeting has been scheduled for Tuesday, February 8, 2000 at the Blaine County Courthouse, Hailey, Idaho starting at 10:00 a.m. It will be held in the upstairs meeting room.

If you have any questions prior to this meeting, please contact the Department at (208) 327-7900.

Sincerely,

Rita I. Fleck
Administrative Assistant

c: Allen Merritt, Southern Region

Attachment: Names and Addresses of Parties

AVERY® Address Labels

Laser 5160®

JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

SCOTT CAMPBELL
ELAM & BURKE
PO BOX 1539
BOISE ID 83701

ROBERT AND KATHRYN GARDNER
PO BOX 470
BELLEVUE ID 83313

ROBERT EARL FOSNOT
PO BOX 290
BELLEVUE ID 83313

PAUL R FOSNOT
837 LAUREL AVENUE
POMONA CA 91767

REID KANTENWEIN
PO BOX 1525
HAILEY ID 83333

HARRY L OPPENHEIMER JR
246 SUMMIT DRIVE
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10767 STATE HIGHWAY 75
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JIM EAKIN
WOOD RIVER VALLEY
IRRIGATION DIST 45
PO BOX 296
BELLEVUE ID 83313-0296

BRUCE & SHERRY PRICE
PO BOX 1022
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PO BOX 193
HAILEY ID 83333

LEE PETERSON
WATERMASTER
WATER DIST 37
PO BOX T
SHOSHONE ID 83352

E LEE SCHLENDER
300 2ND AVENUE SOUTH
HAILEY ID 83333-8404

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

Return Service Requested ✓

RECEIVED
FEB - 3 2000
Department of Water Resources

300 - 2ND AVE SO.

E LEE SCHLENDER
PO BOX 266
HAILEY ID 83333

PRESORTED FIRST CLASS

JAN 28'00
PB METER 7090202
0243
U.S. POSTAGE

Not Deliverable As Addressed
Unable To Forward
Insufficient Address
Moved, Left No Address
Returned
Number
No Order
Better Address

Sent to
300 2nd Ave. S.
Hailey ID 83333
2/4/00
Re: 37-00353

MEMORANDUM

TO: **FILE 37-00353**

FROM: **NORM YOUNG** NCY

RE: **MEETING CONCERNING ZIKER ORDER**

DATE: **February 8, 2000**

Phil Rassier and I met with water users claiming the right to use a part of this water right (see attached list). Also in attendance were Lee and Norma Peterson from Water District 37. The factual and legal issues involved in the matter were discussed:

Reviewed the basis for claims by those owning land in the subdivision to which the right was originally appurtenant.

Reviewed the basis for claim by Mr. Gardner through purchase and accomplish transfer.

Noted that more water had already been claimed than there was water (346 inches vs 320 inches.

Noted that the ditch carrying water from the river loses perhaps 50% of the water before it is available for use.

Reviewed IDWR's guidance to the watermaster to prorate the available water if the claimants requested delivery of more water than was available in the right.

Reviewed the process that has been used for those claiming use in the subdivision to obtain delivery.

Discussed the possibility of avoiding the legal fight in the SRBA if the users could reach agreement, possibly through creation of a water company or water users association.

Those present agreed to work toward an agreement

Agreed with Water District 37 and Irrigation District 45 representatives to accept warranty deeds from owners of lots in the subdivision as adequate to cause delivery. Notify all other users of the request. Indicate that water would be prorated until the issue was resolved in the SRBA.

MEETING ON WATER RIGHT
No. 37-00353 DELIVERY

HAILEY, ID COURTHOUSE
FEB. 8, 2000 10:00 AM

NAME	REPRESENTING
NORM YOUNG	IDWR
PHIL RASSIER	IDWR ADM
NORMA PETERSON	DIST 37-37M
LEE R. PETERSON	" "
James P. Speck	Richard + Paula Zitor
JERRY TURCO	
Robert Gardner	
ROB STRUTHERS	DIST 45 CANAL
Bruce Price	
Sherry Price	
ANNETTE GOICOECHEA	
Jim EAKIN	Dist 45 - Retd.
ED STRICKER	DIST 37

Jerry Turco
Lot 10 BLK 1
Dear Subdivision

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-00353 TO RICHARD AND PAULA ZIKER, TRUSTEES	)))))	**PRELIMINARY ORDER**

James Speck, an attorney representing Richard and Paula Ziker, requested delivery of 0.20 cfs (10 miners inches) of water from the Big Wood River under water right No. 37-00353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-00353 was decreed to James Johnson in the case of S. C. Frost, *et al* v. Alturas Water Co., *et al*. The right is for 6.4 cfs to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N, R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-00353 is June 12, 1886.

2. The decreed place of use for right No. 37-00353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-00353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 8A, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Richard and Paula Ziker, as Trustees of the Ziker Family Trust, dated July 20, 1992, claim ownership of Lot 8A, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. On November 19, 1974, M.D. and Katherine J. Dean conveyed by warranty deed approximately 20 acres in the NE1/4NE1/4, Section 24, T1N, Range 18E including what is now Lot 8A, Block 1, of Dean Ranch Subdivision to M. Allyn Dingel and Robert J. Koontz, as tenants in common. The deed includes appurtenances, but does not describe appurtenant water rights.

b. On October 30, 1979, M. Allyn Dingel and Robert J. Koontz, as tenants in common, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision (about 10 acres) to Cecil L. Potter and Marguerite Potter, husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

c. On October 17, 1983, Cecil L. Potter and Marguerite Potter, husband and wife, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to James B. Stockman. The deed is silent concerning appurtenances.

d. On December 18, 1989, James B. Stockman conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivison to William R. Long and Richard Ziker. The deed includes appurtenances, but does not describe appurtenant water rights.

e. On January 19, 1990, Richard Ziker conveyed by quit-claim deed Lot 8A, Block 1, Dean Ranch Subdivision to William R. Long. The deed includes appurtenances, but does not describe appurtenant water rights.

f. On January 29, 1993, Richard Ziker conveyed by quit-claim deed his ownership interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker and Paula Ziker, as trustees of the Ziker Family Trust. The deed is silent concerning appurtenances.

g. On June 2, 1993, William R. Long conveyed by quitclaim deed a one-half (1/2) undivided interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed is silent concerning appurtenances.

h. On June 3, 1994, Richard and Paula Ziker, as trustees of the Ziker Family Trust, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to themselves as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

i. On June 3, 1994, William R. Long conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

j. On January 22, 1999, Paula Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed includes appurtenances, but does not describe appurtenant water rights.

k. On October 14, 1999, Richard Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as trustees for Ziker Family Trust. The deed is silent concerning appurtenances.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-00353 separately from the appurtenant land during the time period of December 15, 1969 (the date land was deeded to M. D. Dean) to November 19, 1974 (the date of the initial sale of Lot 8).

5. Water District 37 records list the following as the current owners of water right No. 37-00353:

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer.

b. Ed Stricker (20 miners inches) based upon an October 29, 1977 letter from M. D. Dean confirming sale of the water to Mr. Stricker.

c. Reid Kantenwein (10 miners inches) based upon IDWR approved transfer No. 3679 filed by Gus Chek. Mr. Chek's ownership was based upon a November 1, 1977 letter confirming sale of 20 inches of water to Mr. Chek. Mr. Chek subsequently sold 10 inches to Douglas Driever. The water is to be used upon 10 acres in the SW1/4SW1/4, Section 18, T1N, R19E. Pursuant to permit No. 37-08660, the 10 inches of water held by Kantenwein under right No. 37-00353 is to be left undiverted from the Big Wood River to mitigate depletions in flow of the river resulting from pumping of ground water under permit No. 37-08660.

d. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department.

e. Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner.

f. Judy Grigsby (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson, a quitclaim deed dated November 3, 1993 from

John Peterson to J. Karl Bick, and warranty and quitclaim deeds dated April 17, 1998 from J. Karl Bick to Judy Grigsby.

g. Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department.

h. Olsen Livestock Consulting (20 miners inches) based upon an amended preliminary order issued by the Department on August 25, 1997.

6. Water District 37 records include documents indicating that Robert Kierstad had an ownership interest in 0.8 cfs (40 miners inches) of right No. 37-00353. Mr. Kierstad has not filed a claim in the Snake River Basin Adjudication (SRBA), has not called for water for many years, and the county records indicate that his ownership interest may no longer exist.

7. The records of Water District 37 do not list Ziker Family Trust as an owner of part of right No. 37-00353. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 8A, Block 1, Dean Ranch Subdivision since 1982 or earlier.

8. The following have claimed portions of right No. 37-00353 in the Snake River Basin Adjudication (SRBA):

a.	A37-00353 J. Karl & Judith G. Bick	20 miners inches
b.	A37-00353B Edward & Jeannine Stricker	20 miners inches
c.	A37-00353D Robert & Kathryn Gardner	180 miners inches
d.	A37-00353E Harry L. Oppenheimer, Jr.	20 miners inches
e.	A37-00353F Ziker Family Trust	10 miners inches
f.	A37-00353G Douglas Driever	10 miners inches
g.	A37-00353H Reid Kantenwein	10 miners inches
h.	A37-00353J Olsen Livestock Consult.	20 miners inches
i.	A37-00353K Sherry Price	18 miners inches
j.	A37-00353L Tom Goicoechea	18 miners inches
k.	A37-11688 Paul R. & Robert E. Fosnot (This claim is based upon water right No. 37-00353.)	20 miners inches

9. The SRBA claims on file total 346 miners inches. The claims exceed the amount of the diversion rate authorized by Right No. 37-00353 by 26 miners inches.

10. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources," IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

CONCLUSIONS OF LAW

1. Water right No. 37-00353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 8A, Block 1 Dean Ranch Subdivision for many years.

2. Lot 8A, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-00353. Unless a change in place of use was made in accordance with a valid transfer procedure, water right No. 37-00353 is prorated uniformly to the place of use; i.e., two miners inches to each acre of the place of use, Crow v. Carlson, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. Russell v. Irish, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to M. Allyn Dingel and Robert J. Koontz does not specifically reserve water rights from the sale, a proportionate share of water right 37-00353 remains appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 8A.

4. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

5. The information available to the department indicates that a proportionate share of water right No. 37-00353 is appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

6. The department is not able with the information presently available to determine which of the persons presently listed in the Water District 37 records as owning a portion of water right No. 37-00353 are not entitled to the full amount attributed to them. This matter is left for further determination by the department or the district court. Because some of the persons listed as owning part of the right are not calling for delivery under the right and have not done so for several years, the watermaster can satisfy Richard and Paula Ziker's call without otherwise changing the delivery to those entitled to use the water. If calls for water by those entitled to receive the water exceed the total amount of the right, delivery to each user will be proportionately reduced until the ownership issue is resolved.

7. A ruling by the Department with respect to a call, including the present Ziker Family Trust call, is an interim determination subject to review and revision by the SRBA Court.

ORDER

It is, therefore, hereby ordered:

1. The watermaster of Water District 37 is instructed to deliver 0.20 cfs of water right 37-00353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Richard and Paula Ziker, as trustee for Ziker Family Trust. Prior to delivery of the water under this order, Richard and Paula Ziker, as trustees for Ziker Family Trust, shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Ziker Family Trust has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-00353 is no longer appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-00353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

Signed at Boise, Idaho this 29TH day of December, 1999.

NORMAN C. YOUNG
Administrator
Water Management Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of December, 1999, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum ID 83340

Scott Campbell
Elam & Burke
P.O. Box 1539
Boise, ID 83701

Robert and Kathryn Gardner
P.O. Box 470
Bellevue, ID 83313

Robert Earl Fosnot
P.O. Box 290
Bellevue, ID 83313

Paul R. Fosnot
837 Laurel Avenue
Pomona, CA 91767

Reid Kantenwein
P.O. Box 1525
Hailey, ID 83333

Harry L. Oppenheimer, Jr.
246 Summit Drive
Corde Madera, CA 93925

Edward and Jeannine Stricker
10767 State Highway 75
Bellevue, ID 83313

Douglas Driever
P.O. Box 2072
Hailey, ID 83333

J. Karl and Judith G. Bick
P.O. Box 2014
Sun Valley, ID 83353

Judith Grigsby
P.O. Box 254
Bellevue, ID 83313

E. Lee Schlender
P.O. Box 296
Hailey, ID 83333

Jim Eakin
Wood River Valley
Irrigation District 45
P.O. Box 296
Bellevue, ID 83313-0296

Bruce & Sherry Price
P.O. Box 1022
Bellevue, ID 83313

Tom & Annette Goicoechea
P.O. Box 193
Hailey, ID 83333

Lee Peterson
Watermaster
Water District 37
P.O. Box T
Shoshone, ID 83352

Deborah Drew-Ellis

Deborah Drew-Ellis
Administrative Asst., Legal Services

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-00353 TO RICHARD AND PAULA ZIKER, TRUSTEES	)	**PRELIMINARY ORDER**

James Speck, an attorney representing Richard and Paula Ziker, requested delivery of 0.20 cfs (10 miners inches) of water from the Big Wood River under water right No. 37-00353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-00353 was decreed to James Johnson in the case of S. C. Frost, *et al* v. Alturas Water Co., *et al*. The right is for 6.4 cfs to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N, R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-00353 is June 12, 1886.

2. The decreed place of use for right No. 37-00353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-00353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 8A, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Richard and Paula Ziker, as Trustees of the Ziker Family Trust, dated July 20, 1992, claim ownership of Lot 8A, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. On November 19, 1974, M.D. and Katherine J. Dean conveyed by warranty deed approximately 20 acres in the NE1/4NE1/4, Section 24, T1N, Range 18E including what is now Lot 8A, Block 1, of Dean Ranch Subdivision to M. Allyn Dingel and Robert J. Koontz, as tenants in common. The deed includes appurtenances, but does not describe appurtenant water rights.

b. On October 30, 1979, M. Allyn Dingel and Robert J. Koontz, as tenants in common, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision (about 10 acres) to Cecil L. Potter and Marguerite Potter, husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

c. On October 17, 1983, Cecil L. Potter and Marguerite Potter, husband and wife, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to James B. Stockman. The deed is silent concerning appurtenances.

d. On December 18, 1989, James B. Stockman conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivison to William R. Long and Richard Ziker. The deed includes appurtenances, but does not describe appurtenant water rights.

e. On January 19, 1990, Richard Ziker conveyed by quit-claim deed Lot 8A, Block 1, Dean Ranch Subdivision to William R. Long. The deed includes appurtenances, but does not describe appurtenant water rights.

f. On January 29, 1993, Richard Ziker conveyed by quit-claim deed his ownership interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker and Paula Ziker, as trustees of the Ziker Family Trust. The deed is silent concerning appurtenances.

g. On June 2, 1993, William R. Long conveyed by quitclaim deed a one-half (1/2) undivided interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed is silent concerning appurtenances.

h. On June 3, 1994, Richard and Paula Ziker, as trustees of the Ziker Family Trust, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to themselves as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

i. On June 3, 1994, William R. Long conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

j. On January 22, 1999, Paula Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed includes appurtenances, but does not describe appurtenant water rights.

k. On October 14, 1999, Richard Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as trustees for Ziker Family Trust. The deed is silent concerning appurtenances.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-00353 separately from the appurtenant land during the time period of December 15, 1969 (the date land was deeded to M. D. Dean) to November 19, 1974 (the date of the initial sale of Lot 8).

5. Water District 37 records list the following as the current owners of water right No. 37-00353:

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer.

b. Ed Stricker (20 miners inches) based upon an October 29, 1977 letter from M. D. Dean confirming sale of the water to Mr. Stricker.

c. Reid Kantenwein (10 miners inches) based upon IDWR approved transfer No. 3679 filed by Gus Chek. Mr. Chek's ownership was based upon a November 1, 1977 letter confirming sale of 20 inches of water to Mr. Chek. Mr. Chek subsequently sold 10 inches to Douglas Driever. The water is to be used upon 10 acres in the SW1/4SW1/4, Section 18, T1N, R19E. Pursuant to permit No. 37-08660, the 10 inches of water held by Kantenwein under right No. 37-00353 is to be left undiverted from the Big Wood River to mitigate depletions in flow of the river resulting from pumping of ground water under permit No. 37-08660.

d. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department.

e. Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner.

f. Judy Grigsby (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson, a quitclaim deed dated November 3, 1993 from

John Peterson to J. Karl Bick, and warranty and quitclaim deeds dated April 17, 1998 from J. Karl Bick to Judy Grigsby.

g. Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department.

h. Olsen Livestock Consulting (20 miners inches) based upon an amended preliminary order issued by the Department on August 25, 1997.

6. Water District 37 records include documents indicating that Robert Kierstad had an ownership interest in 0.8 cfs (40 miners inches) of right No. 37-00353. Mr. Kierstad has not filed a claim in the Snake River Basin Adjudication (SRBA), has not called for water for many years, and the county records indicate that his ownership interest may no longer exist.

7. The records of Water District 37 do not list Ziker Family Trust as an owner of part of right No. 37-00353. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 8A, Block 1, Dean Ranch Subdivision since 1982 or earlier.

8. The following have claimed portions of right No. 37-00353 in the Snake River Basin Adjudication (SRBA):

a.	A37-00353 J. Karl & Judith G. Bick	20 miners inches
b.	A37-00353B Edward & Jeannine Stricker	20 miners inches
c.	A37-00353D Robert & Kathryn Gardner	180 miners inches
d.	A37-00353E Harry L. Oppenheimer, Jr.	20 miners inches
e.	A37-00353F Ziker Family Trust	10 miners inches
f.	A37-00353G Douglas Driever	10 miners inches
g.	A37-00353H Reid Kantenwein	10 miners inches
h.	A37-00353J Olsen Livestock Consult.	20 miners inches
i.	A37-00353K Sherry Price	18 miners inches
j.	A37-00353L Tom Goicoechea	18 miners inches
k.	A37-11688 Paul R. & Robert E. Fosnot (This claim is based upon water right No. 37-00353.)	20 miners inches

9. The SRBA claims on file total 346 miners inches. The claims exceed the amount of the diversion rate authorized by Right No. 37-00353 by 26 miners inches.

10. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources," IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

CONCLUSIONS OF LAW

1. Water right No. 37-00353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 8A, Block 1 Dean Ranch Subdivision for many years.

2. Lot 8A, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-00353. Unless a change in place of use was made in accordance with a valid transfer procedure, water right No. 37-00353 is prorated uniformly to the place of use; i.e., two miners inches to each acre of the place of use, Crow v. Carlson, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. Russell v. Irish, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to M. Allyn Dingel and Robert J. Koontz does not specifically reserve water rights from the sale, a proportionate share of water right 37-00353 remains appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 8A.

4. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

5. The information available to the department indicates that a proportionate share of water right No. 37-00353 is appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

6. The department is not able with the information presently available to determine which of the persons presently listed in the Water District 37 records as owning a portion of water right No. 37-00353 are not entitled to the full amount attributed to them. This matter is left for further determination by the department or the district court. Because some of the persons listed as owning part of the right are not calling for delivery under the right and have not done so for several years, the watermaster can satisfy Richard and Paula Ziker's call without otherwise changing the delivery to those entitled to use the water. If calls for water by those entitled to receive the water exceed the total amount of the right, delivery to each user will be proportionately reduced until the ownership issue is resolved.

7. A ruling by the Department with respect to a call, including the present Ziker Family Trust call, is an interim determination subject to review and revision by the SRBA Court.

ORDER

It is, therefore, hereby ordered:

1. The watermaster of Water District 37 is instructed to deliver 0.20 cfs of water right 37-00353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Richard and Paula Ziker, as trustee for Ziker Family Trust. Prior to delivery of the water under this order, Richard and Paula Ziker, as trustees for Ziker Family Trust, shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Ziker Family Trust has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-00353 is no longer appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-00353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

Signed at Boise, Idaho this 29TH day of December, 1999.

NORMAN C. YOUNG
Administrator
Water Management Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of December, 1999, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum ID 83340

Scott Campbell
Elam & Burke
P.O. Box 1539
Boise, ID 83701

Robert and Kathryn Gardner
P.O. Box 470
Bellevue, ID 83313

Robert Earl Fosnot
P.O. Box 290
Bellevue, ID 83313

Paul R. Fosnot
837 Laurel Avenue
Pomona, CA 91767

Reid Kantenwein
P.O. Box 1525
Hailey, ID 83333

Harry L. Oppenheimer, Jr.
246 Summit Drive
Corde Madera, CA 93925

Edward and Jeannine Stricker
10767 State Highway 75
Bellevue, ID 83313

Douglas Driever
P.O. Box 2072
Hailey, ID 83333

J. Karl and Judith G. Bick
P.O. Box 2014
Sun Valley, ID 83353

Judith Grigsby
P.O. Box 254
Bellevue, ID 83313

E. Lee Schlender
P.O. Box 296
Hailey, ID 83333

Jim Eakin
Wood River Valley
Irrigation District 45
P.O. Box 296
Bellevue, ID 83313-0296

Bruce & Sherry Price
P.O. Box 1022
Bellevue, ID 83313

Tom & Annette Goicoechea
P.O. Box 193
Hailey, ID 83333

Lee Peterson
Watermaster
Water District 37
P.O. Box T
Shoshone, ID 83352

Deborah Drew-Ellis
Administrative Asst., Legal Services

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208)327-7900 FAX: (208)327-7866 www.idwr.state.id.us/idwr/idwrhome.htm

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

January 6, 2000

Douglas Driever
10793 Hwy. 75
Bellevue, ID 83313

Re: Preliminary Order for 37-00353

Dear Mr. Driever:

I apologize for the delay of your receipt of the enclosed Preliminary Order in the above-referenced matter. I mailed a copy of the referenced material on December 30, 1999, to you at P.O. Box 2072, Hailey, Idaho 83333. This mailing was returned to me noting that the post office was unable to deliver or forward. That address was the only address we had on file for you. Therefore, I contacted the Watermaster for Water District No. 37 and received the address 10793 Hwy. 75, Bellevue. I can only assume that we have a correct address for you at this time, but I would like to hear from you to confirm that information. Furthermore, Idaho Code Section 42-1409(l)(6), cites:

> . . . All claimants and purchasers shall provide the director written notice of any change in ownership or of any change in mailing address during the pendency of a general adjudication. . . .

Therefore, for your convenience I am enclosing a Change In Address of Notice of Claim form for you to complete with your current address and mail or deliver it to any of the offices listed on the form in order to updated your record.

Your assistance in this matter will be greatly appreciated. If you have any questions, please contact me.

Sincerely,

Deborah Drew-Ellis

Deborah Drew-Ellis
Administrative Asst. I, Legal Services

Encl.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) the petition for reconsideration is disposed of; or
(b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. **A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of the order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from a preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 29, 1999

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum, ID 83340

Re: Preliminary Order In The Matter of a Call for Delivery of Water Right No. 37-00353

Dear Mr. Speck:

The accompanying order is a **Preliminary Order** issued by the department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at (208) 327-7920.

Sincerely,

Deborah Drew-Ellis

Deborah Drew-Ellis
Administrative Asst., Legal Services

Encl.
cc: Parties listed in the Certificate of Service
Allen Merritt, Southern Region

SNAKE RIVER BASIN ADJUDICATION
CHANGE IN ADDRESS OF NOTICE OF CLAIM

Claim Number(s): _____

Previous Mailing Address: _____

_____

_____

_____

New Mailing Address: _____

_____

_____

_____

Telephone Number: (____) _____

Signature of Claimant(s): _____

_____

Please return this completed form to:

Adjudication Bureau
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706-2237
Ph. 1/800/451-4129 or
FAX 208/327-5400

Adjudication Bureau
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705-5082
Ph. 208/334-2190 or
FAX 208/334-2348

Adjudication Bureau
Idaho Dept. of Water Resources
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3380 or
FAX 208/736-3037

Adjudication Bureau
Idaho Dept. of Water Resources
900 N. Skyline, Ste. A
Idaho Falls, ID 83402-3653 or
FAX 208/525-7177

SS
ADDRESS FM
Revised 12/13/1999

IDWR Use Only:
Data Entry: _____ Date: _____

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 28, 2000

NOTICE OF MEETING

Dear Interested Party:

Re: Preliminary Order – Richard and Paula Ziker, Trustees of the Ziker Family Trust
Water Right No. 37-00353

On December 29, 1999, the Preliminary Order for the above-referenced matter was mailed. Since that time, several parties to the matter have asked the Department to conduct an informal meeting to discuss the matter.

A meeting has been scheduled for Tuesday, February 8, 2000 at the Blaine County Courthouse, Hailey, Idaho starting at 10:00 a.m. It will be held in the upstairs meeting room.

If you have any questions prior to this meeting, please contact the Department at (208) 327-7900.

Sincerely,

Rita I. Fleck
Administrative Assistant

c: Allen Merritt, Southern Region

Attachment: Names and Addresses of Parties

AVERY® Address Labels Laser 5160®

JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

SCOTT CAMPBELL
ELAM & BURKE
PO BOX 1539
BOISE ID 83701

ROBERT AND KATHRYN GARDNER
PO BOX 470
BELLEVUE ID 83313

ROBERT EARL FOSNOT
PO BOX 290
BELLEVUE ID 83313

PAUL R FOSNOT
837 LAUREL AVENUE
POMONA CA 91767

REID KANTENWEIN
PO BOX 1525
HAILEY ID 83333

HARRY L OPPENHEIMER JR
246 SUMMIT DRIVE
CORDE MADERA CA 93925

EDWARD AND JEANNINE STRICKER
10767 STATE HIGHWAY 75
BELLEVUE ID 83313

DOUGLAS DRIEVER
PO BOX 2072
HAILEY ID 83333

J KARL AND JUDITH G BICK
PO BOX 2014
SUN VALLEY ID 83353

JUDITH GRIGSBY
PO BOX 254
BELLEVUE ID 83313

E LEE SCHLENDER
PO BOX 296
HAILEY ID 83333

JIM EAKIN
WOOD RIVER VALLEY
IRRIGATION DIST 45
PO BOX 296
BELLEVUE ID 83313-0296

BRUCE & SHERRY PRICE
PO BOX 1022
BELLEVUE ID 83313

TOM & ANNETTE GOICOECHEA
PO BOX 193
HAILEY ID 83333

LEE PETERSON
WATERMASTER
WATER DIST 37
PO BOX T
SHOSHONE ID 83352

E LEE SCHLENDER
300 2ND AVENUE SOUTH
HAILEY ID 83333-8404

Smooth Feed Sheets™ Use template for 5160®

MEMORANDUM

TO: **RITA FLECK**

FROM: **NORM YOUNG**

RE: **ZIKER ORDER**

DATE: **January 17, 2000**

I have agreed to set up and hold a meeting to discuss the Ziker Order with all those who were mailed copies of the preliminary order. Would you please set up (or have set up) this meeting for sometime in early to mid February. Probably Lee Peterson or Southern Region can suggest a meeting room in the Hailey area. Please clear the date with Jim Speck (208-726-4421) and Lee Peterson (Speed Dial No.52). Evening or afternoon will be fine. It would be best for me if it were not on a day that either of the legislative natural resource committees meet.

MEMORANDUM

TO: **FILE 37-00353 (ZIKER)**

FROM: **NORM YOUNG**

RE: **CONVERSATION WITH ANNETTE GOICOECHEA**

DATE: **January 10, 2000**

Mrs. Goicoechea called this morning indicating that she did not intend to object to the Ziker order. She asked that anything she had filed not be considered an objection, but she still would like to have an informal meeting with all of the involved parties to review the issue.

Desk, Main

To: Accounting; Young, Norm
Subject: City of Healey

Norm, Anita Goicoechea (Private Citizen of Healey) Called 1/7/00 @ 2:45 P.M. re: Prelim Order.
She would like to schedule meeting with you. Other people interested in meeting are:
Bruce & Sherry Price
Ed & Jannie Sgieker
Tom Olsen

Anita will fax further information to you Monday.
Please contact her at work: # 208-788-2013 or Home: #208-788-4892

Jean

January 7, 2000

Mr. Norman C. Young
Idaho Department of Water Resources
1301 North Orchard St.
P.O. Box 83720
Boise, ID 83720-0098

Re: IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-00353 TO RICHARD AND PAULA ZIKER, TRUSTEES

Dear Mr. Young:

We have received the Findings of Fact, Conclusions of Law, and Preliminary Order in regard to the above-referenced matter. In the past, we have found this particular subject matter to be very complex and highly debateable.

We would like to request an informal meeting where all parties served would be invited to attend to further discuss, query and become educated on this matter. Hopefully, a meeting in Hailey or Bellevue can be arranged so it will be convenient for the majority of the parties involved.

Please call me at your earliest convenience to let me know if this is possible. I am writing this request to you also on behalf of the individuals listed below.

Sincerely,

Annette Goicoechea

Tom & Annette Goicoechea
Box 193
Hailey, ID 83333
(208)788-4892 (home)
(208)788-2013 (office)

Edward & Jeannine Stricker
10767 State Highway 75
Bellevue, ID 83313
(208) 788-788-6255

Bruce & Sherry Price
P. O. Box 1022
Bellevue, ID 83313

Tom Olsen
Olsen Livestock Consult.
10749 Hwy 75
Bellevue, ID 83313
(208) 788-4149

WOOD RIVER VALLEY
IRRIGATION DISTRICT #45
BOX 296
BELLEVUE, ID 83313

RECEIVED
JAN 06 2000
Department of Water Resources

4 Jan 2000

Mr. Norm Young
Dept of Water Resources
1301 North Orchard Street
P.O Box 83720
Boise, Idaho - 83720-7866

Hi Norm -

I had a long conversation yesterday with Ed Strecker of the Dean Ranch Subdivision - He has been talking with some of the other homeowners. He asked me to drop a note and see if a joint meeting of shareholders making claims on the questioned water right.

It looks like we may have another entrant in the race on Lot 10 (Tax No 10805) It was recently purchased and the new owner is building a home. The name is Jerry Turkow. He has been advised to check his paperwork and see what fits. He would fall in the same category as Olsen, Gorcoches, Price and Ziker -

Your contact person will be Ed Strecker at 10767 Highway 75, Bellevue Id. 83313 - Telephone 7886255

Lets hope we can get this resolved. What a mess some people make when they don't follow the rules.

Thanks for all your help

Sincerely

Jim Eskin, Director
Wood River Valley Irrg Dist #45
Bellevue Idaho 83313
Box 296

WOOD RIVER VALLEY
IRRIGATION DISTRICT #45
BOX
BELLEVUE, ID 83313

TWIN FALLS ID 833
PM
2000

USA H
First-Class Rate

Mr. Norm Young
Idaho Dept of Water Resource
1301 North Orchard Street
P.O Box 83720
Boise / Idaho 83720-0098

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

Return Service Requested

Jim Sent letter

P. O. Box 296
Bellevue ID
83313-0296

RECEIVED
SEP 17 1999
Department of Water Resources

BOISE ID 837 AM PM 14 SEP 1999

33 USA

RETURNED TO SENDER

- ☐ MOVED. LEFT NO ADDRESS
- ☒ NOT DELIVERABLE AS ADDRESSED
- ☐ UNABLE TO FORWARD
- ☐ ATTEMPTED - NOT KNOWN
- ☐ UNCLAIMED ☐ REFUSED
- ☐ NO SUCH STREET - NUMBER ____
- ☐ DO NOT REMAIL IN THIS ENVELOPE
- ☐ INSUFFICIENT ADDRESS
- ☐ NO MAIL RECEPTACLE
- ☐ BOX CLOSED NO ORDER

JIM EAKIN
WOOD RIVER VALLEY IRR DIST 45
BELLEVUE ID 83313

RECEIVED

JAN 0 4 2000

Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard St.
P.O. Box 83720
Boise, ID 83720-0098
(208) 327-7900

TO

E LEE SCHLENDER
PO BOX 296 - 3910
HAILEY ID 83333

- ☐ Not Deliverable As Addressed
- ☐ Unable To Forward
- ☐ Insufficient Address
- ☐ Moved, Left No Address
- ☐ Unclaimed ☐ Refused
- ☐ Attempted-Not Known
- ☐ No Such Street ☐ Number
- ☐ Vacant ☐ Illegible
- ☐ No Mail Receptacle
- ☐ Box Closed-No Order
- ☐ Returned For Better Address
- ☐ Postage Due

1/4/00

I apologize for the delay - we had the wrong mailing address for you.

Debbie Ellis

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 29, 1999

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum, ID 83340

Re: Preliminary Order In The Matter of a Call for Delivery of Water Right No. 37-00353

Dear Mr. Speck:

The accompanying order is a **Preliminary Order** issued by the department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at (208) 327-7920.

Sincerely,

Deborah Drew-Ellis

Deborah Drew-Ellis
Administrative Asst., Legal Services

Encl.
cc: Parties listed in the Certificate of Service
Allen Merritt, Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-00353 TO RICHARD AND PAULA ZIKER, TRUSTEES	)	**PRELIMINARY ORDER**

James Speck, an attorney representing Richard and Paula Ziker, requested delivery of 0.20 cfs (10 miners inches) of water from the Big Wood River under water right No. 37-00353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-00353 was decreed to James Johnson in the case of S. C. Frost, *et al* v. Alturas Water Co., *et al*. The right is for 6.4 cfs to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N, R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-00353 is June 12, 1886.

2. The decreed place of use for right No. 37-00353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-00353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 8A, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Richard and Paula Ziker, as Trustees of the Ziker Family Trust, dated July 20, 1992, claim ownership of Lot 8A, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. On November 19, 1974, M.D. and Katherine J. Dean conveyed by warranty deed approximately 20 acres in the NE1/4NE1/4, Section 24, T1N, Range 18E including what is now Lot 8A, Block 1, of Dean Ranch Subdivision to M. Allyn Dingel and Robert J. Koontz, as tenants in common. The deed includes appurtenances, but does not describe appurtenant water rights.

b. On October 30, 1979, M. Allyn Dingel and Robert J. Koontz, as tenants in common, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision (about 10 acres) to Cecil L. Potter and Marguerite Potter, husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

c. On October 17, 1983, Cecil L. Potter and Marguerite Potter, husband and wife, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to James B. Stockman. The deed is silent concerning appurtenances.

d. On December 18, 1989, James B. Stockman conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivison to William R. Long and Richard Ziker. The deed includes appurtenances, but does not describe appurtenant water rights.

e. On January 19, 1990, Richard Ziker conveyed by quit-claim deed Lot 8A, Block 1, Dean Ranch Subdivision to William R. Long. The deed includes appurtenances, but does not describe appurtenant water rights.

f. On January 29, 1993, Richard Ziker conveyed by quit-claim deed his ownership interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker and Paula Ziker, as trustees of the Ziker Family Trust. The deed is silent concerning appurtenances.

g. On June 2, 1993, William R. Long conveyed by quitclaim deed a one-half (1/2) undivided interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed is silent concerning appurtenances.

h. On June 3, 1994, Richard and Paula Ziker, as trustees of the Ziker Family Trust, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to themselves as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

i. On June 3, 1994, William R. Long conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

j. On January 22, 1999, Paula Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed includes appurtenances, but does not describe appurtenant water rights.

k. On October 14, 1999, Richard Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as trustees for Ziker Family Trust. The deed is silent concerning appurtenances.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-00353 separately from the appurtenant land during the time period of December 15, 1969 (the date land was deeded to M. D. Dean) to November 19, 1974 (the date of the initial sale of Lot 8).

5. Water District 37 records list the following as the current owners of water right No. 37-00353:

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer.

b. Ed Stricker (20 miners inches) based upon an October 29, 1977 letter from M. D. Dean confirming sale of the water to Mr. Stricker.

c. Reid Kantenwein (10 miners inches) based upon IDWR approved transfer No. 3679 filed by Gus Chek. Mr. Chek's ownership was based upon a November 1, 1977 letter confirming sale of 20 inches of water to Mr. Chek. Mr. Chek subsequently sold 10 inches to Douglas Driever. The water is to be used upon 10 acres in the SW1/4SW1/4, Section 18, T1N, R19E. Pursuant to permit No. 37-08660, the 10 inches of water held by Kantenwein under right No. 37-00353 is to be left undiverted from the Big Wood River to mitigate depletions in flow of the river resulting from pumping of ground water under permit No. 37-08660.

d. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department.

e. Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner.

f. Judy Grigsby (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson, a quitclaim deed dated November 3, 1993 from

John Peterson to J. Karl Bick, and warranty and quitclaim deeds dated April 17, 1998 from J. Karl Bick to Judy Grigsby.

g. Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department.

h. Olsen Livestock Consulting (20 miners inches) based upon an amended preliminary order issued by the Department on August 25, 1997.

6. Water District 37 records include documents indicating that Robert Kierstad had an ownership interest in 0.8 cfs (40 miners inches) of right No. 37-00353. Mr. Kierstad has not filed a claim in the Snake River Basin Adjudication (SRBA), has not called for water for many years, and the county records indicate that his ownership interest may no longer exist.

7. The records of Water District 37 do not list Ziker Family Trust as an owner of part of right No. 37-00353. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 8A, Block 1, Dean Ranch Subdivision since 1982 or earlier.

8. The following have claimed portions of right No. 37-00353 in the Snake River Basin Adjudication (SRBA):

a.	A37-00353 J. Karl & Judith G. Bick	20 miners inches
b.	A37-00353B Edward & Jeannine Stricker	20 miners inches
c.	A37-00353D Robert & Kathryn Gardner	180 miners inches
d.	A37-00353E Harry L. Oppenheimer, Jr.	20 miners inches
e.	A37-00353F Ziker Family Trust	10 miners inches
f.	A37-00353G Douglas Driever	10 miners inches
g.	A37-00353H Reid Kantenwein	10 miners inches
h.	A37-00353J Olsen Livestock Consult.	20 miners inches
i.	A37-00353K Sherry Price	18 miners inches
j.	A37-00353L Tom Goicoechea	18 miners inches
k.	A37-11688 Paul R. & Robert E. Fosnot (This claim is based upon water right No. 37-00353.)	20 miners inches

9. The SRBA claims on file total 346 miners inches. The claims exceed the amount of the diversion rate authorized by Right No. 37-00353 by 26 miners inches.

10. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources," IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

CONCLUSIONS OF LAW

1. Water right No. 37-00353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 8A, Block 1 Dean Ranch Subdivision for many years.

2. Lot 8A, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-00353. Unless a change in place of use was made in accordance with a valid transfer procedure, water right No. 37-00353 is prorated uniformly to the place of use; i.e., two miners inches to each acre of the place of use, Crow v. Carlson, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. Russell v. Irish, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to M. Allyn Dingel and Robert J. Koontz does not specifically reserve water rights from the sale, a proportionate share of water right 37-00353 remains appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 8A.

4. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

5. The information available to the department indicates that a proportionate share of water right No. 37-00353 is appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

6. The department is not able with the information presently available to determine which of the persons presently listed in the Water District 37 records as owning a portion of water right No. 37-00353 are not entitled to the full amount attributed to them. This matter is left for further determination by the department or the district court. Because some of the persons listed as owning part of the right are not calling for delivery under the right and have not done so for several years, the watermaster can satisfy Richard and Paula Ziker's call without otherwise changing the delivery to those entitled to use the water. If calls for water by those entitled to receive the water exceed the total amount of the right, delivery to each user will be proportionately reduced until the ownership issue is resolved.

7. A ruling by the Department with respect to a call, including the present Ziker Family Trust call, is an interim determination subject to review and revision by the SRBA Court.

ORDER

It is, therefore, hereby ordered:

1. The watermaster of Water District 37 is instructed to deliver 0.20 cfs of water right 37-00353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Richard and Paula Ziker, as trustee for Ziker Family Trust. Prior to delivery of the water under this order, Richard and Paula Ziker, as trustees for Ziker Family Trust, shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Ziker Family Trust has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-00353 is no longer appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-00353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

Signed at Boise, Idaho this 29TH day of December, 1999.

NORMAN C. YOUNG
Administrator
Water Management Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of December, 1999, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum ID 83340

Scott Campbell
Elam & Burke
P.O. Box 1539
Boise, ID 83701

Robert and Kathryn Gardner
P.O. Box 470
Bellevue, ID 83313

Robert Earl Fosnot
P.O. Box 290
Bellevue, ID 83313

Paul R. Fosnot
837 Laurel Avenue
Pomona, CA 91767

Reid Kantenwein
P.O. Box 1525
Hailey, ID 83333

Harry L. Oppenheimer, Jr.
246 Summit Drive
Corde Madera, CA 93925

Edward and Jeannine Stricker
10767 State Highway 75
Bellevue, ID 83313

Douglas Driever
P.O. Box 2072
Hailey, ID 83333

J. Karl and Judith G. Bick
P.O. Box 2014
Sun Valley, ID 83353

Judith Grigsby
P.O. Box 254
Bellevue, ID 83313

E. Lee Schlender
P.O. Box 296
Hailey, ID 83333

Jim Eakin
Wood River Valley
Irrigation District 45
P.O. Box 296
Bellevue, ID 83313-0296

Bruce & Sherry Price
P.O. Box 1022
Bellevue, ID 83313

Tom & Annette Goicoechea
P.O. Box 193
Hailey, ID 83333

Lee Peterson
Watermaster
Water District 37
P.O. Box T
Shoshone, ID 83352

Deborah Drew-Ellis
Administrative Asst., Legal Services

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. **A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of the order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from a preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) the petition for reconsideration is disposed of; or
(b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.



RECEIVED
JAN 11 2000
Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard St.
P.O. Box 83720
Boise, ID 83720-0098
(208) 327-7900

TO
E LEE SCHLENDER
SCHL910* 833332015 1998 07 01/10/00
FORWARD TIME EXP RTN TO SEND
SCHLENDER
300 2ND AVE S
HAILEY ID 83333-8404

RETURN TO SENDER

RECEIVED

JAN 10 2000

Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard St.
P.O. Box 83720
Boise, ID 83720-0098
(208) 327-7900

TO

DOUGLAS DRIEVER
10793 HWY 75
BELLEVUE ID 83313

RETURNED TO SENDER
MOVED, LEFT NO ADDRESS
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
ATTEMPTED - NOT KNOWN
UNCLAIMED REFUSED
NO SUCH STREET - NUMBER
DO NOT REMAIL IN THIS ENVELOPE
INSUFFICIENT ADDRESS
NO MAIL RECEPTACLE
BOX CLOSED NO ORDER

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208)327-7900 FAX: (208)327-7866 www.idwr.state.id.us/idwr/idwrhome.htm

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

January 6, 2000

Douglas Driever
10793 Hwy. 75
Bellevue, ID 83313

Envelope returned 1/10/00 - No address correction, no forwarding.

Re: Preliminary Order for 37-00353

Dear Mr. Driever:

I apologize for the delay of your receipt of the enclosed Preliminary Order in the above-referenced matter. I mailed a copy of the referenced material on December 30, 1999, to you at P.O. Box 2072, Hailey, Idaho 83333. This mailing was returned to me noting that the post office was unable to deliver or forward. That address was the only address we had on file for you. Therefore, I contacted the Watermaster for Water District No. 37 and received the address 10793 Hwy. 75, Bellevue. I can only assume that we have a correct address for you at this time, but I would like to hear from you to confirm that information. Furthermore, Idaho Code Section 42-1409(l)(6), cites:

> . . . All claimants and purchasers shall provide the director written notice of any change in ownership or of any change in mailing address during the pendency of a general adjudication. . . .

Therefore, for your convenience I am enclosing a Change In Address of Notice of Claim form for you to complete with your current address and mail or deliver it to any of the offices listed on the form in order to updated your record.

Your assistance in this matter will be greatly appreciated. If you have any questions, please contact me.

Sincerely,

Deborah Drew-Ellis

Deborah Drew-Ellis
Administrative Asst. I, Legal Services

Encl.

SNAKE RIVER BASIN ADJUDICATION
CHANGE IN ADDRESS OF NOTICE OF CLAIM

Claim Number(s): _____

Previous Mailing Address: _____

_____

_____

_____

New Mailing Address: _____

_____

_____

_____

Telephone Number: (____) _____

Signature of Claimant(s): _____

_____

Please return this completed form to:

Adjudication Bureau
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706-2237
Ph. 1/800/451-4129 or
FAX 208/327-5400

Adjudication Bureau
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705-5082
Ph. 208/334-2190 or
FAX 208/334-2348

Adjudication Bureau
Idaho Dept. of Water Resources
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3380 or
FAX 208/736-3037

Adjudication Bureau
Idaho Dept. of Water Resources
900 N. Skyline, Ste. A
Idaho Falls, ID 83402-3653 or
FAX 208/525-7177

SS
ADDRESS FM
Revised 12/13/1999

IDWR Use Only:
Data Entry: _____ Date: _____

RECEIVED
JAN 0 5 2000
Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard St.
P.O. Box 83720
Boise, ID 83720-0098
(208) 327-7900

TO A37-00353G

DOUGLAS DRIEVER
PO BOX 2072
HAILEY ID 83333

10/19 Bellevue Hwy 75
83135

NOT IN BX 2072

Not Deliverable As Addressed
Unable To Forward
☐ Insufficient Address
☐ Moved, Left No Address
☐ Unclaimed ☐ Refused
☐ Attempted-Not Known
☐ No Such Street ☐ Number
☐ Vacant ☐ Illegible
☐ No Mail Receptacle
☐ Box Closed-No Order
☐ Returned For Better Address
☐ Postage Due

RECEIVED

JAN 0 4 2000

Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard St.
P.O. Box 83720
Boise, ID 83720-0098
(208) 327-7900

TO

E LEE SCHLENDER
PO BOX ~~296~~ 3910
HAILEY ID 83333

- Not Deliverable As Addressed
- Unable To Forward
- Insufficient Address
- Moved, Left No Address
- Unclaimed
- Refused
- Attempted-Not Known
- No Such Street
- Number
- Vacant
- Illegible
- No Mail Receptacle
- Box Closed-No Order
- Returned For Better Address
- Postage Due

Return 1/4/00

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 29, 1999

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum, ID 83340

Re: Preliminary Order In The Matter of a Call for Delivery of Water Right No. 37-00353

Dear Mr. Speck:

The accompanying order is a **Preliminary Order** issued by the department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at (208) 327-7920.

Sincerely,

Deborah Drew-Ellis

Deborah Drew-Ellis
Administrative Asst., Legal Services

Encl.
cc: Parties listed in the Certificate of Service
Allen Merritt, Southern Region

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. **A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of the order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from a preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) the petition for reconsideration is disposed of; or
(b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Watell Alle

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 20, 1999

Lee Peterson, Watermaster
Water District 37
P.O. Box P
Shoshone, Idaho 83352

Re: Assessment of Claims to Right No. 37-00353 (Frost Decree – James Johnson)

Dear Lee:

You have requested guidance from the Department of Water Resources on which claimants to parts of Right No. 37-00353 should be included in the Water District 37 "Decree Book." Claims to various parts of the right have been filed in the Snake River Basin Adjudication. The claims, in total, exceed the decreed amount of the right. Some of the new claimants were not previously identified in the Water District records as having an ownership interest in the water right and have not been previously assessed by the Water District. Some of the claimants not previously identified in the Water District's records have called for water delivery based upon their claims. It is my understanding that the right is delivered by the Water District to the head of the District 45 canal along which most of the claimants are located. Because the Water District does not control delivery from the canal, your records do not verify use of water under the rights by the claimants.

Based upon this understanding Water District 37 should include in its Decree Book each of the water users claiming a part of Right No. 37-00353 that have demonstrated a probable ownership. Those having a probable ownership in the right include:

a. Water users listed in the Water District Records as having an ownership interest. These include:

1. Gardner	180 inches
2. Fosnot	20 inches
3. Grigsby (formerly Bick)	20 inches
4. Kantenwein	10 inches
5. Oppenheimer	20 inches
6. Stricker	20 inches
7. Driever	10 inches

It is my understanding that the Water District Records also at one time listed Robert Keirstad as the owner of 40 miners inches. Because Mr. Keirstad has not filed a claim in the SRBA, the county records cast doubt on his continued ownership of any of the right, and he has not called for water for many years, I suggest that Mr. Keirstad not be listed in the Decree Book until these issues are resolved.

b. Claimants not previously listed in the Water District records which have now filed a claim in the SRBA and for which IDWR has entered a preliminary order in response to a petition for distribution by the watermaster. Olsen Livestock Consulting falls into this category.

Other claimants who have not demonstrated a probable ownership to a part of the right, even though they have claims pending in the SRBA, should not be include in the Decree Book until such time as the court confirms their right or IDWR has entered a preliminary order recognizing, at least for the interim period prior to action by the court, that a probable ownership exists by the claimant. The claims filed by Ziker, Price, and Goicoechea are in this category. Ziker has a pending petition calling for distribution of water and has supplied some ownership information. If an order to deliver results from the petition, Ziker should then be included in the Decree Book.

At this time the claimants calling for water that have demonstrated a probable ownership in the right do not exceed the amount of the right. It is easy to see that this will not be the case if all existing claimants call for delivery of water. The preliminary order entered in response to the Olsen Livestock Consulting petition indicates that the amount of water would be prorated among all the claimants if others demonstrate probable ownership to the amounts they are claiming. It is important that all claimants be advised of petitions calling for water under the new claims to allow them to participate in administrative actions. IDWR will provide copies of all preliminary orders to all claimants. Action to resolve the matter in the SRBA is still off in the future because the preliminary Director's Report for Basin 37 is scheduled to be available in December 2002.

Sincerely,

Norman C. Young
Administrator
Water Management Division

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS
P. O. Box 987
Ketchum, ID 83340
1-208-726-4421
Fax: 1-208-726-0752

FAX COVER SHEET/MEMO

To:	Mr. Norman C. Young	**Date:**	December 20, 1999
Fax #:	1-208-327-7866	**Pages:**	3, including this cover sheet.
From:	James P. Speck		
Subject:	Ziker Family Trust - Water Right 37-00353		

COMMENTS:

Norm -

Attached are pages with two minor revisions. Otherwise, the draft looks fine.

Jim

THE INFORMATION CONTAINED IN THIS FAX TRANSMISSION IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE ABOVE-NAMED RECIPIENT AND MAY BE THE SUBJECT OF ATTORNEY/CLIENT PRIVILEGE. IF THE READER OF THIS MESSAGE IS NOT THE ABOVE-NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION, DISSEMINATION, COPYING OR OTHER USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND NO PRIVILEGE IS WAIVED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-00353 TO RICHARD AND PAULA ZIKER, TRUSTEES

PRELIMINARY ORDER

James Speck, an attorney representing Richard and Paula Ziker, requested delivery of 0.20 cfs (10 miners inches) of water from the Big Wood River under water right No. 37-00353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-00353 was decreed to James Johnson in the case of S. C. Frost, et al vs. Alturas Water Co., et al. The right is for 5.4 cfs to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N, R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-00353 is June 12, 1886.

2. The decreed place of use for right No. 37-00353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-00353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 8A, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Richard and Paula Ziker, as Trustees of The Ziker Family Trust, dated 7/30/92, claim ownership of Lot 8A, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. On November 19, 1974, M.D. and Katherine J. Dean conveyed by warranty deed approximately 20 acres in the NE1/4NE1/4, Section 24, T1N, Range 18E including what

appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

6. The department is not able with the information presently available to determine which of the persons presently listed in the Water District 37 records as owning a portion of water right No. 37-00353 are not entitled to the full amount attributed to them. This matter is left for further determination by the department or the district court. Because some of the persons listed as owning part of the right are not calling for delivery under the right and have not done so for several years, the watermaster can satisfy Richard and Paula Ziker's call without otherwise changing the delivery to those entitled to use the water. If calls for water by those entitled to receive the water exceed the total amount of the right, delivery to each user will be proportionately reduced until the ownership issue is resolved.

7. A ruling by the Department with respect to a call, including the present Ziker Family Trust call, is an interim determination subject to review and revision by the SRBA Court.

ORDER

It is, therefore, hereby ordered:

1. The watermaster of Water District 37 is instructed to deliver 0.20 cfs of water right 37-00353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Richard and Paula Ziker, as trustees for Ziker Family Trust. Prior to delivery of the water under this order, Richard and Paula Ziker, as trustees for Ziker Family Trust, shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Ziker Family Trust has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-00353 is no longer appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-00353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS
P. O. Box 987
Ketchum, ID 83340
1-208-726-4421
Fax: 1-208-726-0752

FAX COVER SHEET/MEMO

To:	Mr. Norman C. Young	**Date:**	December 17, 1999
Fax #:	1-208-327-7866	**Pages:**	, including this cover sheet.
From:	James P. Speck		
Subject:	Richard & Paula Ziker		

COMMENTS:

Norm -

Here are copies of the following:

1. Warranty Deed from the Zikers as trustees to themselves as husband and wife, dated June 3, 1994 - if the Trust had any interest at that time, this deed conveys it to the Zikers;

2. Warranty Deed from William Long to the Zikers, dated June 3, 1994 - this conveyed all of Long's interest to the Zikers;

3. Quitclaim Deed from Paula Ziker to Richard Ziker, dated January 22, 1999 - this was part of refinancing whereby Richard Ziker secured a loan against the property as his sole and separate property; and

4. Quitclaim Deed from Richard Ziker to the Zikers as trustees of their family trust, dated October 14, 1999 - after completing the refinancing, the property was transferred back to the Trust which, as the Department's records now correctly show, is the current owner!

Call if you have any questions. Thanks.

THE INFORMATION CONTAINED IN THIS FAX TRANSMISSION IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE ABOVE-NAMED RECIPIENT AND MAY BE THE SUBJECT OF ATTORNEY/CLIENT PRIVILEGE. IF THE READER OF THIS MESSAGE IS NOT THE ABOVE-NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION, DISSEMINATION, COPYING OR OTHER USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND NO PRIVILEGE IS WAIVED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.

367095
6/14/94

Order No. 17508

WARRANTY DEED

For Value Received Richard Zikor and Paula Zikor, as Trustees of the Zikor Family Trust, created by a Declaration of Trust dated July 20, 1992

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
Richard Zikor and Paula Zikor, husband and wife
whose address is 11268 Sunshine Terrace, Studio City, CA 91604

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

Lot 8A of DEAN RANCH SUBDIVISION, LOT 8 AMENDED, 1979, according to the official plat thereof, recorded as Instrument No. 197927, records of Blaine County, Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the 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: June 3, 1994

Richard Zikor, Trustee

Paula Zikor, Trustee

State of California
County of Los Angeles

On June 6, 1994 before me, the undersigned, a Notary Public in and for said State, personally appeared Richard Zikor and Paula Zikor, as Trustees of the Zikor Family Trust, created by a Declaration of Trust dated July 20, 1992 personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same as Trustee.

WITNESS my hand and official seal.

Signature

Commission Expires: 9-22-95

OFFICIAL SEAL
PAM SCOTT
NOTARY PUBLIC-CALIFORNIA
PRINCIPAL OFFICE IN
LOS ANGELES COUNTY
My Commission Expires Sept. 22, 1995

BLAINE CO. REQUEST
FOR FIRST AMERICAN TITLE CO.
'94 JUN 14 P 3:52 367095
MARY GREEN, CLERK ymp Deed
FEES $ 3.00

367096
6/14/94

Order No. 17306

WARRANTY DEED

For Value Received William R. Long, an unmarried man

hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto Richard Ziker and Paula Ziker, husband and wife whose address is: 11268 Sunshine Terrace, Studio City, CA 91604

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

Lot 8A of DEAN RANCH SUBDIVISION, LOT 8 AMENDED, 1979, according to the official plat thereof, recorded as Instrument No. 197927, records of Blaine County, Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the 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: June 3, 1994

WLL June 3, 1994
William R. Long

State of CALIFORNIA

County of LOS ANGELES

On June 13th, 1994 before me, the undersigned, a Notary Public in and for said State, personally appeared William R. Long personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Signature [signature]

Commission Expires: Jan 15, 1998

[notary seal]

BLAINE CO. REQUEST
FIRST AMERICAN TITLE CO.
'94 JUN 14 P 3:52 367096
MARY GREEN, CLERK by P Deed
FEES $3.00

9

#423615
1.29.99

Order No. 99008906
This form furnished by
Blaine County Title Associates

QUITCLAIM DEED

THIS INDENTURE, Made this 22nd day of January

in the year of our Lord one thousand nine hundred and ninety-nine between
PAULA ZIKER, wife of the grantee

as Grantor and

RICHARD ZIKER, a married man as his sole and separate property

as Grantee

whose current address is P.O. BOX 46609, LOS ANGELES, CA 90046

WITNESSETH That said Grantor for and in consideration in lawful money of the United States of America, in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does by these presents remise, release and forever QUITCLAIM, unto the said Grantee and to its heirs and assigns all that certain lot, piece or parcel of land, situate, lying and being in, County of Blaine, State of Idaho, bounded and particularly described as follows, to-wit:

Lot 8A of DEER RANCH SUBDIVISION, LOT 8 AMENDED, 1979, according to the official plat thereof, recorded as Instrument No. 197927, records of Blaine County, Idaho.

423615
BLAINE CO. REQUEST
OF: BLAINE COUNTY TITLE
'99 JUN 29 PM 2 31
MARIAN RICHARD, CLERK
FEES $ 3.00

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the Grantee and to its heirs and assigns forever.

IN WITNESS WHEREOF, The said Grantor has hereunto set its hand and seal the day and year first above written.

Paula Ziker
PAULA ZIKER

State of California
ss.
County of El Dorado

On this 27th day of January, 1999, before me, the undersigned, a Notary Public, in and for said State, personally appeared PAULA ZIKER

_____, 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 she executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.

(SEAL)

IRIS CARA
Commission # 1205457
Notary Public — California
El Dorado County
My Comm. Expires Jan 16, 2003

Notary Public
Residing at:
Commission Expires:

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHERWISE SHOWN BELOW, MAIL TAX STATEMENT TO:

RICHARD ZIKER
c/o LAURA LIZER & ASSOC.
P.O. BOX 46009
LOS ANGELES, CA 90046

Dead
Laura Lizer & Assoc

'99 DEC 22 PM

Marsha Riemann

SPACE ABOVE THIS LINE FOR RECORDER'S USE

QUITCLAIM DEED

DOCUMENTARY TRANSFER TAX $ 0
☐ computed on full value of property conveyed, or
☐ computed on full value less liens and encumbrances remaining at time of sale.

FEES 3

RICHARD ZIKER, A MARRIED MAN AS HIS SOLE AND SEPERATE PROPERTY

the undersigned grantor(s), for a valuable consideration, receipt of which is hereby acknowledged, do hereby remise, release and forever quitclaim to RICHARD ZIKER & PAULA ZIKER, AS TRUSTEES OF THE ZIKER FAMILY TRUST DATED 7/20/92

the following described real property in the City of _____, County of BLAINE, State of ID:

LOT 8A IN BLOCK 1 OF DEAN RANCH SUBDIVISION. LOT 8 AMENDED, 1979, ACCORDING TO THE OFFICIAL PLAT THEREOF, ON FILE IN THE OFFICE OF THE COUNTY RECORDER, RECORDED OCTOBER 22, 1979, AS INSTRUMENT No. 197927, RECORDS OF BLAINE COUNTY, IDAHO.

Assessor's parcel No. _____

Executed on 10-14-99 at Studio City CA. 91604

STATE OF California
COUNTY OF Los Angeles

On 14 Oct 1999 before me, Imre Molnar, Notary Public

personally appeared RICHARD ZIKER

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

IMRE MOLNAR
COMM. # 1168886
NOTARY PUBLIC-CALIFORNIA
LOS ANGELES COUNTY
My Comm. Exp. Jan. 13, 2003

CAPACITY CLAIMED BY SIGNER(S)
☐ INDIVIDUAL(S)
☐ CORPORATE OFFICER(S) _____
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY IN FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING: _____

MAIL TAX STATEMENTS TO: _____

WOLCOTTE FORM 793 QUITCLAIM DEED ©1994 WOLCOTTE Patents, Inc. Rev. 3-94

67775 39790

*MPOD: Y = Multiple Pts of Diversion, Pod Diversion Rate(s) is 0
U = Multiple Pts of Diversion, Pod Diversion Rate(s) Not 0
N = No Multiple Pts of Diversion (1 or less)

WATER RIGHT NUMBER	CURRENT OWNER NAME	PRIORITY DATE	STG	POINT OF DIVERSION	FLG	TOTAL DIVERSION	POD DIVERSION NAME	*MPOD	USE
WATER SOURCE: BIG WOOD RIVER									
A37-00353	BICK, J KARL (Grigsby)	06/12/1886	D	02N 18E 36 NESWNW		0.400 CFS		N	01
A37-00353E	OPPENHEIMER JR, HARRY L	06/12/1886	D	02N 18E 36 NESWNW		0.400 CFS		N	01
A37-00353G	DRIEVER, DOUGLAS	06/12/1886	D	02N 18E 36 SWNW		0.200 CFS		N	01
A37-00353F	ZIKER TRUSTEE, RICHARD	06/12/1886	D	02N 18E 36 NESWNW		0.200 CFS		N	01
A37-00353K	PRICE, SHERRY Lot 7	06/12/1886	D	02N 18E 36 SWNW		0.360 CFS		N	01
A37-00353L	GOICOECHEA, TOM	06/12/1886	D	02N 18E 36 NESWNW		0.360 CFS		N	01
A37-00353D	GARDNER, ROBERT	06/12/1886	D	02N 18E 36 NESWNW		3.600 CFS		N	01
A37-00353J	OLSEN LIVESTOCK CONSULTING	06/12/1886	D	02N 18E 36 NESWNW		0.400 CFS		N	01
A37-00353H	KANTENWEIN, REID	06/12/1886	D	02N 18E 36 SWNW		0.200 CFS		N	01
A37-00353B	STRICKER, EDWARD W	06/12/1886	D	02N 18E 36 NESWNW		0.400 CFS		N	01
Fasnet				TOTAL:		6.520 CFS			

346" = 326" + 20

SD-0631-2 Basin: 37 Starting Water Right: 00353

S E L	Water Right No.	Name Last, First	OWN	Priority Date	STG/ STS	Source	Use Desc	SYS
	A37-00353K	PRICE, SHERRY	C	06/12/1886	D/	BIG WOOD RIVER	IRR	AJ
		PRICE, BRUCE	C					
	A37-00353	BICK, J KARL	C	06/12/1886	D/	BIG WOOD RIVER	IRR	AJ
		BICK, JUDITH G	C				STOCK	
	A37-00353A	SPLIT RIGHT	C	06/12/1886	/Z	BIG WOOD RIVER SPLIT RIGHT	IRR	AJ
	A37-00353B	STRICKER, EDWARD W	C	06/12/1886	D/	BIG WOOD RIVER	IRR	AJ
		STRICKER, JEANNINE	C				STOCK	
	A37-00353C	SPLIT RIGHT	C	06/12/1886	/Z	BIG WOOD RIVER SPLIT RIGHT	IRR	AJ
	A37-00353D	GARDNER, ROBERT	C	06/12/1886	D/	BIG WOOD RIVER	IRR	AJ
		GARDNER, KATHRYN	C					
	A37-00353E	OPPENHEIMER JR, HARR	C	06/12/1886	D/	BIG WOOD RIVER	IRR	AJ
	A37-00353F	ZIKER TRUSTEE, RICHA	C	06/12/1886	D/	BIG WOOD RIVER	IRR	AJ
		ZIKER TRUSTEE, PAULA	C					
	A37-00353G	DRIEVER, DOUGLAS	C	06/12/1886	D/	BIG WOOD RIVER	IRR	AJ

* Decreed copied to Water Right Database (G6=Print Profile Rpt) (G8=Cancel)
(Enter=Continue) (G1=Print Screen Query) (G7=This Query) (Menu _____)

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS
P. O. Box 987
Ketchum, ID 83340
1-208-726-4421
Fax: 1-208-726-0752

FAX COVER SHEET/MEMO

To:	Mr. Norman C. Young Richard & Paula Ziker	**Date:**	December 15, 1999
Fax #:	1-208-327-7866 1-818-769-2965	**Pages:**	2, including this cover sheet.
From:	James P. Speck		
Subject:	Richard & Paula Ziker, Trustees - Water Right No. 37-00353		

COMMENTS:

THE INFORMATION CONTAINED IN THIS FAX TRANSMISSION IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE ABOVE-NAMED RECIPIENT AND MAY BE THE SUBJECT OF ATTORNEY/CLIENT PRIVILEGE. IF THE READER OF THIS MESSAGE IS NOT THE ABOVE-NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION, DISSEMINATION, COPYING OR OTHER USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND NO PRIVILEGE IS WAIVED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

JAMES P. SPECK
DOUGLAS J. AANESTAD
BENJAMIN W. WORST

120 EAST AVENUE
P. O. BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208)726-4421
FACSIMILE
(208)726-0752

December 15, 1999

VIA FACSIMILE - 1-208-327-7866
ORIGINAL WILL NOT FOLLOW

Mr. Norman C. Young
IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720-9000

Re: Richard & Paula Ziker, Trustees - Water Right No. 37-00353

Dear Norm:

What is the status of the preliminary order you said, at the September 21, 1999 meeting in Shoshone, would be issued shortly thereafter? Please advise as soon as possible.

HAPPY HOLIDAYS!!

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

James P. Speck

JPS/j

cc: clients

RECEIVED
AUG 0 4 1999
Department of Water Resources

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

JAMES P. SPECK
DOUGLAS J. AANESTAD
BENJAMIN W. WORST

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

August 2, 1999

Mr. Norman C. Young
IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise ID 83720-9000

RE: Richard and Paula Ziker, Trustees of The Ziker Family Trust
Portion of Water Right No. 37-00353

Dear Norm:

I represent Richard and Paula Ziker, Trustees of The Ziker Family Trust (the "Trust"). The Trust is the current owner of Lot 8A of Dean Ranch Subdivision in Blaine county, Idaho. Lot 8A is approximately 10 acres in size and located in the SE 1/4 NE 1/4 of Section 24, Township 1N, Range 18E, B.M., Blaine County, Idaho, a portion of the original decreed place of use for Water Right No. 37-00353.

On July 2, 1999, I made a formal request for delivery of 0.2 cfs of this water right to Lee Peterson, the Watermaster for Water District 37 and 37M. A copy of my letter to Mr. Peterson and the referenced enclosures are included with this letter. Mr. Peterson has informed me that he cannot honor this delivery call unless and until ordered to do so by the Department. Therefore, I am writing you to request such an order.

I ask you to consider the following facts which are remarkably similar to certain of the findings of fact in the Department's Amended Preliminary Order in *In the Matter of a Call for Delivery of Water Right 37-0353 to Olson Livestock Consultants, Inc.* (the "Order"):

1. M.D. and Katherine Dean deeded the property which became Lot 8A to M. Allyn Dingle, Jr. and Robert J. Koontz by warranty deed in 1973 without any specific reference to water rights. None of the subsequent deeds in the chain of title to my clients for Lot 8A specifically describes any water right. There has been no reservation or transfer of record of any water rights originally decreed and appurtenant to Lot 8A in this chain of title.

2. There are no records in Blaine County of deeds transferring title of all or any portion of Water Right No. 37-00353 separately from the appurtenant land during the period from December

15, 1969, when the Deans acquired the property which became the Dean Ranch Subdivision, to November 1973, when they conveyed Lot 8A to Dingle and Koontz

3. The "Decree Book" maintained by the Water District 37 Watermaster lists current owners for 290 inches of the 320 inches of this water right. My clients are not listed as a current owner. The Watermaster records further indicate that assessments have not been paid for delivery of water for use on Lot 8A since 1982 or earlier.

Under the analysis of the Order, my clients are entitled to delivery of 0.2 cfs of this water right to the Wood River Valley Irrigation District No. 45 Headgate for use by my clients on Lot 8A. By this letter I am requesting the Department to require the Watermaster to do exactly that.

Please call me right away to discuss how the Department will proceed with this request. Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____
James P. Speck

JPS:rsd
enclosure
cc: Clients, w/out enc.
Lee Peterson, w/out encl.
Jim Eakin, w/out encl.

RECEIVED
AUG 0 4 1999
Department of Water Resources

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

JAMES P. SPECK
DOUGLAS J. AANESTAD
BENJAMIN W. WORST

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

July 2, 1999

VIA FACSIMILE - 208-886-2451
ORIGINAL WILL FOLLOW BY MAIL
Lee Peterson
Water District 37 & 37M
P. O. Box T
Shoshone ID 83352

RE: Richard and Paula Ziker, Trustees

Dear Lee:

I represent Richard and Paula Ziker, trustees of the Ziker Family Trust and the owners of Lot 8A of the Dean Ranch Subdivision in Blaine County, Idaho. I am enclosing for your records, copies of the following deeds in the chain of title from M. D. Dean and Katherine J. Dean to my clients for this property:

1. Warranty Deed from M.D. Dean and Katherine J. Dean to M. Allyn Dingel, Jr. and Robert J. Koontz;

2. Warranty Deed from M. Allyn Dingel, Jr. and Robert J. Koontz to Cecil L. Potter and Marguerite Potter;

3. Quitclaim Deed from Sara Jean Koontz to Cecil L. Potter and Marguerite Potter;

4. Quitclaim Deed from Francine Dingel to Cecil L. Potter and Marguerite Potter;

5. Warranty Deed from Cecil L. Potter and Marguerite Potter to James B. Stockman;

6. Quitclaim Deed from Gayle Stockman to James B. Stockman;

7. Warranty Deed from James B. Stockman to William R. Long and Richard Ziker;

8. Quitclaim Deed from Richard Ziker to William R. Long;

9. Individual Quitclaim Deed from Richard J. Ziker to Richard Ziker and Paula Ziker, Trustees of the Ziker Family Trust; and

10. Individual Quitclaim Deed from William R. Long to Richard Ziker.

I am also enclosing a copy of the SRBA Claim A37-00353F originally filed by Mr. William R. Long and now transferred to my clients for 0.2 cfs of this water right.

As you know, Water Right No. 37-00353 was originally decreed to James Johnson for the lands which were then subdivided in the early 1970's into Dean Ranch Subdivision. You will see there is no reservation or separate transfer of the water right off of Lot 8A at any time since the original deed from the Deans in 1973. Therefore, under the precedent established by the Idaho Department of Water Resources in the delivery call made by Olsen Livestock Consultants, Inc. my clients are entitled to the portion of this water right which they have claimed in the SRBA.

This letter shall constitute a call for delivery of 0.2 cfs of this water right into the District 45 Canal for delivery to my clients at Lot 8A of the Dean Ranch Subdivision. Please advise me immediately the amount of any Water District 37 assessments which may be due and owing for this water right and which we understand must be brought current before this delivery call is honored. By a copy of this letter, I am advising Mr. James I. Eakin, director of the Wood River Valley Irrigation District No. 45, of this request.

I will be out of the office until July 12, 1999. Please leave a message with my voice mail or my secretary if you need to reach me prior to my return to the office. Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____
James P. Speck

JPS:rsd
enclosures
cc: James I. Eakin, w/encl.
Clients, w/encl.
Norman Young, IDWR, w/encl.

...No. 13-05

WARRANTY DEED

...Now Received Gus Chek and Marie Chek, husband and wife

...hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
Douglas J. Powers, a married man, as his sole and separate property
...whose address is P. O. Box 151, Renfrew, PA. 16053

...hereinafter called the Grantee, the following described premises situated in Blaine County, Idaho, to-wit:

Lot 11 in Block 1 of DEAN RANCH SUBDIVISION, according to the official plat ...recorded as Instrument No. 109693, records of Blaine County, Idaho.

Together with sixteen inches (16") of 1883 water.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs ...and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee ...of said premises; that said premises are free from all encumbrances except current years taxes, levies and assessments, and ...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.

...13, 1990

Gus Chek

Marie Chek

...before me, the undersigned, a Notary Public in and for said State, personally appeared ... personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose ...to the within instrument and acknowledged to me that he/she/they executed the same.

...Notarial seal.

...Notary Public

...93

BLAINE CO. REQUEST
FIRST AMERICAN TITLE CO
...Idaho
'90 JUN 13 PM 3 57
MARY GREY CLERK
FEES $ 7.00

...2211 82

Douglas J. Powers
P.O. Box 459
...Idaho ID 83313

Order No. 545

WARRANTY DEED

For Value Received

M. D. DEAN and KATHERINE J. DEAN, husband and wife,

the grantor s, do hereby grant, bargain, sell and convey unto

M. ALLYN DINGEL, JR. and ROBERT J. KOONTZ, as tenants in common,

the grantee s the following described premises, in Blaine County Idaho, to-wit:

A parcel of land in the NE-1/4 NE-1/4, Section 24, T. 1 N., R. 18 E., B.M., Blaine County, Idaho, more particularly described as follows:

Commencing at an iron pin marking the Northeast corner of said Section 24;

Thence South 0°31'00" East 28.25 feet along the East Boundary of said Section 24, to an iron pin marking the REAL POINT OF BEGINNING;

Thence South 0°31'00" East 662.60 feet along the East Boundary of said Section 24 to an iron pin;

Thence South 89°29'00" West 1,313.25 feet to a point on the East Boundary of U.S. Highway No. 93;

Thence North 0°31'00" West 638.51 feet along the East Boundary of said highway to an iron pin;

Thence North 1°02'01" West 19.05 feet along the East Boundary of said highway to an iron pin;

Thence North 89°15'49" East 1,313.44 feet to the point of beginning.

Grantee's current Address is:

P. O. Box 1559

Boise, Idaho 83701

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s, heirs and assigns forever. And the said Grantor s do hereby covenant to and with the said Grantee s that they the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated:

STATE OF Idaho, COUNTY OF

On this 19TH day of November, 73, before me, a notary public in and for said State, personally appeared

M.D. Dean and Katherine J. Dean, husband and wife

known to me to be the person s whose name s subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public

Residing at Delaware City, Delaware

Commission Expires 8/5/75

STATE OF IDAHO, COUNTY OF

I hereby certify that this instrument was filed for record at the request of

at minutes past o'clock m., this day of in my office, and duly recorded in Book of Deeds at page

Ex-Officio Recorder

By Deputy

Fee: $

Mail to:

INSTRUMENT No.

198866
11/19/79

WARRANTY DEED

For Value Received M. ALLYN DINGEL, JR. and ROBERT J. KOONTZ,

as tenants in common

the grantor s, do hereby grant, bargain, sell and convey unto CECIL L. POTTER and MARGUERITE POTTER, husband and wife,

the grantee s, whose current address is

the following described premises, in Blaine County Idaho, to-wit:

Lot 8A in Block 1 of DEAN RANCH SUBDIVISION, Lot 8 AMENDED, according to the official plat thereof, on file in the office of the County Recorder, recorded October 22, 1979, as Instrument No. 197927, records of Blaine County, Idaho.

SUBJECT TO:

Taxes, easements, restrictions, covenants, encumbrances and assessments as shown of record.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s, their heirs and assigns forever. And the said Grantor s do hereby covenant to and with the said Grantee s that t hey are the owner s in fee simple of said premises; that they are free from all incumbrances

and that t hey will warrant and defend the same from all lawful claims whatsoever.

Dated: October 30, 1979.

M. Allyn Dingel, Jr.

Robert J. Koontz

STATE OF IDAHO, COUNTY OF Ada

On this 12th day of November, in the year of 79, before me, a notary public in and for the said State, personally appeared M. ALLYN DINGEL, JR. and ROBERT J. KOONTZ

known to me to be the person s whose name s are subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public

Residing at , Idaho

Comm. Expires

STATE OF IDAHO, COUNTY OF Blaine

I hereby certify that this instrument was filed for record at the request of

at minutes past 4:00 o'clock P. M. this 19th day of Nov. in the year 79, in my office, and duly recorded in Book of Deeds at Page

MARIE NE ULYA

Ex-Officio Recorder

By Hazel Barker Deputy.

Fees $5.00

Mail to:

INSTRUMENT No. 198866

19886
11/19/79

QUITCLAIM DEED

For Value Received

SARA JEAN KOONTZ

she hereby convey, release, remise and forever quitclaim unto CECIL L. POTTER and MARGUERITE POTTER, husband and wife,

whose current address is

the following described premises, to-wit:

Lot 8A in Block 1 of DEAN RANCH SUBDIVISION, Lot 8 AMENDED, according to the official plat thereof, on file in the office of the County Recorder, recorded October 22, 1979, as Instrument No. 197927, records of Blaine County, Idaho.

together with their appurtenances.

Dated:

Sara Jean Koontz

SARA JEAN KOONTZ

STATE OF IDAHO, COUNTY OF ADA

On this 13th day of November, 1979, before me, a notary public in and for the said State, personally appeared

SARA JEAN KOONTZ

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Notary Public

STATE OF IDAHO, COUNTY OF Blaine

I hereby certify that this instrument was filed for record at the request of Title America

at 5 minutes past 4:00 o'clock P.M. this 19 day of Nov 1979, in my office, and duly recorded in Book of Deeds at Page

MARIE ME LEYA

Ex-Officio Recorder

By Angie Barber Deputy

Fee $3.00

INSTRUMENT No. 198867

SAFECO

198868
11/19/79

QUITCLAIM DEED

For Value Received

FRANCINE DINGEL

do hereby convey, release, remise and forever quitclaim unto CECIL L. POTTER and MARGUERITE POTTER, husband and wife,

whose current address is

the following described premises, to-wit:

Lot 8A in Block 1 of DEAN RANCH SUBDIVISION, Lot 8 AMENDED according to the official plat thereof, on file in the office of the County Recorder, recorded October 22, 1979, as Instrument No. 197927, records of Blaine County, Idaho.

together with their appurtenances.

Dated:

Francine Dingel
FRANCINE DINGEL

STATE OF IDAHO, COUNTY OF [illegible]
On this 13th day of November, in 79, before me, a notary public in and for the said State, personally appeared Francine Dingel

known to me to be the person who executed the within instrument, and acknowledged to me that she executed the same.

Notary Public
, Idaho

STATE OF IDAHO, COUNTY OF Blaine
I hereby certify that this instrument was filed for record at the request of

at 10 minutes past 9:00 o'clock A M. this 19 day of Nov. 1979, in my office and duly recorded in Book of Deeds at Page

MARIE IVIE ULYA
Ex-Officio Recorder

By Hazel Baker Deputy.

Fee $ 5.00
Mail to:

INSTRUMENT No. 198868

SAFECO

300 NORTH SIXTH STREET
P.O. BOX 2520
BOISE, IDAHO 83701
(208) 345-3967

244621
10/17/83

(Optional)

Recorded	☐	Platted	☐	Key Punched	☐	To Treasurer	☐
Microfilmed	☐	Deed Card	☐	Master File	☐		
Indexed	☐	Compared	☐	Abstracted	☐		

WARRANTY DEED

CECIL L. and MARGUERITE POTTER, husband and wife, GRANTOR(S)
of Bellevue County of Blaine State of Idaho
hereby CONVEYS, GRANTS and WARRANTS TO JAMES B. STOCKTON, a single man, GRANTEE(S)
whose address is: P.O. Box 179, Ketchum, ID 83340
of Ketchum County of Blaine State of Idaho
for the sum of Dollars ($)
for valuable consideration,
the following described tract(s) of land in County, State of Idaho:

Lot 8A in Block 1 of SUN RANCH SUBDIVISION, Lot 8 AMENDED, according to the official plat thereof, on file in the office of the County Recorder, recorded October 22, 1979, as Instrument No. 197927, records of Blaine County, Idaho.

SUBJECT TO:

Taxes, easements, restrictions, covenants, encumbrances and assessments as shown of record.

RECORDED AT REQUEST OF
'83 OCT 17 PM 3 24
ELAINE CO.
RECORDER
DEPUTY
FEES 9.00

244621

Location of above described property _____
House No. Street

WITNESS the hand of said Grantors this _____ day of October A.D. 19 83

Cecil L. Potter
Cecil L. Potter

Marguerite Potter
Marguerite Potter

State of Idaho
County of Blaine } ss. On the 17th day of October A.D. 19 83

personally appeared before me Cecil L. Potter and Marguerite Potter
husband and wife

the signer(s) of the within instrument, who duly acknowledged to me that he/she/they executed the same.

Alice M. Rooney
Notary Public

Residing at Hailey, Idaho My Commission expires 7/11/86

MAIL DEED TO:	MAIL TAX NOTICE TO:
	Name
	Address
	City & State Zip

314351
12/14/89

BCT #19892672

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHERWISE SHOWN BELOW, MAIL TAX STATEMENTS TO

Title Order No. _____ Escrow No. _____

BLAINE CO. REQUEST
BLAINE COUNTY TITLE
DEC 26 PM 12 08
MARY ELLEN CLERK
FEES $ 3.00

314351

SPACE ABOVE THIS LINE FOR RECORDER'S USE

QUITCLAIM DEED

DOCUMENTARY TRANSFER TAX $ N/A
☐ computed on full value of property conveyed, or
☐ computed on full value less value of liens and encumbrances remaining at time of sale.

Signature of Declarant or Agent determining tax — Firm Name

GAYLE STOCKMAN

the undersigned grantor(s), for a valuable consideration, receipt of which is hereby acknowledged, do ___ hereby remise, release and forever quitclaim to (BRAD STOCKMAN); JAMES B STOCKMAN

the following described real property in the City of BELLEVUE
County of BLAINE State of ~~Washington~~ IDAHO. (sic)

LOT 8A, BLOCK 1, DEAN RANCH SUBDIVISION,
LOT 8 AMENDED, 1979

Assessor's parcel No. _____

Executed on NOV 25 19 89 at IRVINE, CALIF 92720

x Gayle Stockman

STATE OF CALIFORNIA
COUNTY OF Orange } ss

On this 25 day of November in the year 1989 before me, the undersigned, a Notary Public in and for said State, personally appeared GAYLE STOCKMAN

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that She executed it.

WITNESS my hand and official seal

Johnna L. Searls
Notary Public in and for said State

OFFICIAL SEAL
JOHNNA L SEARLS
NOTARY PUBLIC - CALIFORNIA
ORANGE COUNTY
My comm. expires MAR 18, 1991

(This area for official notarial seal)

MAIL TAX STATEMENTS TO _____
NAME ADDRESS ZIP

314353
12/26/89

BCT #19892572

This form furnished by
Blaine County Title, Inc.

WARRANTY DEED

For Value Received JAMES B. STOCKMAN, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY,

the Grantor hereby grants, bargains, sells, conveys and warrants unto WILLIAM R. LONG, AN UNMARRIED MAN AND RICHARD ZIKER, AN UNMARRIED MAN,

the Grantee whose current address is: 11710 MAYFIELD AVENUE, LOS ANGELES, CA 90049
the following described premises, to-wit:

Lot 8A in Block 1 of DEAN RANCH SUBDIVISION, Lot 8 AMENDED, 1979, according to the official plat thereof, on file in the office of the County Recorder, recorded October 22, 1979, as Instrument No. 197927, records of Blaine County, Idaho.

314353

BLAINE CO. REQUEST
OF BLAINE COUNTY TITLE
89 DEC 26 PM 12:11
KATHLEEN PEARS
RECS $ 5.00

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

Dated: December 18, 1989

James B. Stockman by Judy Feltman his attorney-in-fact

JAMES B. STOCKMAN BY JUDY FELTMAN HIS ATTORNEY-IN-FACT

STATE OF IDAHO, COUNTY OF
On this day of , 19 ,
before me, a Notary Public in and for said State, personally appeared

identified to me on the basis of satisfactory evidence or known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that executed the same.

Notary Public
Residing at
Comm. Expires

STATE OF IDAHO, COUNTY OF
I HEREBY CERTIFY That this instrument was filed for record at the request of

at minutes past o'clock M
this day of
19 , in my office and duly recorded in Book
of Mortgages at page

Ex-Officio Recorder

By Deputy

Fees. $
Mail to:

338998
3/13/97

This form furnished by
Blaine County Title, Inc.

BCT #19892572

QUITCLAIM DEED

THIS INDENTURE, Made this 19th day of JANUARY

in the year of our Lord one thousand nine hundred and NINETY between

RICHARD ZIKER, an unmarried man as Grantor and

WILLIAM R. LOBE, an unmarried man as Grantee

whose current address is 11710 MAYFIELD AVENUE, LOS ANGELES, CA 90049

WITNESSETH That said Grantor for and in consideration in lawful money of the United States of America, in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does by these premises remise, release and forever QUITCLAIM, unto the said Grantee and to its heirs and assigns all that certain lot, piece or parcel of land, situate, lying and being in, County of Blaine, State of Idaho, bounded and particularly described as follows, to-wit:

Lot 8A in Block 1 of OEAN RANCH SUBDIVISION, Lot 8 AMENDED, 1979, according to the official plat thereof, on file in the office of the County Recorder, recorded October 22, 1979, as Instrument No. 197927, records of Blaine County, Idaho.

BLAINE COUNTY TITLE

338998

3:00 MP Deed

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the Grantee and to its heirs and assigns forever.

IN WITNESS WHEREOF, The said Grantor has hereunto set its hand and seal the day and year first above written.

Richard Ziker

RICHARD ZIKER

STATE OF CALIFORNIA
COUNTY OF Los Angeles
On this 29th day of January in the year 1990 before me Richard Ziker

Lisa Stewart

OFFICIAL SEAL
LISA STEWART
NOTARY PUBLIC-CALIFORNIA
LOS ANGELES COUNTY
My Comm. Exp. June 6, 1990

FOR NOTARY SEAL OR STAMP

351275
3/30/93

RECORDING REQUESTED BY
JEFFREY B. WHEELER
of ROSENFELD, MEYER & SUSMAN

AND WHEN RECORDED MAIL
DEED AND TAX STATEMENTS TO:

Richard J. Ziker
c/o Laura Lizer & Associates
12711 Ventura Blvd., Suite 440
Studio City, California 91604

BLAINE CO. REQUEST
OF Rosenfeld Meyer
1993 MAR 30 A 11:22 351275
3.00

SPACE ABOVE FOR RECORDER'S USE

INDIVIDUAL QUITCLAIM DEED

FOR NO CONSIDERATION, RICHARD J. ZIKER, who took title as an unmarried man

hereby REMISES, RELEASES AND QUITCLAIMS to

Richard Ziker and Paula Ziker, as Trustees of the Ziker Family Trust, created by a Declaration of Trust dated July 20, 1992, whose address is shown above,

all of his right, title and interest in and to the following described real property in Blaine County, Idaho, more particularly described as:

Lot 8A in Block 1 of DEAN RANCH SUBDIVISION, Lot 8 AMENDED, 1979, according to the official plat thereof, on file in the office of the County Recorder, recorded October 22, 1979, as Instrument No. 197927, records of Blaine County, Idaho.

DATED: 1-29-93

Richard J. Ziker
RICHARD J. ZIKER

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On 1-29-93, before me, P.M. Scott, a Notary Public in and for said State, personally appeared Richard J. Ziker, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

OFFICIAL SEAL
PAM SCOTT
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My Comm. Expires Jan 27, 1995

Pam Scott
SIGNATURE OF NOTARY PUBLIC

353904
7/12/93

SENT BY:Xerox Telecopier 7021 : 5-27-93 : 14:38 ; 2102718430- 18185083434

RECORDING REQUESTED BY
JEFFREY B. WHEELER
of ROSENFELD, MEYER & SUSMAN

AND WHEN RECORDED MAIL
DEED AND TAX STATEMENTS TO:

Richard Ziker
c/o Laura Lizer & Associates
12711 Ventura Blvd., Suite 440
Studio City, California 91604

BLAINE CO. REQUEST
OF BLAINE COUNTY TITLE
1993 JUN 10 P 2:00 353904
3

INDIVIDUAL QUITCLAIM DEED

FOR NO CONSIDERATION, WILLIAM R. LONG, who took title as an unmarried man

hereby REMISES, RELEASES AND QUITCLAIMS to

Richard Ziker, a married man as his sole and separate property,

a one-half (1/2) undivided interest in and to the following described real property in Blaine County, Idaho, more particularly described as:

Lot 8A in Block 1 of DEAN RANCH SUBDIVISION, Lot 8 AMENDED, 1979, according to the official plat thereof, on file in the office of the County Recorder, recorded October 22, 1979, as Instrument No. 197927, records of Blaine County, Idaho.

DATED: 6/2/93

WILLIAM R. LONG

State of California }
County of Los Angeles }

On 6-2-93 (DATE) before me, Kathleen R. McKelly, Notary Public (NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC")

personally appeared William R. Long (NAME(S) OF SIGNER(S))

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

OFFICIAL SEAL
KATHLEEN R. McKELLY
Notary Public-California
LOS ANGELES COUNTY
My Commission Expires
December 9, 1996

SIGNATURE OF NOTARY

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

☒ INDIVIDUAL
☐ CORPORATE OFFICER(S)
TITLE(S)
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER:

SIGNER IS REPRESENTING
NAME OF PERSON(S) OR ENTITY(IES)

OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS
P. O. Box 987
Ketchum, ID 83340
1-208-726-4421
Fax: 1-208-726-0752

FAX COVER SHEET/MEMO

To:	Mr. Norman C. Young	**Date:**	September 30, 1999
Fax #:	1-208-327-7866	**Pages:**	3, including this cover sheet.
From:	James P. Speck		
Subject:	Ziker - Dean Ranch Water Rights		

COMMENTS:

Norm -

Here is a copy of the Affidavit I promised signed by one of the original purchasers from the Deans. Please call if you have any questions.

Jim

THE INFORMATION CONTAINED IN THIS FAX TRANSMISSION IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE ABOVE-NAMED RECIPIENT AND MAY BE THE SUBJECT OF ATTORNEY/CLIENT PRIVILEGE. IF THE READER OF THIS MESSAGE IS NOT THE ABOVE-NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION, DISSEMINATION, COPYING OR OTHER USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND NO PRIVILEGE IS WAIVED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.

AFFIDAVIT

STATE OF IDAHO)
) ss
County of Ada)

I, Robert J. Koontz, being first duly sworn upon oath, depose and state:

1. In 1973, M. Allyn Dingel, Jr. and I, as tenants in common, purchased approximately 10 acres in lands now known as the Dean Ranch Subdivision from M. D. Dean and Katherine J. Dean. A copy of the Warranty Deed is attached as Exhibit A.

2. I understood we were acquiring water rights with this property. During the time we owned the property, it was irrigated and alfalfa was raised.

Dated this 29th day of September, 1999.

ROBERT J. KOONTZ

SUBSCRIBED AND SWORN TO BEFORE ME this 29th day of September 1999.

Notary Public for Idaho
Residing at: Boise Idaho
Comm. Expires: 9/26/2003

Order No. 545

WARRANTY DEED

For Value Received

M. D. DEAN and KATHERINE J. DEAN, husband and wife,

the grantor s, do hereby grant, bargain, sell and convey unto

M. ALLYN DINGEL, JR. and ROBERT J. KOONTZ, as tenants in common,

the grantee s the following described premises, in Blaine County Idaho, to-wit:

A parcel of land in the NE¼ NE¼, Section 24, T. 1 N., R. 18 E., B.M., Blaine County, Idaho, more particularly described as follows:

Commencing at an iron pin marking the Northeast corner of said Section 24;

Thence South 0°31'00" East 28.25 feet along the East Boundary of said Section 24, to an iron pin marking the REAL POINT OF BEGINNING;

Thence South 0°31'00" East 662.60 feet along the East Boundary of said Section 24 to an iron pin;

Thence South 89°29'00" West 1,313.25 feet to a point on the East Boundary of U.S. Highway No. 93;

Thence North 0°31'00" West 638.51 feet along the East Boundary of said highway to an iron pin;

Thence North 1°02'01" West 19.05 feet along the East Boundary of said highway to an iron pin;

Thence North 89°15'49" East 1,313.44 feet to the point of beginning.

Grantee's current address is:
P. O. Box 1553
Boise, Idaho 83701

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor s do hereby covenant to and with the said Grantee s that they the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated:

STATE OF Idaho, COUNTY OF
On this 19th day of November, 73, before me a notary public in and for said State personally appeared
M.D. Dean and Katherine J. Dean, husband and wife
known to me to be the person s whose name s is subscribed to the said instrument, and acknowledged to me that they executed the same.
Notary Public
Residing at Caldwell, Idaho
Commission Expires 8/4 80

STATE OF IDAHO, COUNTY OF
I hereby certify that this instrument was filed for record at the request of
at minutes past o'clock M., this day of , in my office and duly recorded in Book of Deeds at page
Ex-Officio Recorder
By Deputy
Fee $
Mail to

INSTRUMENT No.

EXHIBIT A

MEMORANDUM

TO: **JIM SPECK**

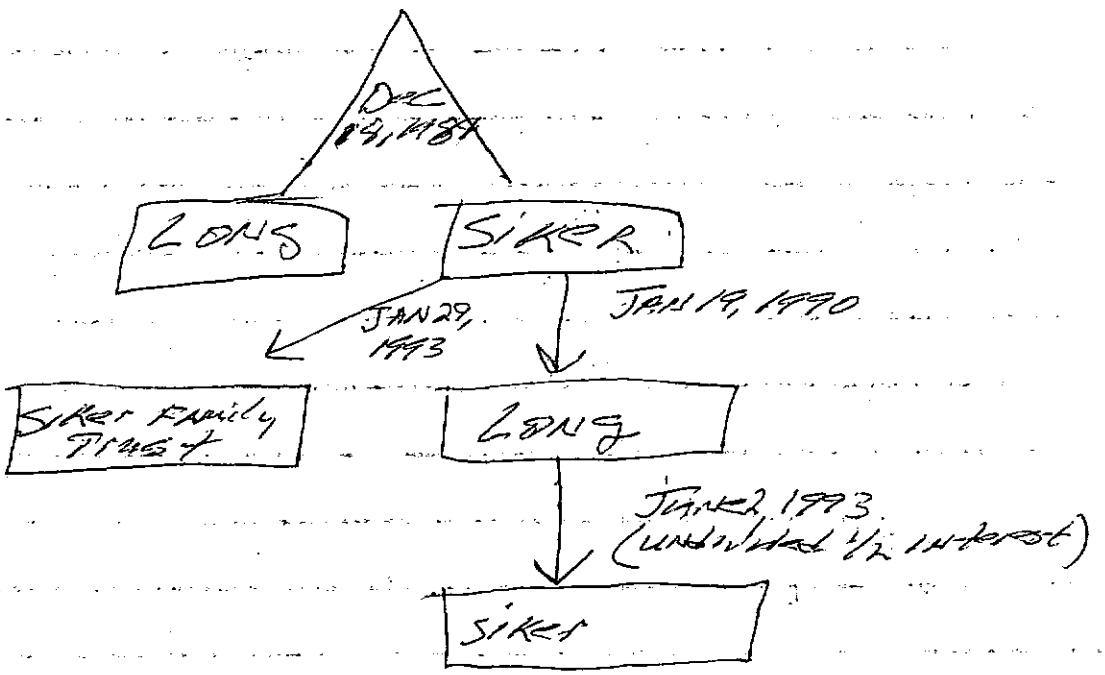
FROM: **NORM YOUNG**

RE: **ZIKER ORDER**

DATE: **December 17, 1999**

I am herewith faxing you a working draft of the Ziker Order. It has not been reviewed by the Department's attorney, so may receive considerable revision. Please review to be sure I am setting forth the facts properly. Thanks.

STOCKMAN


DEC 19, 1984
LONG
SIKER
JAN 29, 1993
JAN 19, 1990
SIKER FAMILY TRUST
LONG
JUNE 2, 1993
(UNDIVIDED ½ INTEREST)
SIKER

Garrison – 180 inches
Comes out of canta
ditch @ Sawmill
diversion

DEAN RANCH SUBDIVISION

10828

HIGHWAY

10839 dry

Cont'd below
Dit w/ a pump

Cond 1st Sale

10831 (20) 20.0 (20P)

16 15 14 13

dry dry dry dry

101 105 109 113

DERBY ROAD 12

2

E ACRES SUBDIVISION

10804

108

STATE

102 (?)

Kantowein (10")

10805 dry Jerry Turco

10793 (10) 10.0 Driever (10") Jim Covey

13 18

10785 (20) 24

Just Grigsby 15.5 Grigsby (15.5)

AGGREGATE ACRES SUBDIVISION

10783 dry (0)

75

10769 dry Price (18")

10767 (20) 20 Stricker (20)

10759

DEAN RANCH SUBDIVISION

HIGHWAY

10755 dry Coin Decoto (18)

Check on portion of Kantowein mail to Nora

10749 (10) dry Olsen (10)

10739 (20) 20.0 Foster (20)

10737 (10) Kantowein 10 miles on

4 miles from river
3 miles from channel bayotte
15% / 86's on
5% / mile
84's - best can get on
50%

DRAFT

Lee Peterson, Watermaster
Water District 37
PO Box R T
Shoshone, Idaho 83352

Re: Assessment of Claims to Right No. 37-00353 (Frost Decree – James Johnson)

Dear Lee:

You have requested guidance from the Department of Water Resources on which claimants to parts of Right No. 37-00353 should be included in the Water District 37 "Decree Book." Claims to various parts of the right have been filed in the Snake River Basin Adjudication. The claims, in total, exceed the decreed amount of the right. Some of the new claimants were not previously identified in the Water District records as having an ownership interest in the water right and have not been previously assessed by the Water District. Some of the claimants not previously identified in the Water District's records have called for water delivery based upon their claims. It is my understanding that the right is delivered by the Water District to the head of the District 45 canal along which most of the claimants are located. Because the Water District does not control delivery from the canal, your records do not verify use of water under the rights by the claimants.

Based upon this understanding Water District 37 should include in its Decree Book each of the water users claiming a part of Right No. 37-00353 that have demonstrated a probable ownership. Those having a probable ownership in the right include:

a. Water users listed in the Water District Records as having an ownership interest. These include:

1. Gardner	180 inches
2. Fosnot	20 inches
3. Grigsby (formerly Bick)	20 inches
4. Kantenwein	10 inches
5. Oppenheimer	20 inches
6. Stricker	20 inches
7. Driever	10 inches

It is my understanding that the Water District Records also at one time listed Robert Keirstad as the owner of 40 miners inches. Because Mr. Keirstad has not filed a claim in the SRBA, the county records cast doubt on his continued ownership of any of the right, and he has not called for water for many years, I suggest that Mr. Keirstad not be listed in the Decree Book until these issues are resolved.

b. Claimants not previously listed in the Water District records which have now filed a claim in the SRBA and for which IDWR has entered a preliminary order in

DRAFT

DRAFT

response to a petition for distribution by the watermaster. Olsen Livestock Consulting falls into this category.

Other claimants who have not demonstrated a probable ownership to a part of the right, even though they have claims pending in the SRBA, should not be include in the Decree Book until such time as the court confirms their right or IDWR has entered a preliminary order recognizing, at least for the interim period prior to action by the court, that a probable ownership exists by the claimant. The claims filed by Ziker, Price, and Goicoechea are in this category. Ziker has a pending petition calling for distribution of water and has supplied some ownership information. If an order to deliver results from the petition, Ziker should then be included in the Decree Book.

At this time the claimants calling for water that have demonstrated a probable ownership in the right do not exceed the amount of the right. It is easy to see that this will not be the case if all existing claimants call for delivery of water. The preliminary order entered in response to the Olsen Livestock Consulting petition indicates that the amount of water would be prorated among all the claimants if others demonstrate probable ownership to the amounts they are claiming. It is important that all claimants be advised of petitions calling for water under the new claims to allow them to participate in administrative actions. IDWR will provide copies of all preliminary orders to all claimants. Action to resolve the matter in the SRBA is still off in the future because the preliminary Director's Report for Basin 37 is scheduled to be available in December 2002.

Sincerely,

Norman C. Young
Administrator
Water Management Division

Lee & Norm —
Please review & give me a call before I send as a final.
Norm

DRAFT

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 14, 1999

James P. Speck
Speck & Aanestad
PO Box 987
Ketchum, Idaho 83340

RE: Richard and Paula Ziker, Trustees (Water Right No. 37-00353)

Dear Jim:

I appreciate your being willing to meet with Watermaster Lee Peterson and me concerning your request for delivery of a part of the above referenced water right to the Ziker lot in the Dean Ranch Subdivision. As I indicated to you, there are several claimants to parts of this right who are not presently listed to receive delivery in the Water District records. A discussion of the interest of your client and of these other claimants will assist IDWR and the Water District to react appropriately to the demand for delivery.

The meeting is set for 10:00 AM, September 21, 1999, at the Water District 37 office in Shoshone. By copy of this letter, I am providing notice to others having an interest in this matter.

Sincerely,

Norman C. Young
Administrator
Water Management Division

c. Lee Peterson, Watermaster
Allen Merritt, IDWR Twin Falls
Jim Eakin, Wood River Valley Irrigation District #45

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	MAXIMUM DIVERSION	STAGE
A37-00353F	WILLIAM R LONG 11710 MAYFIELD AVE LOS ANGELES CA 90049 RICHARD ZIKER TRUSTEE PAULA ZIKER TRUSTEE ZIKER FAMILY TRUST 11268 SUNSHINE TERR STUDIO CITY CA 91604	06/12/1886	IRRIGATION	Irrig Season		0.20 CFS	DECREED

TOTAL DIVERSION RATE: 0.20 CFS
TOTAL DIVERSION VOLUME: 0.00 AFA
CONSUMPTIVE USE: 25.0 AFA

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

POINT OF DIVERSION:
T02N R18E S36 NESWNW

PLACE OF USE: IRRIGATION
T01N R18E S24 NENE 10
10 ACRES TOTAL

DIVERSION MEANS: HEADGATE #45, DISTRICT CANAL

REMARKS: GEN TRANS. 2948.
P/D NOT GIVEN IN DECREE BUT SHOWN ON TRANSFER.
THIS CLAIM IS A SPLIT FROM A37-00353A. 1/15/1990, RVW.
****
1/6/99 tf; OWNERSHIP CHANGED LONG TO ZIKER FAMILY TRUST, RICHARD
AND PAULA ZIKER AS TRUSTEES PER 1409(6) AND DEEDS REC'D 6/29/98.

OTHER RIGHTS: A37-13063 DOMESTIC

Ziker — Need:
Draft Prelim. Order
Draft Letter to
Peterson

Kirstad — 40.00

✓ Dawson	10.00	✗
✓ Jasnot	20.00	✗
✓ Jusby (Bick)	20.00	✗
✓ Kantenween	10.00	✗
✓ Olson	20.00	✗
✓ Oppenheimer	20.00	✗
✓ Strachan	20.00	✗
✓ Gardner	180.00	✗
	300.00	
Price	18"	✓
Goroechea	18"	✓
Zeber	10	✓ nec
	346	

RECEIVED NORM
JUL - 6 1999
Department of Water Resources

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

JAMES P. SPECK
DOUGLAS J. AANESTAD
BENJAMIN W. WORST

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

July 2, 1999

VIA FACSIMILE - 208-886-2451
ORIGINAL WILL FOLLOW BY MAIL
Lee Peterson
Water District 37 & 37M
P. O. Box T
Shoshone ID 83352

RE: Richard and Paula Ziker, Trustees

Dear Lee:

I represent Richard and Paula Ziker, trustees of the Ziker Family Trust and the owners of Lot 8A of the Dean Ranch Subdivision in Blaine County, Idaho. I am enclosing for your records, copies of the following deeds in the chain of title from M. D. Dean and Katherine J. Dean to my clients for this property:

1. Warranty Deed from M.D. Dean and Katherine J. Dean to M. Allyn Dingel, Jr. and Robert J. Koontz;

2. Warranty Deed from M. Allyn Dingel, Jr. and Robert J. Koontz to Cecil L. Potter and Marguerite Potter;

3. Quitclaim Deed from Sara Jean Koontz to Cecil L. Potter and Marguerite Potter;

4. Quitclaim Deed from Francine Dingel to Cecil L. Potter and Marguerite Potter;

5. Warranty Deed from Cecil L. Potter and Marguerite Potter to James B. Stockman;

6. Quitclaim Deed from Gayle Stockman to James B. Stockman;

7. Warranty Deed from James B. Stockman to William R. Long and Richard Ziker;

8. Quitclaim Deed from Richard Ziker to William R. Long;

9. Individual Quitclaim Deed from Richard J. Ziker to Richard Ziker and Paula Ziker, Trustees of the Ziker Family Trust; and

10. Individual Quitclaim Deed from William R. Long to Richard Ziker.

I am also enclosing a copy of the SRBA Claim A37-00353F originally filed by Mr. William R. Long and now transferred to my clients for 0.2 cfs of this water right.

As you know, Water Right No. 37-00353 was originally decreed to James Johnson for the lands which were then subdivided in the early 1970's into Dean Ranch Subdivision. You will see there is no reservation or separate transfer of the water right off of Lot 8A at any time since the original deed from the Deans in 1973. Therefore, under the precedent established by the Idaho Department of Water Resources in the delivery call made by Olsen Livestock Consultants, Inc. my clients are entitled to the portion of this water right which they have claimed in the SRBA.

This letter shall constitute a call for delivery of 0.2 cfs of this water right into the District 45 Canal for delivery to my clients at Lot 8A of the Dean Ranch Subdivision. Please advise me immediately the amount of any Water District 37 assessments which may be due and owing for this water right and which we understand must be brought current before this delivery call is honored. By a copy of this letter, I am advising Mr. James I. Eakin, director of the Wood River Valley Irrigation District No. 45, of this request.

I will be out of the office until July 12, 1999. Please leave a message with my voice mail or my secretary if you need to reach me prior to my return to the office. Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____
James P. Speck

JPS:rsd
enclosures
cc: James I. Eakin, w/encl.
Clients, w/encl.
Norman Young, IDWR, w/encl.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M
P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451

RECEIVED
APR 0 9 1999
Department of Water Resources

LEE R. PETERSON
Watermaster

April 6, 1999

Norm Young
IDWR
1301 North Orchard St.
P O Box 83720
Boise, Idaho 83720-0098

RE: Water Right 37-00353

Dear Norm:

We are writing once again for direction as to how to enter the information in our decree book. The ditch rider, for Dist 45 Canal Co., uses the District 45 section of this book to determine how much water to deliver and to whom. The water right 37-00353 originally decreed, by the Frost Decree, to James Johnson was decreed for 320 inches, 6.40 CFS. On the chart I have enclosed you will note that this water right is now over allocated. We need guidance from the Department as to how to handle this matter.

At your earliest convenience please drop us a line and let us know what to do.

It seems people are coming out of the woodwork to claim a portion of this right, since the Tom Olson matter.

Thank you for your help.

Sincerely,

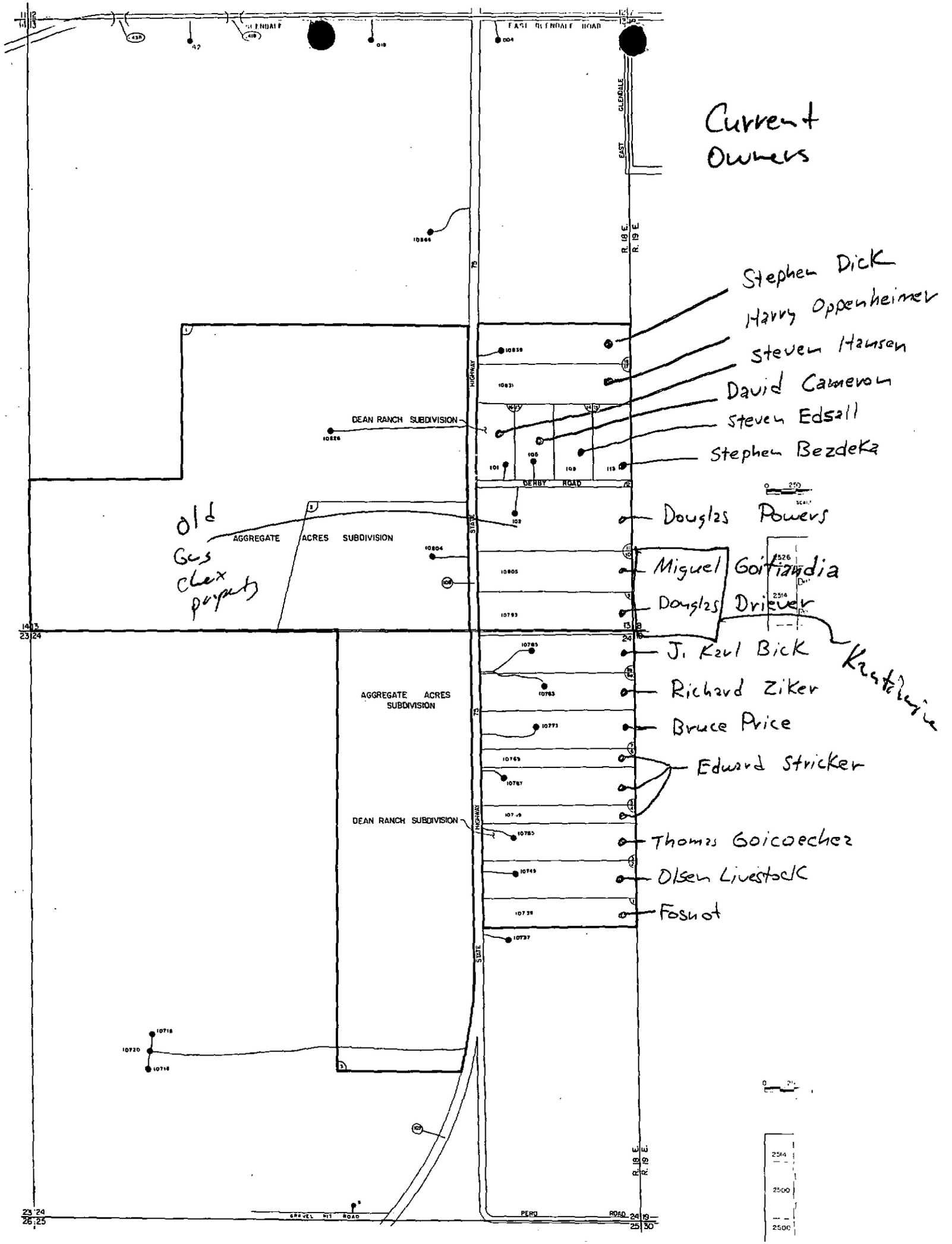
Norma Peterson

Norma Peterson
Secretary/Treasurer

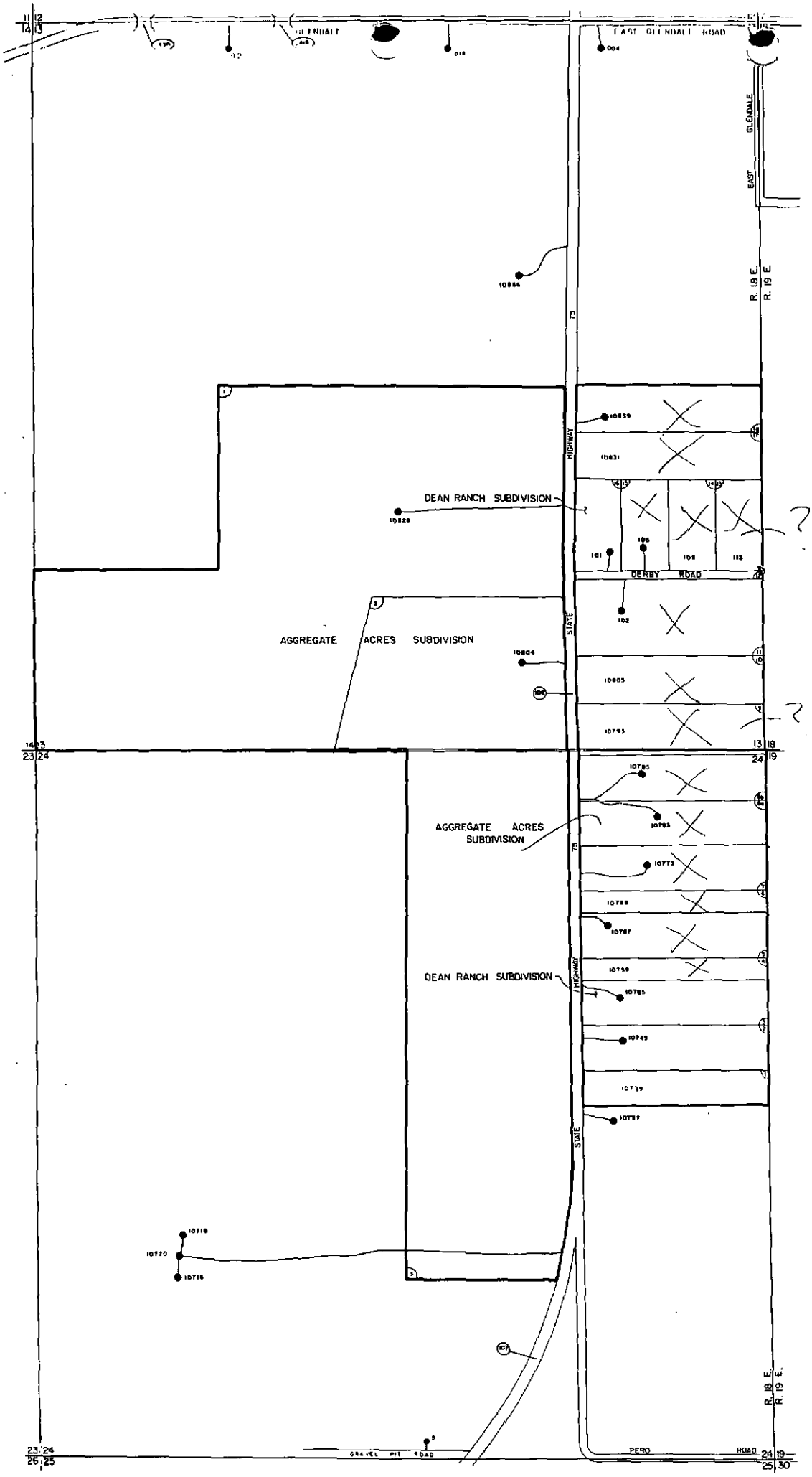
WATER RIGHT 37-0353 ORGINALLY DECREED TO JAME JOHNSON

DATE 6/12/1886 320 Inches 6.40 CFS

NAME	PROOF OF OWNERSHIP	AJ NO	INCHES	CFS
Douglas Driever	None	A37-00353G	10	0.20
Robert Fosnot	Deed	A37-00353B	20	0.40
Robert Gardner	Notarized Letter	A37-00353D	180	3.20
J Karl Bick/ Judith Grigsby	Deed	A37-00353	20	0.40
Tom Goicoechea	Deed Coming	A37-0353L	18	0.36
Reid Kantewein	Receipt of Purchase	A37-00353H	20	0.40
William R. Long	None	A37-00353F	10	0.20
Tom Olson	Deed	A37-00353J	20	0.40
Harry Oppenheimer	Deed	A37-0353E	20	0.40
Bruce Price		A37-0353K	18	0.36
Ed Stricker	Letter	A37-00353B	20	0.40
			356	6.72


Current Owners
Stephen Dick
Harry Oppenheimer
Steven Hansen
David Cameron
Steven Edsall
Stephen Bezdeka
Douglas Powers
Miguel Goitiandia
Douglas Driever
J. Karl Bick
Richard Ziker
Bruce Price
Edward Stricker
Thomas Goicoechea
Olsen Livestock
Fosnot
Kastelic
old Gus Clex property
DEAN RANCH SUBDIVISION
AGGREGATE ACRES SUBDIVISION
DERBY ROAD
EAST GLENDALE ROAD
GLENDALE
HIGHWAY
STATE
GRAVEL PIT ROAD
PERO ROAD
R. 18 E.
R. 19 E.

Current Owners		Deed
Foshot	8.0 Ac.	
Olsen	9.95 Ac.	394945, 332486
Goicoechea	9.95 Ac.	2299963, 218862
Stricker	4.97 Ac. Lt 4 4.97 Ac Lt 6	150132, 150287
Stricker	9.95 Ac. Lt 5	
Price	9.95 Ac.	372333, 271824, 266607
Ziker (Long)	9.95 Ac.	351275, 367096, 353904
Bick	9.95 Ac.	358776, 216421
Driever	10.73 Ac.	29266/-63, 265670
Goitiandia	10.73 Ac.	367424
Powers (Chax)	16.66 Ac.	321682
Bezdeka	5.0 Ac	384555, 310532, 286779-0
Edsall	5.0 Ac.	336002, 334616
Cameron	5.0 Ac.	
Hansen	5.0 Ac.	261036, 218550
Oppenheimer	10.12 Ac.	296703
Dick	10.4 Ac.	298901, 229148



Lots deeded from M.D. Dean direct

Dean M.D. → Robert Keirstad 173540
5/13/1977 (Lot 9)
with Reservt.

Dean M.D. → Stephen Boller 177772
11/1/1977 All of Lot 7

Dean M.D. → Gene Smith 178210
11/18/1977 Lot 13 excepting
mineral & water rights

Dean M.D. → Jerry Lee Johnston 178471
11/30/1977 Lot 17 with
20" 1886 water

Dean M.D. → Dennis Jay Craig 180200
2/6/1978 (Lot 10)

~~Dean M.D. → Gene A. Rose 185497~~
~~7/27/1978~~

Dean M.D. → Stephen W. Boller 145384
9/5/1972 Part Lot 7

Dean M.D. → Edward Stricker 139960
8/17/1977 (Lot 5)

Dean M.D. → Stephen Bixler 193 513 ✓
5/21/1979 Lot 9 Blk 1 Restriction with Apprt

Dean M.D. → Gus Chek 149 678 ✓
6/12/1973 (Lot 11)? with Apprt.

Dean M.D. → Edward Stricker 150 132
7/12/1973 (Lot 6) with Apprt

Dean M.D → Edward Stricker 150287
7/26/1973 (Lot 4) with Apprt

Dean M.D → M Allyn Dingel & 152658
1/10/1974 Koontz (Lot 8A & 8B) with Apprt

Dean M.D. → Johns Manville Sls. Inc. 153266
2/26/1974

Dean M.D. → Charles Curtis 157341
12/9/1974 6/12/1886 20" Quit Claim Apprt to NE Sec 24

Dean M.D. → James D Alger 161094
8/4/1975 (Lot 15) with Apprt

Dean M.D. → Robert Riese 164512
2/13 1976 (Lot 13)

Dean M.D. → John R. Holmes, Jr 167107
7/16/1976 (Lot 18) with Apprt

Dean M.D → Robert J. Porath 168841
10/7/1976 (Lot 14) with Apprt

367424 Evans → Goitiandia
6/29/1998 — Agmt.

321682 Gas Chek → Douglas Powers
7/10/1990 Together with 16" of 1883 water

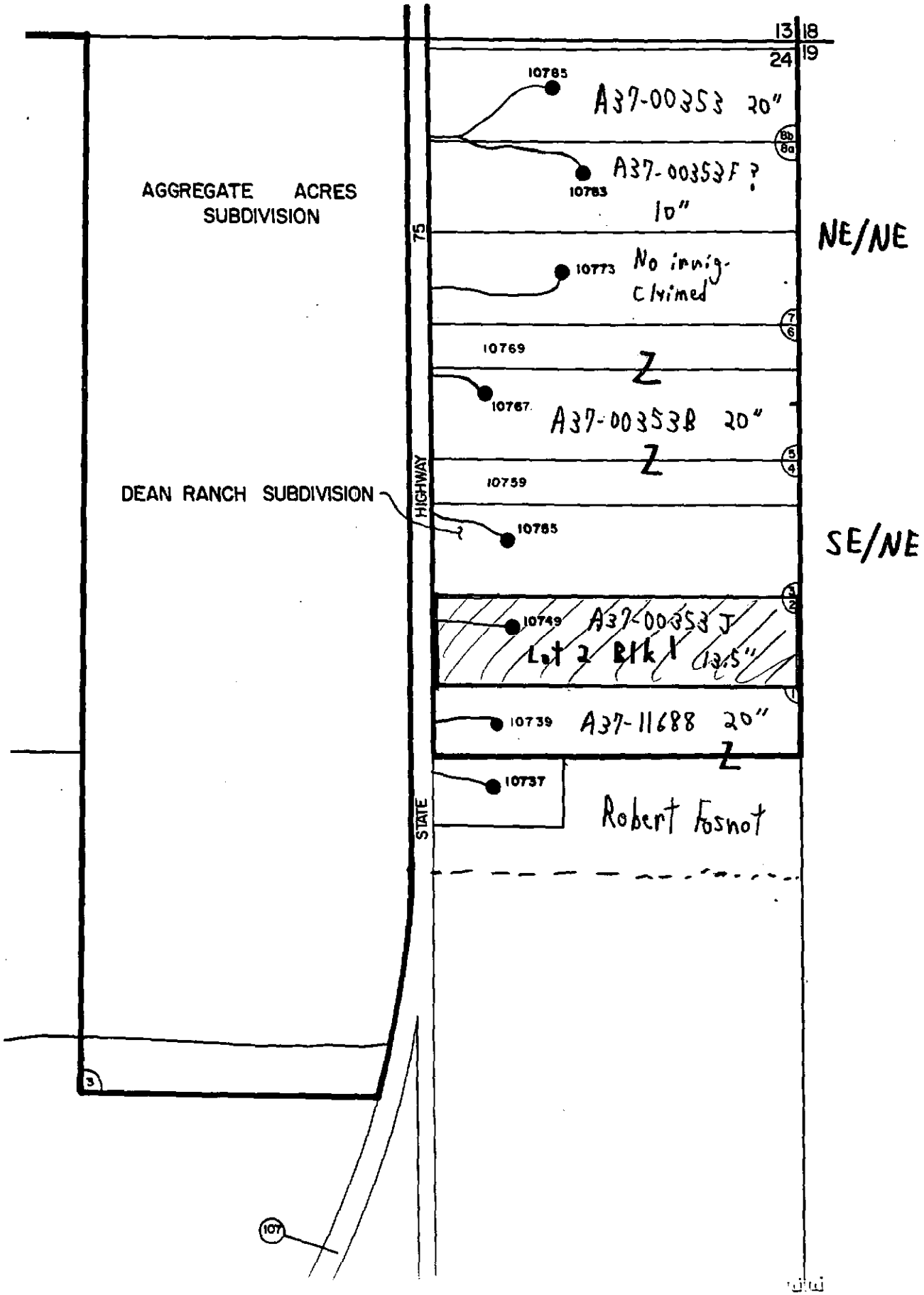
296703 Oppenheimer → Oppenheimer
7/26/1988

12/15/1968

8/17/1971

Adm to D82

354995 9/25/1996	Deed to Olsen with Apprt.	(169670 Plat Dezn Subdivision No mention of water on plat.
218862 8/20/1981	Grant to Russell with Apprt.	149262 5/15/1973
149263 5/7/1973	Dezn to Grant with Apprt	
150132 11/27/1972	Dezn to Strickler with Apprt.	Parcel "A"
150287 11/27/1972	Dezn to Strickler with Apprt.	
266607 9/13/1985	Title & Trust → First Security Bank	177772 Dezn → Boller 11/1/1977 with Apprt.
351275 3/30/1993	Zilker → trust	197927 Amended Plat Split lot 8
216421 6/23-81	Peterson → Peterson	
358776 11/4/1993	Peterson → Bick with Apprt.	
265670 7/21/1985	Bixler → Bixler	
292661 – 663 2/11/1988	group → Driever	


13
18
24
19
10785
A37-00353 20"
6b
6a
10783
A37-00353F ?
10"
AGGREGATE ACRES
SUBDIVISION
75
NE/NE
10773
No irrig-
Claimed
7
6
10769
Z
10767
A37-00353B 20"
Z
5
4
HIGHWAY
DEAN RANCH SUBDIVISION
10759
10785
SE/NE
3
2
10749
A37-00353J
Lot 2 Blk 1
13.5"
1
10739
A37-11688 20"
Z
10737
STATE
Robert Fosnot
3
107

AJ5809NP IDAHO DEPARTMENT OF WATER RESOURCES DATE: 09/22/98
No. A37-00353G ADJUDICATION CLAIM PROFILE REPORT PAGE: 5

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	DOUGLAS DRIEVER	06/12/1886	IRRIGATION	04-01	11-01	0.20 CFS	18.00 AFA
					TOTAL DIVERSION:	0.20 CFS	18.00 AFA
					CONSUMPTIVE USE:		15.00 AFA

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point(s) of Diversion: T02N R18E S36 SWNW BLAINE County

Place of use Legal Description for: IRRIGATION

	NE				NW				SW				SE				
	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
01N 18E 13																06	6.0
																TOTAL ACRES	6.0

POU County: BLAINE

Other Rights: A37-00363D

Remarks: GEN CLAIM BASED ON 37-0353 DECREE, SPLIT OFF FROM PART A.

****

THIS CLAIM RESULT OF APPROVED TRANSFER NO. 3678:

1. THE CHANGE AUTHORIZED BY THIS TRANSFER SHALL BE ACCOMPLISHED WITHIN ONE (1) YEAR OF THE DATE OF THIS APPROVAL.
2. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS TRANSFER IS CAUSE FOR THE DIRECTOR TO ISSUE AN ORDER TO SHOW CAUSE WHY THE APPROVAL OF THE TRANSFER SHOULD NOT BE RESCINDED.
3. APPROVAL OF THIS TRANSFER DOES NOT PRECLUDE THE OPPORTUNITY FOR REVIEW OF THE VALIDITY OF THE WATER RIGHT(S) IN THE ONGOING SRBA.
4. USE OF WATER UNDER THIS WATER RIGHT IS SUBJECT TO CONTROL BY THE WATERMASTER OF STATE WATER DISTRICT NO. 37, BIG WOOD RIVER.
5. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN 3.0 AFA PER ACRE FOR THE LANDS ABOVE.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

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

AJ5809NP IDAHO DEPARTMENT OF WATER RESOURCES DATE: 09/22/98
No. A37-00353D ADJUDICATION CLAIM PROFILE REPORT PAGE: 2

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	ROBERT GARDNER	06/12/1886	IRRIGATION	04-01	11-01	3.60 CFS	
C	KATHRYN GARDNER						
					TOTAL DIVERSION:	3.60 CFS	
					CONSUMPTIVE USE:		800.00 AFA

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point(s) of Diversion: T02N R18E S36 NESWNW BLAINE County

Place of use Legal Description for: IRRIGATION

	NE								NW								SW								SE								
	NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		NESW		NWSW		SWSW		SESW		NESE		NWSE		SWSE		SESE		
T R S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
01N 19E 18						40		40																		40		40		40		40	240.0
01N 19E 19		40		1																													40.0
																																TOTAL ACRES	280.0

POU County: BLAINE

Other Rights: A37-00418D, A37-00419D, A37-02345, SEE REMARKS.

Remarks: GEN OTHER WR; A37-00667K, A37-11671.
THIS IS A PART OF WR #37-00353A, UNRECORDED TRANS. TO P/U LISTED.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

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

Trish

AJ5809NP IDAHO DEPARTMENT OF WATER RESOURCES DATE: 09/22/98
No. A37-00353 ADJUDICATION CLAIM PROFILE REPORT PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	J KARL BICK	[redacted]	IRRIGATION	04-01	10-01	0.30 CFS	
C	JUDITH G BICK		STOCKWATER	01-01	12-31	0.10 CFS	
	PO BOX 2014						
	SUN VALLEY ID 83353				TOTAL DIVERSION:	0.40 CFS	

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point of Diversion: T02N R18E S36 NESWNW BLAINE County

Place of use Legal Description for: IRRIGATION

	NE				NW				SW				SE				
	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
01N 18E 24	10																10.0
																TOTAL ACRES	10.0

Place of use Legal Description for: STOCKWATER

	NE				NW				SW				SE				
	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	
01N 18E 24	S																

POU County: BLAINE

Non-Irrigation Uses: S/S HORSES

Other Rights: WELL PERMIT #37-8012

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):

A37-00102B	A37-00102C	A37-00102D	A37-00111	A37-00112	A37-00113N	A37-00113R	A37-00113T	A37-00114B	A37-00114C
A37-00114D	A37-00114E	A37-00114F	A37-00115B	A37-00115D	A37-00115F	A37-00115G	A37-00116	A37-00117	A37-00117B
A37-00158D	A37-00234B	A37-00235B	A37-00235C	A37-00235D	A37-00236A	A37-00236B	A37-00308A	A37-00308B	A37-00353B
A37-00353D	A37-00353E	A37-00353F	A37-00353G	A37-00353H	A37-00353J	A37-00353K	A37-00353L	A37-00363D	A37-00418C
A37-00418D	A37-00418E	A37-00419C	A37-00419D	A37-00475	A37-00476	A37-00477	A37-00480A	A37-00480B	A37-00480C
A37-00480D	A37-00480F	A37-00481A	A37-00481B	A37-00481C	A37-00482F	A37-00482G	A37-00482H	A37-00483A	A37-00483B
A37-00483C	A37-00501B	A37-00501C	A37-00501D	A37-00501E	A37-00501F	A37-00509	A37-00510A	A37-00577AP	A37-00577BT
A37-00577K	A37-00577V	A37-00590A	A37-00590B	A37-00597A	A37-00597B	A37-00664B	A37-00664D	A37-00664E	A37-00664F
A37-00664G	A37-00665F	A37-00665G	A37-00665H	A37-00665I	A37-00665K	A37-00665L	A37-00665N	A37-00665P	A37-00665Q
A37-00665R	A37-00666A	A37-00666D	A37-00666E	A37-00666F	A37-00666G	A37-00666H	A37-00666J	A37-00666L	A37-00666M
A37-00666N	A37-00666P	A37-00667C	A37-00667H	A37-00667J	A37-00667K	A37-00667L	A37-00667M	A37-00667N	A37-00667Q
A37-00667R	A37-00667S	A37-00667T	A37-00685A	A37-00685C	A37-00685D	A37-00713B	A37-00833F	A37-00881	A37-00886D
A37-00886H	A37-00886J	A37-00886L	A37-02345A	A37-02483	A37-07037	A37-07919	A37-08307	A37-10828	A37-11281
A37-11526A	A37-11526B	A37-11526C	A37-11539	A37-11543	A37-11562	A37-11566	A37-11567	A37-11568	A37-11569
A37-11671	A37-11688	A37-11689A	A37-11689B	A37-11807	A37-11808	A37-11809	A37-11810	A37-11830	A37-11924A
A37-11924B	A37-11925A	A37-11925B	A37-11926A	A37-11926B	A37-11927A	A37-11927B	A37-11928A	A37-11928B	A37-11951
A37-11952	A37-11953	A37-11954	A37-11961	A37-11984	A37-12051	A37-12081	A37-12191	A37-13401	R37-00113R

AJ5809NP
No. A37-00353L

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 09/22/98
PAGE: 9

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	TOM GOICOECHEA	06/12/1886	IRRIGATION	04-14	10-15	0.36 CFS	
C	ANNETTE GOICOECHEA						
					TOTAL DIVERSION:	0.36 CFS	

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point(s) of Diversion: T02N R18E S36 NESWNW BLAINE County

Place of use Legal Description for: IRRIGATION

			NE					NW					SW					SE					
			NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		NESW		NWSW		SWSW		SESW		NESE		NWSE		SWSE		SESE		
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
01N	18E	24								10																							10.0
																															TOTAL ACRES		10.0

POU County: BLAINE

Remarks: GEN ALSO KNOWN AS LOT 3, BLOCK 1, DEAN RANCH SUBDIVISION

Dates: Exam Made Date: Verified Date: Objection Filed Date:

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

AJ5809NP IDAHO DEPARTMENT OF WATER RESOURCES DATE: 09/22/98
No. A37-00353H ADJUDICATION CLAIM PROFILE REPORT PAGE: 6

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	REID KANTENWEIN	06/12/1886	IRRIGATION	04-15	10-15	0.20 CFS	26.30 AFA
					TOTAL DIVERSION:	0.20 CFS	26.30 AFA
					CONSUMPTIVE USE:		18.70 AFA

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point(s) of Diversion: T02N R18E S36 SWNW BLAINE County

Place of use Legal Description for: IRRIGATION

	NE				NW				SW				SE				
	NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		
T R S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
01N 19E 18													07				7.5
																TOTAL ACRES	7.5

POU County: BLAINE

Other Rights: A37-003630

Remarks: GEN CLAIM BASED ON 37-0353 DECREE, SPLIT OFF FROM PART A.

****

THIS CLAIM RESULT OF APPROVED TRANSFER NO. 3679:

1. USE OF WATER UNDER THIS RIGHT WILL BE REGULATED BY THE WATERMASTER OF STATE WATER DISTRICT NO. 37.
2. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN 3.5 AFA PER ACRE FOR THE LANDS ABOVE.
3. THE CHANGE AUTHORIZED BY THIS TRANSFER SHALL BE ACCOMPLISHED WITHIN ONE (1) YEAR OF THE DATE OF THIS APPROVAL.
4. APPROVAL OF THIS TRANSFER DOES NOT PRECLUDE THE OPPORTUNITY FOR REVIEW OF THE VALIDITY OF THE WATER RIGHT(S) IN THE ONGOING SRBA.
5. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS TRANSFER IS CAUSE FOR THE DIRECTOR TO ISSUE AN ORDER TO SHOW CAUSE WHY THE APPROVAL SHOULD NOT BE RESCINDED.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

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

AJ5809NP
No. A37-00353F

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 09/22/98
PAGE: 4

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	WILLIAM R LONG	06/12/1886	IRRIGATION	04-01	11-01	0.20 CFS	
					TOTAL DIVERSION:	0.20 CFS	
					CONSUMPTIVE USE:		25.00 AFA

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point(s) of Diversion: T02N R18E S36 NESWNW BLAINE County

Place of use Legal Description for: IRRIGATION

	NE				NW				SW				SE				
	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
01N 18E 24	10																10.0
																TOTAL ACRES	10.0

POU County: BLAINE

Non-Irrigation Uses: NONE

Other Rights: A37-13063 DOMESTIC

Remarks: GEN TRANS. 2948.
P/D NOT GIVEN IN DECREE BUT SHOWN ON TRANSFER.
THIS CLAIM IS A SPLIT FROM A37-00353A. 1/15/1990, RVW.

Dates: Exam Made Date: Verified Date: 06/18/1[illegible]95 Objection Filed Date:

Misc: Water District Number: 37 Field Inspection Flag:
Presumption Flag:

AJ5809NP
No. A37-00353J

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 09/22/98
PAGE: 7

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	OLSEN LIVESTOCK CONSULTING	06/12/1886	IRRIGATION	04-14	10-15	0.40 CFS	
					TOTAL DIVERSION:	0.40 CFS	

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point(s) of Diversion: T02N R18E S36 NESWNW BLAINE County

Place of use legal Description for: IRRIGATION

	NE				NW				SW				SE				
	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
01N 18E 24				10													10.0
															TOTAL ACRES		10.0

POU County: BLAINE

Other Rights: NONE

Remarks: GEN ALSO KNOWN AS LOT 2, BLOCK 1, DEAN RANCH SUBDIVISION
**** CORRECTED ADDRESS LINE TO DATA ENTRY STANDARDS FOR ROD TO RD
KKC 12-13-96 ****
*AMENDED 09-03-98: ADDED ATTORNEY, NEW NAME, AND CHANGE QUANTITY.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

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

AJ5809NP IDAHO DEPARTMENT OF WATER RESOURCES DATE: 09/22/98
No. A37-00353E ADJUDICATION CLAIM PROFILE REPORT PAGE: 3

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	HARRY L OPPENHEIMER JR	06/12/1886	IRRIGATION	03-15	10-31	0.40 CFS	
					TOTAL DIVERSION:	0.40 CFS	

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point(s) of Diversion: T02N R18E S36 NESWNW BLAINE County

Place of use Legal Description for: IRRIGATION

	NE				NW				SW				SE				
	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
01N 18E 13													10				10.0
																TOTAL ACRES	10.0

POU County: BLAINE

Other Rights: NONE

Remarks: GEN 12/6/96 TF; ATTORNEY ADDED.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

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

AJ5809NP
No. A37-00353K

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 09/22/98
PAGE: 8

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	SHERRY PRICE	06/12/1886	IRRIGATION	04-15	10-15	0.36 CFS	
C	BRUCE PRICE						
					TOTAL DIVERSION:	0.36 CFS	

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point(s) of Diversion: T02N R18E S36 SWNW BLAINE County

Place of use Legal Description for: IRRIGATION

	NE				NW				SW				SE				
	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
01N 18E 24	09																9.0
																TOTAL ACRES	9.0

POU County: BLAINE

Remarks: GEN PLACED CLAIM ON HOST TEMP AS SHE DECIDED TO RESEARCH WARRANTY DEED AND WATERMASTER RECORDS TO DETERMINE HISTORY OF WATER USE. SHE MAY COME IN LATER TO FILE THE CLAIM. KKC 2-17-98
****
2/23/1998, DJ: CLAIM FILED THIS DAY. PLACE OF USE ALSO KNOWN AS LOT 7, BLOCK 1 DEAN RANCH SUBDIVISION.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: 37 Field Inspection Flag:
Presumption Flag:

AJ5809NP
No. A37-00353B

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 09/22/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	EDWARD W STRICKER	06/12/1886	IRRIGATION	04-01	11-01	0.40 CFS	
C	JEANNINE STRICKER		STOCKWATER	04-01	12-01	0.02 CFS	
					TOTAL DIVERSION:	0.40 CFS	0.57 AFA
					CONSUMPTIVE USE:		0.50 AFA

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point(s) of Diversion: T02N R18E S36 NESWNW BLAINE County

Place of use Legal Description for: IRRIGATION

	NE				NW				SW				SE				
	SENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
01N 18E 24		10		10													20.0
																TOTAL ACRES	20.0

Place of use Legal Description for: STOCKWATER

	NE				NW				SW				SE				
	SENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	
01N 18E 24																	

POU County: BLAINE

Non-Irrigation Uses: LIVESTOCK/12 HORSES/RANGE MIXED

Other Rights: PERMIT 37-7510, DOMESTIC WELL

Dates: Exam Made Date: Verified Date: Objection Filed Date:

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

RECEIVED
OCT 10 1997
Department of Water Resources

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454
FACSIMILE
208-384-5844

SCOTT L. CAMPBELL

October 9, 1997

E. Lee Schlender
PO Box 296
Hailey, ID 83333

Re: Delivery of Water to Olsen Livestock Consultants, Inc.

Dear Mr. Schlender:

My letter to you dated October 3, 1997, regarding the above-referenced matter, contained a typographical error. The letter referred to Wood River Valley Irrigation District No. 37 instead of Wood River Valley Irrigation District No. 45. I apologize for any confusion this typographical error might have caused.

Thank you very much.

Very truly yours,

ELAM & BURKE
A Professional Association

Scott L. Campbell

SLC:tmh G:\TMH\WPDATA\7055\00014.LTR

cc: Tom Olsen
Norm Young
Lee Peterson
Sherl Chapman

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
AUG 27 1997
Department of Water Resources
Southern Region

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-0353 TO OLSEN LIVESTOCK CONSULTANTS, INC.

~~PRELIMINARY ORDER~~**AMENDED PRELIMINARY ORDER**

Scott Campbell, an attorney representing Olsen Livestock Consultants, Inc., requested delivery of 0.40 cfs (20 miners inches) of water from the Big Wood River under water right No. 37-0353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-0353 was decreed to James Johnson in the case of S. C. Frost, et al vs. Alturas Water Co., et al. The right is for 6.4 cfs (320 miners inches) to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-0353 is June 12, 1886.

2. The decreed place of use for right No. 37-0353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-0353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 2, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Olsen Livestock Consultants, Inc. claims ownership of Lot 2, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. M.D. and Katherine Dean deeded Lot 1 (approximately 8 acres) and Lot 2 (approximately 10 acres) with appurtenances to Charles A. and Debra Anne Curtis on November 1, 1974. Appurtenant water rights were not specifically described.

b. Charles A. and D. Anne Curtis deeded Lot 1 with appurtenances to Robert E. Fosnot on October 19, 1978. Appurtenant water rights were not specifically described.

c. Charles A. and Debra Anne Curtis deeded Lot 2 with appurtenances to Dean R. and Judene Call on December 5, 1978. A water right with an 1887 priority date for 20 inches was specifically included.

d. Dean R. and Judene Call deeded Lot 2 with appurtenances to Robert D. and Sharyl M. Head on August 5, 1991. A water right with an 1887 priority date for 20 inches was specifically included.

e. Robert D. and Sharyl M. Head deeded Lot 2 with appurtenances to Olsen Livestock Consultants, Inc. on September 25, 1996. Appurtenant water rights were not specifically described.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-0353 separately from the appurtenant land during the time period of December 15, 1969 (the date the land was deeded to M. D. Dean) to November 1, 1974 (the date of the initial sale of Lot 1 and 2).

5. As of July 22, 1997, Water District 37 records ~~list~~listed the following as the current owners of water right No. 37-0353:

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer.

b. ~~Robert Kierstad (40 miners inches) based upon an October 28, 1977 letter from M. D. Dean confirming sale of water to Mr. Kierstad.~~

~~c.~~ Ed Stricker (20 miners inches) based upon an October 29, 1977, letter from M. D. Dean confirming sale of the water to Mr. Stricker.

~~d. Gus Chek (10 miners inches) based upon a November 1, 1977, letter confirming sale of 20 inches of water to Mr. Chekc~~. Reid Kantenwein (10 miners inches) based upon IDWR approved transfer No. 3679 filed by Gus Chek. Mr. Chek's ownership was based upon a November 1, 1977, letter confirming sale of 20 inches of water to Mr. Chek by Mr. Dean. Mr. Chek subsequently sold 10 inches to Douglas Driever.

~~e.~~ The water is to be used upon 10 acres in the SW1/4SW1/4, Section 18, T1N R19E. Based upon approved permit No. 37-08660, the 10 inches of water held by Kantenwein under right No. 37-0353 is to be left undiverted from the Big Wood River to mitigate depletions in flow of the river resulting from pumping ground water under Permit No. 37-08660.

d. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department.

~~fe.~~ Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner.

f. J Karl Bick (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson and a quit claim deed dated November 3, 1993 from John Peterson to J Karl Bick.

~~THE FOLLOWING TEXT WAS MOVED~~
~~h.~~ g.
~~THE PRECEDING TEXT WAS MOVED~~
Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department.

6. The records of Water District 37 list a current owner for ~~all 6.4 cfs (~~280 inches of the 320 miners inches) of right No. 37-0353. Olsen Livestock Consultants, Inc. is not listed as a current owner by the water district. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 2, Block 1, Dean Ranch Subdivision since 1982 or earlier.

7. The following have claimed portions of right 37-0353 in the Snake River Basin Adjudication (SRBA):

a.	A37-0353 J. Karl & Judith G. Bick (This claim was originally filed by John Peterson.)	20 miners inches
b.	A37-0353B Edward & Jeannine Stricker	20 miners inches
c.	A37-0353D Robert & Kathryn Gardner	180 miners inches
d.	A37-0353E Harry L. Oppenheimer, Jr.	20 miners inches
e.	A37-0353F William R. Long	10 miners inches
f.	A37-0353G Douglas Driever (This is one half of claim A37-0353C filed by Gus Chek.)	10 miners inches

g. A37-0353H Reid Kantenwein 10 miners inches
(This is one half of claim A37-0353C filed by Gus Chek.)

h. A37-0353J Tom Olsen 13.5 miners inches

I. A37-11688 Paul R. & Robert E. Fosnot 20 miners inches
(This claim is based upon water right No. 37-0353.)

8. The SRBA claims on file total 303.5 miners inches.

9. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad.

———The chain of title for Lot 9, Block 1, Dean Ranch Subdivision indicates that the ownership interest of Robert Kierstad was reassumed by M. D. Dean in 1978 or 1979. Letters in the files of Water District 37 indicate that any ownership interest of Mr. Kierstad in the 40 inches of water was also reassumed by Mr. Dean.

10. The Department, Water District 37, and Blaine County records do not show the transfer of an 1887 water right to Lot 2, Block 1, Dean Ranch Subdivision.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources", IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

13. Wood River Valley Irrigation District #45 indicates that because of the long delivery ditch, a right of less than 20 inches cannot be delivered to Lot 2, Block 1, Dean Ranch Subdivision. District #45 recommends that the ownership records be clarified for the 40 miners inches attributed to Robert Kierstad under Water District 37 records by dividing it between Olsen Livestock Consultants and Tom Goicoechea, owner of Lot 3, Block 1, Dean Ranch Subdivision.

CONCLUSIONS OF LAW

1. Water right No. 37-0353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 2, Block 1 Dean Ranch Subdivision for many years.

2. Lot 2, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-0353. Unless a change in place of use was made in accordance with a

valid transfer procedure, water right No. 37-0353 is prorated uniformly to the place of use; i.e., 2 miners inches to each acre of the place of use, *Crow v. Carlson*, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. *Russell v. Irish*, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to Charles A. and Debra Anne Curtis did not specifically reserve water rights from the sale, a proportionate share of water right 37-0353 remained appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 2.

4. The reference to an "1887" water right in the chain of title to Lot 2, Block 1, Dean Ranch Subdivision, appears to be a typographical error in describing the appurtenant May 12, 1886 priority water right because documentation has not been found to associate an 1887 priority water right with Lot 2, Block 1, Dean Ranch Subdivision. The inclusion of this reference to a water right in the deed to Mr. Call indicates that Mr. Curtis understood that a water right was appurtenant to Lot 2, Block 1, Dean Ranch Subdivision.

5. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

6. The information available to the department indicates that a proportionate share of water right No. 37-0353 is appurtenant to Lot 2, Block 1, Dean Ranch Subdivision owned by Olsen Livestock Consultants, Inc. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

7. ~~The department is not able with the information presently available to determine which~~Because some of the persons presently ~~listed in the Water District 37 records as~~ owning ~~a portion~~part of water right No. 37-0353 are not ~~entitled to the full amount attributed to them~~claiming ownership and are not calling for delivery under the right, the watermaster can satisfy the Olsen Livestock Consultant, Inc. ~~This matter is left for further determination by the department or the district court. Because some of the persons listed as owning part of the right are not calling for delivery under the right and have not done so for several years, the watermaster can satisfy the Olsen Livestock Consultant, Inc.~~ call without otherwise changing the delivery to those entitled to use the water.

~~If calls for water by those entitled to receive the water exceed the total amount of the right, delivery to each user will be proportionately reduced until the ownership issue is resolved~~8.

~~ORDER~~

~~IT IS, THEREFORE, HEREBY ORDERED:~~

~~1. The watermaster of Water District 37 is instructed to deliver 0.20 cfs of water~~Mr. Tom Goicoechea has not asserted a claim to own a part of right ~~37-0353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District~~ No. 37-0353. If he or others having a potential ownership claim to right No. 37-0353 make a call for delivery and provide information to support ownership, IDWR will consider the validity of the call by providing notice to other affected users and providing opportunity to participate. A ruling by IDWR with respect to a call, including the present Olsen Livestock Consultants, Inc. call, is an interim determination subject to review and revision by the SRBA Court.

9. IDWR is not authorized to divide or otherwise assign the 40 miners inches at one time shown in the Water District 37 records as owned by Robert Keirstad to satisfy the call by Olsen Livestock Consultants, Inc. or any other claimant. The order to deliver 20 miners inches to Olson Livestock Consultants, Inc. should not be viewed as making such a determination.

ORDER

IT IS, THEREFORE, HEREBY ORDERED:

1. The watermaster of Water District 37 is instructed to deliver 0.40 cfs of water right 37-0353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Olsen Livestock Consultants, Inc. Prior to delivery of the water under this order, Olsen Livestock Consultants, Inc. shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Olsen Livestock Consultants, Inc. has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-0353 is no longer appurtenant to Lot 2, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-0353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

~~Signed at Boise, Idaho, this _____ day of July, 19974~~. Ownership of water right no. 37-0353 will be finally fully determined by the SRBA District Court.

Signed at Boise, Idaho, this _____ day of August, 1997.

_____

NORMAN C. YOUNG

Administrator
Water Management Division

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of ~~July~~August, 1997, I served a true and correct copy of the foregoing document on the following person(s) by mailing in the U.S. mail, first class, with the correct postage affixed thereto:

Scott Campbell
Elam & Burke
PO Box 1539
Boise, Idaho 83701

J Karl and Judith G. Bick
PO Box 2014
Sun Valley, Idaho 83353

Gus Chek
PO Box 1984
Hailey, Idaho 83333

Robert and Kathryn Gardner
PO Box 470
Bellevue, Idaho 83313

William R. Long
11710 Mayfield Avenue
Los Angeles, California 90049

Robert Earl Fosnot
PO Box 290
Bellevue, Idaho 83313

E. Lee Schlender
PO Box 296
Hailey, Idaho 83333

Edward and Jeannine Sticker
10767 State Highway 75
Bellevue, Idaho 83313

Douglas Driever
PO Box 2072
Hailey, Idaho 83333

Harry L. Oppenheimer, Jr.
246 Summit Drive
Corde Madera, California 93925

Reid Kantenwein
PO Box 1525
Hailey, Idaho 83333

Paul R. Fosnot
837 Laurel Avenue
Pomona, California 91767

_____
DEBORAH DREW-ELLIS
Legal Secretary

WOOD RIVER VALLEY IRRIGATION DISTRICT #45

Bellevue, Idaho 83313

RECEIVED
AUG 04 1997
Department of Water Resources

RECEIVED
AUG 27 1997
Department of Water Resources
Southern Region

Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83706-2237

RE: Petition for Reconsideration
Olsen Livestock Counsulting, Inc.

The Board of Directors of Wood River Valley Irrigation District #45 wish to file a protest against the allocation of 13.5 inches of water right number 37-00353. Under the current status of the right, we would be taking some other owners right to do so. Whose would we take and not be liable? Also, if this action was taken in favor of one lot, what about all the other dry lots in this subdivision? They are just as eligible as Mr. Olsen under this ruling. This would be expansion of rights.

What we would like to do is resolve the allocation of 40 inches of right #37-00353 listed to Mr. Bob Kierstad. Our district uses it for conveyance loss. The board recommends that the application of Mr. Olsen be upgraded to 20 inches and the balance go to Mr. Tom Goicoechea, the adjacent lot holder. There is some evidence the water may have been on this lot in the first place. The point of diversion for these rights is over three miles from the properties and any less than 20 inches is nearly undeliverable - at least not enough to run a minimum pump.

The board strongly recommends a positive response to this action. It would help clear the books of both districts 37 and 45. We have discussed this matter with Mr. Goicoechea and his response was very positive.

Thank you for your consideration to this matter.

Sincerely,

James I Eakin, Director
W.R.V.I.D. #45

cc: Lee Schlender

RECEIVED
AUG 21 1997
Department of Water Resources

HOGUE, SPECK & AANESTAD
A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
MICHELE C. MESKE

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

August 19, 1997

RECEIVED
AUG 27 1997
Department of Water Resources
Southern Region

Norm Young
State of Idaho
IDWR
Post Office Box 83720
Boise, Idaho 83720-0098

Re: In the Matter of a Call for delivery of Water Right 37-0053 to Olsen Livestock Consultants Inc.

Dear Norm:

I represent Harry Oppenheimer who is the owner of 20 miners inches of the above-referenced water right diverted into the District 45 Canal. I received and reviewed on Mr. Oppenheimer's behalf the preliminary order issued by you in the above-referenced matter on July 22, 1997. If I understand the facts correctly, it appears to be the position of the Idaho Department of Water Resources that the delivery of a water right by the Water Master within a water district is sufficient to prevent forfeiture of that water right even though the place of use for the water right has not been irrigated for more than ten years and the assessment for delivery of the water right to the place of use has not been paid for almost fifteen years. In other words, as long as a water right is within a water district where it cannot be acquired by adverse possession, mere delivery of a water right is sufficient to prevent forfeiture even though there is no evidence of use of the right on the appurtenant place of use. Is this an accurate statement of The Department's position?

I look forward to hearing from you soon. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD, P.A.

James P. Speck

JPS:rsd
c: Harry Oppenheimer

RECEIVED
AUG 0 4 1997
Department of Water Resources

FROM: Allen Merritt DATE: July 31, 1997

TO: Norm Young, Lee Peterson

SUBJECT: Preliminary Order for delivery of water right 37-00353 "Olsen Livestock matter"

On July 30 Mr. Reid Kantenwein visited our office in response to the order. He was somewhat dismayed that his ownership of 10" of the water was not more prominently explained in the order.

Mr. Kantenwein owns 10 acres of land within SW¼SW¼, Section 18, Twp.01N, Rge.19E, B.M. which is east of the Dean Subdivision and adjoins lots 9 & 10 of the subdivision. He has 3 water rights:

Decree 37-00353F (A37-00353H) for 0.20 cfs
Permit 37-08384 for 0.13 cfs (domestic & irrig of 3 acres)
Permit 37-08660 for 0.09 cfs (irrig of 6 acres)
* Both permits are for groundwater.

Permit 37-08660 was approved on the condition that 37-00353F be left in the river for mitigation. Mr. Kantenwein explained that he bought the 10" of water from Gus Chek who filed transfer 3679 placing right 37-00353F on his property. He provided a copy of a Purchase Order #7972 indicating the purchase of 10" of water by Kantenwein from Gus Chek. Mr. Kantenwein indicated that he attempted to get a ditch from the District Canal to his property but was not able so he ultimately used the right as mitigation for his permit 37-08660.

Mr. Kantenwein indicated that Gus Chek owned at one time lot 12 of the Dean Subdivision which is now owned by Powers. He indicated that Gus Chek to his knowledge is now somewhere in Canada and has nothing to do with any of the water. He desires that the watermaster records be changed to reflect his ownership of 37-00353F used for mitigation since he currently uses water from groundwater to irrigate his lot.

I told him I would document this information and provide copies to Norm Young & the watermaster and provide him a copy of my memo. He indicated that he may file a written response to the preliminary order.

RECEIVED
AUG 27 1997
Department of Water Res...
Southern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M
P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451

LEE R. PETERSON
Watermaster

RECEIVED
AUG 0 4 1997
Department of Water Resources

Norm Young
Idaho Department
Of Water Resources
P O Box 83720
Boise, Idaho 83720-0098

July 30, 1997

Dear Norm,

I thought I should touch base with you concerning the Tom Olson matter. We received the preliminary order and as a result I have a couple of questions.

As long as the priority is good we presently deliver the entire 6.40 CFS to the head of the District 45 Canal diversion. If we deliver an additional .20 CFS won't that in effect be expanding the water right? Otherwise whose water are we delivering to Mr. Olson?

Also, Norma and I thought Mr. Olson was claiming right to 20 inches of water deeded to Dean R. Call, during the meeting held in our office? We understand that his adjudication claim is for 13.50 inches and the preliminary order is for 10 inches?

We also are concerned about what kind of precedence this will set for other disputes?

We really are indifferent as to who receives the water, but how do we enter this in our Decree Book that is used by our deputy to determine those individuals that are entitled to the water and how much each one is to receive? If we simply add 10 inches to the record that will expand the right. The only other alternative we can figure is to decrease one of the other individuals water by 10 inches? Which one do we decrease?

We realize that only 303.5 inches of this water is claimed in the adjudication but is it acceptable to use this before the courts has ruled on it? Aren't they considered as just claims until the court rules on them?

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M
P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451

LEE R. PETERSON
Watermaster

We will continue the delivery of 320 inches to the head of the District Canal until we hear from you. Thank you for your help in this matter.

Sincerely,

Lee R. Peterson
Watermaster

SD-0631-2 Basin: **37** Starting Water Right: **00353**

SEL	Water Right No.	Name Last, First	OWN	Priority Date	STG/STS	Source	Use Desc	SYS
_	**A37-00353H**	KANTENWEIN, REID	**C**	**06/12/1886**	**D/**	**BIG WOOD RIVER**	**IRR**	**AJ**
_	A37-00353J	OLSEN LIVESTOCK CONS	**C**	06/12/1886	D/	BIG WOOD RIVER	IRR	AJ
_	**A37-00353K**	PRICE, SHERRY	**C**	**06/12/1886**	**D/**	**BIG WOOD RIVER**	**IRR**	**AJ**
_		PRICE, BRUCE	**C**					
_	**A37-00353L**	GOICOECHEA, TOM	**C**	**06/12/1886**	D/	**BIG WOOD RIVER**	**IRR**	**AJ**
_		GOICOECHEA, ANNETTE	C					
_	**R37-00353**	BICK, JUDITH G	**C**	**06/12/1886**	**D/**	**BIG WOOD RIVER**	**IRR**	**AJ**
_		BICK, J KARL	**C**				**STOCK**	
_	37-00353			00/00/0000	/Z			WR
_	**37-00353A**			**00**/00/0000	/Z			WR
_	37-00353B	FOSNOT, ROBERT E.	**C**	06/12/1886	D/	BIG WOOD RIVER	IRR	WR
_	**37-00353C**			**00**/00/0000	/Z			WR
_	**37-00353D**	DRIEVER, DOUGLAS	**C**	**06/12/1886**	**D/**	**BIG WOOD RIVER**	**IRR**	WR
_	37-00353E	JOHNSON, JAMES	**C**	06/12/1886	D/	BIG WOOD RIVER	IRR	WR
_	**37-00353F**	CHEK, GUS	**C**	**06/12/1886**	**D/**	**BIG WOOD RIVER**	**IRR**	WR

* Decreed copied to Water Right Database (G6=Print Profile Rpt) (G8=Cancel)
(Enter=Continue) (G1=Print Screen Query) (G7=This Query) (Menu _____)

AJS

AJS 51

N Jones

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	MAXIMUM DIVERSION	STAGE
A37-00353	J KARL BICK JUDITH G BICK PO BOX 2014 SUN VALLEY ID 83353	06/12/1886	IRRIGATION STOCKWATER	Irrig Season 01-01 12-31	0.30 CFS 0.10 CFS	DECREED

TOTAL DIVERSION RATE: 0.40 CFS
TOTAL DIVERSION VOLUME: 0.00 AFA

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

POINT OF DIVERSION:
T02N R18E S36 NESWNW

PLACE OF USE: IRRIGATION
T01N R18E S24 NENE 10.0
10.0 ACRES TOTAL

PLACE OF USE: STOCKWATER
T01N R18E S24 NENE

DIVERSION MEANS: WOOD RIVER IRR. DIST., HEADGATE, CANAL, UNNAMED LATERAL DITSCH

REMARKS: GEN SPLIT INTO 37-0353A & 37-0353B BY TRANS. 2948.
IDWR NOTE:STOCKWATER P/U OVERLAPS ACRES WITH A37-08012 CLAIM.
****
OWNERSHIP CHANGE MADE 2-28-95 BY TLB, PETERSON-OLD OWNER,
BICK-NEW OWNER. BOTH SIGNATURES AND QUITCLAIM DEED INCLUDED.

OTHER RIGHTS: WELL PERMIT #37-8012

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	MAXIMUM DIVERSION	STAGE
A37-00353B	EDWARD W STRICKER JEANNINE STRICKER 10767 STATE HWY 75 BELLEVUE ID 83313	06/12/1886	IRRIGATION STOCKWATER	Irrig Season 04-01 12-01	0.40 CFS 0.02 CFS	DECREED

TOTAL DIVERSION RATE: 0.40 CFS
TOTAL DIVERSION VOLUME: 0.57 AFA
CONSUMPTIVE USE: 0.5 AFA

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

POINT OF DIVERSION:
T02N R18E S36 NESWNW

PLACE OF USE: IRRIGATION
T01N R18E S24 NENE 10.0 SENE 10.0
20.0 ACRES TOTAL

PLACE OF USE: STOCKWATER
T01N R18E S24

DIVERSION MEANS: HEADGATE #45 & DISTRICT CANAL, RE-DIVERSION TO GRAVITY IRRIG.

OTHER RIGHTS: PERMIT 37-7310, DOMESTIC WELL

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	MAXIMUM DIVERSION	STAGE
A37-00353D	ROBERT GARDNER KATHRYN GARDNER BOX 470 BELLEVUE ID 83313	06/12/1886	IRRIGATION	Irrig Season		3.60 CFS	DECREED

TOTAL DIVERSION RATE: 3.60 CFS
TOTAL DIVERSION VOLUME: 0.00 AFA
CONSUMPTIVE USE: 800.0 AFA

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

POINT OF DIVERSION:
T02N R18E S36 NESWNW

PLACE OF USE: IRRIGATION

T01N R19E S18	SWNE	40.0	SENE	40.0	NESE	40.0	NWSE	40.0	SWSE	40.0	
	SESE	40.0									
S19	NENE	40.0	NWNE								

280.0 ACRES TOTAL

DIVERSION MEANS: DISTRICT #45 CANAL

REMARKS: GEN OTHER WR; A37-00667K, A37-11671.
THIS IS A PART OF WR #37-00353A, UNRECORDED TRANS. TO P/U LISTED.

OTHER RIGHTS: A37-00418D, A37-00419D, A37-02345, SEE REMARKS.

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	MAXIMUM DIVERSION	STAGE
A37-00353E	HARRY L OPPENHEIMER JR 246 SUMMIT DR CORDE MADERA CA 93925	06/12/1886	IRRIGATION	Irrig Season		0.40 CFS	DECREED

TOTAL DIVERSION RATE: 0.40 CFS
TOTAL DIVERSION VOLUME: 0.00 AFA

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

POINT OF DIVERSION:
T02N R18E S36 NESWNW

PLACE OF USE: IRRIGATION
T01N R18E S13 NESE 10.0
10.0 ACRES TOTAL

DIVERSION MEANS: CANAL, CONCRETE HEADGATE, WEIR, PUMP TO SPRINKLER

REMARKS: GEN 12/6/96 TF; ATTORNEY ADDED.

OTHER RIGHTS: NONE

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	MAXIMUM DIVERSION	STAGE
A37-00353F	WILLIAM R LONG 11710 MAYFIELD AVE LOS ANGELES CA 90049	06/12/1886	IRRIGATION	Irrig Season		0.20 CFS	DECREED

TOTAL DIVERSION RATE: 0.20 CFS
TOTAL DIVERSION VOLUME: 0.00 AFA
CONSUMPTIVE USE: 25.0 AFA

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

POINT OF DIVERSION:
T02N R18E S36 NESWNW

PLACE OF USE: IRRIGATION
T01N R18E S24 NENE 10.0
10.0 ACRES TOTAL

DIVERSION MEANS: HEADGATE #45, DISTRICT CANAL

REMARKS: GEN TRANS. 2948.
P/D NOT GIVEN IN DECREE BUT SHOWN ON TRANSFER.
THIS CLAIM IS A SPLIT FROM A37-00353A. 1/15/1990, RVW.

OTHER RIGHTS: A37-13063 DOMESTIC

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	MAXIMUM DIVERSION	STAGE
A37-00353G	DOUGLAS DRIEVER PO BOX 2072 HAILEY ID 83333	06/12/1886	IRRIGATION	Irrig Season		0.20 CFS	DECREED

TOTAL DIVERSION RATE: 0.20 CFS
TOTAL DIVERSION VOLUME: 18.00 AFA
CONSUMPTIVE USE: 15.0 AFA

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

POINT OF DIVERSION:
T02N R18E S36 SWNW

PLACE OF USE: IRRIGATION
T01N R18E S13 SESE 6.0
6.0 ACRES TOTAL

DIVERSION MEANS: EXISTING CANAL & DITCH TO P/U, ADD. DITCH & PUMP TO BE INSTALLED

REMARKS: GEN CLAIM BASED ON 37-0353 DECREE, SPLIT OFF FROM PART A.
****

THIS CLAIM RESULT OF APPROVED TRANSFER NO. 3678:

1. THE CHANGE AUTHORIZED BY THIS TRANSFER SHALL BE ACCOMPLISHED WITHIN ONE (1) YEAR OF THE DATE OF THIS APPROVAL.
2. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS TRANSFER IS CAUSE FOR THE DIRECTOR TO ISSUE AN ORDER TO SHOW CAUSE WHY THE APPROVAL OF THE TRANSFER SHOULD NOT BE RESCINDED.
3. APPROVAL OF THIS TRANSFER DOES NOT PRECLUDE THE OPPORTUNITY FOR REVIEW OF THE VALIDITY OF THE WATER RIGHT(S) IN THE ONGOING SRBA.
4. USE OF WATER UNDER THIS WATER RIGHT IS SUBJECT TO CONTROL BY THE WATERMASTER OF STATE WATER DISTRICT NO. 37, BIG WOOD RIVER.
5. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN 3.0 AFA PER ACRE FOR THE LANDS ABOVE.

OTHER RIGHTS: A37-00363D

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	MAXIMUM DIVERSION	STAGE
A37-00353H	REID KANTENWEIN PO BOX 1525 HAILEY ID 83333	06/12/1886	IRRIGATION	Irrig Season		0.20 CFS	DECREED

TOTAL DIVERSION RATE: 0.20 CFS
TOTAL DIVERSION VOLUME: 26.30 AFA
CONSUMPTIVE USE: 18.7 AFA

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

POINT OF DIVERSION:
T02N R18E S36 SWNW

PLACE OF USE: IRRIGATION
T01N R19E S18 SWSW 7.5
7.5 ACRES TOTAL

DIVERSION MEANS: EXISTING DITCH & LATERAL,ADD.DITCH TO SUMP & PUMP TO BE INSTALLED

REMARKS: GEN CLAIM BASED ON 37-0353 DECREE, SPLIT OFF FROM PART A.
****

THIS CLAIM RESULT OF APPROVED TRANSFER NO. 3679:

1. USE OF WATER UNDER THIS RIGHT WILL BE REGULATED BY THE WATERMASTER OF STATE WATER DISTRICT NO. 37.
2. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN 3.5 AFA PER ACRE FOR THE LANDS ABOVE.
3. THE CHANGE AUTHORIZED BY THIS TRANSFER SHALL BE ACCOMPLISHED WITHIN ONE (1) YEAR OF THE DATE OF THIS APPROVAL.
4. APPROVAL OF THIS TRANSFER DOES NOT PRECLUDE THE OPPORTUNITY FOR REVIEW OF THE VALIDITY OF THE WATER RIGHT(S) IN THE ONGOING SRBA.
5. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS TRANSFER IS CAUSE FOR THE DIRECTOR TO ISSUE AN ORDER TO SHOW CAUSE WHY THE APPROVAL SHOULD NOT BE RESCINDED.

OTHER RIGHTS: A37-00363D

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	MAXIMUM DIVERSION	STAGE
A37-00353J	TOM OLSEN 228 S COLE RD BOISE ID 83709	06/12/1886	IRRIGATION	Irrig Season		0.27 CFS	DECREED

TOTAL DIVERSION RATE: 0.27 CFS
TOTAL DIVERSION VOLUME: 0.00 AFA

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

POINT OF DIVERSION:
T02N R18E S36 NESWNW

PLACE OF USE: IRRIGATION
T01N R18E S24 SENE 10.0
10.0 ACRES TOTAL

DIVERSION MEANS: WOOD RIVER IRR. DIST., HEADGATE, CANAL, UNNAMED LATERAL DITCH

REMARKS: GEN ALSO KNOWN AS LOT 2, BLOCK 1, DEAN RANCH SUBDIVISION
**** CORRECTED ADDRESS LINE TO DATA ENTRY STANDARDS FOR ROD TO RD
KKC 12-13-96 ****

OTHER RIGHTS:

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	MAXIMUM DIVERSION	STAGE
A37-11688	PAUL R FOSNOT 837 LAUREL AVE POMONA CA 91767 ROBERT EARL FOSNOT PO BOX 290 BELLEVUE ID 83313	06/12/1886	IRRIGATION	Irrig Season		0.40 CFS	DECREED

TOTAL DIVERSION RATE: 0.40 CFS
TOTAL DIVERSION VOLUME: 0.00 AFA
CONSUMPTIVE USE: 69.7 AFA

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

POINT OF DIVERSION:
T02N R18E S36 NESWNW

PLACE OF USE: IRRIGATION
T01N R18E S24 SENE 7.9 NESE 20.0
27.9 ACRES TOTAL

DIVERSION MEANS: DIVERSION DAM, HEADGATE, CANAL

REMARKS: GEN THIS CLAIM WAS PART OF THE DECREED RIGHT NUMBER 37-00353

OTHER RIGHTS: A37-16689

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 13, 1997

Scott L. Campbell, Esq.
ELAM & BURKE
P.O. Box 1539
Boise, Idaho 83701

RECEIVED
JUN 17 1997
Department of Water Resources
Southern Region

Re: Decreed Water Right No. 37-0353

Dear Mr. Campbell:

Thank you for your letter of June 6, 1997, and for your participation in the meeting in Shoshone, Idaho, on June 3, 1997, regarding water rights for the ten-acre parcel owned by your client, Olsen Livestock Consultants, Inc., located in the Southeast 1/4 of the Northeast 1/4 of Section 24, Township 1 North, Range 18 East, described as Lot 2, Block 1 of the Dean Ranch Subdivision, Blaine County, Idaho.

I have reviewed the copies of the transfer deeds for the Olsen Livestock property which you provided from the Sun Valley Title Company. As stated in your June 6th letter, none of the deeds contain a specific reservation of any water rights that may have been appurtenant to the lands at the time of the land conveyances. This factor alone, however, is not determinative of whether water rights presently are appurtenant to Lot 2. As indicated by various documents in the possession of the watermaster, portions of water right no. 37-0353 may have been conveyed by previous owners separate from the land itself.

The Department intends to have a more comprehensive title search conducted in order to help establish what portions of water right no. 37-0353 may have been transferred separate from the lands to which it was originally appurtenant, and to determine the lands to which the various portions of water right no. 37-0353 are presently appurtenant. We expect to have the search completed within the next 30 days.

Please give me a call if you have questions on how the Department is proceeding with this matter.

Sincerely,

Norman C. Young

NORMAN C. YOUNG
Administrator
Water Management Division

c: Allen Merritt
Lee Peterson

TO: Scott Campbell

FROM: Jeffrey T. Drake

DATE: June 6, 1997

RE: Post-1969 transfer of water rights

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JUN 0 9 1997
Department of Water Resources
Southern Region

I. ISSUE: WHETHER A POST-1969 TRANSFER OF WATER RIGHTS OTHER THAN BY DEED, WHICH DOES NOT COMPLY WITH THE PROVISIONS OF IDAHO CODE § 42-222 CAN BE EFFECTIVE AGAINST A SUBSEQUENT PURCHASER OF LAND TO WHICH THE WATER RIGHTS HAD BEEN APPURTENANT.

II. WATER RIGHTS PASS WITH CONVEYANCE OF THE LAND

A. Water rights are appurtenances to the land.

1. Statutes:

a. § 42-101: "[water rights] shall become the complement of, or one of the appurtenances of, the land or other thing to which, through necessity, said water is being applied."

b. § 42-220: "all rights to water confirmed under the provisions of this chapter, or by any decree of court, shall become appurtenant to, and shall pass with a conveyance of, the land for which the right of use is granted.

c. § 42-1402: "The right confirmed by . . . decree or allotment shall be appurtenant to and shall become a part of the land on which the water is used, and such right will pass with the conveyance of such land, and such decree shall describe the land to which such water shall become so appurtenant."

2. Case Law:

a. "[I]t is well established that a water right is an appurtenance to the land on which it has been used and will pass by conveyance of the land." *Russell v. Irish*, 20 Idaho 194, 118 P. 501 (1911).

b. "[D]ecreed water right constitutes real property; such right is appurtenant to appellants' lands to which the water represented thereby has been beneficially applied." *Anderson v. Cummings*, 81 Idaho 327, 340 P.2d 1111 (1959).

B. Water rights pass with the conveyance of the land unless specifically reserved

1. §42-220: "[A]ll rights to water confirmed under the provisions of this chapter, or by any decree of court, shall become appurtenant to, and shall pass with a conveyance of, the land for which the right of use is granted."

2. "[I]t is well established that a water right is an appurtenance to the land on which it has been used and will pass by conveyance of the land. . . . A division of the land would divide the appurtenant water right in the same proportion as it divided the land. . . . This conveyance would carry with it the water right appurtenant to the land at the time of the conveyance, unless it was specifically reserved in the deed or it could be clearly shown that it was known to both parties that the water right was not intended to be conveyed." *Russell v. Irish*, 20 Idaho 194, 118 P. 501 (1911).

III. The Statutory Requirements for Transfers (the 1969 changes)

A. § 42-108: "Any person desiring to make such change . . . shall make application for change with the [DOWR] under the provisions of section 42-222, Idaho Code. After the effective date of this act, no person shall be authorized to change the period of use or nature of use, point of diversion or place of use of water unless he has first applied for and received approval of the [DOWR] under the provisions of section 42-222, Idaho Code.

B. § 42-222(1):

1. Application to DOWR

a.) Any person, entitled to the use of water whether by license, by diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree

b.) Who shall desire to change the point of diversion, place of use, period of use or nature of use

c.) Shall first make application to DOWR for approval.

i.) on forms furnished by DOWR

ii. Describe the right to be changed and the changes proposed

2. DOWR Responsibilities

a. Examine the application and obtain any consent required by §42-108

b. Provide notice of the change and that protests to the change shall be filed within 10 days

c. Investigate protests and conduct a hearing

d. Advise the watermaster of the proposed change (watermaster then makes a recommendation to DOWR).

e. Examine the evidence

f. Deny the change and provide notice, or approve the change in whole or in part, provided that:

i.) No other water rights are injured

ii.) The change does not constitute an enlargement

iii.) The change is consistent with conservation and in the local public interest (§ 42-203A(5)).

iv.) The new use is a beneficial use

g. Return a copy of approved application to the applicant (authorizing the applicant to make the change).

C. § 42-1425.

1.Accomplished Transfers: changes made without complying with §§ 42-108, -222 prior to Nov. 19, 1987 may nonetheless be claimed in a ***general adjudication***, provided:

a. No other water rights existing on the date of the change were injured

b. Change did not result in an enlargement of the original right

2. All requirements of § 42-108 (except consent) and § 42-222 are waived in accordance with the following procedures:

a. If an objection is filed to a claim for accomplished change, the court shall remand to the director for further hearing to determine whether the change injured a water

right existing on the date of the change or constituted an enlargement of the original right.

b. Director then submits a supplemental report with findings and conclusions to the court.

3. "The purpose of I.C. § 42-1425 is to streamline the adjudication process by providing a substitute for the transfer process required by I.C. § 42-222 and to protect existing water uses which were the result of past transfers, regardless of compliance with statutory mandates. . . . Therefore, two limitations exist for an accomplished transfer: (1) there must be no injury to other water rights existing on the date of the change, and (2) the transfer cannot constitute an "enlargement" of the original right. I.C. § 42-1425(2)." *Fremont-Madison Irrigation Dist. and Mitigation Group v. Idaho Ground Water Appropriations, Inc., 129 Idaho 454, 926 P.2d 1301 (1996).*

4. Applies to changes made prior to Nov. 19, 1987 (commencement of the SRBA).

IV. Permit Procedures for New Appropriations (the 1971 changes)

A. § 42-201: "All rights to divert and use the waters of this state for beneficial purposes shall hereafter be acquired and confirmed under the provisions of this chapter and not otherwise. . . . Such appropriation shall be perfected only by means of the application, permit and license procedure as provided in this title; provided, however, that in the event an appropriation has been commenced by diversion and application to beneficial use prior to the effective date of this act it may be perfected under such method of appropriation."

B. Case Law:

1. *R.T. Nahas Co., v. Hulet*, 114 Idaho 23, 752 P.2d 625 (Ct. App. 1988):

a. Pre-1971: Appropriation could be done either by actual diversion and application to a beneficial use or by the statutory permit procedures.

b. Post-1971: The statutory permit method is the exclusive method.

2. *See also Fremont-Madison Irrigation Dist. and Mitigation Group v. Idaho Ground Water Appropriations, Inc.*, 129 Idaho 454, 926 P.2d 1301 (1996).

V. CONFLICTS:

A. §42-1425: In an adjudication, changes prior to Nov. 19, 1987 can be claimed even though § 42-222 was not complied with. See supra.

B. "[T]hose rights acquired by the so-called constitutional method prior to [1971] are still valid. . . . Thus, an appropriator, whose right is based upon a valid, although unadjudicated, constitutional method of appropriation, retains a senior claim in relation to a person holding a later issued permit." *R.T. Nahas Co., v. Hulet*, 114 Idaho 23, 752 P.2d 625 (Ct. App. 1988)

B. "[T]hose rights acquired by the constitutional method through diversion and appropriation to beneficial use prior to 1971 remain valid, I.C. §§ 42-103, -201, so long as any alleged water right has been duly registered with [DOWR] consistent with I.C. § 42-243 (1990). Failure to have registered a constitutional use waived any entitlement to the use of water unless a claim for that right was filed in the SRBA as required by I.C. § 42-245 (Supp.1994)." *Fremont-Madison Irrigation Dist. and Mitigation Group v. Idaho Ground Water Appropriations, Inc.*, 129 Idaho 454, 926 P.2d 1301 (1996).

VI. CONCLUSION:

It is clear that if the seller possessed water rights at the time of the conveyance, then those rights were appurtenant to the land and passed along with the land. The only exceptions are 1) if the water rights were specifically reserved in the deed and 2) both parties knew that the water rights were not intended to be conveyed.

The issue then becomes the extent of water rights which remained, if any, after the seller's purported transfers. Assuming that the transfers were attempted between 1969 and 1987, the answer turns on 1) whether § 42-222 is the exclusive method for moving water rights between parcels of land and 2) if so, whether § 42-1425 relieves the transferees from having to show compliance with § 42-222.

There is no express language in the case law which holds that § 42-222 is the exclusive method for moving water rights between parcels after 1969. However, the meaning of the statutory language seems plain. § 42-108 clearly states: "Any person desiring to make such change . . . shall make application for change with [DOWR] under the provisions of section 42-222, Idaho Code. After the effective date of this act, no person shall be authorized to [make changes] unless he has first applied for and received approval of [DOWR] under the provisions of section 42-222." Absent a rule that would remove a particular change from the § 42-222 requirements, the clear language of the statutes indicate that the § 42-222 process is the exclusive method for making any of the listed changes.

However, in certain circumstances, the "accomplished transfers" statute (§ 42-1425) does provide a substitute method. To take advantage of this method, there are three requirements: 1) the waiver of § 42-222 requirements may only be invoked in a general adjudication 2) no other

water rights existing on the date of the change were injured and 3) the original water rights were not enlarged. Only if these criteria are satisfied can a post-1969 transfer be effective against a later conveyance of the land to which the water rights had been appurtenant.

The 1971 statutory changes (§ 42-201) will not have any bearing on this issue unless the water rights at issue arose by appropriation after 1971, in which case the permit method for new appropriations would be required.

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JUN 09 1997
Department of Water Resources
Southern Region

WARRANTY DEED

For Value Received

M D. DEAN and KATHERINE DEAN, husband and wife

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

CHARLES A. CURTIS and DEBRA ANNE CURTIS, husband and wife
2654 University Heights, Apt G, Boise Avenue, Boise, Idaho 83706
Hereinafter called the grantee, the following described premises, in Blaine County, Idaho, to-wit:

Township 1 North, Range 18 East, B.M., Blaine County, Idaho

Section 24: A parcel of land in the NE¼, more particularly described as follows:

Commencing at a one-inch pipe marking the Northeast corner of said Section 24;
thence South 0°31'00" East 2,010.85 feet along the East boundary of said Section 24, to an iron pin marking the REAL POINT OF BEGINNING;
thence continuing South 0°31'00" East 330.00 feet along said East boundary to an iron pin;
thence South 89°29'00" West 1,313.25 feet to a point on the East boundary of U.S. Highway No. 93;
thence North 0°31'00" West 330.00 feet along said East boundary of U.S. Highway No. 93;
thence North 89°29'00" East 1,313.25 feet to the point of beginning.

AND

Township 1 North, Range 18 East, B.M., Blaine County, Idaho

Section 24: A parcel of land in the SE¼NE¼, more particularly described as follows:

Commencing at the Northeast corner of said Section 24;

see attached

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

Dated: November 1, 1974

M. D. Dean

Katherine Dean

STATE OF , COUNTY OF
On this 8TH day of November, 1974 before me, a notary public in and for said State, personally appeared

M. D. Dean and Katherine Dean, husband and wife

known to me to be the person s whose name s are subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public
Residing at Hailey, Idaho
Comm. Expires May 1977.

STATE OF IDAHO, COUNTY OF Blaine
I hereby certify that this instrument was filed for record at the request of Sawtooth Title Co.
at 45 minutes past 1:00 o'clock P m., this 9 day of December 1974 in my office, and duly recorded in Book of Deeds at page

Ex-Officio Recorder

By Hazel Sanders Deputy.

Fees $4.00
Mail to:

No. 157248

thence South 0°31'00" East 2,340.85 feet along the East boundary of said Section 24 to an iron pin marking the REAL POINT OF BEGINNING;

thence continuing South 0°31'00" East 247.09 feet along said East boundary to an iron pin marking the East ¼ corner of said Section 24;

thence South 89°40'30" West 1,313.26 feet along the South boundary of said SE¼NE¼, Section 24, to an iron pin on the East boundary of U.S. Highway No. 93;

thence North 0°31'00" West 262.70 feet along said highway to an iron pin;

thence North 89°29'00" East 1,313.25 feet to the point of beginning.

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Department of Water Resources
Southern Region

WARRANTY DEED

For Value Received

CHARLES A. CURTIS AND DEBRA ANNE CURTIS, husband and wife

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

DEAN R. CALL AND JUDENE CALL, husband and wife

whose address is: 4925 Sharynne Ln. Torrance, Calif. 90505

Hereinafter called the grantee, the following described premises, in Blaine County, Idaho, to-wit:

Lot 2, DEAN RANCH SUBDIVISION, Blaine County, Idaho, according to the official plat, thereof on record in the office of the Blaine County Recorder, Blaine County, Idaho.

SUBJECT TO: Deed of Trust from Charles A. Curtis and Debra Anne Curtis, husband and wife, to Sawtooth Title co., Inc.,TRUSTEE, and M. D. Dean and Katherine Dean, BENEFICIARY, dated November 1,1974, recorded December 9, 1974, as Instrument No. 157343, records of Blaine County, Idaho. The unpaid balance of which the GRANTOR herein assumes and agrees to pay according to the terms thereof.

SUBJECT TO: Power Line Easements of record, records of Blaine County. Idaho.

TOGETHER WITH: To include 20" of 1887 Water Rights to go with the property and all oil and mineral rights above and below the ground.

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

Dated: December 5, 1978

Charles A. Curtis

Debra Anne Curtis

STATE OF Idaho, COUNTY OF Blaine

On this 9th day of Jan., 1979, before me, a notary public in and for said State, personally appeared

Charles A. Curtis and Debra Anne Curtis, husband and wife

known to me to be the person s whose name s are subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public
Residing at Ketchum, Idaho
Comm. Expires Lifetime

STATE OF IDAHO, COUNTY OF Blaine

I hereby certify that this instrument was filed for record at the request of Sawtooth Title Co

at 30 minutes past 2 o'clock P. M. this 9 day of Jan 19 79 in my office, and duly recorded in Book of Deeds at page 190 386

Ex-Officio Recorder

By Hazel Barbour Deputy

Fees $ 6.00

Mail to:

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JUN 09 1997
Department of Water Resources
Southern Region

Order No. 15196

WARRANTY DEED

For Value Received Dean R. Call and Judene Call, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
Robert D. Head and Sharyl M. Head, husband and wife
whose address is: P.O. Box 203, Bellevue, ID, 83313

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

Lot 2 in Block 1 of DEAN RANCH SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 169670, records of Blaine County, Idaho.
TOGETHER WITH: to include 20" of 1887 Water Rights to go with the property and all Oil and Mineral rights above and below the ground

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the 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: August 5, 1991

Dean R. Call

Judene Call

State of CALIFORNIA

County of LOS ANGELES

On AUGUST 6, 1991 before me, the undersigned, a Notary Public in and for said State, personally appeared Dean R. Call and Judene Call personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Signature Nick J. Dailey

Commission Expires: May 23, 1992

OFFICIAL SEAL
NICK J. DAILEY
Notary Public-California
LOS ANGELES COUNTY
My Commission Expires
May 23, 1992

FIRST AM[illegible] CO.

[illegible]37 332486

3.00 MP Rec'd

Order No. 19384

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JUN 09 1997
Department of Water Resources
Southern Region

WARRANTY DEED

For Value Received Robert D. Head and Sharyl M. Head, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
Olsen Livestock Consultants, Inc., an Idaho Corporation
whose address is: 228 S. Cole Rd., Boise, ID 83709

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

Lot 2 in Block 1 of DEAN RANCH SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 169670, records of Blaine County, Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the 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: September 25, 1996

Robert D. Head

Robert D. Head

Sharyl M. Head

Sharyl M. Head

State of Idaho

County of Blaine

On September 26, 1996 before me, the undersigned, a Notary Public in and for said State, personally appeared Robert D. Head ~~and Sharyl M. Head~~ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

Signature

Commission Expires: 7-12-2000

TAMI K. SORENSON NOTARY PUBLIC STATE OF IDAHO

BLAINE CO. REQUEST OF FIRST AMERICAN TITLE CO.
1996 SEP 27 P 4:31
MARY GREEN, CLERK
FEES $ 3.00
394945

STATE OF IDAHO
COUNTY OF Blaine } ss.
On September 27, 1996 before me, the undersigned, a Notary Public in and for said State, personally appeared Sharyl M. Head

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Signature

Expires 7-12-2000

TAMI K. SORENSON NOTARY PUBLIC STATE OF IDAHO

(This area for official notarial seal)

3001 (6/82) (Individual) First American Title Company

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-00353 TO RICHARD AND PAULA ZIKER, TRUSTEES	)	**PRELIMINARY ORDER**

James Speck, an attorney representing Richard and Paula Ziker, requested delivery of 0.20 cfs (10 miners inches) of water from the Big Wood River under water right No. 37-00353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-00353 was decreed to James Johnson in the case of S. C. Frost, *et al* v. Alturas Water Co., *et al*. The right is for 6.4 cfs to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N, R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-00353 is June 12, 1886.

2. The decreed place of use for right No. 37-00353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-00353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 8A, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Richard and Paula Ziker, as Trustees of the Ziker Family Trust, dated July 20, 1992, claim ownership of Lot 8A, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. On November 19, 1974, M.D. and Katherine J. Dean conveyed by warranty deed approximately 20 acres in the NE1/4NE1/4, Section 24, T1N, Range 18E including what is now Lot 8A, Block 1, of Dean Ranch Subdivision to M. Allyn Dingel and Robert J. Koontz, as tenants in common. The deed includes appurtenances, but does not describe appurtenant water rights.

b. On October 30, 1979, M. Allyn Dingel and Robert J. Koontz, as tenants in common, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision (about 10 acres) to Cecil L. Potter and Marguerite Potter, husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

c. On October 17, 1983, Cecil L. Potter and Marguerite Potter, husband and wife, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to James B. Stockman. The deed is silent concerning appurtenances.

d. On December 18, 1989, James B. Stockman conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivison to William R. Long and Richard Ziker. The deed includes appurtenances, but does not describe appurtenant water rights.

e. On January 19, 1990, Richard Ziker conveyed by quit-claim deed Lot 8A, Block 1, Dean Ranch Subdivision to William R. Long. The deed includes appurtenances, but does not describe appurtenant water rights.

f. On January 29, 1993, Richard Ziker conveyed by quit-claim deed his ownership interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker and Paula Ziker, as trustees of the Ziker Family Trust. The deed is silent concerning appurtenances.

g. On June 2, 1993, William R. Long conveyed by quitclaim deed a one-half (1/2) undivided interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed is silent concerning appurtenances.

h. On June 3, 1994, Richard and Paula Ziker, as trustees of the Ziker Family Trust, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to themselves as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

i. On June 3, 1994, William R. Long conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

j. On January 22, 1999, Paula Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed includes appurtenances, but does not describe appurtenant water rights.

k. On October 14, 1999, Richard Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as trustees for Ziker Family Trust. The deed is silent concerning appurtenances.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-00353 separately from the appurtenant land during the time period of December 15, 1969 (the date land was deeded to M. D. Dean) to November 19, 1974 (the date of the initial sale of Lot 8).

5. Water District 37 records list the following as the current owners of water right No. 37-00353:

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer.

b. Ed Stricker (20 miners inches) based upon an October 29, 1977 letter from M. D. Dean confirming sale of the water to Mr. Stricker.

c. Reid Kantenwein (10 miners inches) based upon IDWR approved transfer No. 3679 filed by Gus Chek. Mr. Chek's ownership was based upon a November 1, 1977 letter confirming sale of 20 inches of water to Mr. Chek. Mr. Chek subsequently sold 10 inches to Douglas Driever. The water is to be used upon 10 acres in the SW1/4SW1/4, Section 18, T1N, R19E. Pursuant to permit No. 37-08660, the 10 inches of water held by Kantenwein under right No. 37-00353 is to be left undiverted from the Big Wood River to mitigate depletions in flow of the river resulting from pumping of ground water under permit No. 37-08660.

d. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department.

e. Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner.

f. Judy Grigsby (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson, a quitclaim deed dated November 3, 1993 from

John Peterson to J. Karl Bick, and warranty and quitclaim deeds dated April 17, 1998 from J. Karl Bick to Judy Grigsby.

g. Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department.

h. Olsen Livestock Consulting (20 miners inches) based upon an amended preliminary order issued by the Department on August 25, 1997.

6. Water District 37 records include documents indicating that Robert Kierstad had an ownership interest in 0.8 cfs (40 miners inches) of right No. 37-00353. Mr. Kierstad has not filed a claim in the Snake River Basin Adjudication (SRBA), has not called for water for many years, and the county records indicate that his ownership interest may no longer exist.

7. The records of Water District 37 do not list Ziker Family Trust as an owner of part of right No. 37-00353. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 8A, Block 1, Dean Ranch Subdivision since 1982 or earlier.

8. The following have claimed portions of right No. 37-00353 in the Snake River Basin Adjudication (SRBA):

a.	A37-00353 J. Karl & Judith G. Bick	20 miners inches
b.	A37-00353B Edward & Jeannine Stricker	20 miners inches
c.	A37-00353D Robert & Kathryn Gardner	180 miners inches
d.	A37-00353E Harry L. Oppenheimer, Jr.	20 miners inches
e.	A37-00353F Ziker Family Trust	10 miners inches
f.	A37-00353G Douglas Driever	10 miners inches
g.	A37-00353H Reid Kantenwein	10 miners inches
h.	A37-00353J Olsen Livestock Consult.	20 miners inches
i.	A37-00353K Sherry Price	18 miners inches
j.	A37-00353L Tom Goicoechea	18 miners inches
k.	A37-11688 Paul R. & Robert E. Fosnot (This claim is based upon water right No. 37-00353.)	20 miners inches

9. The SRBA claims on file total 346 miners inches. The claims exceed the amount of the diversion rate authorized by Right No. 37-00353 by 26 miners inches.

10. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources," IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

CONCLUSIONS OF LAW

1. Water right No. 37-00353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 8A, Block 1 Dean Ranch Subdivision for many years.

2. Lot 8A, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-00353. Unless a change in place of use was made in accordance with a valid transfer procedure, water right No. 37-00353 is prorated uniformly to the place of use; i.e., two miners inches to each acre of the place of use, Crow v. Carlson, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. Russell v. Irish, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to M. Allyn Dingel and Robert J. Koontz does not specifically reserve water rights from the sale, a proportionate share of water right 37-00353 remains appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 8A.

4. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

5. The information available to the department indicates that a proportionate share of water right No. 37-00353 is appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

6. The department is not able with the information presently available to determine which of the persons presently listed in the Water District 37 records as owning a portion of water right No. 37-00353 are not entitled to the full amount attributed to them. This matter is left for further determination by the department or the district court. Because some of the persons listed as owning part of the right are not calling for delivery under the right and have not done so for several years, the watermaster can satisfy Richard and Paula Ziker's call without otherwise changing the delivery to those entitled to use the water. If calls for water by those entitled to receive the water exceed the total amount of the right, delivery to each user will be proportionately reduced until the ownership issue is resolved.

7. A ruling by the Department with respect to a call, including the present Ziker Family Trust call, is an interim determination subject to review and revision by the SRBA Court.

ORDER

It is, therefore, hereby ordered:

1. The watermaster of Water District 37 is instructed to deliver 0.20 cfs of water right 37-00353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Richard and Paula Ziker, as trustee for Ziker Family Trust. Prior to delivery of the water under this order, Richard and Paula Ziker, as trustees for Ziker Family Trust, shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Ziker Family Trust has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-00353 is no longer appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-00353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

Signed at Boise, Idaho this 29TH day of December, 1999.

NORMAN C. YOUNG
Administrator
Water Management Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of December, 1999, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum ID 83340

Scott Campbell
Elam & Burke
P.O. Box 1539
Boise, ID 83701

Robert and Kathryn Gardner
P.O. Box 470
Bellevue, ID 83313

Robert Earl Fosnot
P.O. Box 290
Bellevue, ID 83313

Paul R. Fosnot
837 Laurel Avenue
Pomona, CA 91767

Reid Kantenwein
P.O. Box 1525
Hailey, ID 83333

Harry L. Oppenheimer, Jr.
246 Summit Drive
Corde Madera, CA 93925

Edward and Jeannine Stricker
10767 State Highway 75
Bellevue, ID 83313

Douglas Driever
P.O. Box 2072
Hailey, ID 83333

J. Karl and Judith G. Bick
P.O. Box 2014
Sun Valley, ID 83353

Judith Grigsby
P.O. Box 254
Bellevue, ID 83313

E. Lee Schlender
P.O. Box ~~296~~ 3910
Hailey, ID 83333

Jim Eakin
Wood River Valley
Irrigation District 45
P.O. Box 296
Bellevue, ID 83313-0296

Bruce & Sherry Price
P.O. Box 1022
Bellevue, ID 83313

Tom & Annette Goicoechea
P.O. Box 193
Hailey, ID 83333

Lee Peterson
Watermaster
Water District 37
P.O. Box T
Shoshone, ID 83352

Deborah Drew-Ellis
Administrative Asst., Legal Services

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
AUG 27 1997
Department of Water Resources
Southern Region

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-0353 TO OLSEN LIVESTOCK CONSULTANTS, INC.	)	**AMENDED PRELIMINARY ORDER**

Scott Campbell, an attorney representing Olsen Livestock Consultants, Inc., requested delivery of 0.40 cfs (20 miners inches) of water from the Big Wood River under water right No. 37-0353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-0353 was decreed to James Johnson in the case of S. C. Frost, et al vs. Alturas Water Co., et al. The right is for 6.4 cfs (320 miners inches) to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-0353 is June 12, 1886.

2. The decreed place of use for right No. 37-0353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-0353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 2, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Olsen Livestock Consultants, Inc. claims ownership of Lot 2, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. M.D. and Katherine Dean deeded Lot 1 (approximately 8 acres) and Lot 2 (approximately 10 acres) with appurtenances to Charles A. and Debra Anne Curtis on November 1, 1974. Appurtenant water rights were not specifically described.

b. Charles A. and D. Anne Curtis deeded Lot 1 with appurtenances to Robert E. Fosnot on October 19, 1978. Appurtenant water rights were not specifically described.

c. Charles A. and Debra Anne Curtis deeded Lot 2 with appurtenances to Dean R. and Judene Call on December 5, 1978. A water right with an 1887 priority date for 20 inches was specifically included.

d. Dean R. and Judene Call deeded Lot 2 with appurtenances to Robert D. and Sharyl M. Head on August 5, 1991. A water right with an 1887 priority date for 20 inches was specifically included.

e. Robert D. and Sharyl M. Head deeded Lot 2 with appurtenances to Olsen Livestock Consultants, Inc. on September 25, 1996. Appurtenant water rights were not specifically described.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-0353 separately from the appurtenant land during the time period of December 15, 1969 (the date the land was deeded to M. D. Dean) to November 1, 1974 (the date of the initial sale of Lot 1 and 2).

5. As of July 22, 1997, Water District 37 records listed the following as the current owners of water right No. 37-0353:

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer.

b. Ed Stricker (20 miners inches) based upon an October 29, 1977, letter from M. D. Dean confirming sale of the water to Mr. Stricker.

c. Reid Kantenwein (10 miners inches) based upon IDWR approved transfer No. 3679 filed by Gus Chek. Mr. Chek's ownership was based upon a November 1, 1977, letter confirming sale of 20 inches of water to Mr. Chek by Mr. Dean. Mr. Chek subsequently sold 10 inches to Douglas Driever. The water is to be used upon 10 acres in the SW1/4SW1/4, Section 18, T1N R19E. Based upon approved permit No. 37-08660, the 10 inches of water held by Kantenwein under right No. 37-0353 is to be left undiverted from the Big Wood River to mitigate depletions in flow of the river resulting from pumping ground water under Permit No. 37-08660.

d. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department.

e. Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner.

f. J Karl Bick (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson and a quit claim deed dated November 3, 1993 from John Peterson to J Karl Bick.

g. Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department.

6. The records of Water District 37 list a current owner for 280 inches of the 320 miners inches) of right No. 37-0353. Olsen Livestock Consultants, Inc. is not listed as a current owner by the water district. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 2, Block 1, Dean Ranch Subdivision since 1982 or earlier.

7. The following have claimed portions of right 37-0353 in the Snake River Basin Adjudication (SRBA):

a.	A37-0353 J Karl & Judith G. Bick (This claim was originally filed by John Peterson.)	20 miners inches
b.	A37-0353B Edward & Jeannine Stricker	20 miners inches
c.	A37-0353D Robert & Kathryn Gardner	180 miners inches
d.	A37-0353E Harry L. Oppenheimer, Jr.	20 miners inches
e.	A37-0353F William R. Long	10 miners inches
f.	A37-0353G Douglas Driever (This is one half of claim A37-0353C filed by Gus Chek.)	10 miners inches
g.	A37-0353H Reid Kantenwein (This is one half of claim A37-0353C filed by Gus Chek.)	10 miners inches
h.	A37-0353J Tom Olsen	13.5 miners inches
i.	A37-11688 Paul R. & Robert E. Fosnot (This claim is based upon water right No. 37-0353.)	20 miners inches

8. The SRBA claims on file total 303.5 miners inches.

9. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad. The chain of title for Lot 9, Block 1, Dean Ranch Subdivision indicates that the ownership interest of Robert Kierstad was reassumed by M. D. Dean in 1978 or 1979. Letters in the files of Water District 37 indicate that any ownership interest of Mr. Kierstad in the 40 inches of water was also reassumed by Mr. Dean.

10. The Department, Water District 37, and Blaine County records do not show the transfer of an 1887 water right to Lot 2, Block 1, Dean Ranch Subdivision.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources", IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

13. Wood River Valley Irrigation District #45 indicates that because of the long delivery ditch, a right of less than 20 inches cannot be delivered to Lot 2, Block 1, Dean Ranch Subdivision. District #45 recommends that the ownership records be clarified for the 40 miners inches attributed to Robert Kierstad under Water District 37 records by dividing it between Olsen Livestock Consultants and Tom Goicoechea, owner of Lot 3, Block 1, Dean Ranch Subdivision.

CONCLUSIONS OF LAW

1. Water right No. 37-0353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 2, Block 1 Dean Ranch Subdivision for many years.

2. Lot 2, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-0353. Unless a change in place of use was made in accordance with a valid transfer procedure, water right No. 37-0353 is prorated uniformly to the place of use; i.e., 2 miners inches to each acre of the place of use, *Crow v. Carlson*, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. *Russell v. Irish*, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to Charles A. and Debra Anne Curtis did not specifically reserve water rights from the sale, a proportionate share of water right 37-0353 remained appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 2.

4. The reference to an "1887" water right in the chain of title to Lot 2, Block 1, Dean Ranch Subdivision, appears to be a typographical error in describing the appurtenant May 12, 1886 priority water right because documentation has not been found to associate an 1887 priority water right with Lot 2, Block 1, Dean Ranch Subdivision. The inclusion of this reference to a water right in the deed to Mr. Call indicates that Mr. Curtis understood that a water right was appurtenant to Lot 2, Block 1, Dean Ranch Subdivision.

5. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

6. The information available to the department indicates that a proportionate share of water right No. 37-0353 is appurtenant to Lot 2, Block 1, Dean Ranch Subdivision owned by Olsen Livestock Consultants, Inc. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

7. Because some of the persons presently owning part of water right No. 37-0353 are not claiming ownership and are not calling for delivery under the right, the watermaster can satisfy the Olsen Livestock Consultant, Inc. call without otherwise changing the delivery to those entitled to use the water.

8. Mr. Tom Goicoechea has not asserted a claim to own a part of right No. 37-0353. If he or others having a potential ownership claim to right No. 37-0353 make a call for delivery and provide information to support ownership, IDWR will consider the validity of the call by providing notice to other affected users and providing opportunity to participate. A ruling by IDWR with respect to a call, including the present Olsen Livestock Consultants, Inc. call, is an interim determination subject to review and revision by the SRBA Court.

9. IDWR is not authorized to divide or otherwise assign the 40 miners inches at one time shown in the Water District 37 records as owned by Robert Keirstad to satisfy the call by Olsen Livestock Consultants, Inc. or any other claimant. The order to deliver 20 miners inches to Olson Livestock Consultants, Inc. should not be viewed as making such a determination.

ORDER

IT IS, THEREFORE, HEREBY ORDERED:

1. The watermaster of Water District 37 is instructed to deliver 0.40 cfs of water right 37-0353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Olsen Livestock Consultants, Inc. Prior to delivery of the water under this order, Olsen Livestock Consultants, Inc. shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Olsen Livestock Consultants, Inc. has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-0353 is no longer appurtenant to Lot 2, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-0353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

4. Ownership of water right no. 37-0353 will be finally fully determined by the SRBA District Court.

Signed at Boise, Idaho, this 25th day of August, 1997.

NORMAN C. YOUNG
Administrator
Water Management Division

CERTIFICATE OF MAILING

I hereby certify that on the 25th day of August, 1997, I served a true and correct copy of the foregoing document on the following person(s) by mailing in the U.S. mail, first class, with the correct postage affixed thereto:

Scott Campbell
Elam & Burke
PO Box 1539
Boise, Idaho 83701

J Karl and Judith G. Bick
PO Box 2014
Sun Valley, Idaho 83353

Gus Chek
PO Box 1984
Hailey, Idaho 83333

Robert and Kathryn Gardner
PO Box 470
Bellevue, Idaho 83313

William R. Long
11710 Mayfield Avenue
Los Angeles, California 90049

Robert Earl Fosnot
PO Box 290
Bellevue, Idaho 83313

E. Lee Schlender
PO Box 296
Hailey, Idaho 83333

Edward and Jeannine Sticker
10767 State Highway 75
Bellevue, Idaho 83313

Douglas Driever
PO Box 2072
Hailey, Idaho 83333

Harry L. Oppenheimer, Jr.
246 Summit Drive
Corde Madera, California 93925

Reid Kantenwein
PO Box 1525
Hailey, Idaho 83333

Paul R. Fosnot
837 Laurel Avenue
Pomona, California 91767

Deborah Drew-Ellis
DEBORAH DREW-ELLIS
Legal Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
JUL 24 1997
Department of Water Resources
Southern Region

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-0353 TO OLSEN LIVESTOCK CONSULTANTS, INC.	)	**PRELIMINARY ORDER**

Scott Campbell, an attorney representing Olsen Livestock Consultants, Inc., requested delivery of 0.40 cfs (20 miners inches) of water from the Big Wood River under water right No. 37-0353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-0353 was decreed to James Johnson in the case of S. C. Frost, et al vs. Alturas Water Co., et al. The right is for 6.4 cfs to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-0353 is June 12, 1886.

2. The decreed place of use for right No. 37-0353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-0353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 2, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Olsen Livestock Consultants, Inc. claims ownership of Lot 2, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. M.D. and Katherine Dean deeded Lot 1 (approximately 8 acres) and Lot 2 (approximately 10 acres) with appurtenances to Charles A. and Debra Anne Curtis on November 1, 1974. Appurtenant water rights were not specifically described.

b. Charles A. and D. Anne Curtis deeded Lot 1 with appurtenances to Robert E. Fosnot on October 19, 1978. Appurtenant water rights were not specifically described.

c. Charles A. and Debra Anne Curtis deeded Lot 2 with appurtenances to Dean R. and Judene Call on December 5, 1978. A water right with an 1887 priority date for 20 inches was specifically included.

d. Dean R. and Judene Call deeded Lot 2 with appurtenances to Robert D. and Sharyl M. Head on August 5, 1991. A water right with an 1887 priority date for 20 inches was specifically included.

e. Robert D. and Sharyl M. Head deeded Lot 2 with appurtenances to Olsen Livestock Consultants, Inc. on September 25, 1996. Appurtenant water rights were not specifically described.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-0353 separately from the appurtenant land during the time period of December 15, 1969 (date land was deeded to M. D. Dean) to November 1, 1974 (the date of the initial sale of Lot 1 and 2).

5. Water District 37 records list the following as the current owners of water right No. 37-0353:

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer.

b. Robert Kierstad (40 miners inches) based upon an October 28, 1977 letter from M. D. Dean confirming sale of water to Mr. Kierstad.

c. Ed Stricker (20 miners inches) based upon an October 29, 1977, letter from M. D. Dean confirming sale of the water to Mr. Stricker.

d. Gus Chek (10 miners inches) based upon a November 1, 1977, letter confirming sale of 20 inches of water to Mr. Chek. Mr. Chek subsequently sold 10 inches to Douglas Driever.

e. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department.

f. Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner.

g. J Karl Bick (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson and a quit claim deed dated November 3, 1993 from John Peterson to J Karl Bick.

h. Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department.

6. The records of Water District 37 list a current owner for all 6.4 cfs (320 miners inches) of right No. 37-0353. Olsen Livestock Consultants, Inc. is not listed as a current owner by the water district. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 2, Block 1, Dean Ranch Subdivision since 1982 or earlier.

7. The following have claimed portions of right 37-0353 in the Snake River Basin Adjudication (SRBA):

a. A37-0353 J. Karl & Judith G. Bick — 20 miners inches
(This claim was originally filed by John Peterson.)

b. A37-0353B Edward & Jeannine Stricker — 20 miners inches

c. A37-0353D Robert & Kathryn Gardner — 180 miners inches

d. A37-0353E Harry L. Oppenheimer, Jr. — 20 miners inches

e. A37-0353F William R. Long — 10 miners inches

f. A37-0353G Douglas Driever — 10 miners inches
(This is one half of claim A37-0353C filed by Gus Chek.)

g. A37-0353H Reid Kantenwein — 10 miners inches
(This is one half of claim A37-0353C filed by Gus Chek.)

h. A37-0353J Tom Olsen — 13.5 miners inches

i. A37-11688 Paul R. & Robert E. Fosnot — 20 miners inches
(This claim is based upon water right No. 37-0353.)

8. The SRBA claims on file total 303.5 miners inches.

9. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad.

10. The Department, Water District 37, and Blaine County records do not show the transfer of an 1887 water right to Lot 2, Block 1, Dean Ranch Subdivision.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources", IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

CONCLUSIONS OF LAW

1. Water right No. 37-0353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 2, Block 1 Dean Ranch Subdivision for many years.

2. Lot 2, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-0353. Unless a change in place of use was made in accordance with a valid transfer procedure, water right No. 37-0353 is prorated uniformly to the place of use; i.e., 2 miners inches to each acre of the place of use, Crow v. Carlson, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. Russell v. Irish, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to Charles A. and Debra Anne Curtis did not specifically reserve water rights from the sale, a proportionate share of water right 37-0353 remained appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 2.

4. The reference to an "1887" water right in the chain of title to Lot 2, Block 1, Dean Ranch Subdivision, appears to be a typographical error in describing the appurtenant May 12, 1886 priority water right because documentation has not been found to associate an 1887 priority water right with Lot 2, Block 1, Dean Ranch Subdivision. The inclusion of this reference to a water right in the deed to Mr. Call indicates that Mr. Curtis understood that a water right was appurtenant to Lot 2, Block 1, Dean Ranch Subdivision.

5. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

6. The information available to the department indicates that a proportionate share of water right No. 37-0353 is appurtenant to Lot 2, Block 1, Dean Ranch Subdivision owned by Olsen Livestock Consultants, Inc. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

7. The department is not able with the information presently available to determine which of the persons presently listed in the Water District 37 records as owning a portion of water right No. 37-0353 are not entitled to the full amount attributed to them. This matter is left for further determination by the department or the district court. Because some of the persons listed as owning part of the right are not calling for delivery under the right and have not done so for several years, the watermaster can satisfy the Olsen Livestock Consultant, Inc. call without otherwise changing the delivery to those entitled to use the water. If calls for water by those entitled to receive the water exceed the total amount of the right, delivery to each user will be proportionately reduced until the ownership issue is resolved.

ORDER

IT IS, THEREFORE, HEREBY ORDERED:

1. The watermaster of Water District 37 is instructed to deliver 0.20 cfs of water right 37-0353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Olsen Livestock Consultants, Inc. Prior to delivery of the water under this order, Olsen Livestock Consultants, Inc. shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Olsen Livestock Consultants, Inc. has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-0353 is no longer appurtenant to Lot 2, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-0353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

Signed at Boise, Idaho, this 22ND day of July, 1997.

NORMAN C. YOUNG
Administrator
Water Management Division

CERTIFICATE OF MAILING

I hereby certify that on the 23rd day of July, 1997, I served a true and correct copy of the foregoing document on the following person(s) by mailing in the U.S. mail, first class, with the correct postage affixed thereto:

Scott Campbell
Elam & Burke
PO Box 1539
Boise, Idaho 83701

J Karl and Judith G. Bick
PO Box 2014
Sun Valley, Idaho 83353

Gus Chek
PO Box 1984
Hailey, Idaho 83333

Robert and Kathryn Gardner
PO Box 470
Bellevue, Idaho 83313

William R. Long
11710 Mayfield Avenue
Los Angeles, California 90049

Robert Earl Fosnot
PO Box 290
Bellevue, Idaho 83313

E. Lee Schlender
PO Box 296
Hailey, Idaho 83333

Edward and Jeannine Sticker
10767 State Highway 75
Bellevue, Idaho 83313

Douglas Driever
POBox 2072
Hailey, Idaho 83333

Harry L. Oppenheimer, Jr.
246 Summit Drive
Corde Madera, California 93925

Reid Kantenwein
PO Box 1525
Hailey, Idaho 83333

Paul R. Fosnot
837 Laurel Avenue
Pomona, California 91767

Deborah Drew-Ellis
DEBORAH DREW-ELLIS
Legal Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

COPY

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-00353 TO RICHARD AND PAULA ZIKER, TRUSTEES	)	**PRELIMINARY ORDER**

James Speck, an attorney representing Richard and Paula Ziker, requested delivery of 0.20 cfs (10 miners inches) of water from the Big Wood River under water right No. 37-00353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-00353 was decreed to James Johnson in the case of S. C. Frost, *et al* v. Alturas Water Co., *et al*. The right is for 6.4 cfs to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N, R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-00353 is June 12, 1886.

2. The decreed place of use for right No. 37-00353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-00353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 8A, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Richard and Paula Ziker, as Trustees of the Ziker Family Trust, dated July 20, 1992, claim ownership of Lot 8A, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. On November 19, 1974, M.D. and Katherine J. Dean conveyed by warranty deed approximately 20 acres in the NE1/4NE1/4, Section 24, T1N, Range 18E including what is now Lot 8A, Block 1, of Dean Ranch Subdivision to M. Allyn Dingel and Robert J. Koontz, as tenants in common. The deed includes appurtenances, but does not describe appurtenant water rights.

b. On October 30, 1979, M. Allyn Dingel and Robert J. Koontz, as tenants in common, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision (about 10 acres) to Cecil L. Potter and Marguerite Potter, husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

c. On October 17, 1983, Cecil L. Potter and Marguerite Potter, husband and wife, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to James B. Stockman. The deed is silent concerning appurtenances.

d. On December 18, 1989, James B. Stockman conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivison to William R. Long and Richard Ziker. The deed includes appurtenances, but does not describe appurtenant water rights.

e. On January 19, 1990, Richard Ziker conveyed by quit-claim deed Lot 8A, Block 1, Dean Ranch Subdivision to William R. Long. The deed includes appurtenances, but does not describe appurtenant water rights.

f. On January 29, 1993, Richard Ziker conveyed by quit-claim deed his ownership interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker and Paula Ziker, as trustees of the Ziker Family Trust. The deed is silent concerning appurtenances.

g. On June 2, 1993, William R. Long conveyed by quitclaim deed a one-half (1/2) undivided interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed is silent concerning appurtenances.

h. On June 3, 1994, Richard and Paula Ziker, as trustees of the Ziker Family Trust, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to themselves as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

i. On June 3, 1994, William R. Long conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

j. On January 22, 1999, Paula Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed includes appurtenances, but does not describe appurtenant water rights.

k. On October 14, 1999, Richard Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as trustees for Ziker Family Trust. The deed is silent concerning appurtenances.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-00353 separately from the appurtenant land during the time period of December 15, 1969 (the date land was deeded to M. D. Dean) to November 19, 1974 (the date of the initial sale of Lot 8).

5. Water District 37 records list the following as the current owners of water right No. 37-00353:

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer.

b. Ed Stricker (20 miners inches) based upon an October 29, 1977 letter from M. D. Dean confirming sale of the water to Mr. Stricker.

c. Reid Kantenwein (10 miners inches) based upon IDWR approved transfer No. 3679 filed by Gus Chek. Mr. Chek's ownership was based upon a November 1, 1977 letter confirming sale of 20 inches of water to Mr. Chek. Mr. Chek subsequently sold 10 inches to Douglas Driever. The water is to be used upon 10 acres in the SW1/4SW1/4, Section 18, T1N, R19E. Pursuant to permit No. 37-08660, the 10 inches of water held by Kantenwein under right No. 37-00353 is to be left undiverted from the Big Wood River to mitigate depletions in flow of the river resulting from pumping of ground water under permit No. 37-08660.

d. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department.

e. Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner.

f. Judy Grigsby (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson, a quitclaim deed dated November 3, 1993 from

John Peterson to J. Karl Bick, and warranty and quitclaim deeds dated April 17, 1998 from J. Karl Bick to Judy Grigsby.

g. Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department.

h. Olsen Livestock Consulting (20 miners inches) based upon an amended preliminary order issued by the Department on August 25, 1997.

6. Water District 37 records include documents indicating that Robert Kierstad had an ownership interest in 0.8 cfs (40 miners inches) of right No. 37-00353. Mr. Kierstad has not filed a claim in the Snake River Basin Adjudication (SRBA), has not called for water for many years, and the county records indicate that his ownership interest may no longer exist.

7. The records of Water District 37 do not list Ziker Family Trust as an owner of part of right No. 37-00353. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 8A, Block 1, Dean Ranch Subdivision since 1982 or earlier.

8. The following have claimed portions of right No. 37-00353 in the Snake River Basin Adjudication (SRBA):

a.	A37-00353 J. Karl & Judith G. Bick	20 miners inches
b.	A37-00353B Edward & Jeannine Stricker	20 miners inches
c.	A37-00353D Robert & Kathryn Gardner	180 miners inches
d.	A37-00353E Harry L. Oppenheimer, Jr.	20 miners inches
e.	A37-00353F Ziker Family Trust	10 miners inches
f.	A37-00353G Douglas Driever	10 miners inches
g.	A37-00353H Reid Kantenwein	10 miners inches
h.	A37-00353J Olsen Livestock Consult.	20 miners inches
i.	A37-00353K Sherry Price	18 miners inches
j.	A37-00353L Tom Goicoechea	18 miners inches
k.	A37-11688 Paul R. & Robert E. Fosnot (This claim is based upon water right No. 37-00353.)	20 miners inches

9. The SRBA claims on file total 346 miners inches. The claims exceed the amount of the diversion rate authorized by Right No. 37-00353 by 26 miners inches.

10. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources," IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

CONCLUSIONS OF LAW

1. Water right No. 37-00353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 8A, Block 1 Dean Ranch Subdivision for many years.

2. Lot 8A, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-00353. Unless a change in place of use was made in accordance with a valid transfer procedure, water right No. 37-00353 is prorated uniformly to the place of use; i.e., two miners inches to each acre of the place of use, Crow v. Carlson, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. Russell v. Irish, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to M. Allyn Dingel and Robert J. Koontz does not specifically reserve water rights from the sale, a proportionate share of water right 37-00353 remains appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 8A.

4. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

5. The information available to the department indicates that a proportionate share of water right No. 37-00353 is appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

6. The department is not able with the information presently available to determine which of the persons presently listed in the Water District 37 records as owning a portion of water right No. 37-00353 are not entitled to the full amount attributed to them. This matter is left for further determination by the department or the district court. Because some of the persons listed as owning part of the right are not calling for delivery under the right and have not done so for several years, the watermaster can satisfy Richard and Paula Ziker's call without otherwise changing the delivery to those entitled to use the water. If calls for water by those entitled to receive the water exceed the total amount of the right, delivery to each user will be proportionately reduced until the ownership issue is resolved.

7. A ruling by the Department with respect to a call, including the present Ziker Family Trust call, is an interim determination subject to review and revision by the SRBA Court.

ORDER

It is, therefore, hereby ordered:

1. The watermaster of Water District 37 is instructed to deliver 0.20 cfs of water right 37-00353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Richard and Paula Ziker, as trustee for Ziker Family Trust. Prior to delivery of the water under this order, Richard and Paula Ziker, as trustees for Ziker Family Trust, shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Ziker Family Trust has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-00353 is no longer appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-00353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

Signed at Boise, Idaho this 29TH day of December, 1999.

NORMAN C. YOUNG
Administrator
Water Management Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of December, 1999, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum ID 83340

Scott Campbell
Elam & Burke
P.O. Box 1539
Boise, ID 83701

Robert and Kathryn Gardner
P.O. Box 470
Bellevue, ID 83313

Robert Earl Fosnot
P.O. Box 290
Bellevue, ID 83313

Paul R. Fosnot
837 Laurel Avenue
Pomona, CA 91767

Reid Kantenwein
P.O. Box 1525
Hailey, ID 83333

Harry L. Oppenheimer, Jr.
246 Summit Drive
Corde Madera, CA 93925

Edward and Jeannine Stricker
10767 State Highway 75
Bellevue, ID 83313

Douglas Driever
P.O. Box 2072
Hailey, ID 83333

J. Karl and Judith G. Bick
P.O. Box 2014
Sun Valley, ID 83353

Judith Grigsby
P.O. Box 254
Bellevue, ID 83313

E. Lee Schlender
P.O. Box 296
Hailey, ID 83333

Jim Eakin
Wood River Valley
Irrigation District 45
P.O. Box 296
Bellevue, ID 83313-0296

Bruce & Sherry Price
P.O. Box 1022
Bellevue, ID 83313

Tom & Annette Goicoechea
P.O. Box 193
Hailey, ID 83333

Lee Peterson
Watermaster
Water District 37
P.O. Box T
Shoshone, ID 83352

Deborah Drew-Ellis
Administrative Asst., Legal Services

RECEIVED
JUN 09 1997
Department of Water Resources
Southern Region

UNITED STATES OF AMERICA,

GRANTOR,

TO

WILLIAM STAIR,

GRANTEE.

PATENT:

Dated: June 13, 1870.
Recorded: November 10, 1881 at 11:55 A.M.
Book 15 of Patents, at page 221.

Issued pursuant to the act of Congress approved 20th May 1862, "To Secure Homesteads to Actual Settlers on the Public Domain" and the act supplemental thereto.

Homestead Certificate No. 227.
Application 35.
Recorded Vol 1 page202/

By the President: BENJAMIN HARRISON

By. H. McLean, Secretary.

(SEAL) J. H. Townsend, Recorder of the General Land Office.

Grants:

The East half of the Northeast quarter of Section Twenty-four, in Township One North of Range Eighteen East of the Boise Meridian, in Idaho Territory containing one hundred and sixty acres (includes other property) according to the official plat of the survey of the said land, returned to the General Land Office, by the Surveyor General.

Subject to any vested and accrued Water rights for mining, agricultural, manufacturing or other pruposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to pentrate or intersect the premises hereby granted as provided by law.

W. E. HEARD, Assessor and Ex-Officio Tax Collector of the County of Blaine, in the State of Idaho,

GRANTOR,

TO

BLAINE COUNTY,

GRANTEE.

TAX DEED:

Dated: December 23, 1898.
Recorded: February 20, 1899 at 12:15 P.M. Book 61 of Deeds, at page 102.

Ack. Dec. 23, 1898 before Leon Bald, N.P., for Idaho. (SEAL)

Consideration: $40.59
Granting words: Grant, bargain, sell, convey and confirm.

Conveys:

The East half of the Northeast quarter (E½NE¼) of Section 24, Twp/ 1 North Range 18 E.B.M. (and other property)

That said property was duly assessed for the year 1895 for County and State taxes at $015.30 to W. C. Sharp and the same was liable and subject to taxation, that said taxes were not and had not been paid, and at the time of the sale hereinafter mentioned still remained due and unpaid

WILLIAM SHARP and ELIZABETH C. SHARP, his wife, of the County of Blaine and State of Idaho,

GRANTORS,

TO

JAMES JOHNSON, of the same place,

grantee.

WARRANTY DEED:

Dated: May 18, 1907.
Recorded: May 18, 1907 at 2:50 P. M.
Book 64 of Deeds, at page 472.

Ack. May 18, 1907 before L.L. Sullivan, N.P., for State of Idaho. (SEAL)
My commission expires March 9, 1911.

Granting words: Grant, bargain, sell, remise, release, alienate and confirm.
Consideration: $6,500.00
Covenant: Warrant and Forever Defend.

Conveys:

All the following described lots, pieces or parcels of land, situated in the County of Blaine and State of Idaho, known and described as follows, to-wit:

The E½ of the NE¼ of Section 24, T. 1 N., R. 18 E.B.M., (and other property) containing 160 acres of land.
Together with any and all ditches and water rights thereunto belonging or in anywise appertaining.

The party of the second part assumes and agrees to pay that certain mortgage dated May 18, 1906 executed by the first parties in favor of Charles Hernshein in the sum of $1,600.00 due five years after date, bearing interest at the rate of ten per cent per annum, which is duly recorded in Book 47 page 464, in the office of the County Recorder of said Blaine County,.

S. C. FROST, ET AL.,

PLAINTIFFS,

VS.

ALTURAS WATER COMPANY ET AL.,

DEFENDANTS.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

In the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Lincoln.

Dated: December 12, 1909
Recorded: December 23, 1909
Judgement Book 6, page 469.

Signed: Alfred Budge, Presiding Judge.
Certificate of Harry W. Anderson, Clerk of the Court, attached.

Recites:

That the following named plaintiffs and defendants, claimants of the use of water in said action, are respectively, are the owners, in the possession and entitled to the possession of the following tracts of land to-wit:

James Johnson:

E½ of SE¼ of Section 13, and E½ of NE¼ of Section 24, T. 1 N. R. 18 E., containing 160 acres.

S. C. FROST, ET AL,

PLAINTIFFS,

vs.

ALTURAS WATER COMPANY, ET AL,

DEFENDANTS.

DECREE:

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR SAID COUNTY OF LINCOLN.

Dated: Dec. 13, 1909
Recorded: Book 6 of Judgments, page 447.
Filed: December 23, 1909.

Signed: Alfred Budge, Presiding Judge.

CERTIFICATE OF TRUE COPY:

Dated: December 17, 1909.
Signed: Harry W. Anderson, Clerk (SEAL)

Recites:

It is Ordered, Adjudged and Decreed, that the several parties, plaintiffs, and defendants herein named, do have judgment respectively for a right to use, for irrigation and other purposes, the following number of inches of water, each fifty inches thereof to be equivalent to a flow of one cubic foot per second, as prescribed by the law of Idaho, from the waters of the Malad or Big Wood River and its tributaries, situated in the counties of the State of Idaho, being Blaine and Lincoln, their priorities to date from the time hereinafter named, to-wit:

Johnson, James	320 inches	June 12, 1886	Big Wood River

JAMES JOHNSON and EMILIE JOHNSON, husband and wife,

GRANTORS,

TO

LUDIE T. CAIL,

GRANTEE.

WARRANTY DEED:

Dated: September 8, 1909.
Recorded: July 25, 1910 at 9:00 A. M.
Book 38 of Deeds, at page 491.

Ack. September 10, 1909 before L. L. Hamble, N.P., for State of Idaho. (SEAL)
My commission expires May 6, 1912.

Consideration: $6400.00
Granting words: Grant, bargain, sell, remise, release, alienate and confirm.
Covenant: Warrant and forver Defend.

Conveys:

All the following described lot piece or parcel of land, situated in the County of Blaine and State of Idaho, known and described as follows, to-wit:

The East half of the Northeast quarter of Section 24, all in Township One (1) North Range Eighteen (18) East of Boise Meridian, (and other property) containing 160 acres.
Together with all water rights, decrees, ditches and canals thereunto appertaining or belonging including the decree to be rendered or rendered for 320 inches of water from Big Wood River for J.E. Johnson.

Said party of the second part to assume and pay one half of the real estate taxes on the above land for the year 1909; balance to be paid by James Johnson.
Subject to one mortgage of $1600.00 to Charles Hernsheim and also an unpaid balance of $500.00 of once certain mortgage to W. C. Sharp.

FOR THE PURPOSE OF ORGANIZING THE WOOD RIVER VALLEY IRRIGATION DISTRICT,

CERTIFIED ORDER CREATING DISTRICT:

Dated: January 19, 1915.
Recorded: January 19, 1915, 11:55 A.M.
Book "3" of Miscellaneous, at page 343.

Signed: W. F. Horne, Chairman, Board of County Commissioner.
Attest: Geo. A. McLeod, Clerk, by Geo. A. Rember, Deputy.

Certificate of True Copy: Dated: January 19, 195.
Signed: Geo. A. McLeod, Clerk of Board of County Commissioners, by Geo. A. Rember, Deputy. (SEAL.)

Recites:

On the 19th day of January, 1915, came on regularly to be canvassed the election returns of the special election heretofore ordered to be held on Saturday, January 16, 1915, for the purpose of organizing the Wood River Valley Irrigation District and Electing the officers thereof.

From the canvass it appearing that two-thirds of all the votes cast at said election were "Irrigation District," Yes, it is hereby ordered that the territory theretofore designated by an order of the board made and entered on the 9th day of Dec., 1914, be and the same is hereby organized as an irrigation district under the name and style of the Wood River Irrigation District.

The lands included in the foregoing boundaries and which are situated in Blaine County, Idaho, and included in said irrigation district are described as follows, to-wit:

Township 1 North, Range 18, East, Boise Meridian:

Section 24: E½ NE¼ (and other property.)

LUDIE T. CARR and E. T. CARR, her husband,

GRANTORS,

TO

JESSE HUGHES,

GRANTEE.

WARRANTY DEED:

Dated: April 1, 1916.
Recorded: April 22, 1916 at 1:00 P.M.
Book 98 of Deeds, at page 18.

Ack. April 1, 1916 before Geo. A. McLeod, County Recorder. (SEAL) By S. L. George Deputy.

Consideration: $7,000.00
Granting words: Grant, bargain, sell, remise, release, alienate and confirm.
Covenant: Warranty and forever Defend.

Conveys:

All the following described lot, piece or parcel of land, situated in the County of Blaine, State of Idaho, known and described as follows, to-wit:

The East half of the Northeast quarter ($E\frac{1}{2}NE\frac{1}{4}$) of Section 24 in Twp. 1 N. R. 18 E.B.M. (and other property) containing 160 acres, together with all water rights, decrees, ditches and canals thereunto appertaining or belonging including 320 inches of water as decreed to James Johnson as of June 12, 1886.

($7.00 Internal Revenue Stamps affixed.)

IN THE MATTER OF THE PETITION OF THE WOOD RIVER VALLEY IRRIGATION DISTRICT FOR THE EXAMINATION, APPROVAL AND CONFIRMATION OF THE PROCEEDINGS FOR THE ORGANIZATION OF THE SAID DISTRICT AND FOR THE EXAMINATION, APPROVAL AND CONFIRMATION OF THE PROCEEDINGS FOR THE ISSUEING OF THE BONDS OF SAID DISTRICT.

JUDGMENT:

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE.

Dated: November 8, 1915.
Recorded: November 8, 1915.
Book 7 of Judgments at page 330.

Signed: James R. Bothwell, District Judge
Geo. A. McLeod, Clerk.

Recites: (in part)

IT IS ORDERED, ADJUDGED AND DECREED, That each and all of the proceedings for the organization of the said Wood River Valley Irrigation District be and the same are hereby approved and confirmed, and that the said Wood River Valley Irrigation District, is a duly organized and existing irrigation district organized and existing under and by virtue of the laws of the State of Idaho.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED That each and all of the Proceedings taken by the Wood River Valley Irrigation District to secure the and provide for and authorize the issueing of the bonds of said district in the sum of $50,000.00 and affecting the legality and validity of said bonds up to and including the resolution of the board of directors, of said district, declaring that the said election in said district for authorizing the issueing of said bonds had been in favor of the issuing of said bonds, and that the bonds of said district authorized to be issued in said sum, be and the same are hereby approve d and confirmed, and that the legal and valid bonds of said district in the sum of $50000.00 were duly authorized to be issued by said district.

IN RE APPLICATION OF THE WOOD RIVER LAND COMPANY FOR CERTIFICATE OF AUTHORITY TO SELL WATER RIGHTS.

AMENDED CERTIFICATE OF AUTHORITY.

Dated: August 19, 1921.
Recorded: September 7, 1921 at 2:50 P.M.
Book 117 of Misc, page 157.

Signed: W. G. Swendsen, Commissioner.
Department of Reclamation. (SEAL)

Recites: (in part)
THIS IS TO CERTIFY:

1.. That the Wood River Land Company, a corporation organized and existing under the laws of the State of Idaho, is the owner of an irrigation works and system situated in Blaine County, State of Idaho, used for conveying, carrying and furnishing water for the irrigation of lands in the said county, and having its principal place of business at Hailey, Blaine County, Idaho.

2..That the said Company, under the date of Aug. 10, 1919, filed its petition before the Commissioner of the Department of Reclamation of the State of Idaho, as required by the provisions of Chapter 140 of the Compiled Statutes of Idaho, praying for a certificate of authority to sell water rights, the said petition being accompanied by a form of water deed which the petitioner proposes to give to the purchasers of water rights from its irrigation system, together with maps, land descriptions and other information as required by by the provisions of the said statute, and that under date of July 23, 1921, the said Company, acting through its attorneys, Richards & Haga, filed its petition to amend the Certificate of Authority issued under the date of Feb. 16, 1921, such petition being accompanied by reference to the rqquisite and required maps and data already on file in the Department of Reclamation, all as required by the Statutes.

3.. That the Department of Reclamation of the State of Idaho, having made such examinations and investigations as are required by law and obtained all of the information necessary to enable it to finally act upon the said petition praying for a Certificate of Authority, and the said petition for amending Certificate of Authority, permi ting the said Company to sell water rights from its said irrigation system in the amount of 4500 miners inches of water at the rate of one inch per acres (with the exception herein noted) for sale to and delivery upon not to exceed 4500.00 acres of land which may be selected

from the following list of lands, to-wit:

NE¼ of Sec. 24, T. One (1) N. R. 18 E.B.M. (and other properties.)

(and recites further)

NOW THEREFORE, THIS IS TO CERTIFY That the said Wood River Land Company is hereby given and granted authority to sell under the form of water deed attached hereto, water rights from its irrigation system in the County of Blaine, State of Idaho, during each and every irrigation season, 4500 inches of water at the rate of one inch per acre for use upon 4500.00 acres of land which may be selected from the foregoing list (it being understood that this Certificate of Authority is to take the place of that certain Certificate of Authority issued under date of February 16, 1921)

IN THE MATTER OF THE ESTATE OF

JESSE HUGHES, deceased.

IN THE PROBATE COURT OF THE COUNTY OF BLAINE, STATE OF IDAHO.

COURT PROCEEDINGS:

File No. 46
Date of Death, December 29, 1931

Geo. A. McLeod, Probate Judge.

PETITION OF EXECUTION PRESENTING WILL FOR PROBATE: Dated: January 2, 1932. Signed: T.E. Hughes, Shows: That Jesse Hughes died on the 29th day of December 1931 at Hailey, Idaho, testate, as petitioner believes; that the instrument in writing herewith presented to this Court, is the last Will and Testament as Executor thereof, that the names, ages and residences of the heirs and devisees of the decedent, so far as known to your petitioner are as follows: John Hughes, son, age 55, Hailey, Idaho; Thomas Hughes, son age 53, Bellevue, Idaho; Maud Forohan, daughter (now deceased) 3 minor children: Jesse Hughes Jr., son age 40, Santa Maria, Cal.; Mortimer Hughes, son age 46, Guthrie Center, Iowa; Sadie Grant, daughter, age 42 at Harrisburg, Nebraska; Sylvia Illet, daughter, Des Moines, Iowa age 38; Benjamin Hughes, son age 36, San Luisobispo, Cal.; Jessie Hughes, age 68, widow, Hailey, Idaho. That the goods, chattels and personal estate of said deceased amount to about $500 and that the said deceased left debts due and unpaid to the probable amount of no Dollars.

ORDER APPOINTING TIME FOR PROBATE OF WILL AND DIRECTING PUBLICATION OF NOTICE: Dated: January 22, 1932. Signed: Geo. A. McLeod, Probate Judge. SEAL. Orders: That Friday the 19th day of February 1932 at 10 A.M. of said day, at the Court Room of said Court, at the Courthouse in the City of Hailey, Idaho, be and the same is hereby appointed the time and place for proving said Will and hearing said application, when and where any person interested may appear and contest the said Will and may file objections in writing to the granting of letters testamentary to said petitioner. That notice be given thereof by the Judge of said Probate Court, by publication not less than ten days before said 19th day of February, 1932 in the Hailey Times a newspaper printed and published in said Blaine County.

ORDER ADMITTING WILL TO PROBATE ETC: Dated: Feb. 23, 1932. Signed: Geo. A. McLeod, Probate Judge. SEAL orders: That the said document heretofore filed, purporting to be the last will and Testament of said Jesse Hughes, deceased, be admitted to Probate

as the last Will and Testament of said deceased, that said T. E. Hughes, be and he is hereby appointed executor thereof, and that Letters Testamentary thereon issue to said petitioner, upon taking the oath required by law.

LAST WILL AND TESTAMENT: February 8, 1928. Signed: Jesse Hughes. Witnesses: G. C. Hendrickson, Hailey, Idaho and Joseph W. Fuld, Hailey, Idaho. I, Jesse Hughes, of the age of 72 years, being of sound and disposing mind and memory, and not acting under the influence of fraud, duress, or undue influence of any kind or nature, do make, publish and declare this to be my last Will and Testament; 1. I direct that all my funeral expenses and the expenses of my last illness and all of my just debts be paid as soon after my death as funds are available with which to pay them. 2. I give, devise, and bequeath unto my wife, Jessie Hughes the sum of $100. 3. I give, devise, and bequeath all of the remainder of my property of every kind and description of which I may die possessed, to my children hereinafter named; share and share alike, to-wit: John Hughes, Thomas Hughes, Minnie Horsham, Jesse Hughes, Jr., Mortimer Hughes, Sadie Grant, Sylvia Ellett, and Benjamin Hughes. 4. I hereby nominate and appoint my son, Thomas Hughes, of Bellevue, Idaho, Executor of this Will and direct that he act without bond; and I hereby revoke all former wills by me made. In witness whereof I have hereunto set my hand at Hailey, Idaho, this 8th day of February, 1928.

TESTIMONY OF SUBSCRIBING WITNESS ON PROBATE OF WILL: Dated: February 23, 1932. Signed: Joseph W. Fuld. Sub. and sworn to before Geo.A.McLeod. February 23, 1932 SEAL

AFFIDAVIT OF PUBLICATION: Dated: Feb. 18, 1932. Signed: W. F. Cunningham, Publisher of the Hailey Times. Sub. and sworn to before J. J. McFadden, N.P., Hailey, Idaho, Feb. 18, 1932. W.F. Cunningham swears that a copy of the Notice of Probate of Will was published weekly in the regular and entire issue of the said newspaper, and not in any supplement thereof, for 4 consecutive weeks, commoning January 28, 1932 and ending with the issue dated: Feb. 18, 1932.

CERTIFICATE OF PROOF OF WILL AND THE FACTS FOUND: Dated: Feb. 23, 1932. Signed: Geo. A. McLeod, Probate Judge. SEAL. That the said annexed Will was duly executed by the said decedent, in his lifetime, in the County of Blaine, State of Idaho, and signed by the said testator in the presence of Joseph W. Fuld and G. C. Hendrickson.

LETTERS TESTAMENTARY AND OATH: Signed: Geo. A. McLeod, Probate Judge. (SEAL) Dated: Feb. 23, 1932. Shows: That the last will and Testament of Jesse Hughes, deceased, a copy of which is hereto annexed, having been proved and recording in the office of the Probate Court of Blaine County, Idaho, T. E. Hughes is named herein, is hereby appointed Executor. OATH. Dated: Feb. 27, 1932. Signed: T. E. Hughes. Sub. and sworn to before Geo. A. McLeod, Probate Judge SEAL.

ORDER OF PUBLICATION OF NOTICE TO CREDITORS: Dated: Feb. 27, 1932. Signed: Geo. A. McLeod, Probate Judge. SEAL. Orders: That notice to creditors be given by said Executor by publication in the Hailey Times, a newspaper printed and published in Blaine County, Idaho at least once a week for 4 weeks.

PETITION OF JESSE HUGHES: Dated: Jan. 29, 1932. Signed: Jessie Hughes, Petitioner. Subscribed and sworn to before W. A. Brodhead, N.P., Hailey, Idaho. Shows:

Petitioner prays that a homestead together with appurtenances be selected for the use of your petitioner and that an allowance of $75 per month be taken out of the saidestate for her support and maintenance.

ORDER APPOINTING APPRAISERS: Dated: April 2, 1934. Signed: Gibson Condie, Probate Judge. SEAL. Orders: That O. E. Thamm, T.W. Walker and W.E. Mallory three disinterested persons competent and capable to act, be and they are herby appointed such appraisers.

INVENTORY AND APPRAISEMENT: Dated: April 7, 1934. Signed: O.E. Thamm, T. W. Walker, W. E. Mallory, Appraisers. Includes the following: E½SE¼ Sec. 13 and the E½NE¼ of Sec. 24, in Twp. 1 N. R. 18 E.B.M., $3,000.00 (and other real and personal property)

NOTICE OF HEARING ON RETURN OF PROMISE SALE: Dated: May 1, 1934. Signed: Gibson Condie, Clerk. Shows: That Saturday, the 12th day of May, 1934 at 10 A.M., at the Court Room of said Court, in Blaine County, Idaho, has been fixed for hearing the said return and when and when any person interested in said estate may appear and file written objections to the confirmation of said sale, and may be heard and produce witnesses in support of such objections. PROOF OF POSTING: May 1, 1934. Signed: Gibson Condie.

AFFIDAVIT OF PUBLICATION: May 11, 1934 Signed: M.F. Cunningham, Publisher of Hailey Times. Sub. and sworn to before J. W. Fuld, N.P., Hailey, Idaho, May 11, 1934. Certifies: That 5 consecutive issues commencing with the issue dated Mar. 3, 1932 and ending with the issue dated March 31, 1932.

AFFIDAVIT OF PUBLICATION: Dated: May 11, 1934. Signed. M. F. Cunningham, Publisher of Hailey Times. Sub and sworn to before Joseh W. Fuld, N.P., Hailey, Idaho. Certifies: That 3 consecutive issues commencing April 12, 1934 and endin with the issue dated April 19, 1934.

AFFIDAVIT OF POSTING FOREGOING NOTICES: Dated: May 1, 1934. Signed: Roy Van Winkel Sub and sworn to before Gibson Condie, Probate Judge. SEAL. Shows: That on the 12 da of April 1934, he posted correct and true copies of the foregoing notices in three of the most public places in Blaine County,.

ORDER FIXING DAY OF HEARING RETURN OF SALE ON REAL ESTATE: Dated: May 1, 1934 Signed: Gibson Condie, Probate Judge. Orders: That Saturday the 12th day of May, 1934 at 10:00 A.M., at the Court Room of the Court, be and the same is hereby fixed, for the hearing upon said return, and that notice of ten days be given thereof, by the Clerk, by posting according to law.

RETURN OF SALE OF REAL ESTATE: Dated: May 1, 1934. Signed: T. F. Hughes, by Roy Van Winkle, Att. Sub. and sworn to before Gibson Condie, N.P., for Hailey, Idaho. Shows: That on April 27, 1934 T. F. Hughes accepted the offer of $900 madeby J. E. Shirts and sold subject to confirmation by this Court, the real estate described in said order of sale and said notice to said J. E. Shirts, he being the highest and best bidder and said sum being the highest and best sum bid.

DECREE SHOWING THAT DUE AND LEGAL NOTICE TO CREDITORS HAS BEEN GIVEN. Dated: May 11, 1934. Signed: Gibson Condie, Probate Judge. Shows: That due and legal notice to the creditors of said Jesse Hughes deceased has been give and that the same is established of record; and that this decree be entered in the minutes of this court.

TOM HUGHES, A. W. HECKERT, SCOTT ALLRED, SMITH FARNLUN, GEORGE KNIGHT, ANDREW KNIGHT, F. H. ROCKWELL, N. E. BUCHANAN, and W. J. BUTLER, Trustees for Upper Big Wood River Water Users' Association, a corporation, PAGE LINE CANAL COMPANY, a corporation, and GEORGE ALLRED,

PLAINTIFFS.

VS.

HANS H. COFFIN, Watermaster,

DEFENDANT.

FINDINGS OF FACT CONCLUSIONS OF LAW and DECREE:

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE:

Dated: July 18, 1941.
Filed and Entered: August 6, 1941.

Signed: D. H. Sutphen, District Judge.

Book 11 of Judgements at page 376.

Recites: (in part)

This cause came on for hearing in open court before the above entitled court, the undersigned presiding, in the Courtroom of the courthouse at Hailey, Blaine County, Idaho, on the 2nd day of June 1941. The plaintiffs appeared by one of their attorneys, Conroy Gillespie, Esq., and the defendant failed to appear either in person or by counsel. Thereupon, plaintiff's introduced proof of personaly service upon the defendant, duly acknowledged by defendant, and proof of publication of Notice of Pendency of the above entitled action as required by law. The default of the defendant and all other persons interested having been entered for failure to appear and plead within the time allowed by law, the plaintiffs then introduced documentary and oral testimony in support of the complaint.

Thereafter on motion of plaintiffs said cause was by order of the court re-opened for further hearing, which was duly had before the undersigned judge of this court on the 18th day of July 1941, at his chamber in Gooding, Gooding County, Idaho. At said hearing, the plaintiffs appeared by their attorneys, E.W. Oppenheim and Conroy Gillespie. Thereupon, the plaintiffs called the defendant, Hans H. Coffin, who, being sworn, voluntarily testified to certain matters of fact within his official knowledge as watermaster on Big Wood River. (and recites further)

DECREE

WHEREFORE IT IS ORDERED, ADJUDGED AND DECREED: That plaintiffs are the owners of the right to the use for irrigation, domestic and stock purposes, with priority of July 24, 1924 of eighteen second feet of the waters of Big Wood River above the Dry Beds, as described in the foregoing Findings ofFACT, subject to diversion through the Extension By-Pass hereinbefore described, whenever during the irrigation season of any year the flowage in said river above the Dry Beds diminishes in amount so that on account of said losses it is insufficient to supply the prior rights diverted in or below the Dry Beds (other than the

priorities in Canal No1 61, as in the Findings set forth).

That the right herein adjudicated shall be deemed appurtenant to the said Extension By-Pass for distribution to the lands thereunder owned or served by plaintiffs in the relative proportions set forth in Finding of Fact No. 12.

That the defendant watermaster and his successors in office be and they are hereb directed to permit plaintiffs to divert the waters of Big Wood River herein adjudicated whenever the flow of the said river above and into the Dry Beds so diminshes in an amount that it is by reason of losses in the Dry Beds unavailable to prior appropriators.

(and recites further.)

UPPER WOOD RIVER WATER USERS' ASSOCIATION, INC.,

PLAINTIFF,

VS.

HANS H. COFFIN, Watermaster,

DEFENDANT.

FINDINGS OF FACT, CONCLUSIONS OF LAW, and DECREE.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE.

Dated: December 31, 1942.
Filed and Entered: Jan. 16, 1943.
Book 11 of Judgments at page 457.

Signed: D. E. Sutphen, District Judge.

CERTIFICATE OF TRUE COPY:
Dated: Jan. 8, 1943. Signed: Carolyn Walker, Clerk and Ex-officio Recorder.

Recites: (in part)

BIG WOOD RIVER WATER ADJUDICATION - FROST DECREE

The priority rights of the users of the waters of said Big Wood River and its tributaries were adjudged and determined by this court sitting in the county of Lincoln in a case entitled S. C. Frost et al vs. Alturas Water Co. et al, decree wherein, commonly known as the Frost Decree, was entered Dec. 17, 1909, in Book of Judgments, 1, at page 158 records of said Lincoln County, and a copy thereof is duly recorded in the records of Blaine County in Book 6 of Judgments at pages 447,468. The plaintiff herein has accepted said decree, together with the findings of fact and conclusions of law upon which it is based, as binding upon it.

THE DRY BEDS.

In its course Big Wood River traverses terrain which is locally known and called the Dry Beds. The Dry Beds are situated generally in Section 13, 14, 23, 24, 25, 26 and 36, Township 1 North and Section 2, Township 1 South, Range 18 East, Boise Meridian in said Blaine County.

DECREE

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED: The plaintiff is the owner of a primary right to the use of water developed by its Dagline Ditch constructed in the Dry Beds along Big Wood River, as defined and described in the foregoing findings, as an independent source of supply non-tributary to Big Wood River, which said right, is subject to the following limitations, conditions and incidents:

PRIMARY RIGHT

Amount. The said right is fixed at a maximum of 300 miners' inches of

water.

Priority. The said right dates from June 23, 1934.

Time of Diversion. The said right shall be deemed usable in that part of the irrigation season beginning six days after the time when the flow in the river above the Dry Beds has diminished to a point where the capacity of the Base Line By-Pass is sufficient to carry the entire flow of the river.

Character of Right. While the right herein adjudicated shall be deemed an independent right, non-appurtenant to any particular land, the waters which flow therefrom shall be diverted into the lower river, or alternatively into Canal No. 61.

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Department of Water Resources
Southern Region

Filed for record at the request of Charles S. Coates at 10:15 o'clock A.M. July 31, A.D. 1951.

George F. McCoy, Ex-Officio Recorder.

By Ethel Buhler, Deputy.

No. 99491

WARRANTY DEED

THOMAS E. HUGHES, EXECUTOR OF THE ESTATE OF JESSE HUGHES TO ELMER BERREY, ET UX

THIS INDENTURE, Made this 29th. day of September in the year of our Lord one thousand nine hundred and Forty-five, between Thomas E. Hughes, a widower and the Executor of the Estate of Jesse Hughes, the party of the first part, and Elmer Berrey and Ella Berrey, husband and wife, of Bellevue, Idaho, the parties of the second part:

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Twenty-Eight Hundred and No/100 ($2,800.00) DOLLARS, lawful money of the United States of America, to him in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said parties of the second part, and to their heirs and assigns forever, all the following described real estate, situated in the County of Blaine, State of Idaho, to-wit:

Fractional Northeast Quarter of the Northeast Quarter (NE¼NE¼) Tax Lot No. 1505, and the Southeast Quarter of the Northeast Quarter Tax Lot No. 1507 (SE¼NE¼) of Section Twenty-four (24) in Township One (1) North, Range Eighteen (18) East of the Boise Meridian, Blaine County, Idaho.

Together with 1/40 Miners Inches of the waters of Big Wood River as decreed in that certain suit

U. C. Frost et al vs. Alturas Water Company et al, priority date of June 12, 1886.

($1.10 I.R.S.)
(Affixed and)
(Cancelled.)

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said party of the first part.

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

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in the presence of)
R. V. McCoy)

Thomas E. Hughes (Seal)
Executor of the estate of (Seal)
Jesse Hughes (Seal)

THIS BLANK [redacted] SHED BY CASSIA COUNTY ABSTRACT COMPA[redacted]

WARRANTY DEED

For Value Received, ELMER BERREY and ELLA VIOLA BERREY,

husband and wife, of Bellevue, Blaine County, Idaho,

the grantors, do hereby grant, bargain, sell and convey unto MONROE ADAMS, V. THOMAS GEARY and GRANT WYATT, of Burley, Cassia County, Idaho,

the grantees, the following described premises, to-wit:

The Southeast quarter of the Southeast quarter of Section 13, known as Tax Lot 1509, the Northeast quarter of the Southeast quarter of Section 13, known as Tax Lot 1510, the Southeast quarter of the Northeast quarter of Section 24, known as Tax Lot 1507, and the Northeast quarter of the Northeast quarter of Section 24, known as Tax Lot 1508, all located in Township 1 North, Range 18, East of the Boise Meridian, in Blaine County, Idaho.

REVENUE STAMPS

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Department of Water Resources
Southern Region

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they the owners in fee simple of said premises; that said premises are free from all incumbrances except as above described

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: March , 1965

Elmer Berrey

Ella Viola Berrey

STATE OF IDAHO, COUNTY OF CASSIA

On this 25th day of March, 1965, before me, a notary public in and for said State, personally appeared ELMER BERREY and ELLA VIOLA BERREY, husband and wife,

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public
Residing at Burley, Idaho
Comm. Expires 6-1-67

STATE OF IDAHO, COUNTY OF Blaine

I hereby certify that this instrument was filed for record at the request of Charles Dunn

at 18 minutes past 1:00 o'clock P m, this 1st day of June, 1973, in my office, and duly recorded in Book of Deeds at page

Ex-Officio Recorder

By Hazel Barber Deputy.

Fees $

Mail to

ENTERED / DITCHED ON MARGIN O.
FILED [illegible]

INSTRUMENT No. 147470

Printed and for sale by Brown-Lee Company, Boise

THIS INDENTURE, Made this day of November

in the year of our Lord one thousand nine hundred and sixty-nine, between MONROE ADAMS and JEANNE M. ADAMS, husband and wife; V. THOMAS GEARY and CONNIE GEARY, husband and wife, GRANT WYATT and IVA JEAN WYATT, husband and wife,
of Burley, County of Cassia, State of Idaho

the parties of the first part, and
M. D. DEAN and KATHERINE DEAN, husband and wife,

of 4907 North Brunson Oklahoma City, County of Oklahoma, State of Oklahoma,

the parties of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of

THIRTY-TWO THOUSAND AND NO/100---------- DOLLARS,

lawful money of the United States of America,
to them in hand paid by the said part ies of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said parties of the second part, and to their heirs and assigns forever, all of the following described real estate, situated in , County of Blaine, State of Idaho, to-wit:

The Southeast Quarter of the Southeast Quarter (SE¼SE¼) of Section Thirteen (13), known as Tax Lot 1509,

The Northeast Quarter of the Southeast Quarter (NE¼SE¼) of Section Thirteen (13), known as Tax Lot 1510,

The Southeast Quarter of the Northeast Quarter (SE¼NE¼) of Section Twenty-Four (24), known as Tax Lot 1507,

and

The Northeast Quarter of the Northeast Quarter (NE¼NE¼) of Section Twenty-Four (24), known as Tax Lot 1508,

All located in Township One (1) North, Range Eighteen (18) East of the Boise Meridian, Blaine County, State of Idaho.

Together with all water, water rights and ditches appertinent thereto.

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Southern Region

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises together with the appurtenances unto the parties of the second part, and to their heirs and assigns forever.

And the part ies of the first part, and their heirs, shall and will warrant and by these presents forever defend the premises in the quiet and peaceable possession of the parties of the second part, heirs and assigns, against the parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said part ies of the first part ha VE hereunto set their hand and seal s the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

Monroe Adams [Seal]

Jeanne M. Adams [Seal]

V. Thomas Geary [Seal]

Connie Geary [Seal]

Grant Wyatt (Seal)

Iva Jean Wyatt (Seal)

STATE OF IDAHO }
ss.
County of Cassia }

On this 15 day of ~~November~~ December in the year 19 69, before me the undersigned, , a Notary Public in and for said State, personally appeared MONROE ADAMS and JEANNE M. ADAMS, husband and wife; V. THOMAS GEARY and CONNIE GEARY, husband and wife, GRANT WYATT and IVA JEAN WYATT, husband and wife,

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Eden Meeham

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

My commission expires 6-1-71

WARRANTY DEED

No. 147277

Monroe Adams et ux

TO

M. S. Dean

Dated , 19

STATE OF IDAHO }
ss.
County of Cassia }

I hereby certify that this instrument was filed for record at request of Grantee

at 1:00 minutes past 1 o'clock P. M., this 1st day of June, A. D. 1973

in my office, and duly recorded in Book at page

Ex-Officio Recorder.

By Hazel Barker Deputy.

Fees $ 2.00

Mail to

BRIDGE & GETTER CO. BURLEY, IDAHO

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Department of Water Resources
Southern Region

SUN VALLEY TITLE COMPANY

STATEMENT

TO: Burke & Elam, Attorneys at law
Attn: Sally Finlason
702 W. Idaho
Boise, ID 83701

RE: Olsen Livestock Consultants
Title Search

May 30, 1997

Title Insurance	
Owner's:	
Lender's:	
Reissue Credit:	
Endorsements:	
Escrow Closing Costs:	
Reconveyance fees:	
Recording fees:	
Federal Express fees:	
Other: **Title Search**	**200.00**
TOTAL DUE:	**$200.00**

271 1ST. AVENUE NORTH
(208) 726-9341

POST OFFICE BOX 2365
1-800-488-9341

KETCHUM, IDAHO 83340
FAX (208) 726-7495

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454
.....
FACSIMILE
208-384-5844

SCOTT L. CAMPBELL

June 6, 1997

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Department of Water Resources
Southern Region

VIA HAND DELIVERY

Norman C. Young, Administrator
Water Management Division
IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard
Boise, Idaho 83706

Re: Tom Olsen
Water Right No. 37-00353J

Dear Norm:

Pursuant to our discussions at the meeting in Shoshone, Idaho, on June 3, 1997, I have enclosed copies of the real property records, produced from the title search conducted by Sun Valley Title, for the property which includes Mr. Olsen's ten-acre parcel. His property is located in the Southeast 1/4 of the Northeast 1/4 of Section 24, Township 1 North, Range 18 East. In prior correspondence to Lee Peterson and Allen Merritt, I inaccurately described this property as being located in the Southwest 1/4 of the Northwest 1/4, Section 36, Township 2 North, Range 18 East. This inaccuracy should be corrected in any future references.

In addition to the copies of the real property instruments which I have provided to you with this correspondence, I have enclosed a copy of a research memorandum, prepared at my request, which discusses the pertinent Idaho statutes and case law relating to the issues involved in this matter. Based upon the analysis contained in this memorandum, unless all of the individuals who are listed in the water right records of Lee Peterson as owning the water rights under the original 37-00353 right have filed an adjudication claim and obtained a final decree, specifying an accomplished transfer under the provisions of Idaho Code §42-1425, it appears that Mr. Olsen should be entitled to delivery of water, based upon his real property records and his adjudication claim for 20 inches of water appurtenant to his ten-acre parcel.

I have not reviewed all the adjudication claims, if there are any, for the individuals listed on Mr. Peterson's records. I will rely upon the Department to undertake that evaluation. Any adjudication claim filed after the date of this letter on behalf of those parties would not be legitimate in the analysis of the present controversy.

In short, until the SRBA District Court determines that the accomplished transfer provisions of Idaho Code §42-1425 apply to any or all of the "transfers" which have been listed by Mr. Peterson in his records, I believe that the real property records which we have provided for Mr. Olsen's property should be afforded superior status. They clearly indicate a chain of title to the real property and the appurtenant water right to Mr. Olsen. There is no indication of an exception or reservation of the water right in the real property instruments. Consequently, unless the SRBA District Court adjudicates a post-1969 "accomplished transfer" of the water rights appurtenant to Mr. Olsen's property, he should be entitled to delivery of water under that right until the Court determines otherwise.

I have not yet had the opportunity to undertake a detailed analysis of the records provided by you from Lee Peterson's files. However, based upon a cursory examination at the meeting of June 3rd, I saw no evidence of real property transfer records or approved transfers by the Department of Water Resources for all of the water under right 37-00353. Therefore, I believe a presumption exists that a valid transfer of the water right appurtenant to Mr. Olsen's property did not occur. Unless specific additional relevant documentation is provided which conclusively demonstrates the post-1969 transfers apply to Mr. Olsen's water right, I believe that he is entitled to delivery of that water until the SRBA District Court concludes otherwise.

I am hopeful that the Department's analysis of this issue will produce a speedy conclusion which will allow delivery of water to Mr. Olsen's property in the very near future. Please advise me of the Department's position in this matter as soon as possible, so that I can advise Mr. Olsen of his options.

I will be happy to answer any questions you may have concerning this matter. Please contact me at your convenience.

Very truly yours,

ELAM & BURKE
A Professional Association

Scott L. Campbell

SLC:kp g:\kcc\wpdata\7055\00008
Enclosure

c/enc: Tom Olsen
Sherl Chapman
Allen Merritt
Lee Peterson

URGENT FAX

RUSH TO: **Mr. Allen Merritt, IDWR-Twin Falls**

FAX: 208 736-3037

FROM: **E.LEE SCHLENDER LAW OFFICES**

PAGES (INCLUDING THIS COVER): **1**

Monday, June 2, 1997

---

to : Mr. Scott Campbell
re: Olson Claim of Water right/ Wood River Irrigation District

Mr. Campbell:

I received notification of a meeting in Shoshone tomorrow regarding this matter. I do not think a meeting will resolve anything at this point.

I am advised by Mr. Eakin that this particular property does not have an individual water right and was never irrigated with Big Wood River Irrigation District water. The ranch water right likely was deeded away many years past. Can you verify that it was not? Is there an underlying contract or plan filed with Blaine County confirming water rights for this subdivision ? Do the other lots have water being delivered to them at present ? Does a priority exist under the present adjudication law, for this parcel ?
This is a serious case; it could well set a precedent for other similar situations. These questions must be researched and answered, in black and white, before I advise my client to proceed with delivering water.

E.Lee Schlender
cc: Mr. Merritt and Mr. Yound

RECEIVED
JUN 02 1997
Department of Water Resources
Southern Region

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 29, 1997

Lee Peterson
Water District 37
PO Box P
Shoshone, ID 83352

RE: Tom Olsen water call for delivery thru District 45 Canal

Dear Lee:

This letter is to confirm our planned meeting next Tuesday (June 3rd) in your office at 10:00 am. I have contacted all parties or their attorneys informing them of the meeting. Thanks for providing the opportunity to meet to discuss this matter.

Sincerely,

Allen Merritt, PE
Southern Region Manager

CC: Norm Young - IDWR
Scott Campbell, PO Box 1539, Boise 83701
Jim Eakin, PO Box 296, Bellevue 83313
Lee Schlender, PO Box 2910, Hailey 83333

JUN 02 1997

SUN VALLEY
TITLE
COMPANY

May 30, 1997

Burke & Elam, Attorneys at law
Attn: Sally Finlason
702 W. Idaho
Boise, ID 83701

RECEIVED
JUN 09 1997
Department of Water Resources
Southern Region

RE: Olsen Livestock Consultants
Title Search

Dear Sally:

As requested, enclosed are copies of all the transfer deeds for the SE¼NE¼ of T1N-R18E-SEC24, Olsen Livestock property. Our search went back to 1913.

Also enclosed is our billing invoice. Should you have any questions, please contact us.

Sincerely,

Connie Harden

Connie Harden
Title Assistant

271 1ST. AVENUE NORTH
(208) 726-9341

POST OFFICE BOX 2365
1-800-488-9341

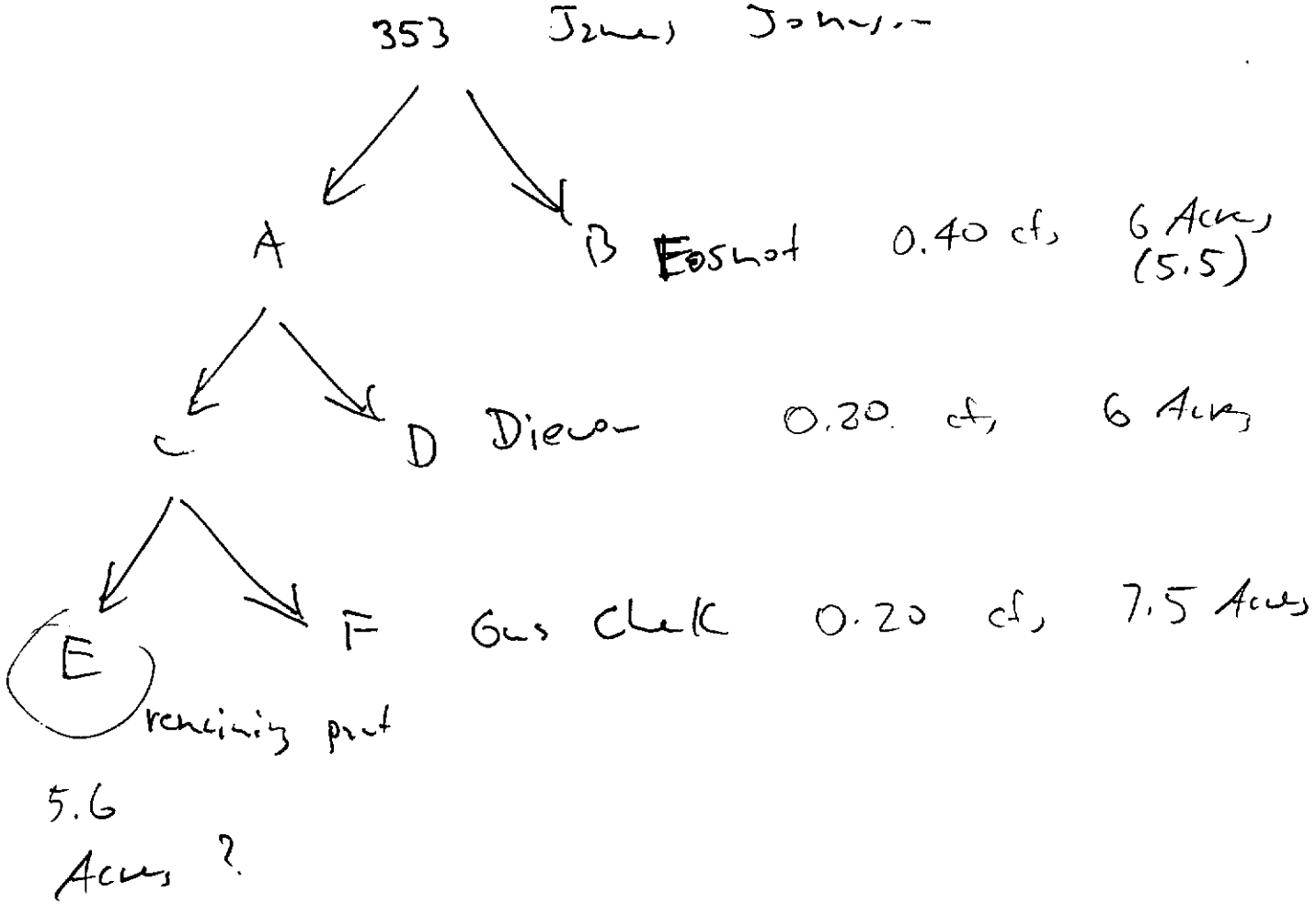
KETCHUM, IDAHO 83340
FAX (208) 726-7495

SD-0607-2 Basin: 37 Starting Water Right: 00353 STATE

SEL	Water Right No.	Name Last, First	OWN	Priority Date	STG/STS	Source	Use Code	Use Desc
_	37-00353			00/00/0000	/			
_	37-00353A			00/00/0000	/Z			
_	37-00353B	FOSNOT, ROBERT E.	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
_	37-00353C			00/00/0000	/Z			
_	37-00353D	DRIEVER, DOUGLAS	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
_	37-00353E	JOHNSON, JAMES	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
_	37-00353F	CHEK, GUS	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
_	37-00354	JOHNSON, JAMES E.	C	06/01/1887	D/	THOMPSON CREEK	01	IRR
_	37-00355	PRICE, R. G.	C	05/17/1883	D/	BIG WOOD RIVER	01	IRR
_							43	DOMEST
_	37-00356	JOHNSON, LOUIS	C	11/13/1907	D/	LITTLE WOOD RIVE	01	IRR
_	37-00357	JOHNSON, NIELS	C	11/13/1907	D/	LITTLE WOOD RIVE	01	IRR
_	37-00358			00/00/0000	/			
_	37-00359			00/00/0000	/			
_	37-00359A	JONES, KATIE	C	06/01/1884	D/	BIG WOOD RIVER	01	IRR
_	37-00359B	STEWART, ELLA	C	06/01/1884	D/	BIG WOOD RIVER	01	IRR

(Enter=Continue) (GOLD 7=This Query) (Menu _____)

6/12/1886



5.6 Acres ?

SD-0604-2 Township: 01N Range: 18E Section: 24 Tract: SENE Lot:

SEL	Tract	LOT	Water Right No.	STATE Name Last, First	OWN	AC	STG	Max # Records 82 Priority Date	Use Code	Desc
			A37-00353B	STRICKER, EDWARD W	C		D	06/12/1886	01	IRR
				STRICKER, JEANNINE	C				04	STOCK
			A37-00353B	STRICKER, EDWARD W	C		D	06/12/1886	01	IRR
				STRICKER, JEANNINE	C				04	STOCK
	SENE		A37-00353B	STRICKER, EDWARD W	C	10	D	06/12/1886	01	IRR
				STRICKER, JEANNINE	C				04	STOCK
	SENE		A37-07310	STRICKER, EDWARD W	C	7	L	06/10/1983	01	IRR
				STRICKER, JEANNINE	C				04	STOCK
									43	DOMEST
	SENE		A37-07310	STRICKER, EDWARD W	C		L	06/10/1983	01	IRR
				STRICKER, JEANNINE	C				04	STOCK
									43	DOMEST
	SENE		A37-11686	FOSNOT, ROBERT EARL	C		J	05/22/1975	43	DOMEST
									04	STOCK
	SENE		A37-11686	FOSNOT, ROBERT EARL	C		J	05/22/1975	43	DOMEST
									04	STOCK
	SENE		A37-11688	FOSNOT, ROBERT EARL	C	7	D	06/12/1886	01	IRR
				FOSNOT, PAUL R	C					
	SENE		A37-00353A	JOHNSON, JAMES	O			06/12/1886	01	IRR
				SPLIT RIGHT	C					
	SENE		A37-11689	FOSNOT, ROBERT EARL	O	7		10/15/1884	01	IRR
				FOSNOT, PAUL R	O					
				SPLIT RIGHT	C					
	SENE		A37-11689A	FOSNOT, ROBERT EARL	C	7	D	10/15/1884	01	IRR
				FOSNOT, PAUL R	C					
	SENE		R37-11686	FOSNOT, ROBERT EARL	C		J	05/22/1975	43	DOMEST
									04	STOCK
	SENE		R37-11686	FOSNOT, ROBERT EARL	C		J	05/22/1975	43	DOMEST
									04	STOCK
	SENE		R37-11689	FOSNOT, ROBERT EARL	O	7		10/15/1884	01	IRR
				FOSNOT, PAUL R	O					
				SPLIT RIGHT	C					
	SENE		R37-11689A	FOSNOT, ROBERT EARL	C	7	D	10/15/1884	01	IRR
				FOSNOT, PAUL R	C					
	SENE		A37-00353J	PETERSON, JOHN R	O	10	D	06/12/1886	01	IRR
				OLSEN, TOM	C					

(Enter=Continue) (GOLD7=This Query) (Menu _____)

A3Q4

SD-0607-2 Prefix: A Basin: 37 Starting Water Right: 00353 STATE

Water Right No.	Name Last, First	OWN	Priority Date	Stg/ Sts	Source	Use Code	Use Desc
A37-00353	BICK, J KARL	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
	BICK, JUDITH G	C				04	STOCK
A37-00353A	SPLIT RIGHT,	C	06/12/1886	/Z	BIG WOOD RIVER SPLIT RIGHT	01	IRR
A37-00353B	STRICKER, EDWARD W	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
	STRICKER, JEANNINE	C				04	STOCK
A37-00353C	SPLIT RIGHT,	C	06/12/1886	/Z	BIG WOOD RIVER SPLIT RIGHT	01	IRR
A37-00353D	GARDNER, ROBERT	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
	GARDNER, KATHRYN	C					
A37-00353E	OPPENHEIMER JR, HARRY	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
A37-00353F	LONG, WILLIAM R ?	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
A37-00353G	DRIEVER, DOUGLAS	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
A37-00353H	KANTENWEIN, REID ?	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
A37-00353J	OLSEN, TOM	C	06/12/1886	D/	BIG WOOD RIVER	01	IRR
A37-00354	LAZY TRIPLE J RANCH GE	C	06/01/1887	D/	THOMPSON CREEK	01	IRR

(Enter=Continue) (GOLD7=This Query) (Menu _____)

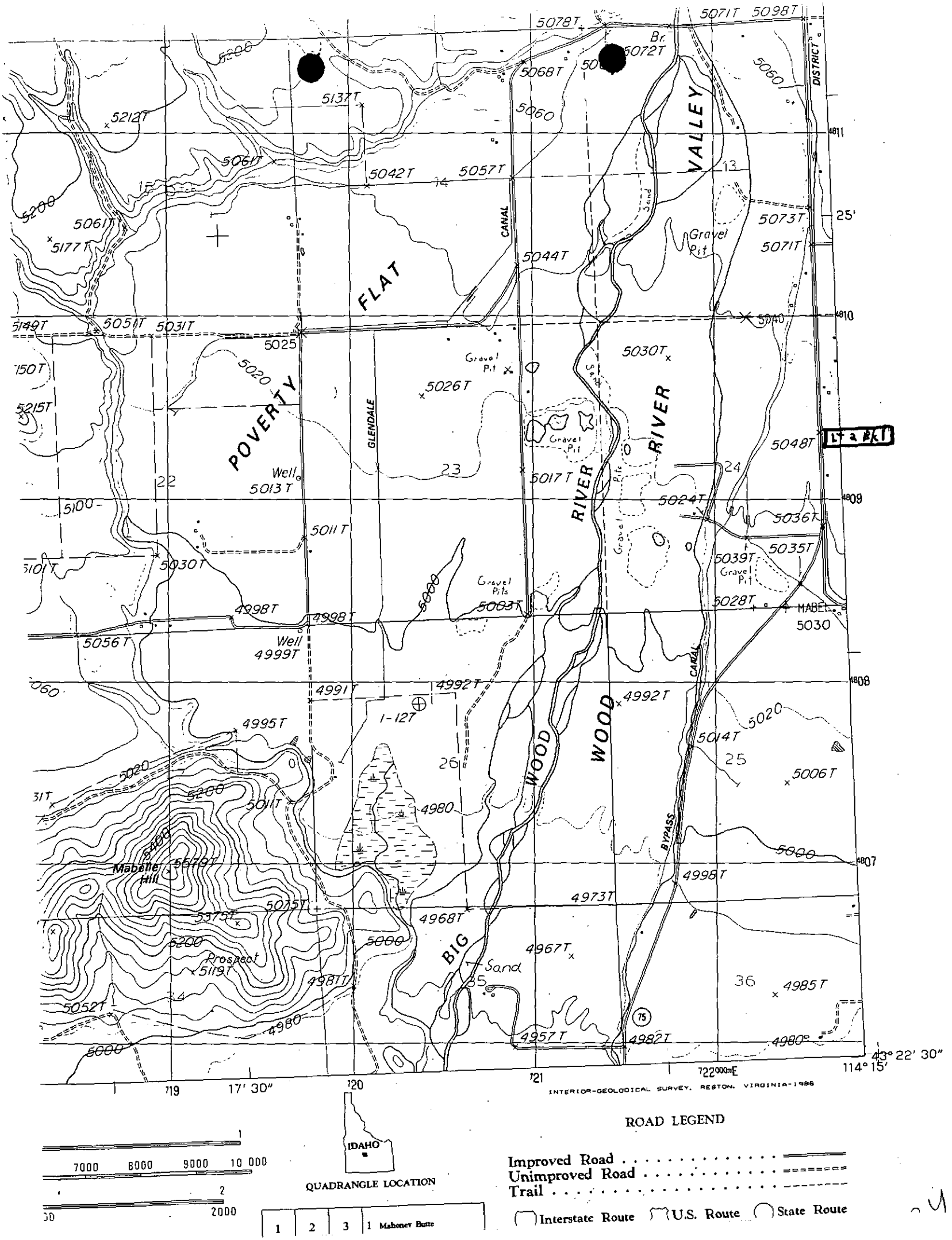
SD-0604-2 Township: 01N Range: 18E Section: 24 Tract: SENE Lot:

S E L	Tract	L O T	Water Right No.	STATE Name Last, First	O W N	AC	S T G	Max # Records 50 Priority Date	Use Code	Desc
_	SENE		37-00353B	JOHNSON, JAMES	O	6	D	06/12/1886	01	IRR
_				FOSNOT, ROBERT E.	C					
_	SENE		37-00353E	JOHNSON, JAMES	C		D	06/12/1886	01	IRR
_	SENE		37-07310	STRICKER, EDWARD W.	C	7	L	06/10/1983	01	IRR
_									04	STOCK
_									43	DOMEST
_	SENE		37-07310	STRICKER, EDWARD W.	C		L	06/10/1983	01	IRR
_									04	STOCK
_									43	DOMEST
_										
_										
_										
_										
_										
_										
_										

(Enter=Continue) (GOLD 7=This Query) (Menu _____)

WM. Records 5/20/97

Doug Driever	10"
Gus Chex	10" ?
Robert Foshot	20"
Robert Gruber	180"
Robert Kierstad	40" ?
Harry Oppenheimer	20"
Ed Stricker	20"
Jay Bick	20"
	320"



INTERIOR-GEOLOGICAL SURVEY, RESTON, VIRGINIA-1986

ROAD LEGEND

Improved Road . . . . . ═══

Unimproved Road . . . . . ═══

Trail . . . . . ---

Interstate Route U.S. Route State Route

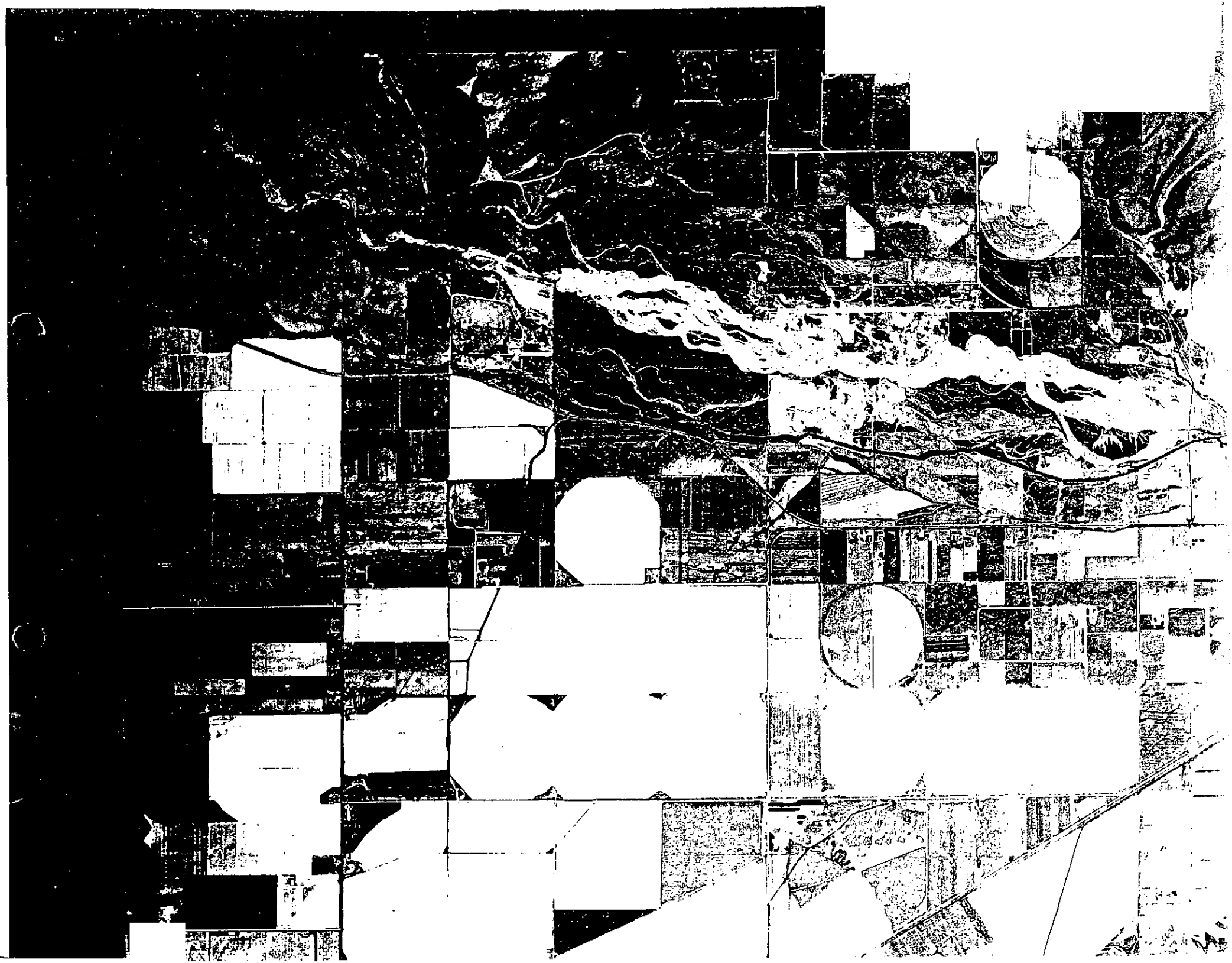
IDAHO

QUADRANGLE LOCATION

1	2	3	1 Mahoney Butte

7000 8000 9000 10 000

2000



RECEIVED
MAY 20 1997
Department of Water Resources
Southern Region

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454
FACSIMILE
208-384-5844

SCOTT L. CAMPBELL

May 19, 1997

Mr. Allen Merritt, P.E.
Water Rights Supervisor
Idaho Department of Water Resources
Southern Region
1341 Fillmore Street - Suite 200
Twin Falls, Idaho 83301-3380

Re: Tom Olsen Water Right

Dear Allen:

I have enclosed copies of the following correspondence for your information:

1. April 28, 1997 letter from Scott Campbell to the Wood River Valley Irrigation District Board of Directors;

2. May 5, 1997 letter from Lee Peterson to Scott Campbell; and

3. May 5, 1997 letter from Jim Eakin to Scott Campbell.

I am hopeful that my letter of May 19, 1997 will prompt an early and amicable resolution of this matter. If it does not, I anticipate that Mr. Olsen may institute formal proceedings to obtain delivery of his decreed water right by the Wood River Valley Irrigation District, through the offices of Lee Peterson, the Watermaster for Water District No. 37 and 37M.

Please contact me if you have any questions.

Very truly yours,

ELAM & BURKE
A Professional Association

Scott L. Campbell

SLC:kc g:\kcc\wpdata\7055\00005
Enclosures

cc: Mr. Tom Olsen (with enclosures)
Mr. Sherl Chapman (with enclosures)
Mr. Lee Peterson (with enclosures)
E. Lee Schlender, Esq. (with enclosures)

TO: Allen Merritt DATE: May 22, 1997

FROM: Jim Stanton

SUBJECT: Water Call From Thomas Olsen, 37-00353 Part

I have reviewed the 1987 NAPP photo for the Dean Ranch Subdivision where the Olsen property is located (Y 25 SW). The photo was confusing at first, but finally made sense. Lots 4, 5 & 6 are owned by the same person, and appear as a single tract within the subdivision. The other lots then match the plat. The 20 acres just south of the subdivision is irrigated, as is Lot 1 at the south end of the subdivision. Lot 2 is clearly not irrigated on the NAPP photo, being gray instead of red or pink like the surrounding land. There does not appear to be a home on Lot 2, either. The only mark on Lot 2 is an irrigation ditch running southeasterly thru the center of the tract.

The 1974 Advance Print of the Y24 & Y25 orthophotoquad maps shows Lots 1, 2, & 3 of the subdivision to be dry land without visible plant cover. Although the land NE of the ditch is lighter in color than the land SW of the ditch, neither area looks like farm ground. Many nearby areas are irrigated with different crops and different systems, giving a good basis for comparison.

On 5-23-97, I visited the Olsen property accompanied by Watermaster Lee Peterson. We looked at both ends of the property. The old ditch that ran thru the center of the lot has been filled in, and has no visible connection to the District Canal. According to Lee, Jim Eakin (who runs the District Canal) filled in the ditch many years ago. The land is very flat and very gravelly, and has been historically very difficult to irrigate properly according to Mr. Eakin. The District Canal runs along the west side of the lot, as does a small ditch that takes water from the Canal to land south of the Olsen ground. The Olsen ground shows signs of irrigation, and no diversion works were found (except for the lawn around the home, and trees that were being installed along the ditch, which presumably are watered from the domestic well). Photos were taken.

I looked at ASCS master photos and slides. No development was seen on the 1987 photo. The 1990 and 1992 slides showed no development, only dry land. The 1996 slide showed the home but no irrigation.

There appears to be clear evidence that the Olsen property has not been irrigated for many years. Therefore, the claimed right may have been lost under Sec. 42-222(2) of the Idaho Code; as there are no ending actions before IDWR, this will ultimately be determined in the SRBA, however. If this right is again put to use on the Olsen property, the SRBA should consider advancing the priority date to the date the new usage begins.





West Portion of Olsen Property

37-00353 Part
5-21-17 JES





East Portion of Olsen Property

Path of Old Ditch Thru Olsen Property (Looking North)





Same Looking South

37-00253 Part
5-29-97 JES



District Canal (Right), Private Ditch (Center)
Looking South (Downstream) On West End of Olsen Property

39-00353 Part
5-29-97 JES

District Canal In Front of Olsen Property





Headgate & Ditch from Canal To Land South of Olsen

37-00353 Part
5-29-97 JES

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: **A37-00353J**
Date Received: 9/20/1988
Receipt No: X777777
Received By: _____

Should questions arise during the processing of this application please contact:
SHERL L. CHAPMAN
410 S. Orchard, Suite 144
Boise, ID 83705
344-6690

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: TOM OLSEN 208-323-1555
   Address: 228 S COLE ROD
   BOISE ID 83709

2. Date of Priority: JUN 12, 1886

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
02N	18E	36	NE SW NW		BLAINE

5. Description of diverting works:
   WOOD RIVER IRR. DIST., HEADGATE, CANAL, UNNAMED LATERAL DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/14	10/15	0.270		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
01N	18E	24	SE NE		IRR	10.0
				Section Acres		10.0

10. Place of Use: Continued

Total Acres 10.0

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:
ALSO KNOWN AS LOT 2, BLOCK 1, DEAN RANCH SUBDIVISION

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

_____ _____

Decree Plaintiff vs Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: 12-6-96

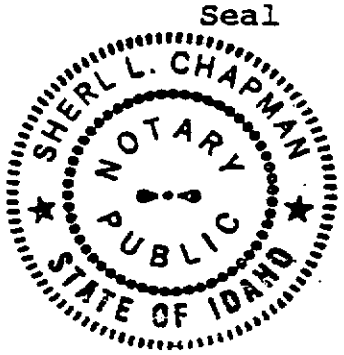
_____ Date: _____

State of Idaho)
) SS.
County of Ada)

Subscribed and sworn (or affirmed) before me this 6 day of December 19 96

Sherl L Chapman
Notary Public

Seal



Residing at Meridian Idaho

My Commission Expires 6/14/2000

AFFIDAVIT

I, Robert E. Fosnot, of P.O. Box 290 Bellevue Id. 83313
Post Office Address

do hereby affirm that I have personal knowledge of licensed water right #_____ located in the ____1/4, ____1/4, Section ____, Township ____, Range ____, commonly known as the _____ right. Information I can formally attest to from personal knowledge and recorded water rights files is as follows:

1. Date established 1886
2. Source of water Big Wood Canal.
3. Date of first use of water unknown
4. Nature of use surface agricultural irrigation
5. Quantity of water diverted 30"
6. Use of water by this owner surface agricultural irrigation
7. Other information Property previously (1978) irrigated prior to subdivision for agricultural use ie grain crop.

Robt E. Fosnot
Signature

STATE OF Idaho

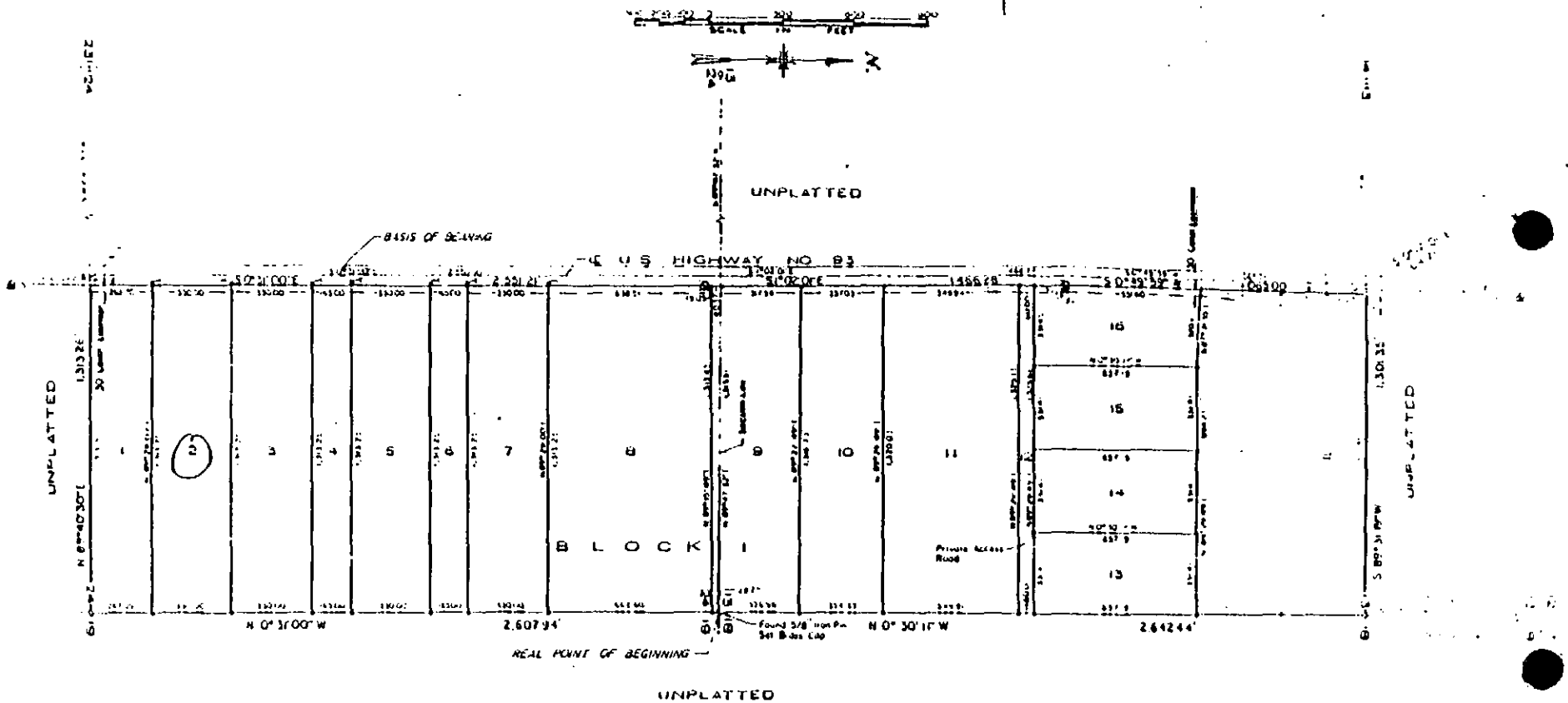
COUNTY OF Blaine

Subscribed and sworn to before me this 23rd day of October, 1996

(NOTARY SEAL)

Vicky Saffell
Notary Public

PLAT SHOWING
DEAN RANCH SUBDIVISION
PORTIONS OF
THE E½ SE¼, SECTION 13, AND E½ NE¼, SECTION 24, T.1N., R.18E., B.M.,
BLAINE COUNTY, IDAHO
1975



This map is a photographic reproduction of that on file in either the Recorder's or the Surveyor's Office. The company assumes no liability for variation, if any, with another or re-survey.
Courtesy Of:
First American Title Co.
Box 758
Ketchum, Idaho 83340

STATE OF IDAHO }
COUNTY OF BLAINE }ss

I, Harold J. Cox, being first duly sworn, deposes and says that he is a professional engineer, licensed to practice by the State of Idaho, that he has compared the above map with the original plat and that the same is a true and exact copy of said plat.

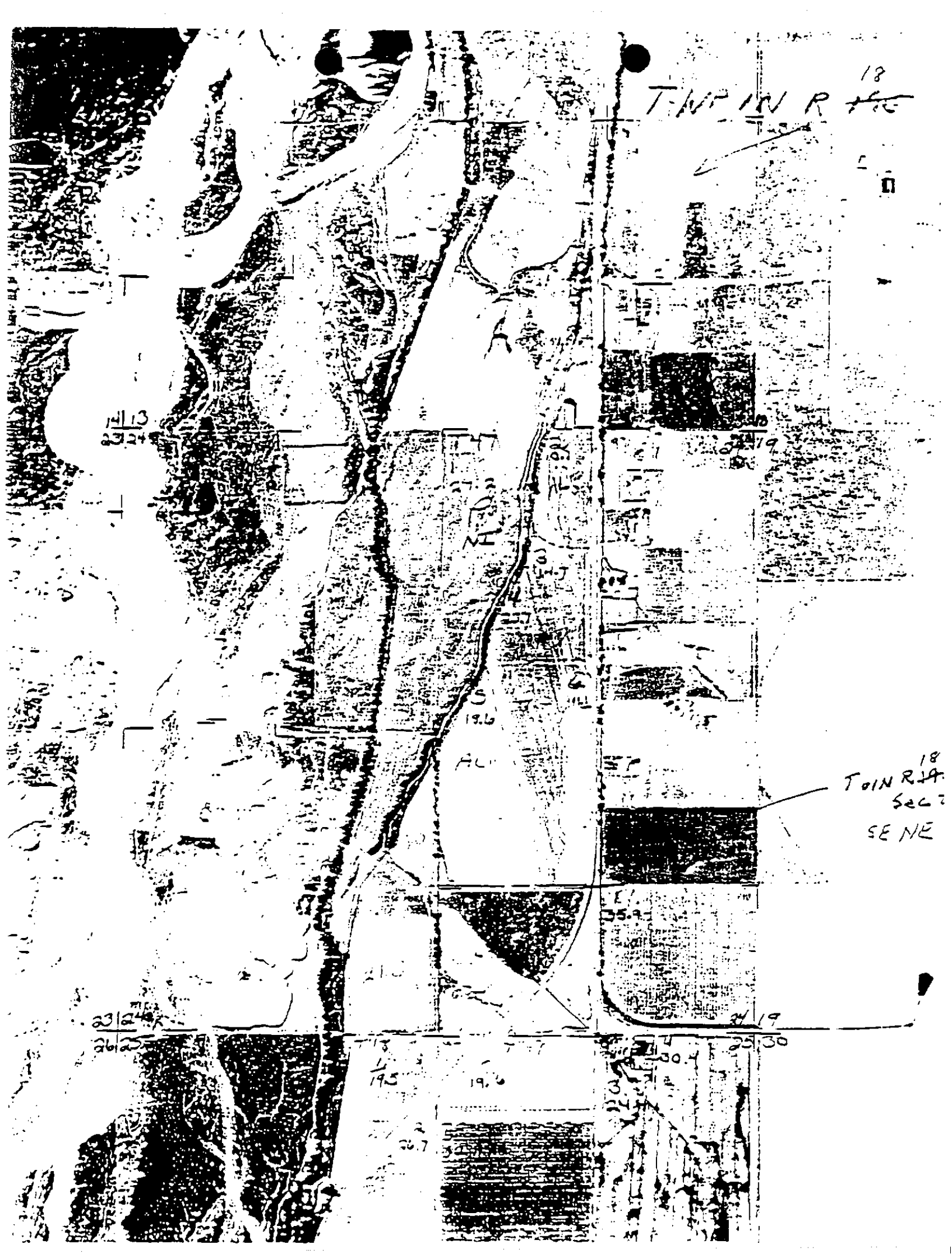
Subscribed and sworn before me this 17th day of January, 19 75.

Notary Public for Idaho My Commission Expires
Residing at Boise, Idaho 2-11-78

LEGEND

- ● Brass Cap
- ○ Found Stone Monument
- ▲ Found Angle Iron with Brass Cap
- • 5/8 x 30" Rebar with Plastic Cap
- ⊙ Set 5/8 x 30" Rebar with Plastic Cap 0.03 West of Property Corner

P-U-B ENGINEERS, INC.
Engineers Planners
Boise, Idaho


T 1N R 1E
18
T 0N R 1E
Sec 7
SE NE
14 13
23 24
26 25
30
19
19.6
19.5

Order No. 19384

WARRANTY DEED

For Value Received Robert D. Head and Sharyl M. Head, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
Olsen Livestock Consultants, Inc., an Idaho Corporation
whose address is: 228 S. Cole Rd., Boise, ID 83709

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

Lot 2 in Block 1 of DEAN RANCH SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 169670, records of Blaine County, Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the 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: September 25, 1996

Robert D. Head

Sharyl M. Head

State of Idaho

County of Blaine

On September 25, 1996 before me, the undersigned, a Notary Public in and for said State, personally appeared Robert D. Head ~~and Sharyl M. Head~~ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

Signature

Commission Expires: 7-12-2000

TAMI K. SORENSON NOTARY PUBLIC STATE OF IDAHO

3001 (5/97) (Individual) First American Title Company

STATE OF IDAHO
COUNTY OF Blaine } ss.

On September 27, 1996 before me, the undersigned, a Notary Public in and for said State, personally appeared Sharyl M. Head

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Signature

Expires 7-12-2000

TAMI K. SORENSON NOTARY PUBLIC STATE OF IDAHO

(This area for official notarial seal)

Order No. 19384

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Dated: September 25, 1996

Robert D. Head

Sharyl M. Head

State of Idaho

County of Blaine

On _____ before me, the undersigned, a Notary Public in and for said State, personally appeared Robert D. Head and Sharyl M. Head personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

Signature _____

Commission Expires:

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454
FACSIMILE
208-384-5844

SCOTT L. CAMPBELL

May 19, 1997

E. Lee Schlender, Esq.
Attorney at Law
300 2nd Avenue South
Post Office Box 2910
Hailey, Idaho 83333

Re: Tom Olsen Water Delivery Dispute

Dear Mr. Schlender:

I represent Mr. Tom Olsen, the owner of a parcel of real property in the SW ¼ of the NW ¼, Section 36, Township 2N, Range 18E, Blaine County, Idaho, approximately 10 acres in size.

I have enclosed copies of the following letters for your information:

1. April 28, 1997 letter from Scott Campbell to the Wood River Valley Irrigation District Board of Directors;

2. May 5, 1997 letter from Lee Peterson to Scott Campbell; and

3. May 5, 1997 letter from Jim Eakin to Scott Campbell.

I am hopeful that my correspondence to Mr. Peterson and to Mr. Allen Merritt of the Southern Region office of the Department of Water Resources will serve to resolve this matter. Since you have been identified as counsel for the irrigation district, I felt it appropriate to keep you advised of my communications with these individuals since their regulatory authority has an impact upon the operations of the Wood River Valley Irrigation District.

Based upon the requested documentation having been presented to Mr. Peterson, I assume that the Wood River Valley Irrigation District will not have any further difficulty in making the water deliveries to Mr. Olsen's property to which he is entitled. If that is not the case, Mr. Olsen will of course consider his options and proceed accordingly. In this regard, please discuss this matter with the Board of Directors of the Wood River Valley Irrigation District and advise me of their position as soon as possible.

Thank you for your attention to this matter.

Very truly yours,

ELAM & BURKE
A Professional Association

Scott L. Campbell

SLC:kc g:\kcc\wpdata\7055\00005
Enclosures

cc: Mr. Tom Olsen (without enclosures)
Mr. Sherl Chapman (without enclosures)
Mr. Lee Peterson (with enclosures)
Mr. Allen Merritt (with enclosures)

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454
.....
FACSIMILE
208-384-5844

SCOTT L. CAMPBELL

May 19, 1997

Mr. Lee R. Peterson
Watermaster
Water District No. 37 & 37M
Post Office Box T
Shoshone, Idaho 83352

Re: Tom Olsen Water Right

Dear Mr. Peterson:

I am responding to your correspondence of May 5, 1997. I assume that since I had no direct contact with you concerning this matter, that you were provided with a copy of my correspondence of April 28, 1997 to the Board of Directors of the Wood River Valley Irrigation District No. 45. In the alternative, perhaps you were contacted by Mr. Jim Eakin regarding this matter without receiving a copy of my correspondence. In any event, I have enclosed a copy for your information.

In order to expedite resolution of this matter and obtain water deliveries to Mr. Olsen's property as soon possible, I am enclosing a copy of the Snake River Basin Adjudication Water Right Claim filed in Mr. Olsen's name for Water Right No. A37-00353J, and a copy of the Warranty Deed conveying the property in question from Robert Head and Sharyl Head to Olsen Livestock Consultants, Inc., an Idaho Corporation owned by Mr. Olsen. Please note that the Warranty Deed is a form document which makes specific reference to conveyance of the real property and "their appurtenances."

The State of Idaho follows the general rule in western states that water rights are considered to be appurtenances to real property and automatically conveyed with the real property unless specifically excepted in the instrument of conveyance. Since the warranty deed from Mr. and Mrs. Head to Olsen Livestock Consultants, Inc. did not specifically except or reserve Water Right No. 37-00353J, it was automatically conveyed with the real property to Olsen Livestock Consultants, Inc.

I trust that this provides you with the requisite information verifying proof of ownership of the real property and the appurtenant water right. Please make all necessary changes in your records to reflect this ownership in Mr. Olsen and his corporation.

Additionally, please advise Wood River Valley Irrigation District No. 45 to deliver water from the Big Wood River to Mr. Olsen's property so that he can make use of the water which he is entitled to under his decreed water right.

Please advise me in writing, with a copy to the Wood River Valley Irrigation District No. 45, of your attention to this matter. I trust that this will finally resolve this dispute and avoid the necessity of any subsequent involvement by me on behalf of Mr. Olsen.

Thank you for your anticipated cooperation.

Very truly yours,

ELAM & BURKE
A Professional Association

Scott L. Campbell

SLC:kc g:\kcc\wpdata\7055\00004
Enclosures

cc: Mr. Tom Olsen (with enclosures)
Mr. Sherl Chapman (with enclosures)
Mr. Allen Merritt (with enclosures)
E. Lee Schlender, Esq. (with enclosures)

WOOD RIVER VALLEY
IRRIGATION DISTRICT #45

Bellevue, Idaho 83313

MAY 07 1997

5 May 1997

Scott L. Campbell
Elam & Burke.
Boise, Idaho 83701

Re: Tom Olsen irrigation water matter.

The Watermaster at Shoshone has asked for verifiable proof that Mr. Olsen has a Transfer in his name to a portion of Water Right 37-00353.

This is a portion of the Dean Ranch Subdivision. There are several parcels sold without water. A family large block of water was transferred off to another ranch.

For your information, this parcel has not been irrigated in the 40 years I've worked with it and was taken out of sagebrush by the prior owner.

If you have any further questions feel free to contact our attorney, E. Lee Schlender, Hailey, Idaho. He is our legal counsel.

Sincerely,
James L. Catlett
Director & Manager.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M
P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451

LEE R. PETERSON
Watermaster

MAY 06 1997

Scott L. Campbell
Elam & Burke
Key Financial Center
702 W Idaho
P O Box 1539
Boise, Idaho 83701

May 5, 1997

Dear Mr. Campbell,

Some time back your client Mr. Tom Olson, was in our office inquiring about delivery of surface water to his property. My Secretary explained to him that we did not have any record of his owing a surface water right. At that time she also told him if he would send us a copy of his Deed describing the water right and the amount of his decree or other verifiable proof of ownership, we would be more than willing to change our records. As of this date we have not received any information from Mr. Olson.

We have been in touch with the District # 45 Canal Co. regarding this matter. They will not be delivered any water from the Big Wood River for delivery to Mr. Olson's property until we have verifiable proof of ownership. If we can be of any help in resolving this matter feel free to contact us.

Sincerely,

Lee R. Peterson
Watermaster

CC: Dist 45 Canal Co.

WR5809NP
No. 37-00353B

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 05/05/97
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	ROBERT E. FOSNOT P. O. BOX 290 BELLEVUE ID 83313	06/12/1886	IRRIGATION	00/00	00/00	0.400 CFS	
				TOTAL DIVERSION:		0.400 CFS	

20 inches

Water Source: BIG WOOD RIVER Tributary to: MALAD RIVER Stage: DECREED

Point(s) of Diversion: T02N R18E S36 SWNW BLAINE County

Place of use Legal Description for: IRRIGATION

			NE				NW				SW				SE				
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
01N	18E	24				06													6.0
																		TOTAL ACRES	6.0

Pou County: BLAINE

Other Water Rights with Same Point(s) of Diversion and Source:

37-00102A	37-00102B	37-00103	37-00111	37-00112	37-00114	37-00115B	37-00115D	37-00115F	37-00115G
37-00115H	37-00116	37-00117	37-00158D	37-00234A	37-00234B	37-00235A	37-00235B	37-00236	37-00298B
37-00308	37-00316A	37-00353D	37-00353E	37-00353F	37-00363D	37-00418A	37-00418D	37-00419A	37-00475
37-00476	37-00477	37-00480	37-00481	37-00482A	37-00501A	37-00501B	37-00501C	37-00501D	37-00509
37-00510	37-00590A	37-00590B	37-00597A	37-00597B	37-00664	37-00665B	37-00665C	37-00665D	37-00666A
37-00666B	37-00667B	37-00667C	37-00667D	37-00667E	37-00667F	37-00685A	37-00685B	37-00713B	37-00833F
37-00881	37-00886D	37-00886F	37-00886G	37-00886H	37-02322	37-02345	37-02483	37-04422	37-07919
37-08307	37-30003	37-30004	37-30005	37-30008	37-30016	T37-00113K	T37-00113L	T37-00113M	T37-00114A
T37-00114B	T37-00482C	T37-00482D	T37-00482E	T37-00510	T37-00685C	T37-00685D	T37-00705A	T37-00705B	T37-00705C

Other Water Rights Listing Overlapping Place(s) of use:
37-00353E 37-07310

Conditions of Approval:

R01 - A measuring device of a type approved by this Department shall
- be maintained as a part of the diverting works.
R02 - 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.
R04 - Use of water under this water right will be regulated by the
- watermaster of State Water District No. 37.
016 - See remarks for additional conditions of approval.

Remarks: TRANS. 2948.
RT. LIMITED TO AMOUNT THAT CAN BE BENEFICIALLY USED.
AC. IRRIG. = 5.5.

Dates:
App. Received:
Proof Due Date:
Exam Made Date:
Licensed Date:
Priority Date: 06/12/1886
Proof Made Date:
Exam Sent to S.O.:

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454
FACSIMILE
208-384-5844

SCOTT L. CAMPBELL

April 28, 1997

Mr. Rob Struthers
388 Gannett Road
Bellvue, Idaho 83313

Mr. Gene Drussel
307 Base Line Road
Bellvue, Idaho 83313

Mr. Jim Eakin
Post Office Box 296
Bellvue, Idaho 83313

Re: Wood River Valley Irrigation District

Dear Gentlemen:

I have been retained by Mr. Thomas Olsen, a property owner in the Bellvue area, who has acquired a parcel of real property in the SW ¼ of the NW ¼, Section 36, Township 2N, Range 18E, Blain County, approximately ten acres in size. This land is served by the Wood River Valley Irrigation District. Irrigation water was delivered to the property in the past by the District under Water Right No. 37-00353. The District has not delivered water to this parcel for some time, because of changes in ownership, lack of desire to use the water by prior owners, and other possible reasons. The water right is still valid and an operational irrigation turnout exists which could provide delivery to the parcel. Based upon these circumstances, Mr. Olsen desires to resume the water deliveries for irrigation purposes during the 1997 irrigation season.

Mr. Olsen has previously attempted to resolve this matter by employing Mr. Sherl Chapman, a geologist and water consultant, who has been in contact with Mr. Eakin concerning this matter. I have enclosed a copy of Mr. Chapman's correspondence of February 6, 1997, to the President of the Wood River Valley Irrigation District, addressed to Mr. Eakin's post office box. Unfortunately, this attempt to resolve this matter, without the involvement of legal counsel, has not been successful. Consequently, Mr. Olsen has been forced to request that I provide you with this correspondence. While Mr. Olsen desires to resolve this matter in the least costly, cooperative fashion, he will pursue all necessary avenues to obtain delivery of water which he is entitled to under the law.

Again, Mr. Olsen would like to resolve this matter before the commencement of the 1997 irrigation season. Since that season is commencing within a matter of days, I request that you respond to this correspondence as soon as possible. You may contact me by telephone at (208) 343-5454, or provide me with written correspondence setting forth the position of the Board in matter.

Mr. Olsen hopes that this matter can be resolved in a friendly manner with a minimum of costs and discord. Therefore, your prompt response will be appreciated. If your response is not received within ten days of the date of this correspondence, Mr. Olsen will consider the other options available to him.

Very truly yours,

ELAM & BURKE
A Professional Association

Scott L. Campbell

SLC:kc g:\kcc\wpdata\7055\00001
Enclosure

cc: Mr. Thomas Olsen (with enclosure)
Mr. Sherl Chapman (with enclosure)

Sherl L. Chapman Consulting, Inc.

410 S. Orchard / Suite 144 / Boise, Idaho 83705 / Phone (208) 344-0690 / Fax (208) 344-2744

February 6, 1997

President
Wood River Valley Irrigation District
P. O. Box 296
Bellevue, ID 83313

Dear Sir:

Mr. Tom Olsen, resident of the Bellevue area, has acquired a portion of the land in the SW/4 NW/4, Section 36, T2N, R18E, Blaine County, which land is served by the Wood River Valley Irrigation District. In the past, this property was served irrigation water by the district under water right #37-00353 for irrigation. For sometime in the past, the district has not delivered water to this land, apparently due to changing ownerships, a lack of desire of some of the individuals to use the water, and for possibly other reasons. However, it is our belief the water right is still valid, appurtenant to this ground and Mr. Olsen would like to resume delivery for irrigation during the 1997 irrigation season. I discussed this matter with Mr. Eakin and conducted significant research with the Idaho Department of Water Resources and the legal community. Mr. Eakin expressed a concern that since the district had not assessed anyone nor been paid for delivery of water to this property for some time that quite possibly the water right was invalid or had somehow become the property of the district to be used elsewhere. This appears to be contrary to our understanding of the law and a recent Supreme Court decision. It is Mr. Olsen's position that the water right is still valid, appurtenant to his property, and he is willing to meet his obligation to the district for delivery of the water.

Since the Idaho Department of Water Resources and the Adjudication Court will probably not complete the adjudication report and decree for this area for some years, it is our desire to meet with the board of directors to determine what is necessary to resume delivery of the water. We feel that this is a much more appropriate forum to discuss this issue in rather than going before the Adjudication Court out of sequence in an effort to resolve the issue. Both Mr. Olsen and I would be happy to meet with you at your convenience this winter or early spring to discuss this matter. I would appreciate your letting me know if such a meeting is possible and, if so, when you would like Mr. Olsen and I to meet with you.

Sincerely yours,

Sherl L. Chapman
President

SLC:kje
cc:Mr. Tom Olsen

WATER RIGHT 37-00353 ORIGINALLY DECREED TO JAMES JOHNSON DATED 6/12/1886

20

1. Oct. 27, 1977 letter from M. D. Dean, confirming sale of 20 inches 1886 water to Jerry Lee Johnson.

2. Feb. 16, 1978 Warranty Deed from Jerry Lee Johnson to Marvin Lotspeich, confirming sale of 20 inches of 1886 water. Lot 17 Block 1.

3. March 10, 1980 Warranty Deed from Marvin Lotspeich to Harry L. Oppenheimer, confirming sale of 20 inches of 1886 water. Lot 17 Blk 1.

40

4. Oct. 28, 1977 letter from M. D. Dean, confirming sale of 40 inches 1886 water to Robert Kierstad. Lot 9 Block 1.

20

5. Oct. 29, 1977 letter from M. D. Dean, confirming sale of 20 inches 1886 water to Ed Stricker. Block 1.

20

6. Nov. 1, 1977 letter from M. D. Dean, confirming sale of 20 inches 1886 water to Gus Chek.

7. Oct. 4, 1991 letter confirming Gus Chek sold 10 inches 1886 water to Douglas Driever. Also see TR# 3679.

180

8. June 25, 1982 notarized letter from M. D. Dean, confirming sale of 180 inches 1886 water to Robert Gardner.

20

300"

9. June 25, 1982 notarized letter from M. D. Dean, confirming sale of 20 inches of 1886 water to John Peterson.

10. Nov 3, 1993 Quit Claim deed from John Peterson to J Karl Bick, confirming sale of 20 inches 1886 water

20

320"

11. Approved transfer of 20 inches of 6/12/1886 #37-00353 in the name of Robert Fosnot.

Current Ownership according to Watermaster Records.

		AJ
Harry L. Oppenheimer	20 inches	353 E ✓
Robert Kierstad	40 inches	
Ed Stricker	20 inches	353 B ✓
Gus Chek	10 inches	
Douglas Driever	10 inches	353 G ✓
Robert Gardner	180 inches	353 D ✓
J Karl Bick	20 inches	353 ✓
Robert Fosnot	20 inches	11688 ✓
Total	320 inches	

(Powers) Kuntzwein F

The water rights listed above are shown as reflected in the Water District's records. This compilation is provided for your information only and is not a representation, guaranty, warranty or opinion that the water rights are valid or in effect and should not be relied upon as such.

Kuntzwein H
Long F
Olsen J

Wood River Irrigation

I have your bill for 182.45 for water tax including 2 years for the water for Bob Kunstad. I believe there is a mistake on the bill.

Water has been sold as follows.

Charles Curtis - 20" to Robert Fossett
Jerry Lee Johnson - 20"
Ed Stricker - 20"
Lyle Click - 20
Bob Kunstad - 40
120

14003 - 320 - 80 balance is 200 plus the 40" back from Kunstad.

Also you sent me a bill April 4th of 10.44 for Kunstad which I paid. Your recent bill shows

24th for Trustee for 1978 - is this a duplicate in different amounts ??

Also I think for several years since I was not using the water it was distributed among the members & I was not assessed. What happened to that deal?

Please advise & I will pay promptly.

M. L. Allen
11306 Benton
Okla City, Okla
73120

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

WATER DISTRICT NO. 37 & 37M
P.O. Box N
Shoshone, Idaho 83352
886-2041

REID J. NEWBY
Watermaster

Dec. 5, 1977

Mr. M.D. Dean
4907 North Brunsen
Oklahoma City, Oklahoma 73112

Dear Mr. Dean:

As per your letters of October 27, 1977, Oct. 28, October 29 and November 1, 1977 you state that you have sold water to the following:

10 acres — 20 inches to Johnston for Lot 17, Block 1
10 acres — 40 inches to Keirstead for Lot 9 Block 1
10 acres — 20 Inches to Stricker for Lot 1
approx 18 acres — 20 Inches to Chek for Lot 11

All of the above being in the Dean Subdivision.

This office has no way of knowing how many acres of land or what the legal description of the lands in the Dean Subdivision you have sold are. Could you please supply us with the legal description of what land each new owner is going to apply the water that they purchased.

Very truly yours,

Reid J. Newby

Reid J. Newby, Watermaster

RJN:blln

RECEIVED
DEC 12 1977
WATERMASTER SHOSHONE

22-6325

Formerly Osborn property

WARRANTY DEED

For Value Received

JERRY M. OSBORN and LINDA OSBORN, husband and wife,

the grantors , do hereby grant, bargain, sell and convey unto

ROBERT E. FOSNOT, a married man,

the grantee , whose current address is Box 290, Bellevue, Idaho 83313

the following described premises, in Blaine County Idaho, to-wit:

A parcel of land in the SE¼, Township 1 North, Range 18 East, of the Boise Meridian, Blaine County, Idaho, and more particularly described as follows: Section 24:

Commencing at an iron pin marking the East ¼ corner of said Section 24; which is also the REAL POINT OF BEGINNING; thence
S. 0° 31' 00" E., 664.5 feet along the East boundary of said Section 24 to an iron pin; thence
S. 89° 43' 23" W., 1313.3 feet to a point on the East boundary of U.S. Highway No. 93; thence
N. 0° 31' 00" W., 305.68 feet along said East boundary of U.S. Highway No. 93; thence
N. 89° 29' 00" E., 327.85 feet to an iron pin; thence
N. 1° 38' 00" E., 357.94 feet to an iron pin; thence
N. 89° 40' 30" E., 971.93 feet to THE POINT OF BEGINNING

SUBJECT TO:

Taxes, easements, restrictions, covenants, encumbrances and assessments as shown of record.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee , his heirs and assigns forever. And the said Grantor s do hereby covenant to and with the said Grantee , that they are the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: March 11, 1982

X _____ X _____

JERRY M. OSBORN LINDA OSBORN

STATE OF IDAHO, COUNTY OF Blaine

On this 17 day of March, 1982, before me, a notary public in and for the said State, personally appeared

JERRY M. OSBORN & LINDA OSBORN

known to me to be the person s whose name s are subscribed to the within instrument, and acknowledged to me that they executed the same.

_____
Notary Public

Residing at , Idaho

Comm. Expires Life Hailey

STATE OF IDAHO, COUNTY OF Blaine

I hereby certify that this instrument was filed for record at the request of Sun Valley Title

at ---- minutes past 4:00 o'clock P. M., this 18 day of March, 1982, in my office, and duly recorded in Book of Deeds at Page

MARIE IVIE
Ex-Officio Recorder

By _____ Deputy.

Fees $ 2.00

Mail to:

ENTERED
FILMED
COMPARED

INSTRUMENT No. 221767

#1 #1

June 25, 1982

Mr. & Mrs. Robert Gardner
Star Route
Bellevue, Idaho 83313

Mr. & Mrs. Gardner:

This will confirm the sale of one hundred Eighty (180) inches of our 1886 water, assigned to Wood River Valley Irrigation District #45, to addressee. 37-0353

Copies of this letter will be forwarded to Reid Newby, Watermaster, Shoshone, Idaho and to Grace Eakin, Secretary-Treasurer, Wood River Valley Irrigation District, so that their records may be changed accordingly.

We are having this notorized so that this may be recorded if necessary.

M. D. Dean

Katherine Dean
~~Kathryn~~ Dean
KATHERINE

RECEIVED 8/11/82

STATE OF OKLAHOMA
County of _____

On this 2nd day of July, in the year 19-82
before me Sherry K. Diddens, a Notary
Public in and for said State, personally appeared M. D. Dean,
& Katherine Dean known to me to
be the person s whose name s subscribed to the within
Instrument, and acknowledged to me that she/he/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.

Sherry K. Diddens
Notary Public for Oklahoma, residing at
Oklahoma City, OK

1/12/73

Blaine Co. Treasurer ✓
Secretary of Wood River Irrigation Dist.
Hailey, Idaho

Dear Sirs - This is to advise that Ed Stricker is to be permitted to use 50 inches of my 320 inches of 1946 Irrigation water in 1973 season. We presume for your convenience it will be easier to send me the bill & I will provide Costs.

ORIGINAL WITH:-
C. Dunn Realty 788-4531
P.O. Box 37
Hailey, Idaho 83333

M. M. Klein
4907 N. Brunson
Okla City, Okla 73112

DEAR NEWBYS: I'M SENDING THIS ON TO YOU TO TAKE CARE OF. I CALLED CHARLIE DUNN AND ADVISED HIM.

Dorothy Lee

PURCHASE ORDER

7972

TO: REID, E. AND/OR, K, KIMBERLY

ADDRESS: KANTENWEIN

SHIP TO:

ADDRESS: Box 1523 HAILEY IDAHO 83333

REQ. NO.: | FOR: Gyro Chek | DATE: 1-30-1990

DATE REQUIRED: | HOW SHIP: | TERMS:

	QUANTITY	PLEASE SUPPLY ITEMS LISTED BELOW	PRICE	UNIT
1	10"	Ingersen water Rights		
2		Sold for $1.000.00 XX	1.000 00	
3		One thousand.00 XX		
4				
5		Thanks Gyro Chek		
6				
7		Box 1984 HAILEY		
8		788-3779		
9				
10				
11				
12				

IMPORTANT

OUR ORDER NUMBER MUST APPEAR ON ALL INVOICES-PACKAGES, ETC.

PLEASE NOTIFY US IMMEDIATELY IF YOU ARE UNABLE TO SHIP COMPLETE ORDER BY DATE SPECIFIED

PLEASE SEND ____ COPIES OF YOUR INVOICE

PURCHASING AGENT

REDIFORM®

ORIGINAL

1H 140

#6

#6

Harry L Oppenheimer

20" - 6-12-1886

6104

WARRANTY DEED

For Value Received

MARVIN W. LOTSPEICH and CAROL A. LOTSPEICH, husband and wife

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

HARRY L. OPPENHEIMER, Jr., a single man

whose address is: 1909 Pelham Avenue, Los Angeles, California 90025

Hereinafter called the grantee, the following described premises, situated in Blaine County, Idaho, to-wit:

Lot 17, Block 11, DEAN RANCH SUBDIVISION, according to the official plat thereof recorded in Book [illegible] of Plats, records of Blaine County, Idaho.

SUBJECT TO: Deed of Trust from Jerry Dean Johnston, a divorced man, and Carl Colling, a divorced woman, to Title One, Inc., TRUSTEE, dated November 20, 1979 and Katherine Dean, husband and wife, BENEFICIARY, recorded November 20, 1979 as Instrument No. 178485, records of Blaine County, Idaho, the unpaid balance of which the Grantor herein assumes and agrees to pay according to the terms thereof.

ALSO SUBJECT TO 30 foot Canal Easement as reserved on the [illegible]

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

Dated: March 10, 1980

Marvin W. Lotspeich — Carol A. Lotspeich

STATE OF [illegible], COUNTY OF [illegible] ss

On this [illegible] day of [illegible], 1980, before me, a notary public in and for said State, personally appeared

Marvin W. Lotspeich and
Carol A. Lotspeich,
husband and wife

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public
Residing at [illegible], Idaho
Comm. Expires [illegible]

STATE OF IDAHO, COUNTY OF [illegible]

I hereby certify that this instrument was filed for record at the request of [illegible]

at [illegible] minutes past [illegible] o'clock [illegible] M. this [illegible] day of [illegible], 19[illegible] in my office, and duly recorded in Book [illegible] of Deeds at page [illegible]

MARIE MELLYA
Ex-Officio Recorder

By [illegible] Deputy

Fees $[illegible]

Mail to [illegible]

#10

Order No. 19228

A 10

QUITCLAIM DEED

FOR VALUE RECEIVED

John R. Peterson and Joyce M. Peterson, husband and wife

do(es) hereby CONVEY, RELEASE, REMISE and FOREVER quit claim unto

J. Karl Bick and Judith G. Bick, husband and wife

whose address is: **P. O. Box 2014, Sun Valley, ID 83353**

the following described premises situated in Blaine County, Idaho, to wit:

The Snake River Basin Adjudication of Rights Under Identification Nos. 37-00353 and 37-08012 a copy of which is attached hereto as Exhibit "A" and made a part hereof.

DECREE BOOK ✓
PRIORITY BOOK ✓
DATABASE ✓
ADDRESS LIST ✓
ROLEDEX ✓
WTRUSR ✓
WTRUSRAV ✓

District 45 ✓
Jim ✓
Lotus ✓

RECEIVED
NOV 3 1993
Shoshone Water Master

together with their appurtenances.

Dated: **November 3, 1993**

John R. Peterson

Joyce M. Peterson

State of Idaho
County of Blaine

On this November 4, 1993, before me, a notary public in and for said State, personally appeared **John R. Peterson and Joyce M. Peterson** known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

Jan L. Burrell
Notary Public
Residing at Hailey
Commission Expires: 2-18-98

JAN BURRELL NOTARY PUBLIC STATE OF IDAHO

788 - 4445

Order No. 24148

413504

Quit

QUITCLAIM DEED

BLAINE CO. REQUEST OF SAWTOOTH TI .E

'98 APR 27 PM 3 38

MARY GREEN, CLERK mpp

FEES $15.00

FOR VALUE RECEIVED

J. Karl Bick, an unmarried man

do hereby CONVEY, RELEASE, REMISE and FOREVER quit claim unto

Judith P. Grigsby, an unmarried woman

whose address is: P. O. Box 254, **Bellevue**

the following described premises situated in **Blaine** County, Idaho, to wit:

AN UNDIVIDED ½ INTEREST IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

Lot 8B in Block 1 of DEAN RANCH SUBDIVISION, LOT 8 AMENDED, 1979, according to the official plat thereof, recorded as Instrument No. 197927, records of Blaine County, Idaho.

ALONG WITH THE FOLLOWING:
The Snake River Basin Adjudication of Rights Under Identification Nos. 37-00353 and 37-08012 a copy of which is attached hereto as Exhibit "A" and made a part hereof.

Plat 45 Entered 6/26/98

DECREE BOOK ✓ PRIORITY BOOK ✓
DATABASE ✓ ANNUAL REPORT ✓
LOTUS COST REPORT ✓ ROLEDEX —
CMS — DBase address ✓

together with their appurtenances

Dated: **April 17, 1998**

J. Karl Bick

State of Idaho)
)ss.
County of Blaine)

On this 17th day of April in the year 1998, before me, the undersigned, personally appeared J. Karl Bick, known or identified to me to be the person(s) whose

the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

WITNESS my hand and

Notary Public
Commission Expires: 4-21-90

Recorded/Unrecorded

413503

Deed

Order No. 24148

WARRANTY DEED

BLAINE CO. REQUEST OF SAWTOOTH TITLE

'98 APR 27 PM 3 37

MARY GREEN, CLERK

FEES $ 3.00 mPP

FOR VALUE RECEIVED

J. KARL BICK, an unmarried man

GRANTOR(s), do(es) hereby GRANT, BARGAIN, SELL and CONVEY unto

JUDITH P. GRIGSBY, an unmarried woman

GRANTEE(s) whose address is **P.O. Box 254, Bellevue, ID 83313**

the following described real property in **Blaine** County, Idaho, to wit:

AN UNDIVIDED ¼ INTEREST IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

Lot 8B in Block 1 of DEAN RANCH SUBDIVISION, LOT 8 AMENDED, 1979, according to the official plat thereof, recorded as Instrument No. 197927, records of Blaine County, Idaho.

SUBJECT TO: Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose, and which are not shown by the public records.

Underground Power Line Easement in favor of Idaho Power Company, recorded October 5, 1981, as Instrument No. 219921.

Underground Power Line Easement in favor of Idaho Power Company, recorded October 5, 1981, as Instrument No. 219922.

Subject To: Taxes, easements established or of record, restrictions and encumbrances of record, rights reserved in federal patents, state or railroad deeds, building or use restrictions, building and zoning regulations and ordinances of any governmental unit.

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

Dated April 17, 1998

J. KARL BICK

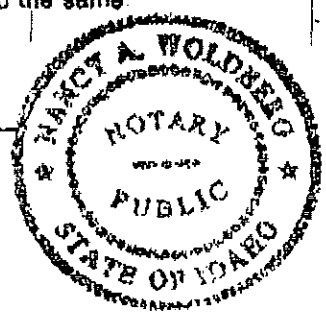
State of Idaho)
)ss.
County of Blaine)

On this 17th day of April, in the year 1998, before me, the undersigned, personally appeared J. KARL BICK, known or identified to me to be the person(s) whose name(s) 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
Commission Expires



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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A37-00353F
Date Received: 1/15/1990
Receipt No: 5011039
Received By: [illegible]

JAN [illegible]

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: WILLIAM R. LONG 213-207-0446
   Address: 11710 MAYFIELD AVE.
   LOS ANGELES, CA 90049

2. Date of Priority: JUN 12, 1886

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
02N	18E	36	NE SW NW		BLAINE

5. Description of diverting works:
   HEADGATE #45, DISTRICT CANAL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.200		

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

8. Total consumptive use is 25.0 Acre Feet Per Annum.

9. Non-irrigation uses:
   NONE

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
01N	18E	24	NE NE		IRR	10.0

Section Acres 10.0

MICROFILMED
FEB 22 1993

10. Place of Use: Continued

Total Acres 10.0

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
A37-13063 DOMESTIC

14. Remarks:
TRANS. 2948.
P/D NOT GIVEN IN DECREE BUT SHOWN ON TRANSFER.
THIS CLAIM IS A SPLIT FROM A37-00353A. 1/15/1990, RVW.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

S. C. FROST, ET. AL. (Decree Plaintiff) vs ALTURAS WATER COMPANY, ET. AL. (Decree Defendant)

MICROFILMED FEB 22 1993

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): X WR _____ Date: X 1/18/90

WR _____ Date: _____

State of Idaho)
) ss.
X County of _____)

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
FEB 22 1993

3001 (6/82) (Individual) First American Title Company

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

On JANUARY 18, 1990 before me, the undersigned, a Notary Public in and for said State, personally appeared WILLIAM R. LONG

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Signature S. A. Paddock

OFFICIAL SEAL
S A PADDOCK
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires JUN 11, 1991

(This area for official notarial seal)

NOTICE

This file has been REPRODUCED from MICROFICHE ~~because~~:

Richard D. Hansen
Person Recreating File

January 13, 2000
Date

WATER RIGHT SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
Original Decree	37-00353	James Johnson	6.40
SPLIT INTO PARTS A & B BY TRANSFER #2948			
~~Partial Assignment~~	~~37-00353A~~	~~James Johnson~~	~~6.00~~
Partial Assignment	37-00353B	Robert Fosnot	0.40
PART A SPLIT INTO PARTS C & D BY TRANSFER #3678			
~~Partial Assignment~~	~~37-00353C~~	~~James Johnson~~	~~5.80~~
Partial Assignment	37-00353D	Douglas Driever	0.20
PART C SPLIT INTO PARTS E & F BY TRANSFER #3679			
Partial Assignment	37-00353E	James Johnson	5.60
Partial Assignment	37-00353F	Gus Chek	0.20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 3679
WATER RIGHT NO. 37-00353F

This is to certify that: **GUS CHEK**
PO BOX 1984
HAILEY ID 83333

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL VOLUME
IRRIGATION	04/15 to 10/15	0.20 CFS	26.3 AF

SOURCE	TRIBUTARY OF
BIG WOOD RIVER	MALAD RIVER

Priority: 06/12/1886

LOCATION OF POINT(S) OF DIVERSION: SWNW , Sec. 36, Township 02N, Range 18E
BLAINE County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
01N	19E	18	SWSW 7.5			7.5
				Total number of acres irrigated:		7.5

CONDITIONS/REMARKS:

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. This right when combined with all other rights shall provide no more than 3.5 afa per acre for the lands above.
3. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
4. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
5. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.

TRANSFER NO. 3679
WATER RIGHT NO. 37-00353F

CONDITIONS/REMARKS:

Dated this 3rd day of November, 1993.

Chief, Water Alloc. Bureau

Form 3S3
1-87

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 3679

AMENDED

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

RECEIVED
OCT 26 1993
Department of Water Resources

Name of applicant Gus Chevk Phone 788-3775

Post Office address P. O. Box 1984, Hailey, ID 83333

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 The 1886 water is being sold, as it is not needed on my land. It will supplement groundwater rights on the new P/U.

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
(Part of) 37-0035 (F)	6-12-1886	0.20 cfs	Irrig.	Apr 1 to Nov 1
				to
				to
				to

2. Total amount of water being transferred 0.20 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Big Wood River tributary to Malad River

4. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
~~1N~~	~~19E~~	~~18~~											~~10.0~~						~~10.0~~
1N	19E	18											7.5*						7.5*
							*Change/Amended by letter of 7-18-90												
							By R. Rittenhouse. R. Rittenhouse						TJL 7-20-90						

Total acres ~~10.0~~ 7.5

Transfer No. 3679

PART 1

6. General Information:

a. Description of diversion system Existing Bellevue Canal & lateral. Additional ditch to sump & pump to be installed.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? XX 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 effect on the land now irrigated if the place of use is changed pursuant to this transfer:

Land will continue to be irrigated with 1883 water.

d. Remarks:

Water is being sold to Reid Kantenwein. Transfer represents a split of SRBA Calim A37-00353C. Please send copy of transfer with final action to Mr. Kantenwein at P. O. Box 1525, Hailey, ID 83333. Application for Permit 37-8384 has been reduced to 3 acres so it and this transfer can be approved.

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____.

_____

Page _____ of _____ TRANS NO. 3679

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 37-00353C

STAGE: DECREED

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE
IRRIGATION	04/01 to 11/01	5.80 CFS

SOURCE	TRIBUTARY OF
BIG WOOD RIVER	MALAD RIVER

Priority: 06/12/1886

LOCATION OF POINT(S) OF DIVERSION: SWNW , Sec. 36, Township 02N, Range 18E
BLAINE County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
01N	18E	13	NESE	SESE		
		24	NENE	SENE		

CONDITIONS/REMARKS:

Page ... of ...

Transfer No. 9629

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 37-00353A Decreed to James Johnson

in case of S. C. Frost, Et. Al. vs. Alturas Water Company, Et. al.

dated 12-13-1909 in Fourth District county of Lincoln

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. 2948 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☒ Other Deed of Sale

3. Source of water Big Wood River tributary to Malad River

4. Date or priority 6-12-1886

5. Water is used for the following purpose:

amount 6.0 cfs (cfs/ac-ft) for Irrigation purposes from Apr 1 to Nov 1

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 6.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp	Rge.	County	Local name for diversion
		SW	NW	36	2N	18E	Blaine	Headgate #45 & District Canal

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	18E	13													X			X	
		24	X			X													

Total acres _____

9. Describe any other water rights used for the same purpose as described above 37-03531

_____

PART 2

Transfer No. 76274

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

Unknown If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 0.20 cfs (cfs/ac-ft) for Irrig. purposes from Apr 1 to Nov 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	26	2N	18E	Blaine	Headgate #45 & District Canal
		NE	SE	13	1N	18E	"	Re-diversion from District Canal

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	13E	13																7.5	7.5

Total acres 7.5

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount 5.8 cfs (cfs/ac-ft) for Irrig. purposes from Apr 1 to Nov 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion: Same

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use: Same

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

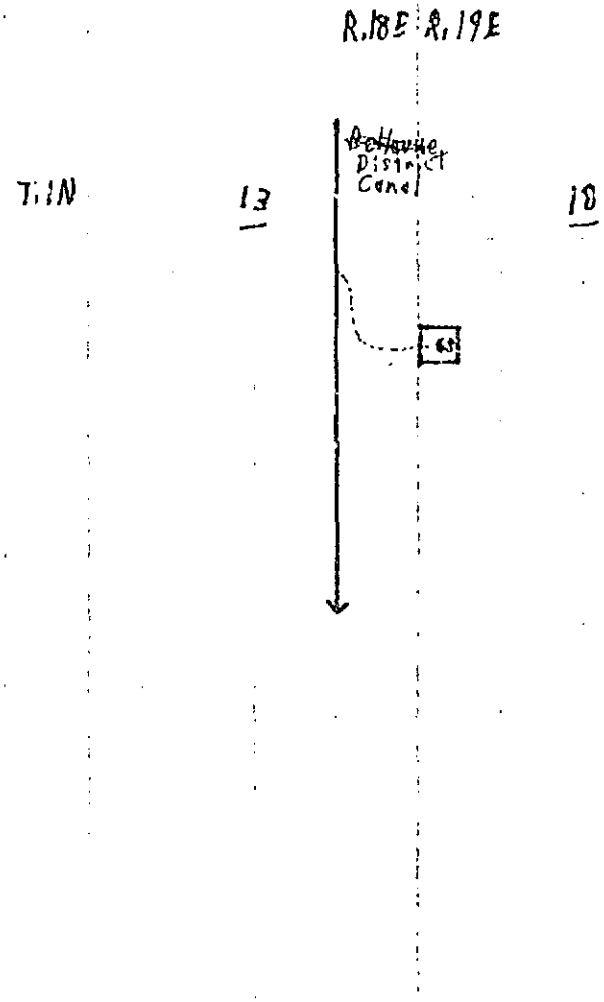
Transfer No. 3679

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. 3679

PART 3

B. CHANGES IN NATURE OF USE

	New Nature of Use	Amount (cfs/ac-ft)	Hours/Days/year	Period of Use
1				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

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

Subscribed and sworn to before me this 26th day of January, 1990.

Twin Falls, Idaho

Notary Public

My commission expires ~~July 18, 1995~~

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 5 attachments

Received by JF Date 1-22-90 Protest filed by

Prelim. check by DRJ Fee $30.00

Receipted by JL Date 5/10/94

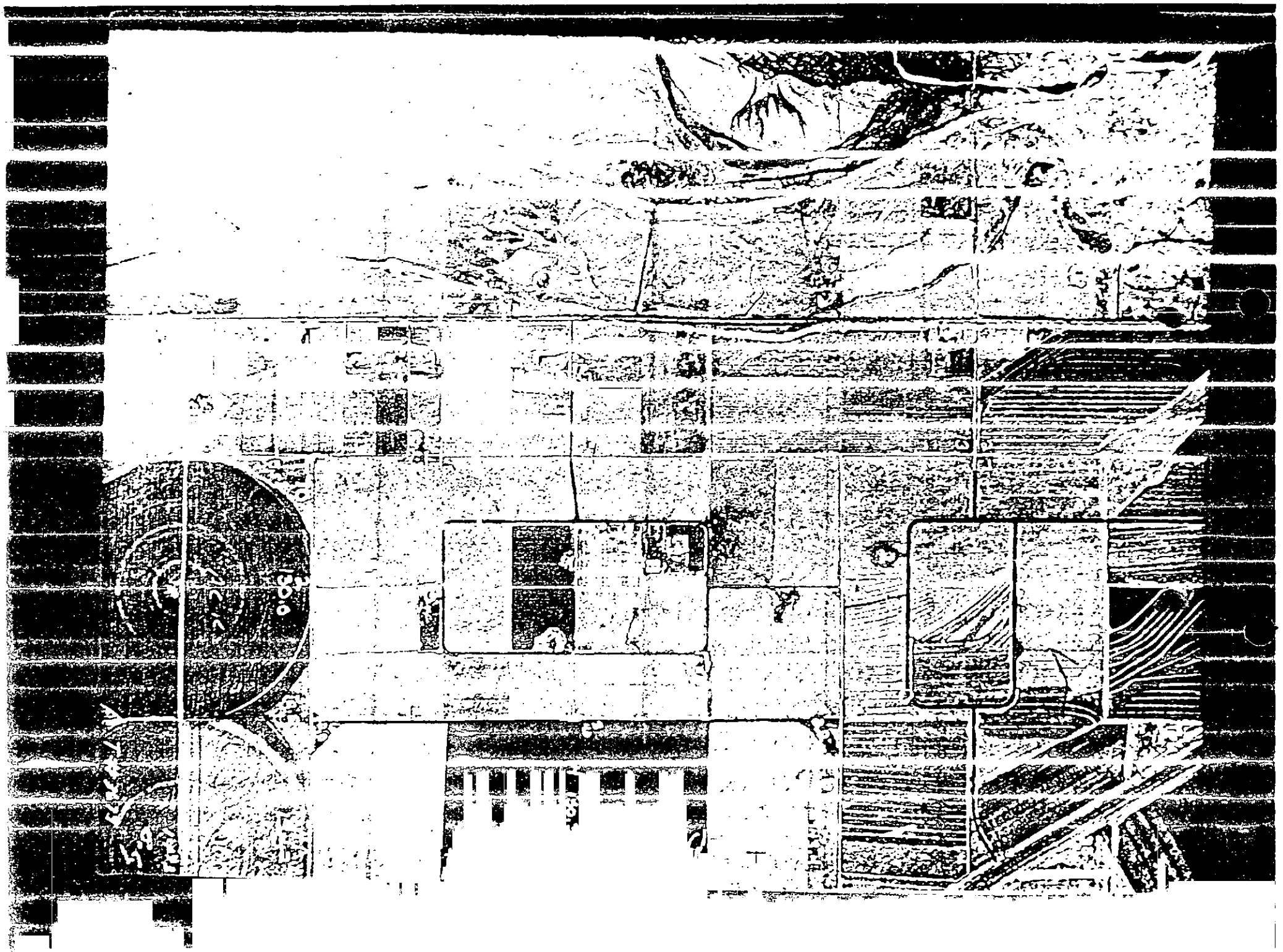
Published in Wood River Journal Copies of protest forwarded by

Pub. dates 5/9 & 5/16/90, 8/15 & 8/22/90 Hearing held by Date

Watermaster recommendation requested on 5/1/90, 8/10/90 Recommended for ☐ approval ☐ denial

rec'd. 5/8/90, 8/14/90 by

Copy of transfer sent to lien holder



WATER RIGHT NUMBER	NAME	CFS
37-00353	SPLIT INTO 37-0353A & 37-0353B BY TRANS. 2948.	
37-00353A	Transfer No. 3678 split Right No. 37-0353A into parts C & D.	
37-00353B	FOSNOT , ROBERT E.	0.40
37-00353C	JOHNSON , JAMES	5.80
37-00353D	DRIEVER , DOUGLAS	0.20

AFFIDAVIT of PUBLICATION

RECEIVED

MAY 29 1990

Department of Water Resources
Southern Region Office

State of Idaho, } ss.
County of Blaine }

DANIEL J. GORHAM, being first duly sworn, deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the

annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 9 day of May, 1990, and

the date of the last publication was on the 16 day of May, 1990.

Daniel J. Gorham

Subscribed and sworn to before me this 16th day of May, 1990.
(SEAL)

Roberta McKenzie
NOTARY PUBLIC

WOOD RIVER JOURNAL
Hailey, Idaho

OK NB 5/30/90

COST OF PUBLICATION

Number of Picas per Line	11	
Number of Lines in Notice	72	
Number of Insertions	2	
____ Lines tabular at ____		6¢ / Pica
72 Lines straight at	39.60	5¢ / Pica
72 Subsequent lines at	31.68	4¢ / Pica
TOTAL COST	71.28	

COPY OF NOTICE
(Paste Here)

Proposed Change #37-00353A

TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept of Water Res (TF)

BILL TO

Chek seeks water right change

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 37-00353A

Notice is hereby given that Gus Chek of Hailey, ID has applied to the Department of Water Resources to change the following described water right(s) pursuant to Section 42-222 of the IDAHO CODE.

WATER RIGHT AS RECORDED

Water right No.: 37-00353A
Transfer No.: 2948
Basis of right: Decreed to James Johnson in case of S.C. Frost, et al., vs. Alturas Water Company, et al., dated 12/13/1909 in Fourth District Court, Lincoln County.
Source: Big Wood River tributary to Malad River.
Priority Date: 6/12/1893
Amount of water: 6.0 cfs
Water use: Irrigation
Point(s) of diversion: SW1/4-NW1/4, S36, T2N, R18E (Headgate #46 B District Canal); Blaine County.
Place of use: Unknown number of acres within E1/2SE1/4, S13, T1N, R18E; E1/2NE1/4, S24, T1N, R18E.

PORTION(S) OF RIGHTS TO BE CHANGED

Water right No.: 37-00353A
Transfer No.: 2948
Amount of water: 0.20 cfs
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #46 B District Canal); NE1/4SE1/4, S13, T1N, R18E (Re-diversion from District Canal), Blaine County.
Place of use: 7.5 acres within SE1/4SE1/4, S13, T1N, R18E.

TO BE CHANGED AS FOLLOWS

Water right No.: 37-00353A Part
Amount: 0.20 cfs
Total amount being transferred: 0.20 cfs
Source: Big Wood River tributary to Malad River
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #46 B District Canal); NE1/4SE1/4, S13, T1N, R18E (Re-diversion from District Canal), Blaine County.
Place of use: 8 acres within SE1/4-SE1/4, S13, T1N, R18E.

Any protest against approval of the application for transfer must be filed with the Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301, on or before May 29, 1990.

R. Keith Higginson, Director

Publish: Wood River Journal—May 9, 16, 1990

Form 222
1-87

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 3678

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

APPROVED

Name of applicant Gus Chek Phone 788-3779

Post Office address P. O. Box 1984, Hailey, ID 83333

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 The 1886 water is not needed on the property, as there is enough 1883 to take care of the place.

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	
37-00353A Part	6-12-1886	0.20	Irrigation	Apr 1	to Nov 1
					to
					to
					to

2. Total amount of water being transferred 0.40~~0~~0.20 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Big Wood River tributary to Malad River
4. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	36	2N	18E	Blaine	Headgate & ~~Bellevue~~ District Canal
		NE	SE	13	1N	18E	"	Re-diversion from ~~Bellevue~~ District Canal

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	18E	13																6	6

Total acres 6

PART 1

6. General Information:

a. Description of diversion system Existing canal & ditch to P/U. Additional ditch & ditch pump to be installed.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? XX 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:

Land will continue to be irrigated with 1883 decreed water.

d. Remarks:

Water is being sold to Douglas Driever for use on Lot 9 of Dean Ranch Subdiv. Transfer is made to split SRBA Claim A37-00353C. Please send copy of transfer with final action to Mr. Driever at P. O. Box 2072, Hailey, ID 83333.
This transfer application is based on data claimed under SRBA.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 37-00353A

And said application is hereby APPROVED, subject to the following limitations and conditions:

See attached sheet for conditions of approval.

Witness my hand this 9th day of September, 19 91.

Chief, Water Allocation Bureau

ATTACHMENT
CONDITIONS OF APPROVAL

Transfer of Water Right No. 37-00353A

Transfer No. 3678

1. The change authorized by this transfer shall be accomplished within (1) year of the date of this approval.

2. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.

3. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.

4. Use of water under this water right is subject to control by the watermaster of State Water District No. 37, Big Wood River.

5. This right when combined with all other rights shall provide no more than 3.0 afa per acre for the lands above.

Dated this 9th day of September, 1991.

L. Glen Saxton

L. GLEN SAXTON
Chief, Water Allocation Bureau

Transfer No. 3677

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 37-00353A Decreed to James Johnson

   in case of S. C. Frost, Et. Al. vs. Alturas Water Company, Et. Al.

   dated 12-13-1909 in Fourth District county of Lincoln

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 2948 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☒ Other Deed of Sale

3. Source of water Big Wood River tributary to Malad River

4. Date or priority 6-12-1886

5. Water is used for the following purpose:

   amount 6.0 cfs (cfs/ac-ft) for Irrigation purposes from Apr 1 to Nov 1

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 6.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	36	2N	18E	Blaine	Headgate #45 & District Canal

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	18E	13													X			X	
		24	X			X													

Total acres _____

9. Describe any other water rights used for the same purpose as described above 37-0363

PART 2

Transfer No. 3678

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

Unknown If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 0.20 cfs (cfs/ac-ft) for Irrig. purposes from Apr 1 to Nov 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	36	2N	18E	Blaine	Headgate #45 & District Canal
		NE	SE	13	1N	18E	"	Re-diversion from District Canal

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	18E	13																7.5	7.5

Total acres 7.5

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount 5.8 cfs (cfs/ac-ft) for Irrig. purposes from Apr 1 to Nov 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion: Same

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use: Same

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

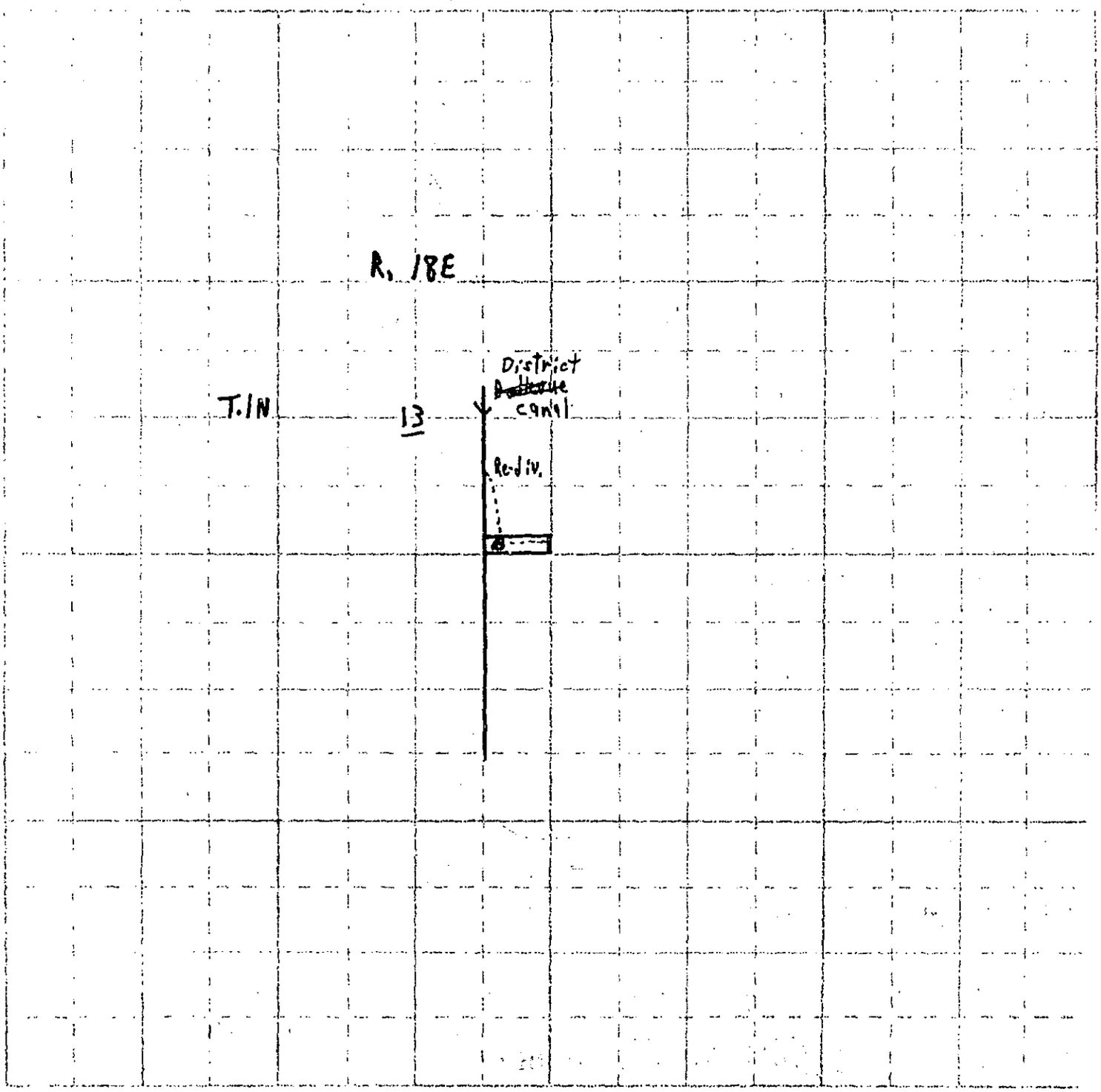
Transfer No. 3678

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. 3678

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

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.

Gus Chek
(Signature of Applicant)

Subscribed and sworn to before me this 22nd day of 11/22, 1990.

Twin Falls, Idaho — Lindsey Coward
(Notary Public)

My commission expires July 18, 1995

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 4 attachments

Received by J Eltington — Date 1-22-90 — Protest filed by

Prelim. check by DRJ — Fee $30. 50/1025

Receipted by JA — Date 1-22-90

Published in Wood River Journal — Copies of protest forwarded by

Pub. dates 5/9 & 5/16/90 — Hearing held by — Date

Watermaster recommendation requested on 5/1/90 — Recommended for ☐ approval ☐ denial

rec'd. 5/9/90 — by

Copy of transfer sent to lien holder

Form No. 222 10/80

VOID 9-23-83

Transfer No. _____

Water Right No. 37-0666

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

To Change the Point of Diversion and/or the Place of Use

Name of applicant Robert E. Fosnot Phone 788-1642

Post Office address P. O. Box 290, Bellevue, ID 83313

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to Utah & Idaho Improvement Co. (Name)

   in case of S. C. Frost et al vs Alturas Water Co. et al

   dated in 12-11-1909 in Fourth District (Name of court) county of Lincoln

   b. License No. _____ issued by the Idaho Department of Water Resources

   c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant

   purchase of land & water

3. Source of water Big Wood River tributary to Malad River

4. Date of priority 6-12-1886

5. Water is used for the following purposes:

   amount 18.0 cfs for irrigation purposes from Apr 1 to Nov 1

   amount _____ for _____ purposes from _____ to _____

   amount _____ for _____ purposes from _____ to _____ (month/day — both dates inclusive)

6. Total amount of water under right: a. 18.0 cubic feet per second &/or

   b. _____ acre feet per annum

7. Location of original point of diversion is SW ¼ of NW ¼ of Section 36

   Township 2N Range 18E B.M., in Blaine County

   Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	19E	20	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
		28						X	X		X	X	X	X			X		
		29	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
		32	X	X	X	X	X	X	X	X					X	X			
		33					X	X	X	X	X	X	X	X					

Total number of acres to be irrigated 2190

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

   37-0664, 0665, I00 0667

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in Item D, REMARKS.

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. 0.40 cubic feet per second
&/or
b. _____ acre feet per annum

2. Point of diversion SW ¼ NW ¼, Section 36 Township 2N
Range 18E, B.M., Blaine County
Additional points _____

3. Place of use: Note: Original land is unknown & impossible to trace back.

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
																			49

Total number of acres to be irrigated 49

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information

a. Amount of water to be diverted 0.40 c.f.s. &/or _____ acre feet

b. Description of diverting works Headgate & Bellevue Canal; private ditch from Canal, pump in ditch

c. Describe the reasons for the proposed changes Tie the land & water together as I purchased them & as they have been used for many years.

2. Change in point of diversion No Change

Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. Change in place of use

a. Are there leins, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No X. If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.

b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer

Unknown, as actual change occurred years ago.

c. Describe the land or place of use to which the right will be transferred:

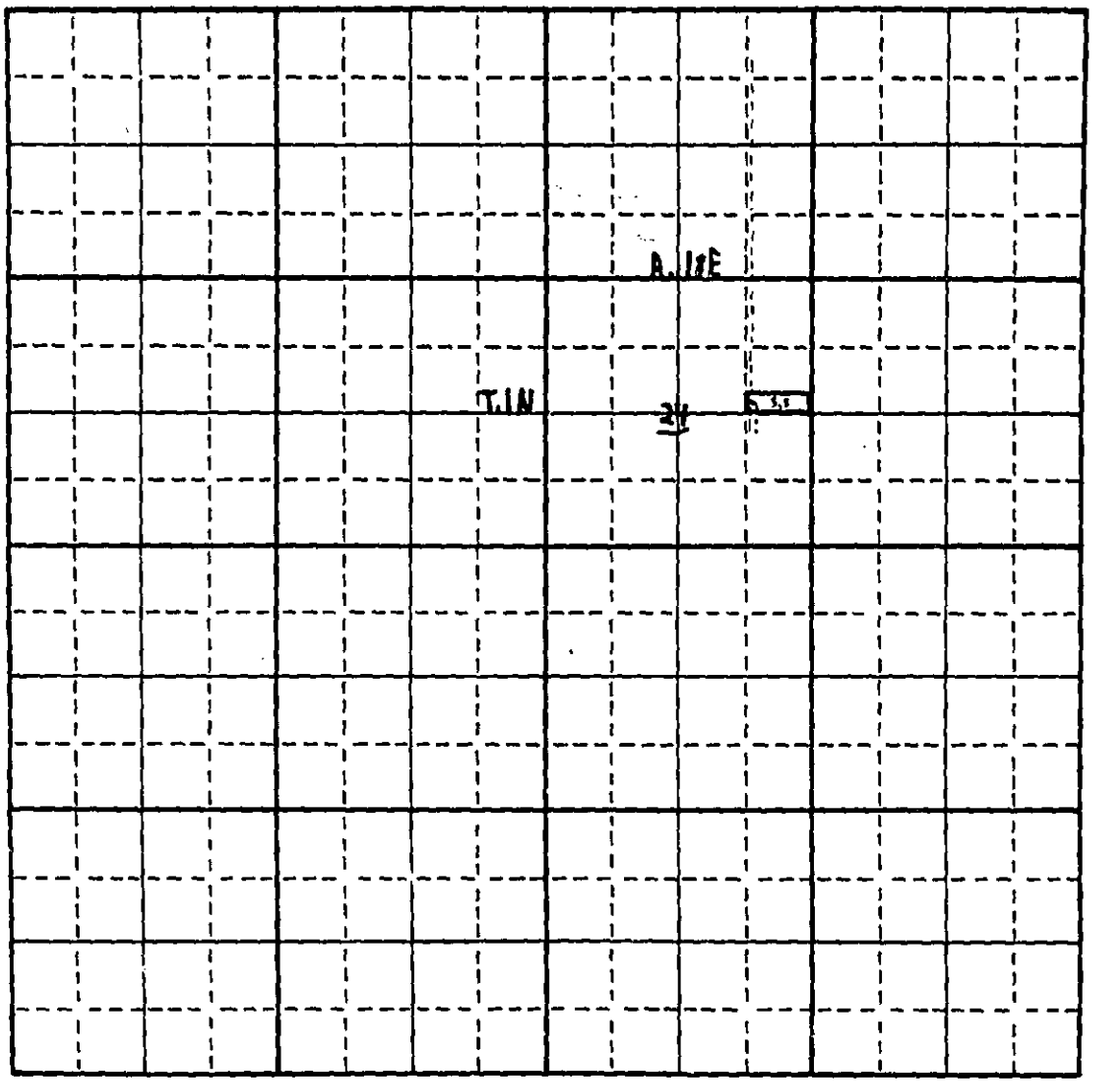
TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	18E	24				5.5													5.5

Total number of acres to be irrigated 5.5

4. Describe any other water rights used for the same purpose as described above.

None

5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

D. REMARKS

This is one of four rights decreed to the same right holder for use on 3 farms. It is impossible to tell what water went where, so this transfer is based on limited knowledge of these water rights.

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 willfull misrepresentations made in this application may result in voiding its approval.

Robert E. Lamm
(Signature of Applicant)

Subscribed and sworn to before me this 4th day of February, 19 83

Loren D. Halmen
(Notary Public)

My commission expires Life

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____.

FOR DEPARTMENT USE ONLY

Received by JD Date 7-13-83 Protest filed by None

Prelim. check by ADM Fee $50.00 #29195

Receipted by [illegible] Date 7/19/83

Published in Wood River Journal Copies of protest forwarded by _____

Pub. dates 10/21 & 11/3/83 Hearing held by _____ Date _____

Watermaster recommendation requested on 10/21/83 Recommended for (approval) denial

_____ rec'd. 11/10/83 by ADM

AFFIDAVIT of PUBLICATION

State of Idaho } ss
County of Blaine }

RECEIVED
NOV 14 1983
Department of Water Resources
Southern Idaho Area

GORDON G. GRAHAM being first duly sworn, deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 27 day of October 1983, and the date of the last publication was on the 3 day of November 1983.

Subscribed and sworn to before me this 7th day of November 1983.

(SEAL)

NOTARY PUBLIC

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Numer of Picas per Line 13
Number of Lines in Notice 54
Number of Insertions 2

_____ Lines tabular at _____ 4¢ / Pica
54 Lines straight at 21.06 3¢ / Pica
54 Subsequent lines at 14.04 2¢ / Pica
TOTAL COST 35.10

COPY OF NOTICE

(Paste Here)

Notice of Proposed Change of Water Right
No. 37-0383

PLAINTIFF

Dept of Water Resources
1041 Blue Lakes Blvd N TF

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
NO. 37-0383

NOTICE IS HEREBY GIVEN, That ROBERT E. FOSNOT of Bellevue, Idaho, has applied to the Department of Water Resources for a change of Place of Use of a portion of a right from Big Wood River tributary to Malad River. The right sought to be changed is evidenced by decree to James Johnson in case of S.C. Frost, et al., vs. Alturas Water Co., et al., dated December 13, 1909, in Fourth District Court, County of Lincoln, and is recorded as follows:

Amount: 6.4 cfs
Priority Date: June 12, 1886
Point of Diversion: SW¼NW¼, Sec. 36, T2N, R18E, B.M., Blaine County
The water is used for irrigation within the E½SE¼, Sec. 13; E½NE¼, Sec. 24, T1N, R18E

PORTION OF RIGHT TO BE CHANGED:
Amount: 0.40 cfs
Point of Diversion: SW¼NW¼, Sec. 36, T2N, R18E, B.M., Blaine County
Place of Use: E½SE¼, Sec. 13; E½NE¼, Sec. 24, T1N, R18E, for irrigation of 10 acres.

PORTION TO BE CHANGED AS FOLLOWS:
Amount: 0.40 cfs
Point of Diversion: No change
Place of Use: SE¼SE¼, Sec. 24, T1N, R18E, for irrigation of 5.6 acres

Any protest against the approval of the above-proposed change of the portion of the right described above must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Boulevard North, Twin Falls, Idaho 83301, ON OR BEFORE NOVEMBER 14, 1983.

A. KENNETH DUNN
Director

Publish: Wood River Journal–October 27 and November 3, 1983.

Form No. 222 10/80

Transfer No. 2948

Water Right No 37-0353

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

APPROVED

To Change the Point of Diversion and/or the Place of Use

Name of applicant Robert E. Fosnot Phone 788-3642

Post Office address P. O. Box 290 [illegible], ID 83313

A. DESCRIPTION OF RIGHT AS REC[illegible]

1. Right evidenced by:

   a. Decree No. James Johnson (Name)

   In case of S. C. et al vs Alturas Water Co. et al

   dated in 12-13-1909 in Fourth District (Name of court) county of Lincoln

   b. License No. _____ issued by the Idaho Department of Water Resources

   c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant

   purchase of land & water

3. Source of water Big Wood River tributary to Malad River

4. Date of priority 6-12-1866

5. Water is used for the following purposes:

   amount 6.4 cfs for Irrigation purposes from _____ to _____

   amount _____ for _____ purposes from _____ to _____

   amount _____ for _____ purposes from _____ to _____ (month/day — both dates inclusive)

6. Total amount of water under right: a. 5.4 cubic feet per second &/or

   b. _____ acre feet per annum

7. Location of original point of diversion is SW ¼ of NW ¼ of Section 36

   Township 2N Range 18E, B.M., in Blaine County

   Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	18E	13													X			X	
		24	X			X													

Total number of acres to be irrigated _____

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS.

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. 0.40 cubic feet per second
&/or
b. _____ acre feet per annum

2. Point of diversion SW ¼ NW ¼, Section 36 Township 2N
Range 18E, B.M., Blaine County
Additional points _____

3. Place of use: Since water has been used on present land for so long, original P. U. for all 20" is not known.

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	18E	13													X			X	
		24	X			X													

Total number of acres to be irrigated 10

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General information

a. Amount of water to be diverted 0.40 c.f.s. &/or _____ acre feet

b. Description of diverting works Headgate & Bellevue Canal; private ditch from Canal; pump in ditch

c. Describe the reasons for the proposed changes Tie land & water together as they have been used for many years.

2. Change in point of diversion No Change

Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. Change in place of use

a. Are there leins, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No X If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.

b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer

Unknown, as actual change (if any) occured years ago.

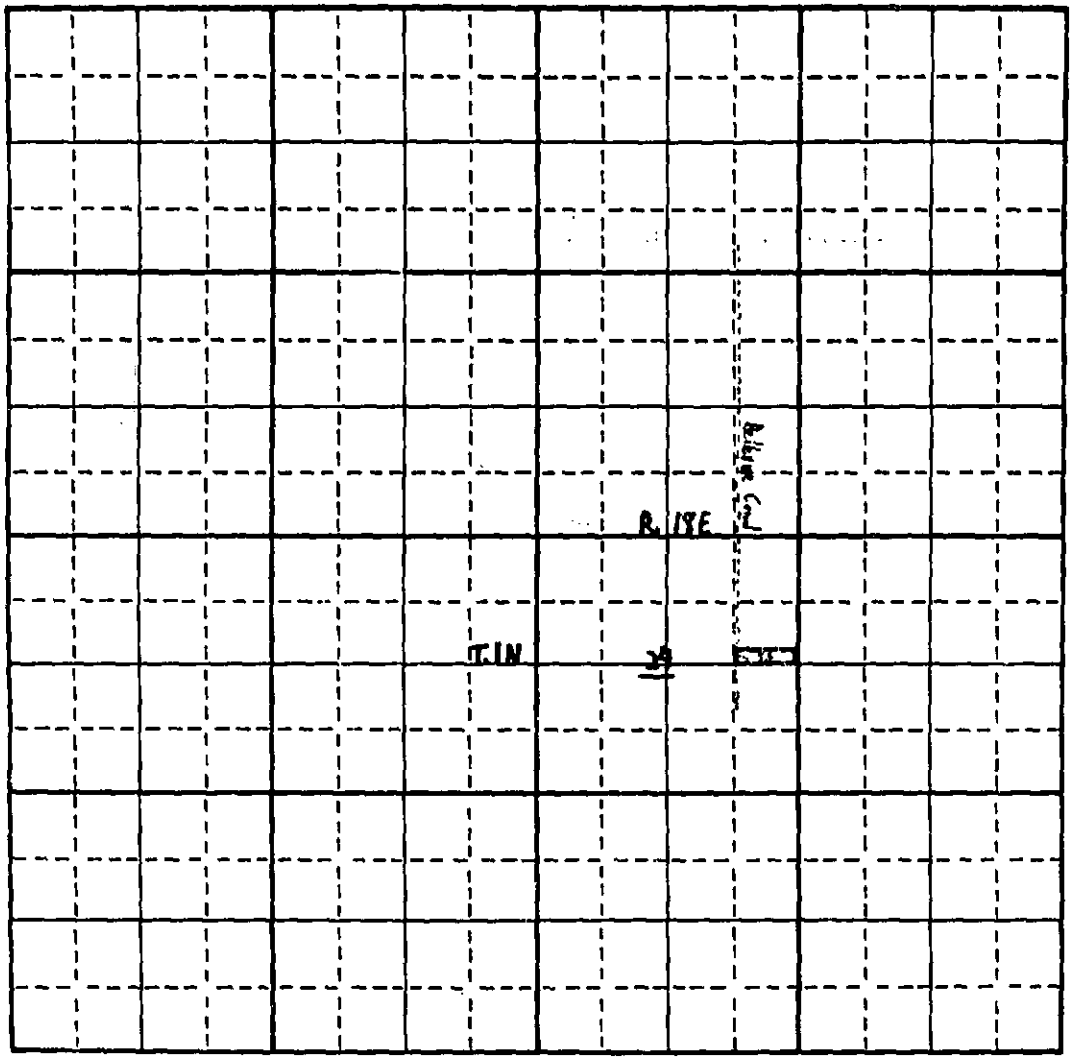
c. Describe the land or place of use to which the right will be transferred:

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	1RE	24				5.5													5.5

Total number of acres to be irrigated 5.5

4. Describe any other water rights used for the same purpose as described above. _____

5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

D. REMARKS

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 willfull misrepresentations made in this application may result in voiding its approval.

Robt E. Faust
(Signature of Applicant)

Subscribed and sworn to before me this 21st day of September, 19 83

Patricia Larsen
(Notary Public)

My commission expires 7-5-87

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 37-0353B and said application is hereby APPROVED, subject to the following limitations and conditions:

1. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works. 2. Use of water under this right is subject to control by the watermaster of State Water District No. 37, Big Wood River. 3. No more water may be diverted under this transfer than that amount which may be beneficially used.

Witness my hand this 3rd day of April, 19 84

A. Glen Saxton
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by marya Date 6/23/83 Protest filed by None

Prelim. check by ADR Fee $50.00 #29195

Receipted by marya Date 7-13-83

Published in Wood River Journal Copies of protest forwarded by

Pub. dates 10/27 & 11/3/83 Hearing held by Date

Watermaster recommendation requested on 10/21/83 Recommended for (approval) denial

rec'd. 11/10/83 by ADR

37 [illegible]	Johnson, H. P.		100 inches.		June 15, 1891.	Gannett Creek, a tributary of Silver Creek.
37 [illegible]	Johnson, H.P., and Christian Nisson		25	"	June 1, 1886.	Butte Creek, a tributary of Silver Creek.
37 03352	Do.		60	"	June 15, 1887.	Butte Creek, a tributary of Silver Creek.
37 [illegible]	Johnson, James		320	"	June 12, 1886.	Big Wood River.
37 [illegible]	Johnson, James E.		95	"	June 1, 1887.	Silver Creek.
37 [illegible]	Johnson, Lily		280	"	May 17, 1883.	Big Wood River. Trans #360
37 03356	Johnson, Louis		140	"	Nov. 13, 1907.	Little Wood River.
37 03357	Johnson, Niels		40	"	Nov. 13, 1907.	" " "
37 03358	Johnson, W. F.		80	"	Feb. 10, 1906.	Big Wood River.
37 03359	Jones, Charles A.	Trans #220	150	"	June 1, 1884.	" " " Trans #220
37 [illegible]	Jones, John W.		160	"	Oct. 31, 1889.	" " "
37 03361	Jones, L. C.		120	"	Apr. 1, 1890.	Little Wood River. (Also shares in Big Cottonwood Canal Co.)
37 [illegible]	Jones, Thomas J.		320	"	May 20, 1902.	Big Wood River.
37 [illegible]	Justus, U. S.		160	"	Apr. 12, 1883.	" " "
37 03364	" "	Trans #217	120	"	May 1, 1887.	" " "
37 03365	Kaiser, Jennie M.		150	"	June 1, 1888.	" " "
37 03366	" "		70	"	Apr. 15, 1896.	" " "
37 03367	" "		80	"	Apr. 15, 1902.	" " "
37 03368	Katzenmeyer, Eva K.		160	"	June 15, 1884.	Three Mile Creek or Four Mile Creek, a tributary of Upper Malad River.
37 03369	Keethler, Mrs. Sarah		145	"	Aug. 3, 1883.	Soldier Creek.
37 03370	Kelly, David		140	"	May 31, 1883.	Little Wood River. (Also shares in Little Wood River Canal Co.)
37 03371	Kelly, Sidney, Sr.		30	"	Apr. 1, 1882.	Little Wood River.
37 03372	" "		97-1/2	"	Apr. 1, 1883.	" " "
37 [illegible]	" "					(Also shares in Little Wood River Canal Co.)
37 03374	Kelly, W. B.		40	"	May 15, 1884.	Little Wood River.

Book 66 16

NOTICE

This file has been REPRODUCED from MICROFICHE ~~because~~:

Richard D. Hansen
Person Recreating File

January 13, 2000
Date

Part A

RECEIVED
AUG 13 1990
Department of Water Resources

NOTICE OF AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT NO. 37-00353A

Notice is hereby given that GUS CHEK of Hailey, ID has AMENDED his Application for Transfer of Water Right No. 37-00353A to change the number of acres within the Place of Use as follows:

WATER RIGHT AS RECORDED:

Water Right No. 37-00353A
Basis of Claim: Decreed to James Johnson in case of S.C. Frost, Et.Al. vs. Alturas Water Company, Et.Al. dated 12/13/1909 in Fourth District Court, Lincoln County; Transfer No. 2948.
Source: Big Wood River tributary to Malad River
Priority Date: 6/12/1886
Amount: 6.0 cfs
Nature of Use: Irrigation
Point of Diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); Blaine County.
Place of Use: Unspecified acres within E1/2SE1/4, S13, T1N, R18E; E1/2NE1/4, S24, T1N, R18E.

PORTION(S) OF RIGHTS TO BE CHANGED

Water Right No.: 37-00353A
Amount of water: 0.20 cfs
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); NE1/4SE1/4, S13, T1N, R18E (Rediversion from District Canal); Blaine County.
Place of Use: 7.5 acres within SE1/4SE1/4, S13, T1N, R18E.

TO BE CHANGED AS FOLLOWS

Water Right No.: 37-00353A Part Amount: 0.20 cfs

Total amount being transferred: 0.20 cfs
Source: Big Wood River tributary to Malad River
Point of diversion: No change.
Place of use: 7.5 acres within SW1/4SW1/4, S18, T1N, R19E.

Any protest against approval of the amending of Application for Transfer No. 37-00353A Part as set forth above must be filed with the Idaho Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301 on or before September 10, 1990.

R. Keith Higginson, Director

Published in the Wood River Journal on 8/22 & 8/29/90.

Part C

MEMORANDUM

DATE: 19-Oct-1993

FROM: Loren Holmes

TO: Files Transfer 3679 and Application 37-08660

SUBJECT: Processing history, analysis and recommendation

Transfer application 3679 on water right 37-00353 and application for permit 37-8660 relate to the same place of use.

Transfers 3679 and 3678 on water right 37-0053 were filed by Gus Chek on 1/22/90. Each application convey half of the water right to a new place of use. Transfer 3678 was approved, but 3679 ran into a problem with excessive diversion rate for the acreage because the application stated a place of use of 3 acres for the.2 cfs of water to be transferred.

The application was amended to 7.5 acres by the applicant and returned to the region where it was readvertised in August, 1990.

Application for permit was filed Aug. 9, 1990 proposing to appropriate groundwater for 6 acres in the same place of use. The additional information burdens of the Big Wood River GWMA order were imposed and the applicant eventually responded. Permit 37-08384 covers an additional 3 acres of the destination place of use.

A field examination by me in the summer of 1991 indicated that the lands to which transfers 3679 and 3678 moved the water right were dry lands.

The transfer application states in part 1, item 6.c that the original lands will continue to be irrigated with 1883 water.

The file contains a statement from Douglas and Cheryl Powers, buyers of the original place of use from Gus Chek, that it is their understanding that only 1883 water is conveyed with the property.

The file also contains a billing statement from the Big Wood River Irrigation District No 45 (District 45) indicating the delivery of 15 inches (.3 cfs) of 1883 water and 20 inches (.4 cfs) of 1886 water to Gus Chek in 1989.

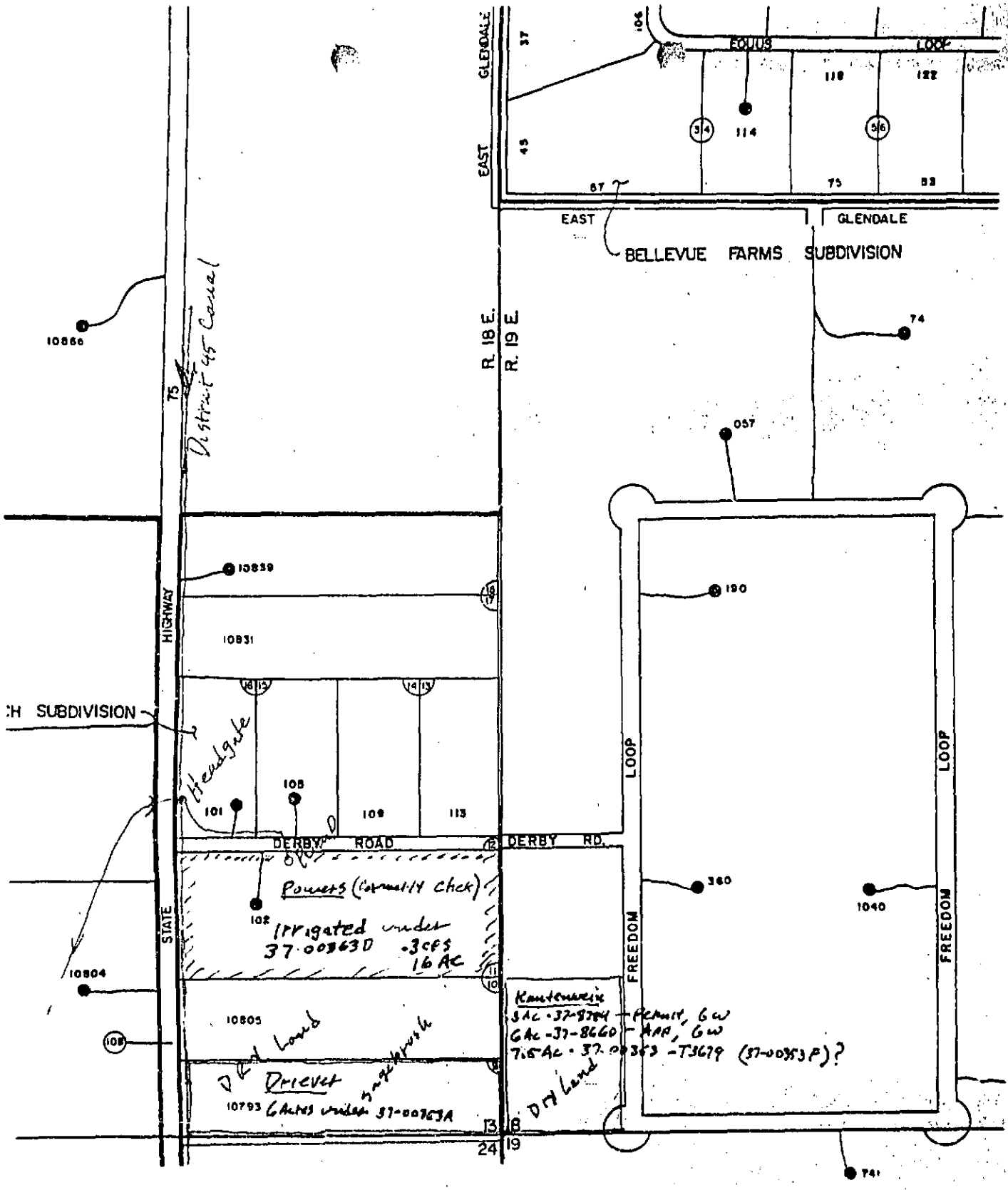
Analysis

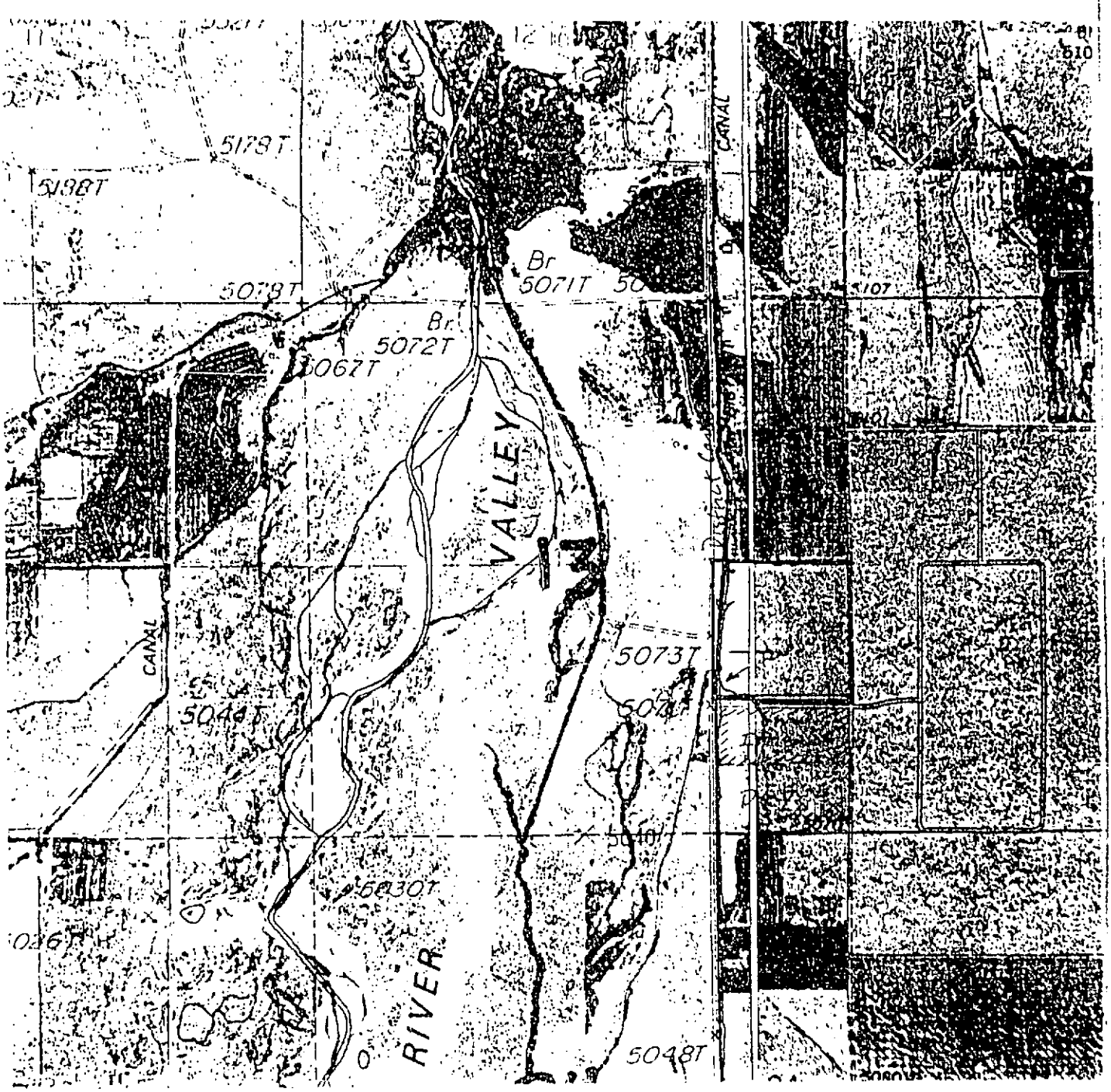
The changes made by T3678 and 3679 will have no effect on delivery of the water by the watermaster. The watermaster controls the headgate of the District 45 canal and deliveries to individual users are managed by the canal company.

Transfer 3679 may be viewed as as a surface water right used to mitigate the effect of groundwater diversions under 37-08384 and 37-08660.

Recommendation

The department should retain jurisdiction over the use of the transferred right to insure protection of senior surface water rights from flow depletion by groundwater diversion.


EAST GLENDALE
EQUUS LOOP
BELLEVUE FARMS SUBDIVISION
R. 18 E.
R. 19 E.
HIGHWAY
STATE
LOOP
FREEDOM
DERBY ROAD
DERBY RD.
Headgate
Powers (Normally Check)
Irrigated under 37-00363D .3cfs 16 Ac
Kautzmeier
SAC - 37-8784 - Permit, GW
GAc - 37-8660 - APP, GW
7.5 Ac - 37-00363 - T3679 (37-00363P)?
Driever
10793 GAcres under 37-00363A
DRY Land
10866
10839
10831
10804
10805
10793
10840
741


5178T
5138T
5078T
Br
5071T
Br
5072T
5067T
VALLEY
CANAL
CANAL
5073T
5048T
5048T
5048T
RIVER

AFFIDAVIT of PUBLICATION

RECEIVED

SEP 13 1990

Department of Water Resources
Southern Region Office

State of Idaho, } ss.
County of Blaine }

DANIEL J. GORHAM, being first duly sworn, deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the

annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 22 day of Aug. 19 90 and the date of the last publication was on the 29 day of Aug. 19 90.

Daniel J. Gorham

Subscribed and sworn to before me this 29th day of Aug. 19 90.
(SEAL)

Roberta McKinney
NOTARY PUBLIC

7221

OK mh 9/17/90

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line	61	
Number of Lines in Notice	69.75	
Number of Insertions	2	
____ Lines tabular at	____	6¢ / Pica
69.75 Lines straight at	$ 38.36	5¢ / Pica
____ Subsequent lines at	____	4¢ / Pica
TOTAL COST	$ 43.36	$ 5.00 fee

COPY OF NOTICE
(Paste Here)

Notice of Water Apps
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF
Dept of Water Resources

BILL TO

Chok socks amended transfer

NOTICE OF AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT NO. 37-00383A

Notice is hereby given that SUSCHEK of Hailey, ID has AMENDED his Application for Transfer of Water Right No. 37-00383A to change the number of acres within the Place of Use as follows:

WATER RIGHT AS RECORDED:
Water Right No. 37-00353A
Basis of Claim: Decreed to James Johnson in case of S.C. Frost, et al., vs. Alturas Water Company, et al., dated 12/13/1909, Fourth District Court, Lincoln County
Transfer No. 2648
Source: Big Wood River tributary to Malad River
Priority Date: 6/12/1888
Nature of Use: Irrigation
Amount: 6.0 cfs
Point of Diversion: SW1/4NW1/4 S36, T2N, R18E (Headgate #45 6 District Canal); Blaine County
Place of Use: Unspecified acres within E1/2SE1/4 S13, T1N, R18E; E1/2NE1/4 S24, T1N, R18E

PORTION(S) OF RIGHTS TO BE CHANGED:
Water Right No. 37-00353A
Amount of water: 0.20 cfs
Point of diversion: SW1/4NW1/4 S36, T2N, R18E (Headgate #45 6 District Canal); NE1/4SE1/4 S13, T1N, R18E (Rediversion from District Canal); Blaine County
Place of Use: 7.6 acres within SE1/4SE1/4 S13, T1N, R18E

TO BE CHANGED AS FOLLOWS:
Water Right No. 37-00353A (in part)
Amount: 0.20 cfs
Total amount being transferred: 0.20 cfs
Source: Big Wood River tributary to Malad River
Point of diversion: No change
Place of use: 7.6 acres within SW1/4SW1/4 S18, T1N, R19E

Any protest against approval of the amending of Application for Transfer No. 37-00383A, Part as set forth above must be filed with the Idaho Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301, on or before September 10, 1990.

R. Keith Higginson, Director
Publish: Wood River Journal
August 22 & 29, 1990

RECEIVED
AUG 14 1990
Department of Water Resources
Southern Region Office

AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT

NO. Tr. #3679

RECOMMENDATION OF WATERMASTER

I, Reid J. Newby, watermaster of Big Wood River, of Water District No. 37, County of Blaine, State of Idaho, whose address is P. O. Box T, Shoshone, ID 83352 have read the attached copy of the application for transfer of water right for Gus Chek (name), and to the best of my knowledge believe the application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend that the Director of the Department of Water Resources approve the transfer subject to the following conditions: _____

OR

B. I do not endorse approval of the above numbered Application for Transfer as requested for the following reasons: From the application the watermaster is unable to tell who will own the water that is being transferred. From the Purchase Sale Agreement and letters, Douglas & Cheryl Powers, agreed to have only the 1883 water #37-0363A, owned by Mr. Gus Chek, which leaves .40 cfs of Water Right #37-0353A which he is trying to transfer .20 cfs which leaves .20 cfs appurtenent to the land.. All of this water under Right under 37-00353A is supplemtental to St. W.R. #37-0363A. The transfer does not give contact person other than Mr. Chek.

Dated at Shoshone, Idaho, this 13th day of August 1990.

Reid J. Newby
(signature)

Please use reverse side if needed.

NOTICE OF AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT, NO. 37-00353A

Notice is hereby given that GUS CHEK of Hailey, ID has **AMENDED** his Application for Transfer of Water Right No. 37-00353A to change the number of acres within the Place of Use as follows:

WATER RIGHT AS RECORDED:

Water Right No. 37-00353A
Basis of Claim: Decreed to James Johnson in case of S.C. Frost, Et.Al. vs. Alturas Water Company, Et.Al. dated 12/13/1909 in Fourth District Court, Lincoln County; Transfer No. 2948.
Source: Big Wood River tributary to Malad River
Priority Date: 6/12/1886
Amount: 6.0 cfs
Nature of Use: Irrigation
Point of Diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); Blaine County.
Place of Use: Unspecified acres within E1/2SE1/4, S13, T1N, R18E; E1/2NE1/4, S24, T1N, R18E.

PORTION(S) OF RIGHTS TO BE CHANGED

Water Right No.: 37-00353A
Amount of water: 0.20 cfs
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); NE1/4SE1/4, S13, T1N, R18E (Rediversion from District Canal); Blaine County.
Place of Use: 7.5 acres within SE1/4SE1/4, S13, T1N, R18E.

TO BE CHANGED AS FOLLOWS

Water Right No.: 37-00353A Part Amount: 0.20 cfs

Total amount being transferred: 0.20 cfs
Source: Big Wood River tributary to Malad River
Point of diversion: No change.
Place of use: 7.5 acres within SW1/4SW1/4, S18, T1N, R19E.

Any protest against approval of the amending of Application for Transfer No. 37-00353A Part as set forth above must be filed with the Idaho Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301 on or before September 10, 1990.

R. Keith Higginson, Director

Published in the Wood River Journal on 8/22 & 8/29/90.

Disk: Legals/GusChk

RECEIVED

AUG 17 1990

Department of Water Resources
Southern Region Office

Chek seeks amended transfer

NOTICE OF AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT WR#37-00353A

Notice is hereby given that GUS CHEK of Hailey, ID has AMENDED his Application for Transfer of Water Right No. 37-00353A to change the number of acres within the Place of Use as follows:

WATER RIGHT AS RECORDED:

Water Right No. 37-00353A
Basis of Claim: Decreed to James Johnson in case of S.C. Frost, et al., vs. Altures Water Company, et al., dated 12/13/1909, Fourth District Court, Lincoln County; Transfer No. 2948.
Source: Big Wood River tributary to Malad River
Priority Date: 6/12/1886
Nature of Use: Irrigation
Amount: 6.0 cfs
Point of Diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); Blaine County.
Place of Use: Unspecified acres within E1/2SE1/4, S13, T1N, R18E; E1/2NE1/4, S24, T1N, R18E.

PORTION(S) OF RIGHTS TO BE CHANGED

Water Right No.: 37-00353A
Amount of water: 0.20 cfs
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); NE1/4SE1/4, S13, T1N, R18E (Rediversion from District Canal); Blaine County.
Place of Use: 7.5 acres within SE1/4SE1/4, S13, T1N, R18E.

TO BE CHANGED AS FOLLOWS

Water Right No.: 37-00353A Part
Amount: 0.20 cfs

Total amount being transferred: 0.20 cfs
Source: Big Wood River tributary to Malad River
Point of diversion: No change.
Place of use: 7.5 acres within SW1/4SW1/4, S18, T1N, R19E.

Any protest against approval of the amending of Application for Transfer No. 37-00353A Part as set forth above must be filed with the Idaho Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301, on or before September 10, 1990.

R. Keith Higginson, Director

Publish: Wood River Journal--August 22 & 29, 1990.

8/17/90 @ 4:06pm

Proof WKJ
Faxed to Patty. She will insert WR#

MB
8/17/90

10-Aug-1990

REID KANTENWEIN
PO BOX 1525
HAILEY ID 83333

Re: Amended Application for Transfer No. 37-00353A Part, (Chek)

Dear Mr. Kantenwein:

The Department of Water Resources acknowledges receipt of your correspondence dated 7/18/90 sent to our State Office which amended the above referenced application for transfer. The file has been returned to the Southern regional office for additional processing.

This office will be advertising the amended application in the Wood River Journal on 8/22 and 8/29/90. The advertisement will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

State Office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review.

Please feel free to contact this office if you have any questions regarding this procedure.

Very truly yours,

Douglas Jones, E. I. T.
Water Resources Engineer

DJ:MB

cc: Gus Chek

10-Aug-1990

REID J. NEWBY WATERMASTER
WATER DISTRICT #37
BOX T
SHOSHONE ID 83352

Re: Amended Application for Transfer of Water Right No. 37-00353a Part

Dear Mr. Newby:

Enclosed is a copy of an Application for Transfer of a Water Right within your District, and Watermaster's Recommendation Form.

Section 42-222 of the IDAHO CODE requires that the watermaster must be advised of proposed changes in water rights in the water district and must notify the Department of his recommendation on the application.

Please complete the enclosed recommendation form and return it to this office.

Processing of the application can be completed in 20 days, therefore, your prompt response to this request will be appreciated.

If you have any questions about the application, please contact this office or the applicant.

Very truly yours,

Douglas Jones, E. I. T.
Water Resources Engineer

DJ:MB

Enclosures

07-Aug-1990

WOOD RIVER JOURNAL
PO Box 988
HAILEY ID 83333

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the required publication dates. If time allows, please submit a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Mary Baldwin
Secretary/Office Coordinator

Enclosure

RECEIVED

JUL 24 1990

Department of Water Resources
Southern Region Office

DEPARTMENT MEMO

FROM Tim Lee

DATE 7-20-90

TO Doug Jones, Jim Stratton

SUBJECT Transfer App. No. 3679 / Right No. 37-353A in name of Bus Check

After reviewing this application, I sent a letter to both Mr. Check and Mr. Kantenwein which delineates the Amount of water being transferred is only 3 acres. Both Kantenwein & Check called me & said that the place of use after the change for only 3 acres was a mistake. The number of acres shown under Item 8.3. part 2 (7.5 acres) should be shown also under Item 8.5 part 2. Kantenwein submitted a $70.00 fee to Amend the transfer. Please Re-Advertise the amendment from your office.

T L
SIGNATURE

#L 37-3381

RECEIVED
JUL 19 1990
Department of Water Resources

July 18, 1990

Transfer App. No. 3679

Dept. of Water Resources
1301 N. Orchard St.
Statehouse Mail
Boise, Id. 83720

Dear Mr.Luke,

As per our conversation and your return call I am writing to ask that the Dept. of Water Resources please amend my present water right application so that it properly reads 7.5 acres of use rather than the error of 3 acres. I do apologize for the miscommunication at the Twin Falls office and I am in hopes of this letter to set things straight.

Enclosed please find a check for $20.00 for the advertising fee you requested. If there is any more that you need from me please just contact me and I will diligently pursue whatever is needed.

Thanks very much for your time and considerations in this endeavor.

Sincerely,

Reid Kantenwein

Reid Kantenwein
P.O.Box 1525
Hailey, Id. 83333
208-788-9776

REID KANTENWEIN

The Prudential Insurance Company of America

ThePrudential

Box 1525

Twin Falls Id 83333

TWIN FALLS ID 833
PM
18 JUL
1990

Dept. of Water Resources
1301 N. Orchard St.
Statehouse Mail
Boise Id 83720

ATTN: TIM LUKE

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

Copy

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

July 13, 1990

Gus Chek
P.O. Box 1984
Hailey, ID 83333

Re: Transfer Application No.s 3678 & 3679/Water Right Identification No. 37-0353A

Dear Mr. Chek:

Your transfer applications were recently forwarded from our regional office and are presently being reviewed by staff here at the state office.

I have completed a review of application no. 3678 involving the transfer of water to Douglas Driever. I have recommended that this application be approved. You should receive further notice concerning approval of this transfer within the next several weeks.

My review of application no. 3679 involving transfer of water to Reid Kantenwein raised several questions which prohibits me from making any recommendations at this time.

My main concern with this application is the amount of water proposed to be transferred. The amount of 0.20 cfs for three acres of irrigation appears to be excessive. This amount would result in a diversion rate per acre that is higher than the rate authorized by the decreed right.

The right was originally decreed for 320 miners inches or 6.4 cfs appurtenant to 160 acres. The maximum diversion rate per acre for this right is 0.04 cfs per acre. Your proposal to transfer 0.20 cfs on three acres would result in a rate of 0.067 cfs per acre, and an expansion of the original right. The Department can not authorize a diversion rate greater than the 0.04 cfs per acre, or a total diversion rate of 0.12 cfs for the three acres unless you can demonstrate a need for the higher rate.

You may perhaps argue that the 0.20 cfs or 10 inches has always been diverted, that there is no net change, and that the right to divert this amount can not or should not be reduced. However, your transfer application also proposes to reduce the number of acres irrigated under the original right. This reduction in acreage and use should be accompanied by a reduction in amount diverted. Water that was formerly diverted to 7.5 acres under 37-0353A will, after the transfer, be diverted only to three

acres. The water that was diverted to the other 3.5 acres will be abandoned after the change, and therefore should revert back to the source of origin and be available for other appropriators.

Your application also states that this transferred right, when appurtenant to Kantenwein's land, will be supplemental to a groundwater permit. If this is correct, than it is even more difficult for the Department to sanction the excessive diversion rate proposed by this transfer. In reviewing Kantenwein's groundwater permit, I noticed that he had amended the original application by reducing the number of irrigated acres from ten acres to three acres. There is some question in my mind whether the transferred surface water right will actually supplement the groundwater permit, or if the three acres under the surface right are different than the three acres under the groundwater permit.

Before the Department takes further action on the transfer application, I must request that you provide reason or justification to the Department for the proposed diversion of 0.20 cfs on three acres of land. You should also advise the Department as to how the surface right and groundwater right will supplement each other on the same three acres of land owned by Kantenwein.

If you do not respond to this inquiry within 30 days, the Department may initiate action to approve the transfer, but will impose conditions which limit the surface right to a particular diversion rate as well as limit the surface and groundwater rights to the same three acres and a specific combined annual volume of water.

If you have questions concerning this matter, please feel free to contact me directly at 327-7864.

Sincerely

Tim Luke
Sr. Water Resource Agent

AFFIDAVIT of PUBLICATION

RECEIVED

MAY 31 1990

Department of Water Resources
Southern Region Office

State of Idaho, } ss.
County of Blaine

DANIEL J. CORHAM, being first duly sworn, deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the

annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 9 day of May, 1990, and

the date of the last publication was on the 16 day of May, 1990.

Daniel J Corham

Subscribed and sworn to before me this 24 day of May, 1990.
(SEAL)

Rebecca Ann Kaufman
NOTARY PUBLIC

OK mb 5/30/90

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line	11	
Number of Lines in Notice	65	
Number of Insertions	2	
____	Lines tabular at ____	6¢ / Pica
130	Lines straight at 35 x 45	5¢ / Pica
65	Subsequent lines at 26 x 60	4¢ / Pica
TOTAL COST	$ 61.35	

COPY OF NOTICE
(Paste Here)

Proposed Change #37-00353A Chek
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF
Dept of Water Resources
BILL TO

Chek seeks water right change

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 37-00353A

Notice is hereby given that Gus Chek of Hailey, ID has applied to the Department of Water Resources to change the following described water right(s) pursuant to Section 42-222 of the IDAHO CODE.

WATER RIGHT AS RECORDED
Water right No. 37-00353A
Transfer No. 2948
Basis of right: Decreed to James Johnson in case of S.C. Frost, et al., vs. Alturas Water Company, et al., dated 12/13/1902 in Fourth District Court, Lincoln County.
Source: Big Wood River tributary to Malad River
Priority Date: 6/12/1886
Amount of water: 0.0 cfs
Water use: Irrigation
Point(s) of diversion: SW1/4 NW1/4, S38, T2N, R18E (Headgate #45 B District Canal), Blaine County.
Place of use: Unknown number of acres within E1/2SE1/4, S13, T1N, R18E; E1/2NE1/4, S24, T1N, R18E.

PORTION(S) OF RIGHT(S) TO BE CHANGED
Water right No. 37-00353A
Amount of water: 0.20 cfs
Point of diversion: SW1/4NW1/4, S38, T2N, R18E (Headgate #45 B District Canal); NE1/4SE1/4, S13, T1N, R18E (Re-diversion from District Canal), Blaine County.
Place of use: 7.5 acres within SE1/4SE1/4, S13, T1N, R18E.

TO BE CHANGED AS FOLLOWS
Water right No. 37-00353A Part
Amount: 0.20 cfs
Total amount being transferred: 0.20 cfs
Source: Big Wood River tributary to Malad River
Point of diversion: No change.
Place of use: 3 acres within SW1/4SW1/4, S18, T1N, R19E.

Any protest against approval of the application for transfer must be filed with the Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301, on or before May 29, 1990.

R. Keith Higginson, Director

Publish: Wood River Journal
May 9 & 16, 1990

RECEIVED

MAY 9 1990

Department of Water Resources
Southern Region Office

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 37-00353A

RECOMMENDATION OF WATERMASTER

I, Reid J. Newby, watermaster of Big Wood River, of Water District No. 37, County of Blaine, State of Idaho, whose address is P. O. Box T, Shoshone, ID 83352 have read the attached copy of the application for transfer of water right for Gus Chek (name), and to the best of my knowledge believe the application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend that the Director of the Department of Water Resources approve the transfer subject to the following conditions: This transfer is to transfer water internally in in District #45 Canal. Please check transfer No. 3404 for approval. The watermaster puts the water to the head of the District #45 Canal and therefor has no authority regarding this transfer.

OR

B. I do not endorse approval of the above numbered Application for Transfer as requested for the following reasons: _____

Dated at Shoshone, Idaho, this 8th day of May 19 90.

Reid J. Newby
(signature)

Please use reverse side if needed.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 37-00353A

Notice is hereby given that Gus Chak of Hailey, ID has applied to the Department of Water Resources to change the following described water right(s) pursuant to Section 42-222 of the IDAHO CODE.

WATER RIGHT AS RECORDED

Water right No. 37-00353A, Transfer No. 2948
Basis of right: Decreed to James Johnson in case of S.C. Frost, et al., vs. Alturas Water Company, et al., dated 12/13/1909 in Fourth District Court, Lincoln County.
Source: Big Wood River tributary to Malad River.
Priority Date: 6/12/1888
Amount of water: 6.0 cfs
Water use: Irrigation
Point(s) of diversion: SW1/4-NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); Blaine County.
Place of use: Unknown number of acres within E1/2SE1/4, S13, T1N, R18E; E1/2NE1/4, S24, T1N, R18E.

PORTION(S) OF RIGHTS TO BE CHANGED

Water right No.: 37-00353A
Amount of water: 0.20 cfs
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); NE1/4SE1/4, S13, T1N, R18E (Re-diversion from District Canal); Blaine County.
Place of use: 7.5 acres within SE1/4SE1/4, S13, T1N, R18E.

TO BE CHANGED AS FOLLOWS

Water right No.: 37-00353A Part
Amount: 0.20 cfs

Total amount being transferred: 0.20 cfs
Source: Big Wood River tributary to Malad River
Point of diversion: No change
Place of use: 3 acres within SW1/4SW1/4, S18, T1N, R19E.

Any protest against approval of the application for transfer must be filed with the Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301, on or before May 29, 1990.

R. Keith Higginson, Director

Publish: Wood River Journal–May 9 & 16, 1990.

OE MB 5/7/90

RECEIVED
MAY 7 1990
Department of Water Resources
Southern Region Office

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 37-00353A

Notice is hereby given that Gus Chek of Hailey, ID has applied to the Department of Water Resources to change the following described water right(s) pursuant to Section 42-222 of the IDAHO CODE.

WATER RIGHT AS RECORDED

Water right No. 37-00353A, Transfer No. 2948
Basis of right: Decreed to James Johnson in case of S.C. Frost, Et.Al. vs. Alturas Water Company, Et.Al. dated 12/13/1909 in Fourth District Court, Lincoln County.
Source: Big Wood River tributary to Malad River
Priority Date: 6/12/1886
Amount of water: 6.0 cfs Water use: irrigation
Point(s) of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); Blaine County.
Place of use: Unknown number of acres within E1/2SE1/4, S13, T1N, R18E; E1/2NE1/4, S24, T1N, R18E.

PORTION(S) OF RIGHTS TO BE CHANGED

Water right No.: 37-00353A
Amount of water: 0.20 cfs
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); NE1/4SE1/4, S13, T1N, R18E (Re-diversion from District Canal); Blaine County.
Place of use: 7.5 acres within SE1/4SE1/4, S13, T1N, R18E.

TO BE CHANGED AS FOLLOWS

Water Right No.: 37-00353A Part Amount: 0.20 cfs

Total amount being transferred: 0.20 cfs

Source: Big Wood River tributary to Malad River
Point of diversion: No change
Place of use: 3 acres within SW1/4SW1/4, S18, T1N, R19E.

Any protest against approval of the application for transfer must be filed with the Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301 on or before May 29, 1990.

R. Keith Higginson, Director

Published in Wood River Journal on 5/9 & 5/16/90.

01-May-1990

WOOD RIVER JOURNAL
PO BOX 988
HAILEY ID 83333

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the required publication dates. If time allows, please submit a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Mary Baldwin
Secretary/Office Coordinator

Enclosure

MICROFILMED
DEC 0 1 1993

01-May-1990

REID J. NEWBY, WATERMASTER
WATER DISTRICT #37
BOX T
SHOSHONE ID 83352

Re: Two (2) Application for Transfer of Water Right No. 37-00353A Part

Dear Mr. Newby:

Enclosed is are copies of (2) Applications for Transfer of a Water Right within your District, and Watermaster's Recommendation Forms.

Section 42-222 of the IDAHO CODE requires that the watermaster must be advised of proposed changes in water rights in the water district and must notify the Department of his recommendation on the application.

Please complete the enclosed recommendation forms and return them to this office.

Processing of the application can be completed in 20 days, therefore, your prompt response to this request will be appreciated.

If you have any questions about the applications, please contact this office or the applicant.

Very truly yours,

Douglas Jones, E. I. T.
Water Resources Engineer

DJ:MB

Enclosures

MICROFILMED
DEC 01 1993

01-May-1990

GUS CHEK
PO BOX 1984
HAILEY ID 83333

Re: Two (2) Applications for Transfer No. 37-00353A Part

Dear Mr. Chek:

The Department of Water Resources acknowledges receipt of your Applications for Transfer.

This office will be advertising the applications in the Wood River Journal on 5/9 & 5/16/90. The advertisements will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the applications are protested, you will be sent a copy of the protest. The protest must be resolved before the applications are approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

State Office personnel will conduct a complete review prior to final processing of the applications and will notify you of the outcome of this review.

Please feel free to contact this office if you have any questions regarding this procedure.

Very truly yours,

Douglas Jones, E. I. T.
Water Resources Engineer

DJ:MB

MICROFILMED
DEC 01 1990

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

23-Jan-1990 09:25

Gus A. Chek
P.O. Box 1984
Hailey, Idaho 83333

RE: SRBA Claim A37-00353C

Dear Mr. Chek:

James Stanton of our office has asked me to draft an amendment of your Notice of Claim A37-00353C correcting the amount of water which is being claimed. Apparently James and you discovered that you only have a right to 20 miner's inches or 0.40 cubic feet per second of the June 12, 1886 water when you were filing for some transfer applications.

Please find enclosed the draft amendment which you should review and sign before a notary and return to our office.

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

Sincerely

Allen Merritt, P.E.
Water Rights Supervisor

Encl:
cc: James Stanton IDWR

MICROFILMED
DEC 01 1993

(ER-DEPARTMENT MEMO — 1

FROM Jim Stanton

DATE 1-23-90

TO File

SUBJECT Applications for Transfer of Rt. 37-00353A, Gus Chek

Mr. Chek owns 20 inches of this 1886 right. His land south of Bellevue is being sold along with sufficient 1883 water. He is selling 10 inches of the 1886 water to two ~~separate~~ separate individuals with land just south and east of the Chek property. If both transfers are approved, the whole 20" will have been transferred; for this reason, Part 28 of the transfer forms has been left blank.

The transfers are on Right 37-00353C in order to agree with Mr. Chek's SRBA claim. Parts D & E are also covered by SRBA claims, so the approved splits have been given F & G designations so as not to get confused with existing SRBA claims. There shouldn't be a claim with one number and a completely different water right with the same number.

I told Mr. Chek that acreages could not be expanded thru the transfer process, so he knows that at least one of these transfers may not be approved. The lands of Doug Driever are within the decreed P/U for this right, but Mr. Chek stated that Mr. Driever does not have any of this right.

PROCESSED

DEC 0 1 1993

SIGNATURE

Part D

November 6, 1991

Douglas Driever
P.O. Box 2072
Hailey, ID 83333

RE: Transfer of Water Right No. 37-00353A (Part D)

Dear Mr. Driever,

I have recently learned that you did not receive a copy of approved Transfer No. 3678. I believe a copy of the approved transfer was sent to Gus Chek, the transfer applicant. The application requested that a copy be forwarded to you. We may have overlooked this request.

I apologize for any inconvenience this may have caused.

Sincerely,

Tim Luke
Sr. Water Resource Agent

TL:blm

Enclosure

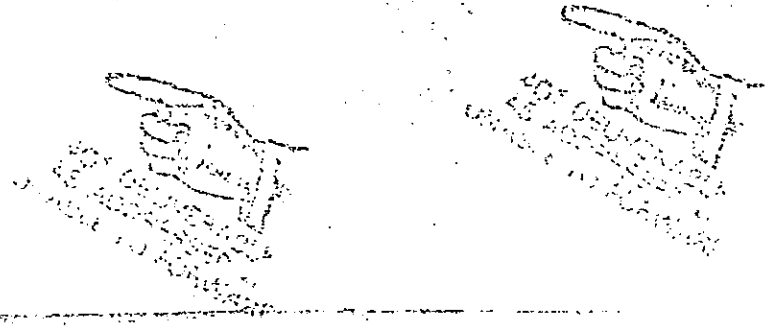
Part F

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Boise, Idaho 83706-2237

PRESORTED FIRST CLASS

NOV-5'93
IDAHO

U.S.POSTAGE
$00.24
PB METER
6736669



RECEIVED
NOV 10 1993
Department of Water Resources

GUS CHEK
PO BOX 1984
HAILEY ID 83333-1984

MEMORANDUM

DATE: November 30, 1993

TO: File No. 37-00353

FROM: Donna Corless

SUBJECT: RETURNED MAIL

Transfer #3679, mailed to Gus Chek, at PO Box 1984 Hailey, ID 83333-1984 was returned to this office by the U.S. Postal Service, as: Not Deliverable as Addressed - Unable to Forward.

A call to the Blaine County Assessor's Office revealed that they have no record of a property owner by the name of Gus Chek in their county. When given the legal description, in an attempt to identify the current owner of the property, the Assessor's office said that since the area is in the city of Bellevue they could not determine the owner of this particular piece of property without a tax lot number.

The Hailey telephone book has no listing for Gus Chek, and an attempt to call him at the telephone number listed on his application revealed that the number has been disconnected and no further information is available.

A copy of the transfer was mailed to Reid Kantenwein, as noted on page 2 of the transfer application. Mr. Chek's copy will remain in the file until he contacts this agency.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

November 4, 1993

GUS CHEK
PO BOX 1984
HAILEY ID 83333-1984

RE: Transfer of Water Right No. 37-00353F

Dear Water Right Holder(s):

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 3679). Please be sure to thoroughly review the "CONDITIONS/REMARKS:" as listed on the transfer.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:dc

Enclosure

c: Reid Kantenwein

To WOOD RIVER VALLEY IRRIGATION DISTRICT No. 45

BELLEVUE, IDAHO

Page No.....

DUE April 20, 19. 89 Gen Clerk

№ 766

Date of Decree	No. of Inches Of Water	Rate	Amount of Tax
1883	15	.85	12.75
1886	20	.78	15.60
Penalty and Interest			
Total Amount Received			28.35

19 89

Sec._____ Twp._____ S., R._____ E., B. M.

Blaine County, Idaho

All water taxes or tolls for year 19 89 are payable at office of Secretary of said Wood River Valley Irrigation District on or before the 20th day of April next following said assessment and will become delinquent after the 20th day of April 19 89 After said date if such charge is not paid, a penalty of two per cent of the amount unpaid shall be added to amout due, and interest charges at a rate of eight per cent per annum shall be charged on all unpaid amounts, and no water shall be delivered to the land of any landowner or entryman who shall be in arrears for such payment.

GRACE EAKEN

Secretary and Treasurer

Wood River Valley Irrigation District

T A RECEIPT — IT MUST ACCOMPANY REMITTANCE

To WOOD RIVER VALLEY IRRIGATION DISTRICT No. 45

BELLEVUE, IDAHO

Nº 766

Page No.....

DUE April 20, 19 89 Gus Clark

Date of Decree	No. of Inches Of Water	Rate	Amount of Tax
1883	15	.85	12.75
1886	20	.78	15.60
Penalty and Interest			
Total Amount Received			28.35

19 89

Sec._____ Twp._____ S., R._____ E., B. M.

Blaine County, Idaho

All water taxes or tolls for year 19 89 are payable at office of Secretary of said Wood River Valley Irrigation District on or before the 20th day of April next followin, said assessment and will become delinquent after the 20th day of April 19 89 After said date if such charge is not paid, a penalty of two per cent of the amount unpaid shall be added to amout due, and interest charges at a rate of eight per cent per annum shall be charged on all unpaid amounts, and no water shall be delivered to the land of any landowner or entryman who shall be in arrears for such payment.

GRACE EAKEN

Secretary and Treasurer

Wood River Valley Irrigation District

)T A RECEIPT — IT MUST ACCOMPANY REMITTANCE

REAL ESTATE PURCHASE AND SALE AGREEMENT AND RECEIPT FOR EARNEST MONEY

Form to be used ONLY by members of the National Association of REALTORS®

This contract stipulates the terms of sale of real property. Read carefully before signing (including information on reverse side). This is a legally binding contract. IF YOU HAVE ANY QUESTIONS, CONSULT YOUR ATTORNEY BEFORE SIGNING.

Hailey, Idaho July 13, 19 89

Douglas J. Powers and Cheryl A. Powers, husband and wife

(hereinafter called "Buyer") agrees to purchase, and the undersigned Seller agrees to sell the following described real estate hereinafter referred to as "premises" commonly known as Gus Chok property

City of ... County of Blaine, Idaho legally described as: Lot 11, Blk 1, Dean Ranch Subdivision, Blaine County, Idaho.

(A FULL AND COMPLETE LEGAL DESCRIPTION MUST BE INSERTED, ATTACHED OR WRITTEN ON THE REVERSE SIDE HEREOF PRIOR TO EXECUTION BY SELLER. Buyer hereby authorizes broker to insert over his signature the correct legal description of the premises if unavailable at the time of signing, or to correct the legal description previously entered if erroneous or incomplete.)

EARNEST MONEY.

(a) Buyer hereby deposits as earnest money and a receipt is hereby acknowledged of One Thousand (non-refundable) dollars ($ 1,000.00) evidenced by: ☐Cash ☒Personal Check ☐Cashier's Check ☐Note Due ☐or ---

(b) Earnest Money to be deposited in trust account upon acceptance by all parties and shall be held by ☐Listing Broker ☐Selling Broker ☐Other --- for the benefit of the parties hereto, and C. W. Dunn (Broker) shall hold the completely executed broker's copy of this agreement and is responsible for the closing.

(c) If all conditions have been met by Buyer, Buyer and Seller agree that the earnest money (less credit report fees, and any other Buyer's costs) shall be refunded to Buyer in the event the financing contemplated herein by Buyer is not obtainable.

(d) The parties agree that First American Title Company shall provide said title policy and preliminary report of commitment and the "closing agent" for this transaction shall be First American Title Co. If a long-term escrow/collection is involved, then the escrow holder shall be ...

1. TOTAL PURCHASE PRICE IS One Hundred Seventy-Five Thousand DOLLARS ($ 175,000.00) payable as follows:

a. $ $2500.00 non-refundable Cash down, including above Earnest Money (Closing costs are additional).

b. $ ... Balance of the purchase price (M.I.P. not included).

2. FINANCING. This agreement is contingent upon Buyer qualifying for:

☐FHA ☐VA ☒Conventional ☐RIA. Purchase loan balance as noted above for a period of ... yrs at ... % per annum. (If FHA or VA loan is sought, read the applicable provisions on the reverse side hereof.) Buyer shall pay no more than ... points plus origination fee if any. Seller to pay only the discount points necessary in order to obtain above described financing but not to exceed ...%.

☐Buyer to ASSUME and ☐will ☐will not be required to qualify for an EXISTING LOAN(S) of approximately $ ... at no more than ...% with monthly payments of approximately $ ... PITI. This agreement ☐is ☐is not contingent upon Lender releasing Seller's liability.

Type of loan Conventional. Buyer shall apply for such loan or assumption within three (3) banking days after Seller's acceptance of this agreement.

OTHER FINANCING, TERMS & CONDITIONS: $37,500.00 due on/or before December 6, 1989 as option monies and to be disbursed to Seller, balance of $135,000.00 to be paid on closing or July 1, 1990. First crop of hay or crops to be property of Seller and second growing to Buyer.

3. THIS AGREEMENT ☐is ☐is not CONTINGENT upon sale and closing of N/A on or before ... listed with ...

(If a contingency is noted please read applicable conditions in Paragraph # 15 on reverse side. NOTE: Any waiver by the Buyer under this section will be a waiver of ALL contingencies, including financing.)

4. ITEMS SPECIFICALLY INCLUDED IN THIS SALE (If FHA/VA financing is sought see Item # 14 on reverse side): Riding mower, push mower, freezer, Satellite Dish, Security systems, fridge and refrigerator.

5. ITEMS SPECIFICALLY EXCLUDED IN THIS SALE: Personal items.

6. COSTS PAID BY: Costs in addition to those listed below may be incurred by Buyer and Seller. Unless otherwise agreed herein, or provided by law or required by lender, Buyer shall purchase Seller's reserve account if loan assumption.

☐Yes ☐No. Purchaser's Extended Coverage Title Policy requested. Additional premium paid by N/A. See Item # 17 on reverse side.

If requested by lender or otherwise stated herein, the below costs will be paid as indicated.

Costs Paid By	Appraisal	Loan Assumpt.	Well Inspect.	Pump/Inspect Septic	City/County Code Inspect. if required	Contract and/or Document Prep.	Closing Agent's Fee	Long Term Escrow Fees	Lender or Code Repairs	Title Ins.
BUYER	X									
N/A		X	X	X	X	X		X	X	
SELLER										XX
SHARE EQUALLY							X			

Cost of lender or code repairs not to exceed $ N/A. Discount points to be paid as agreed on line 29 and 30. *SELLER UNDERSTANDS that as a result of any city or county inspections HE MAY BE REQUIRED TO MAKE REPAIRS to the property in order to comply with the housing code WHETHER OR NOT A SALE IS COMPLETED UNDER THIS AGREEMENT.*

7. POSSESSION. Buyer shall be entitled to possession on ☒X closing ☐ other --- "Closing" means the date on which all documents are either recorded or accepted by an escrow agent and the sale proceeds are available to Seller. Taxes and water assessments (using the last available assessment as a basis), rents, insurance premiums, interest and reserves on liens, encumbrances or obligations assumed and utilities shall be pro-rated as of July 1, 1990. Buyer shall pay for fuel in tank, amount to be determined by the supplier at Seller's expense.

8. CLOSING. On or before the closing date, Buyer and Seller shall deposit with the closing agent all funds and instruments necessary to complete the sale. The closing date shall be no later than July 1, 1990.

9. ACCEPTANCE. Buyer's offer is made subject to the acceptance of Seller on or before 12:00 o'clock midnight of July 14, 1989. If Seller does not accept this agreement within the time specified, the entire Earnest Money shall be refunded to Buyer on demand. Seller's counter offer (if any) is made subject to the acceptance of Buyer on or before 12:00 o'clock midnight of July 14, 1989. TIME IS OF THE ESSENCE OF THIS AGREEMENT.

10. IMPORTANT - AGENCY DISCLOSURE. At the time of signing this agreement the agent working with the buyer represented Seller and the agent working with the seller represented Seller. Each party signing this document confirms that prior written disclosure of agency was provided to him/her in this transaction. Each party to this transaction has read and understands the contents of the agency disclosure brochure previously received.

Listing Agency: C. Dunn Realty
By: C. W. Dunn Phone: 788-4531

Selling Agency: ...
By: ... Phone: ...

Buyer: ... Buyer's Address: PO Box 1551 Ridgefrew, Pa 16083
Buyer: ... Buyer's Phone: Residence 412-506-2452 Business 8am-6

On this date, I/We hereby approve and accept the sale set forth in the above agreement and agree to carry out all the terms thereof on the part of the Seller and the undersigned further agrees to pay a total brokerage fee of ... to the above named Broker(s) for services. Brokerage fee will be paid in cash unless otherwise agreed in writing.

I/We further acknowledge receipt of a true copy of this agreement signed by both parties.

Seller: ... Date: ... Seller's Address: ...
Seller: ... Date: ... Seller's Phone: Residence ... Business ...

A true copy of the foregoing agreement, signed by the Seller and containing the full and complete legal description of the premises, is hereby received on this ... day of ..., 19...

Buyer: ... Buyer: ...

THE PROVISIONS CONTAINED ON THE REVERSE SIDE OF THIS PAGE SHALL ALSO CONSTITUTE PART OF THE AGREEMENT OF THE PARTIES. EACH OF THE PARTIES ACKNOWLEDGES READING THIS AGREEMENT IN FULL.

Buyer's Initial ... Seller's Initial ... SELLER'S COPY

RE 21 REV 1/88

RECEIVED
FEB 5 - 1990
Department of Water Resources
Southern Region Office

IDAHO DEPARTMENT OF WATER RESOURCES
Attn: Jim Johnson
Twin Falls, Idaho 83301

Dear Sir:

This is to advise that Water Rights Decree #37-0363A is being transferred from Gus Chek, PO Box 1984, Hailey, Idaho 83333 to Mr. & Mrs. Douglas J. Powers, PO Box 151, Renfrew, Pa. 16053, effective July 1, 1990.

This information is forwarded to comply with Idaho Code 42-1409 (7).

Respectfully yours,

Gus Chek

Gus Chek

Douglas Powers

Cheryl Powers

Mr. Douglas & Cheryl Powers, are buying Lot 11 Blk. 1 of the Dean Ranch Subdivision (NE¼SE¼ Sec. 13 T. 1N R. 18E) from Gus Chek. This land has 1883 & 1886 water rights from the Big Wood River. We have purchased the 1883 water with the land. We have not bought the 1886 water, which we understand has been sold to other parties by Mr. Chek/ We have no objections to this or to the water transfers that he has applied for with the Idaho Dept. of Water Resources.

Douglas Powers

Cheryl Powers

Mailing Address: PO Box 151, Renfrew, Pa. 16053

RECEIVED
FEB 5 - 1990
Department of Water Resources
Southern Region Office

September 11, 1991

RE: Transfer of Water Right No. 37-00353A

Gus Chek
PO Box 1984
Hailey ID 83333

Dear Water Right Holder(s):

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 3678). Be sure to note any conditions of approval as listed on the second page.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:blm

Enclosure

MEMORANDUM

TO: FILE OK Gary

FROM: TIM LUKE

DATE: September 5, 1991

RE: TRANSFER APP. NO. 3678/DECREED RT. 37-00353A

==========

As explained in my memo of July 13, 1990, this transfer was filed along with transfer no. 3679. The applicant, Gus Check, is transferring a portion of right no. 37-0353A to two separate parties, hence, two separate transfers were filed. Both applications involve a change in place of use.

Transfer no. 3679 was returned to the region about a year ago because I determined that an error was made in the place of use description and that the error required readvertising. I had hoped the transfer would be returned to the state office within several months and planned to process both transfers together. I have called the regional office several times in the past few months and still have not received transfer no 3679. I have delayed processing of transfer 3678 for a year now and see no reason for further delay. I recommend approval of transfer 3678 at this time. Additional conditions are added to those recommended in the memo of July 13, 1990.

Additional Conditions:

1) <<T07>> The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.

2) <<T08>> Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.

3) <<T09>> Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.

MEMORANDUM

TO: FILE

FROM: TIM LUKE

DATE: July 13, 1990

RE: TRANSFER APP. NO. 3678/DECREED RT. 37-00353A

==========

This transfer application seeks to change the place of use for a portion of decreed right no. 37-0353A.

This decreed right has an 1886 priority and has always been recorded as appurtenant to 160 acres, included the SESE of section 13, T1N R18E. The applicant, Gus Chek, owned a tract of land, presumably 16 acres, in the SESE of section 13 (Department records show that land was sold from Chek to Powers effective July 1, 1990). In 1988, Chek transferred 16 acres under a portion of 37-00363 to the 16 acres in the SESE of section 13 (see T-3404). This provided Chek with an earlier priority right on his land. Approval of this transfer in 1989 resulted in two rights being appurtenant to the 16 acre tract in the SESE of section 13. Chek is now selling and removing his portion of the 1886 right (37-0353A) to two different owners and tracts of land. This leaves only one right (37-0363D) appurtenant to the 16 acre tract of land formerly owned by Chek. Check is transferring the right to the two different owners through this transfer and transfer no. 3679.

Under this transfer, Chek is removing 7.5 acres and 0.20 cfs from the 16 acre tract in the SESE section 13 to a 6 acre tract within the same 40 acre tract, or SESE section 13. Since the right is recorded as originally being appurtenant to this 40 acre tract, this transfer does not result in any changes other than to quantify and identify ownership of a portion of the right.
Right should be split as shown on attached number index summary.

The application should be approved with conditions below:
Note: The present owner of this right (37-00353D) should be Douglas Driever, as per remarks of applicant and owners.
In remarks section of database, specific place of use on lot 9 of Dean Ranch Subdivision should be included, as shown again in remarks section of transfer application.

<<R04>> Use of water under this license is subject to control by the watermaster of State Water District No. 37, Big Wood River.

<<R24>> This right when combined with all other rights shall provide no more than 3.0 afa per acre for the lands above.

RECEIVED

MAY 9 1990

Department of Water Resources
Southern Region Office

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 37-00353A

RECOMMENDATION OF WATERMASTER

I, Reid J. Newby, watermaster of Big Wood River, of Water District No. 37, County of Blaine, State of Idaho, whose address is P. O. Box T, Shoshone, ID 83352 have read the attached copy of the application for transfer of water right for Gus Chek (name), and to the best of my knowledge believe the application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend that the Director of the Department of Water Resources approve the transfer subject to the following conditions: This transfer is to transfer the water internally in District #45 Canal. Please check transfer No. 3404 for approval. The Watermaster puts the water to the head of the District #45 Canal and ~~therefor has no authority regarding~~ this transfer.

OR

B. I do not endorse approval of the above numbered Application for Transfer as requested for the following reasons: _____

Dated at Shoshone, Idaho, this 8th day of May 1990.

Reid J. Newby
(signature)

Please use reverse side if needed.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 37-00383A

Notice is hereby given that Gus Chek of Hailey, ID has applied to the Department of Water Resources to change the following described water right(s) pursuant to Section 42-222 of the IDAHO CODE.

WATER RIGHT AS RECORDED

Water right No. 37-00353A, Transfer No. 2948
Basis of right: Decreed to James Johnson in case of S.C. Frost, et al., vs. Alturas Water Company, et al., dated 12/13/1909 in Fourth District Court, Lincoln County.
Source: Big Wood River tributary to Malad River.
Priority Date: 6/12/1886
Amount of water: 6.0 cfs
Water use: Irrigation
Point(s) of diversion: SW1/4-NW1/4, S36, T2N, R18E (Headgate #46 & District Canal); Blaine County.
Place of use: Unknown number of acres within E1/2SE1/4, S13, T1N, R18E; E1/2NE1/4, S24, T1N, R18E.

PORTION(S) OF RIGHTS TO BE CHANGED

Water right No.: 37-00353A, Transfer No. 2949
Amount of water: 0.20 cfs
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); NE1/4SE1/4, S13, T1N, R18E (Re-diversion from District Canal); Blaine County.
Place of use: 7.5 acres within SE1/4SE1/4, S13, T1N, R18E

TO BE CHANGED AS FOLLOWS

Water right No.: 37-00353A Part
Amount: 0.20 cfs

Total amount being transferred: 0.20 cfs

Source: Big Wood River tributary to Malad River.
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate & District Canal); NE1/4SE1/4, S13, T1N, R18E (Re-diversion from District Canal); Blaine County.
Place of use: 6 acres within SE1/4-SE1/4, S13, T1N, R18E.

Any protest against approval of the application for transfer must be filed with the Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301, on or before May 29, 1990.

R. Keith Higginson, Director

Publish: Wood River Journal–May 9 & 16, 1990.

DK MB 5/7/90

Rec'd @ IDWR 5/7/90

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO.37-00353A

Notice is hereby given that Gus Chek of Hailey, ID has applied to the Department of Water Resources to change the following described water right(s) pursuant to Section 42-222 of the IDAHO CODE.

WATER RIGHT AS RECORDED

Water right No. 37-00353A, Transfer No. 2948
Basis of right: Decreed to James Johnson in case of S.C. Frost, Et.Al. vs. Alturas Water Company, Et. Al., dated 12-13-1909 in Fourth District Court, Lincoln County.
Source: Big Wood River tributary to Malad River
Priority Date: 6/12/1886
Amount of water: 6.0 cfs Water use: irrigation
Point(s) of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); Blaine County
Place of use: Unknown number of acres within E1/2SE1/4, S13, T1N, R18E; E1/2NE1/4, S24, T1N, R18E.

PORTION(S) OF RIGHTS TO BE CHANGED

Water right No.: 37-00353A, Transfer No. 2948
Amount of water: 0.20 cfs
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate #45 & District Canal); NE1/4SE1/4, S13, T1N, R18E (Re-diversion from District Canal); Blaine County.
Place of use: 7.5 acres within SE1/4SE1/4, S13, T1N, R18E.

TO BE CHANGED AS FOLLOWS

Water right No.: 37-00353A Part Amount: 0.20 cfs
Total amount being transferred: 0.20 cfs

Source: Big Wood River tributary to Malad River
Point of diversion: SW1/4NW1/4, S36, T2N, R18E (Headgate & District Canal); NE1/4SE1/4, S13, T1N, R18E (Re-diversion from District Canal); Blaine County.
Place of use: 6 acres within SE1/4SE1/4, S13, T1N, R18E.

Any protest against approval of the application for transfer must be filed with the Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301 on or before May 29, 1990.

R. Keith Higginson, Director

Published in Wood River Journal on 5/9 & 5/16/90

01-May-1990

WOOD RIVER JOURNAL
PO BOX 988
HAILEY ID 83333

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the required publication dates. If time allows, please submit a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Mary Baldwin
Secretary/Office Coordinator

Enclosure

01-May-1990

REID J. NEWBY, WATERMASTER
WATER DISTRICT #37
BOX T
SHOSHONE ID 83352

Re: Two (2) Application for Transfer of Water Right No. 37-00353A Part

Dear Mr. Newby:

Enclosed is are copies of (2) Applications for Transfer of a Water Right within your District, and Watermaster's Recommendation Forms.

Section 42-222 of the IDAHO CODE requires that the watermaster must be advised of proposed changes in water rights in the water district and must notify the Department of his recommendation on the application.

Please complete the enclosed recommendation forms and return them to this office.

Processing of the application can be completed in 20 days, therefore, your prompt response to this request will be appreciated.

If you have any questions about the applications, please contact this office or the applicant.

Very truly yours,

Douglas Jones, E. I. T.
Water Resources Engineer

DJ:MB

Enclosures

01-May-1990

GUS CHEK
PO BOX 1984
HAILEY ID 83333

Re: Two (2) Applications for Transfer No. 37-00353A Part

Dear Mr. Chek:

The Department of Water Resources acknowledges receipt of your Applications for Transfer.

This office will be advertising the applications in the Wood River Journal on 5/9 & 5/16/90. The advertisements will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the applications are protested, you will be sent a copy of the protest. The protest must be resolved before the applications are approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

State Office personnel will conduct a complete review prior to final processing of the applications and will notify you of the outcome of this review.

Please feel free to contact this office if you have any questions regarding this procedure.

Very truly yours,

Douglas Jones, E. I. T.
Water Resources Engineer

DJ:MB

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

23-Jan-1990 09:25

Gus A. Chek
P.O. Box 1984
Hailey, Idaho 83333

RE: SRBA Claim A37-00353C

Dear Mr. Chek:

James Stanton of our office has asked me to draft an amendment of your Notice of Claim A37-00353C correcting the amount of water which is being claimed. Apparently James and you discovered that you only have a right to 20 miner's inches or 0.40 cubic feet per second of the June 12, 1886 water when you were filing for some transfer applications.

Please find enclosed the draft amendment which you should review and sign before a notary and return to our office.

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

Sincerely

Allen Merritt, P.E.
Water Rights Supervisor

Encl:
cc: James Stanton IDWR

INTER-DEPARTMENT MEMO — 1

DATE 1-23-90

FROM Jim Stanton

TO File

SUBJECT Applications for Transfer of Rt. 37-00353A, Gus Chek

Mr. Chek owns 20 inches of this 1886 right. His land south of Bellevue is being sold along with sufficient 1883 water. He is selling 10 inches of the 1886 water to two ~~parties~~ separate individuals with land just south and east of the Chek property. If both transfers are approved, the whole 20" will have been transferred; for this reason, Part 2B of the transfer forms has been left blank.
The transfers are on Right 37-00353C in order to agree with Mr. Chek's SRBA claim. Parts D & E are also covered by SRBA claims, so the approved splits ~~have been~~ given F & G designations so as not to get confused with existing SRBA claims. There shouldn't be a claim with one number and a completely different water right with the same number.
I told Mr. Chek that acreages could not be expanded thru the transfer process, so he ~~knows~~ knows that at least one of these transfers may not be approved. The lands of Doug Driever are within the decreed P/U for this right, but Mr. Chek stated that Mr. Driever does not have any of this right.

SIGNATURE

REAL ESTATE PURCHASE AND SALE AGREEMENT AND RECEIPT FOR EARNEST MONEY

(Form to be used ONLY by members of the National Association of REALTORS®)

This contract stipulates the terms of sale of... property. Read carefully before signing (including information on reverse side). This is a legally binding contract. IF YOU HAVE ANY QUESTIONS, CONSULT YOUR ATTORNEY BEFORE SIGNING.

Hailey, Idaho July 13, 19 89

Douglas J. Powers and Cheryl A. Powers, husband and wife (hereinafter called "Buyer") agrees to purchase, and the undersigned Seller agrees to sell the following described real estate hereinafter referred to as "premises"

commonly known as Doe Chok property

City of Blaine, County of Blaine, Idaho legally described as: Lot 11, Blk 1, Doan Ranch Subdivision, Blaine County, Idaho.

(A FULL AND COMPLETE LEGAL DESCRIPTION MUST BE INSERTED, ATTACHED OR WRITTEN ON THE REVERSE HEREOF PRIOR TO EXECUTION BY SELLER). Buyer hereby authorizes broker to insert over his signature the correct legal description of the premises if unavailable at the time of signing, or to correct the legal description previously entered if erroneous or incomplete.)

EARNEST MONEY.

(a) Buyer hereby deposits as earnest money and a receipt is hereby acknowledged of One Thousand (non-refundable) dollars ($1,000.00) evidenced by: ☐ Cash ☒ Personal Check ☐ Cashiers Check ☐ Note Due ☐ or ---

(b) Earnest Money to be deposited in trust account upon acceptance by all parties and shall be held by ☐ Listing Broker ☐ Selling Broker ☐ Other --- for the benefit of the parties hereto, and C. W. Dunn (Broker) shall hold the completely executed broker's copy of this agreement and is responsible for the closing.

(c) If all conditions have been met by Buyer, Buyer and Seller agree that the earnest money (less credit report fees, and any other Buyer's costs) shall be refunded to Buyer in the event the financing contemplated herein by Buyer is not obtainable.

(d) The parties agree that First American Title Company shall provide said title policy and preliminary report of commitment and the "closing agent" for this transaction shall be First American Title Co. If a long-term escrow/collection is involved, then the escrow holder shall be

1. TOTAL PURCHASE PRICE IS One Hundred Seventy-Five Thousand DOLLARS ($ 175,000.00) payable as follows:
   a. $ $2500.00 non-refundable Cash down, including above Earnest Money (Closing costs are additional).
   b. $ Balance of the purchase price (M.I.P. not included).
2. FINANCING. This agreement is contingent upon Buyer qualifying for:
   ☐ FHA ☐ VA ☒ Conventional ☐ I.H.A. Purchase loan balance as noted above for a period of ___ years at ___ % per annum. (If FHA or VA loan is sought, read the applicable provisions on the reverse side hereof.) Buyer shall pay no more than ___ points plus origination fee if any. Seller to pay only the discount points necessary in order to obtain above described financing but not to exceed ___ %.
   ☐ Buyer to ASSUME and ☐ will ☐ will not be required to qualify for an EXISTING LOAN(S) of approximately $ ___ at no more than ___ % with monthly payments of approximately ___ PITI. This agreement ☐ is ☐ is not contingent upon Lender releasing Seller's liability.
   Type of loan Conventional. Buyer shall apply for such loan or assumption within three (3) banking days after Seller's acceptance of this agreement.
   OTHER FINANCING, TERMS & CONDITIONS: $37,500.00 due on/or before December 6, 1989 as option monies and to be disbursed to seller, balance of $135,000.00 to be paid on closing of July 1, 1990. First crop of hay or crops to be property of Seller and second growing to Buyer.
3. THIS AGREEMENT ☐ is ☐ is not CONTINGENT upon sale and closing of N/A on or before ___ listed with ___. (If a contingency is noted please read applicable conditions in Paragraph # 18 on reverse side. NOTE: Any waiver by the Buyer under this section will be a waiver of ALL contingencies, including financing.)
4. ITEMS SPECIFICALLY INCLUDED IN THIS SALE (If FHA/VA financing is sought see item # 14 on reverse side): Riding mower, push mower, freezer, satellite dish, sprinkler systems, range and refrigerator.
5. ITEMS SPECIFICALLY EXCLUDED IN THIS SALE: Personal items.
6. COSTS PAID BY: Costs in addition to those listed below may be incurred by Buyer and Seller. Unless otherwise agreed herein, or provided by law or required by lender, Buyer shall purchase Seller's reserve account if loan assumption.
   ☐ Yes ☐ No. Purchaser's Extended Coverage Title Policy requested. Additional premium paid by N/A See item # 17 on reverse side.

If requested by lender or otherwise stated herein, the below costs will be paid as indicated.

Costs Paid By	Appraisal	Loan Assumpt.	Well Inspect.	Pump/Inspect Septic	City/County Code Inspect. If required	Contract and/or Document Prep.	Closing Agent's Fee	Long Term Escrow Fees	Lender or Code Repairs	Title Ins.
BUYER	X									
N/A		X	X	X	X	X		X	X	
SELLER										XX
SHARE EQUALLY							X			

Cost of lender or code repairs not to exceed $ N/A. Discount points to be paid as agreed on line 29 and 30. *SELLER UNDERSTANDS that as a result of any city or county inspections HE MAY BE REQUIRED TO MAKE REPAIRS to the property in order to comply with the housing code WHETHER OR NOT A SALE IS COMPLETED UNDER THIS AGREEMENT.*

7. POSSESSION. Buyer shall be entitled to possession on ☒ closing ☐ other --- "Closing" means the date on which all documents are either recorded or accepted by an escrow agent and the sale proceeds are available to Seller. Taxes and water assessments (using the last available assessment as a basis), rents, insurance premiums, interest and reserves on liens, encumbrances or obligations assumed and utilities shall be pro-rated as of July 1, 1990. ___. Buyer shall pay for fuel in tank, amount to be determined by the supplier at Seller's expense.
8. CLOSING. On or before the closing date, Buyer and Seller shall deposit with the closing agent all funds and instruments necessary to complete the sale. The closing date shall be no later than July 1, 1990.
9. ACCEPTANCE. Buyer's offer is made subject to the acceptance of Seller on or before 12:00 o'clock midnight of July 14, 1989. If Seller does not accept this agreement within the time specified, the entire Earnest Money shall be returned to Buyer on demand. Seller's counter offer (if any) is made subject to the acceptance of Buyer on or before 12:00 o'clock midnight of July 14, 1989. TIME IS OF THE ESSENCE OF THIS AGREEMENT.
10. IMPORTANT - AGENCY DISCLOSURE. At the time of signing this agreement the agent working with the buyer represented Seller and the agent working with the seller represented Seller. Each party signing this document confirms that prior written disclosure of agency was provided to him/her in this transaction. Each party to this transaction has read and understands the contents of the agency disclosure brochure previously received.

Listing Agency: C. Dunn Realty — By: C. W. Dunn — Phone: 788-4531

Selling Agency: ___ — By: ___ — Phone: ___

Buyer: [signature] — Buyer's Address: PO Box 1551 Ketchum, Id 83340

Buyer: [signature] — Buyer's Phone: Residence 412-566-2452 Business same

On this date, I/We hereby approve and accept the sale set forth in the above agreement and agree to carry out all the terms thereof on the part of the Seller and the undersigned further agrees to pay a total brokerage fee of ___ to the above named Broker(s) for services. Brokerage fee will be paid in cash unless otherwise agreed in writing.

I/We further acknowledge receipt of a true copy of this agreement signed by both parties.

Seller: [signature] Date: [signature] Seller's Address: ___

Seller: ___ Date: ___ Seller's Phone: Residence ___ Business ___

A true copy of the foregoing agreement, signed by the Seller and containing the full and complete legal description of the premises, is hereby received on this ___ day of ___, 19 ___.

Buyer: ___ Buyer: ___

THE PROVISIONS CONTAINED ON THE REVERSE SIDE OF THIS PAGE SHALL ALSO CONSTITUTE PART OF THE AGREEMENT OF THE PARTIES. EACH OF THE PARTIES ACKNOWLEDGES READING THIS AGREEMENT IN FULL.

(Buyer's Initial) [signature] (Seller's Initial) [signature] SELLER'S COPY

RE 21 REV 11/88

We, Douglas & Cheryl Powers, are buying Lot 11 Blk. 1 of the Dean Ranch Subdivision (N½SE¼SE¼ Sec. 13 T. 1N R. 18E) from Gus Chek. This land has 1883 & 1886 water rights from the Big Wood River. We have purchased the 1883 water with the land. We have not bought the 1886 water, which we underdtand has been sold to other parties by Mr. Chek/ We have no objections to this or to the water transfers that he has applied for with the Idaho Dept. of Water Resources.

Douglas Powers

Cheryl Powers

Mailing Address: PO Box 151, Renfrew, Pa. 16053

RECEIVED
FEB 5 - 1990
Department of Water Resources
Southern Region Office

RECEIVED
FEB 5 - 1990
Department of Water Resources
Southern Region Office

IDAHO DEPARTMENT OF WATER RESOURCES
Attn: Jim Johnson
Twin Falls, Idaho 83301

Dear Sir:

This is to advise that Water Rights Decree #37-0363A is being transferred from Gus Chek, PO Box 1984, Hailey, Idaho 83333 to Mr. & Mrs. Douglas J. Powers, PO Box 151, Renfrew, Pa. 16053, effective July 1, 1990.

This information is forwarded to comply with Idaho Code 42-1409 (7).

Respectfully yours,

Gus Chek

Douglas Powers

Cheryl Powers

To WOOD RIVER VALLEY IRRIGATION DISTRICT No. 45

BELLEVUE, IDAHO

Page No.....

DUE April 20, 19..89 Gus Chek

№ 756

Date of Decree	No. of Inches Of Water	Rate	Amount of Tax
1883	(.30 Ac) 15 35/100	.85	12.75
1886	(.40 Ac) 20 35/100	.78	15.60
	Penalty and Interest		
	Total Amount Received		28.35

19 89

Sec._____ Twp._____ S., R._____ E., B. M.

Blaine County, Idaho

All water taxes or tolls for year 19 89 are payable at office of Secretary of said Wood River Valley Irrigation District on or before the 20th day of April next following said assessment and will become delinquent after the 20th day of April 19 89 After said date if such charge is not paid, a penalty of two per cent of the amount unpaid shall be added to amout due, and interest charges at a rate of eight per cent per annum shall be charged on all unpaid amounts, and no water shall be delivered to the land of any landowner or entryman who shall be in arrears for such payment.

GRACE EAKEN

Secretary and Treasurer

Wood River Valley Irrigation District

YT A RECEIPT — IT MUST ACCOMPANY REMITTANCE

April 4, 1984

RE: Transfer of Water Right No. 37-0353B

Robert E. Fosnot
Box 290
Bellevue, ID 83313

Dear Mr. Fosnot:

Enclosed is a copy of your approved Application for Transfer of the above referenced water right (Transfer No. 2948). Be sure to note the conditions of approval as listed on the fourth page.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

Enclosure

MEMORANDUM

TO: ~~Glen Saxton~~ File 37-0353

FROM: Jim Johnson

DATE: March 12, 1984

RE: Transfer on Rights 37-0353 & 37-0665

Per telecon with Reid Newby, Robert Fosnot received land and water rights from Jerry Osborn. The warranty deed, which Reid has a copy of, does not specifically state that said water rights went with the sale, however, his records show that Jerry Osborn had been delivered said water for several years. Reid could not, without doing considerable amount of record searching, tell me who received said water prior to Osborn.

Normally Reid keeps copies of warranty deeds to show ownership changes when they occur. These particular rights are delivered to the head of the District Canal. He does not deliver the water beyond that point.

Form 222a
6/78

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: ADM

1. Right number ~~37-0666~~ 37-0353 Applicant FOSNOT, Robert E.
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Other _____
4. Check:
   - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
   - b. ☒ Description of original point of diversion. Not Listed in Decree
   - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
   - a. ☐ All of right.
   - b. ☒ Part of right *(NOTE! Part B should be filled in only if part of the right is owned by the applicant).*
   - c. ☒ Check description of point(s) of diversion. No change - Bellevue Canal
   - d. ☒ Check description of place of use. — 5.5 AC.MO
   - e. ☒ Check map (shows p.d. and p.u. after transfer).
   - f. ☒ Check for correct signature, notarization, and fee.
   - g. ☒ Check proof of ownership of right &/or land from which water is transferred. used water master records.
   - h. ☒ Check for expansion in use of right. Comments Appears to be none
     3
   - i. ☒ Check for existing water rights from same source, on land water is being transferred to. Wm. Records Show Fosnot owns 50" of 37-0665 and 20" of 37-0753
     Right number(s) 37-7818 & 37-8012 Grandview
   - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
     If yes, what district? 37 - Big Wood R.

FINAL PROCESSING REVIEW BY: ADM & LOH

1. Watermaster recommendation requested on 10/21/83 Received on 11/10/83
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☐ Yes ☒ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny OIE, 05 (37, Big Wood R.)
3. Conditions* ~~Limit Right to actual beneficial Use.~~
   Under Control of Wtr. Dist. 37
   ~~Meas. Device & Control Works.~~
4. By ADM Date 11/18/83

Use above conditions. 3-6-84

* *All uses within Watermaster Districts require special conditions.*

Department of Water Resources

RECEIVED
NOV 16 1983
Department of Water Resources
Southern Idaho Office

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 37-0353

RECOMMENDATION OF WATERMASTER

I, Reid J Newby, watermaster of Big Wood River, of Water District No. 37, County of Blaine, State of Idaho, whose address is Box T Shoshone, Idaho 83352 have read the attached copy of the application for transfer of water right for Robert Fosnot (name), and to the best of my knowledge believe the application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend that the Director of the Department of Water Resources approve the transfer subject to the following conditions: That the above transfer has enough land sting to satify the Department of Water Resources requirments for the w place of use.

OR

B. I do not endorse approval of the above numbered Application for Transfer as requested for the following reasons: _____

Dated at Shoshone, Idaho, this 14 day of November 19 83.

Reid J Newby
(signature)

Please use reverse side if needed.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 37-0353

Notice is hereby given that Robert E. Fosnot of Bellevue, Idaho has applied to the Department of Water Resources for a change of place of use of a portion of a right from Big Wood River tributary to Malad River. The right sought to be changed is evidenced by decree to James Johnson in case of S. C. Frost et al vs Alturas Water Co., et al dated December 13, 1909 in Fourth District Court county of Lincoln, and is recorded as follows:

Amount: 6.4 cfs

Priority: June 12, 1886

Point of Diversion: SW¼NW¼, Sec. 36, T2N, R18E, B.M., Blaine County

The water is used for irrigation within the E½SE¼, Sec. 13; E½NE¼, Sec. 24, T1N, R18E

PORTION OF RIGHT TO BE CHANGED:

Amount: 0.40 cfs

Point of Diversion: SW¼NW¼, Sec. 36, T2N, R18E, B.M., Blaine County

Place of Use: E½SE¼, Sec. 13; E½NE¼, Sec. 24, T1N, R18E for irrigation of 10 acres.

PORTION TO BE CHANGED AS FOLLOWS:

Amount: 0.40 cfs

Point of Diversion: No change

Place of Use: SE¼SE¼, Sec. 24, T1N. R18E for irrigation of 5.5 acres

Any protest against the approval of the above proposed change of the portion of the right described above must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301, on or before November 14, 1983.

A. KEN DUNN - Director

Published in Wood River Journal on October 27 and November 3, 1983.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN DISTRICT

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

October 21, 1983

Wood River Journal
P. O. Box 988
Hailey, Idaho 83333

Re: Notice of Proposed Change of Water Right No. 37-0665
Notice of Proposed Change of Water Right No. 37-0353

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Mary A. Newby
Sec/Office Coord

Encl:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

October 21, 1983

Reid J. Newby
Watermaster District 37
Box T
Shoshone, Idaho 83352

Re: Application for Transfer of Water Right No. 37-0665 ~~37-0353~~

Dear Mr. Newby:

Enclosed is a copy of an Application for Transfer of a Water Right within your District, and Watermaster's Recommendation Form.

Section 42-222 of the Idaho Code requires that the watermaster must be advised of proposed changes in water rights in the water district and must notify the Department of his recommendation on the application.

Please complete the enclosed recommendation form and return it to this office.

Processing of the application can be completed in 20 days, so your prompt response to this request will be appreciated.

If you have any questions about the application, please contact this office or the applicant.

Very truly yours,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya

Encl:

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
	Johnson, James	6.4		37-0353
2948	Fosnot, Robert E.	0.4		37-0353B
	Johnson, James	6.0		37-0353A

TRANSFER

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3570

August 16, 1983

Robert E. Fosnot
P. O. Box 290
Bellevue, Idaho 83313

Dear Mr. Fosnot:

As discussed, we have prepared a new Application for Transfer to replace the one you signed last February. Instead of Right No. 37-0666, the correct right number is 37-0353; the new form will correct this error.

Please sign the new form before a notary and return it to this office for further processing.

If you have questions regarding this matter, please feel free to contact this office.

Very truly yours,

James E. Stanton
Sr. Water Resource Agent

LOH:JES:marya

Encl:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

May 10, 1983

Robert E. Fosnot
P. O. Box 290
Bellevue, Idaho 83313

Re: Application for Transfer of Water Right

Dear Mr. Fosnot:

We are still holding your application for transfer of water right for additional information and submission of filing fees. Please provide these items at your earliest convenience so that we can begin processing of your transfers.

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

Sincerely,

James E. Stanton
Sr. Water Resource Agent

LOH:JES:

REAL ESTATE PURCHASE AND SALE AGREEMENT

(With Earnest Money Provision)

THIS CONTRACT CONTROLS THE TERMS OF SALE OF THE PROPERTY.
READ CAREFULLY BEFORE SIGNING: IF ANY QUESTION, CONSULT YOUR ATTORNEY.

RE-21
Revised 6-77

Ketchum, Idaho, Sept 15, 19 78

Robert E. Fosnot, a single man

(hereinafter called "Buyer") agrees to purchase, and the undersigned Seller agrees to sell the following described real estate hereinafter referred to as "premises" located in the City of Bellevue, County of Blaine, State of Idaho, commonly known as Dean Sub. - 3 mi. South of Bellevue, legally described as: Lot #1 Dean Ranch Sub

(A FULL AND COMPLETE LEGAL DESCRIPTION MUST BE INSERTED, ATTACHED OR WRITTEN ON THE REVERSE HEREOF PRIOR TO EXECUTION BY SELLER. Buyer hereby authorizes broker to insert over his signature the correct legal description of the premises if unavailable at time of signing, or to correct the legal description previously entered if erroneous or incomplete.)

1. TOTAL PURCHASE PRICE IS Thirty-two thousand and five hundred dollars and --/100 DOLLARS ($ 32,500) payable as follows:

A. Earnest Money.

a. Buyer deposits and receipt is acknowledged of one thousand dollars Dollars ($ 1000 ~~00~~) Dollars evidenced by ☐ Cash, ☒ Personal Check, ☐ Cashiers Check, ☐ Note due, paid or delivered as earnest money in part payment of the purchase price for the premises.

b. Buyer further agrees on or before _____ day of _____, 19 ___, to pay or deliver as additional earnest money in part payment of the purchase price for the premises _____ Dollars ($ _____) evidenced by ☐ Cash, ☐ Personal Check, ☐ Note due, or _____.

c. All Earnest Money and this agreement shall be held by Warm Springs Realty Trust Acct. for the benefit of the parties hereto.

B. Balance of purchase price to be paid as follows:

$ 9425 ~~00~~ Cash, including the above earnest money at closing. Balance of the purchase price in the amount of $ 23,075 in the form of a note secured by a deed of trust on the property, to be executed by purchaser in favor of the seller, payable @ $ 308 per month, or more, including interest at 10% per annum, with the entire balance due in 3 yrs from date of note, with no prepayment penalty. Upon full payment, total Release of the lot will be made. Purchaser & Seller to share escrow costs.

2. Buyer's offer is made subject to the acceptance of Seller on or before twelve o'clock midnight of Sept 16, 1978. If Seller does not accept this agreement within the time specified, the earnest money shall be refunded to Buyer on demand.

3. Title of Seller is to be conveyed by Warranty deed, unless otherwise provided, and is to be marketable and insurable except for rights reserved in federal patents, state or railroad deeds, building or use restrictions, building and zoning regulations and ordinances of any governmental unit, and rights of way and easements established or of record. Liens, encumbrances or defects to be discharged by Seller may be paid out of purchase money at date of closing. Any liens, encumbrances or defects which are to be discharged or assumed by Buyer or to which title is taken subject to (not otherwise set forth above) are:

4. The parties designate _____ Title Company to provide the necessary title insurance and commitment for title insurance required by this agreement.

5. It is hereby agreed that the "closing agent" for the transaction represented by this agreement shall be _____. Where not otherwise provided in this agreement or by law, the parties shall each pay one-half of said closing agents fee.

6. Within _____ days after acceptance by seller, or upon removal of any liens, encumbrances or defects to title by Seller, as provided herein, whichever is later, Buyer and Seller shall deposit with the "closing agent" all funds and instruments to complete the sale in accordance with terms and conditions hereof. Upon receipt of the items specified in the preceding sentence the closing agent shall close this transaction.

7. All attached floor coverings, attached television antenna, attached plumbing, bathroom and lighting fixtures, window screens, screen doors, storm windows, storm doors, shades, venetian blinds, curtain rods, trees, plants, shrubbery, water heating apparatus and fixtures, attached fireplace equipment, awnings, ventilating, cooling and heating systems including built in and "drop in" ranges, (but excepting all other ranges) fuel tanks and irrigation fixtures and equipment, all water and water rights, and ditches and ditch rights appurtenant thereto that are now on or used in connection with the premises shall be included in the sale unless otherwise provided herein.

The following items of property now on the premises are specifically excluded from the sale: [redacted]

The following items of personal property are specifically included in the sale: planter boxes in garage

8. Taxes and water assessments (using the last available assessment as a basis), rents, insurance premiums, interest and reserves on liens, encumbrances or obligations assumed and utilities shall be pro-rated as of the 15 day of October, 19 78 or on the date of closing, whichever shall last occur. Buyer shall pay for fuel in tank, the amount to be determined by the supplier at Seller's expense.

9. Seller shall deliver possession of the premises to Buyer on or before the 15 day of October, 19 78 or on the date of closing, whichever shall last occur.

10. The parties agree that this agreement contains the following additional terms and conditions: This offer is subject to purchaser obtaining a Release for approx. 2 acres @ where existing improvement are. Full examination of new acre

11. The provisions contained on the reverse side of this page shall also constitute part of the agreement of the parties. Each of the parties acknowledges reading this agreement in full

Listing Broker: Lorraine Curtis Selling Broker: Warm Springs Realty - Hailey By Mayo

X Robert E. Fosnot
Buyer

Buyer

Buyer's Address PO Box 1663 Ketchum Id

Buyer's Phone 726-8304

On this date, _____, I/We hereby approve and accept the sale set forth in the above agreement and [illegible] all the terms thereof on the part of the Seller and the undersigned further agrees to pay a commission of ..... 6% ..... of the purchase price.

REAL ESTATE PURCHASE AND SALE AGREEMENT

(With Earnest Money Provision)

THIS CONTRACT CONTROLS THE TERMS OF SALE OF THE PROPERTY.
READ CAREFULLY BEFORE SIGNING: IF ANY QUESTION, CONSULT YOUR ATTORNEY.

RE 21
REV. 8-79

Hailey, Idaho, Jan. 20, 19 82

[illegible] C. Friend a married man and/or assignees

(hereinafter called "Buyer") agrees to purchase, and the undersigned Seller agrees to sell the following described real estate hereinafter referred to as "premises" located in

County of Blaine,
State of Idaho, commonly known as Coburn Property 17 1/4 acres approx.
legally described as to be attached

(A FULL AND COMPLETE LEGAL DESCRIPTION MUST BE INSERTED, ATTACHED OR WRITTEN ON THE REVERSE HEREOF PRIOR TO EXECUTION BY SELLER. Buyer hereby authorizes broker to insert over his signature the correct legal description of the premises if unavailable at time of signing, or to correct the legal description previously entered if erroneous or incomplete.)

1. TOTAL PURCHASE PRICE IS Fifty Thousand and no/100..... DOLLARS ($ 50,000.00) payable as follows:

A. Earnest Money.

a. Buyer deposits and receipt is acknowledged of Five Hundred and no/100..... Dollars ($ 500.00) Dollars evidenced by (☐ Cash, ☐ Personal Check, ☐ Cashiers Check, ☐ Note due, paid or delivered as earnest money in part payment of the purchase price for the premises.

b. Buyer further agrees on or before _____ day of _____, 19 ____, to pay or deliver as additional earnest money in part payment of the purchase price for the premises _____ Dollars ($ _____) evidenced by ☐ Cash, ☐ Personal Check, ☐ Note due, or _____

c. All Earnest Money and this agreement shall be held by First Am Title Co. for the benefit of the parties hereto.

B. Balance of purchase price to be paid as follows:

Twenty Eight Thousand Dollars including above earnest money at time of closing. Balance of Twenty Two Thousand Dollars to be paid infull in 2 years from date of closing at 13 1/2% interest. One interest only payment to be made one year from date of closing. Buyer to execute a note secured by a First Deed of Trust in favor of seller secured by the property.

2. Buyer's offer is made subject to the acceptance of Seller on or before twelve o'clock midnight of Feb. 5 1982. If Seller does not accept this agreement within the time specified, the earnest money shall be refunded to Buyer on demand.

3. Title of Seller is to be conveyed by Warranty deed, unless otherwise provided, and is to be marketable and insurable except for rights reserved in federal patents, state or railroad deeds, building or use restrictions, building and zoning regulations and ordinances of any governmental unit, and rights of way and easements established or of record. Liens, encumbrances or defects to be discharged by Seller may be paid out of purchase money at date of closing. Any liens, encumbrances or defects which are to be discharged or assumed by Buyer or to which title is taken subject to (not otherwise set forth above) are. None

4. The parties designate First Am. Title company to provide the necessary title insurance and commitment for title insurance at the sellers expense as required by this agreement.

5. It is hereby agreed that the "closing agent" for the transaction represented by this agreement shall be First Am. Title Co. The closing date shall be on or before 15, Feb. 1982. Where not otherwise provided in this agreement or by law, the parties shall each pay one-half of said closing agents fee.

6. Within Close days after acceptance by seller, or upon removal of any liens, encumbrances or defects to title by Seller, as provided herein, whichever is later, Buyer and Seller shall deposit with the "closing agent" all funds and instruments to complete the sale in accordance with terms and conditions hereof. Upon receipt of the items specified in the preceding sentence the closing agent shall close this transaction.

7. All attached floor coverings, attached television antenna, attached plumbing, bathroom and lighting fixtures, window screens, screen doors, storm windows, storm doors, shades, venetian blinds, curtain rods, trees, plants, shrubbery, water heating apparatus and fixtures, attached fireplace equipment, awnings, ventilating, cooling and heating systems including built in and "drop in" ranges, (but excepting all other ranges) fuel tanks and irrigation fixtures and equipment, all water and water rights, and ditches and ditch rights appurtenant thereto that are now on or used in connection with the premises shall be included in the sale unless otherwise provided herein.

The following items of property now on the premises are specifically excluded from the sale: Personal items

The following items of personal property are specifically included in the sale: Pump and 1/4 mile of hand line, timbers for barn and fire wood, 3rd On Ford tractor, and silos. All water rights with land.

8. Taxes and water assessments (using the last available assessment as a basis), rents, insurance premiums, interest and reserves on liens, encumbrances or obligations assumed and utilities shall be pro-rated as of the 15 day of Feb. 19 82 or on the date of closing, whichever shall last occur. Buyer shall pay for fuel in tank, the amount to be determined by the supplier at Seller's expense.

9. Seller shall deliver possession of the premises to Buyer on or before the 15 day of Feb. 19 82 or on the date of closing, whichever shall last occur.

10. The parties agree that this agreement contains the following additional terms and conditions: None

11. The provisions contained on the reverse side of this page shall also constitute part of the agreement of the parties. Each of the parties acknowledges reading this agreement in full.

Listing Broker: RWA Realestate Selling Broker: RWA Realestate By Crossman

Buyer _____ Buyer's Address _____

Buyer _____ Buyer's Phone _____

On this date, _____ I/We hereby approve and accept the sale set forth in the above agreement and [illegible] all the terms thereof on the part of the Seller and the undersigned further agrees [illegible]

REAL ESTATE PURCHASE AND SALE AGREEMENT

(With Earnest Money Provision)

THIS CONTRACT CONTROLS THE TERMS OF SALE OF THE PROPERTY.
READ CAREFULLY BEFORE SIGNING: IF ANY QUESTION, CONSULT YOUR ATTORNEY.

REV. 8-79

Hailey, Idaho, Jan. 20, 19 82

[illegible] Parent (married man) and or assignees

(hereinafter called "Buyer") agrees to purchase, and the undersigned Seller agrees to sell the following described real estate hereinafter referred to as "premises" located in

County of Blaine,

State of Idaho, commonly known as Osborn property

legally described as Attached

(A FULL AND COMPLETE LEGAL DESCRIPTION MUST BE INSERTED, ATTACHED OR WRITTEN ON THE REVERSE HEREOF PRIOR TO EXECUTION BY SELLER. Buyer hereby authorizes broker to insert over his signature the correct legal description of the premises if unavailable at time of signing, or to correct the legal description previously entered if erroneous or incomplete.)

1 TOTAL PURCHASE PRICE IS Thirty Eight Thousand and no/100,

DOLLARS ($ 38,000.00) payable as follows:

A Earnest Money.

a Buyer deposits and receipt is acknowledged of One Thousand and no/100 Dollars ($ $1000.00) Dollars evidenced by ☐ Cash, ☒ Personal Check, ☐ Cashiers Check, ☐ Note due, paid or delivered as earnest money in part payment of the purchase price for the premises.

b Buyer further agrees on or before _____ day of _____, 19 ___, to pay or deliver as additional earnest money in part payment of the purchase price for the premises _____ Dollars ($ _____) evidenced by ☐ Cash, ☐ Personal Check, ☐ Note due, or _____.

c. All Earnest Money and this agreement shall be held by First American Title for the benefit of the parties hereto.

B Balance of purchase price to be paid as follows:

Sixteen Thousand Dollars including above earnest money at time of closing. Balance of Twenty Two Thousand($22,000.00) plus interest at 13 1/2% to be paid one year from date of closing. Buyer to execute a note secured by a First Deed of Trust in favor of seller secured by the property.

2 Buyer's offer is made subject to the acceptance of Seller on or before twelve o clock midnight of Feb. 5 1982. If Seller does not accept this agreement within the time specified, the earnest money shall be refunded to Buyer on demand.

3. Title of Seller is to be conveyed by Warranty deed, unless otherwise provided, and is to be marketable and insurable except for rights reserved in federal patents, state or railroad deeds, building or use restrictions, building and zoning regulations and ordinances of any governmental unit, and rights of way and easements established or of record. Liens, encumbrances or defects to be discharged by Seller may be paid out of purchase money at date of closing. Any liens, encumbrances or defects which are to be discharged or assumed by Buyer or to which title is taken subject to (not otherwise set forth above) are: None

4. The parties designate First Am. Title Title company to provide the necessary title insurance and commitment for title insurance at the sellers expense as required by this agreement.

5. It is hereby agreed that the "closing agent" for the transaction represented by this agreement shall be First Am. Title. The closing date shall be on or before Feb. 15 1982. Where not otherwise provided in this agreement or by law, the parties shall each pay one-half of said closing agents fee.

6. Within 10 days after acceptance by seller, or upon removal of any liens, encumbrances or defects to title by Seller, as provided herein, whichever is later, Buyer and Seller shall deposit with the "closing agent" all funds and instruments to complete the sale in accordance with terms and conditions hereof. Upon receipt of the items specified in the preceding sentence the closing agent shall close this transaction.

7. All attached floor coverings, attached television antenna, attached plumbing, bathroom and lighting fixtures, window screens, screen doors, storm windows, storm doors, shades, venetian blinds, curtain rods, trees, plants, shrubbery, water heating apparatus and fixtures, attached fireplace equipment, awnings, ventilating, cooling and heating systems including built in and "drop in" ranges, (but excepting all other ranges) fuel tanks and irrigation fixtures and equipment, all water and water rights, and ditches and ditch rights appurtenant thereto that are now on or used in connection with the premises shall be included in the sale unless otherwise provided herein.

The following items of property now on the premises are specifically excluded from the sale: Personal items

The following items of personal property are specifically included in the sale: Pump and 1/4 mile of hand line, timbers for barn and fire wood, and On Ford tractor, and silos. All water rights with land.

8 Taxes and water assessments (using the last available assessment as a basis), rents, insurance premiums, interest and reserves on liens, encumbrances or obligations assumed and utilities shall be pro-rated as of the 15 day of Feb., 19 82 or on the date of closing, whichever shall last occur. Buyer shall pay for fuel in tank, the amount to be determined by the supplier at Seller's expense.

9. Seller shall deliver possession of the premises to Buyer on or before the 15 day of Feb., 19 82 or on the date of closing, whichever shall last occur.

10. The parties agree that this agreement contains the following additional terms and conditions: None

11 The provisions contained on the reverse side of this page shall also constitute part of the agreement of the parties. Each of the parties acknowledges reading this agreement in full.

Listing Broker: Lobl Realestate Selling Broker: SAB Realestate By Croonen

Buyer _____ Buyer's Address _____

Buyer _____ Buyer's Phone _____

On this date, _____ I/We hereby approve and accept the sale set forth in the above agreement and [illegible] all the terms thereof on the part of the Seller and the undersigned further agree [illegible]

17½ AC

A parcel of land in the SE¼, Township 1 North, Range 1E East of the Boise Meridian, Blaine County, Idaho, more particularly described as follows:

Section 24:

Commencing at an iron pin marking the East ¼ corner of said Section 24, which is also the real point of beginning;
THENCE South 0°31'00" East 664.5 feet along the East boundary of said Section 24 to an iron pin;
THENCE South 89°43'23" West 1313.3 feet to a point on the East boundary of U.S. Highway #93;
THENCE North 0°31'00" West 705.68 feet along said East boundary of U.S. Highway #93;
THENCE North 89°29'00" East 327.85 feet to an iron pin;
THENCE North 1°38'00" East 357.94 feet to an iron pin;
THENCE North 89°40'30" East 971.93 feet to the POINT OF BEGINNING.

House 2½ Ac.

A parcel of land lying in the NE¼SE¼, Township 1 North, Range 18 East of the Boise Meridian, Blaine County, Idaho, and more particularly described as follows:

Section 24:

COPY

Commencing at an Iron Stake marking the East ¼ corner of said Section 24;
THENCE South 89°40'30" West along the North boundary of the SE¼ 971.93 feet to an Iron Pin the beginning Cor #1 of the property;
THENCE South 89°40'30" West 341.32 feet to Corner #2 in canal;
THENCE South 0°31'00" East 358.82 feet to Corner #3 in canal;
THENCE North 89°29'00" East 327.85 feet to an Iron stake Corner #4;
THENCE North 1°38'00" East 357.94 feet to Corner #1, THE BEGINNIN CORNER.

POOR QUALITY ORIGINAL

										BIG WOOD RIVER
		40	A	1.0062						GROUNDWATER
						37-0479			06-10-1887	
										BIG WOOD RIVER
						37-0479			06-10-1887	
										BIG WOOD RIVER
		13		1.0062					05-05-1977	GROUNDWATER
						37-0479			06-10-1887	
										BIG WOOD RIVER
						37-0479			06-10-1887	
										BIG WOOD RIVER
		40		1.0062					05-05-1977	GROUNDWATER
		13		1.0062					05-05-1977	GROUNDWATER
									06-03-1887	BIG WOOD RIVER
		40		1.0062					05-05-1977	GROUNDWATER
									06-03-1887	BIG WOOD RIVER
		40		1.0062					05-05-1977	GROUNDWATER
									10-31-1889	BIG WOOD RIVER
									06-01-1887	BIG WOOD RIVER
						37-0479			06-10-1887	
										BIG WOOD RIVER
		40	A	1.0062		37-7594			05-05-1977	GROUNDWATER
		13		1.0062		37-7594			05-05-1977	GROUNDWATER
						37-0307			06-10-1887	BIG WOOD RIVER
23						37-0601			09-18-1895	BIG WOOD RIVER
						37-0302			05-20-1902	BIG WOOD RIVER
		09		1.0000	3.00	37-2243			06-19-1973	GROUNDWATER
		11		1.0000		37-7955			01-25-1902	GROUNDWATER
						37-0302			05-20-1902	BIG WOOD RIVER
		05		1.0000		37-7955			01-25-1902	GROUNDWATER
						37-0420			10-31-1889	BIG WOOD RIVER
		40		.5000		37-0203			05-02-1884	BIG WOOD RIVER
		40		.6250		37-0204			07-15-1887	BIG WOOD RIVER
		40		.5000		37-0205			08-09-1889	BIG WOOD RIVER
		40		.2500		37-0206			06-01-1901	BIG WOOD RIVER
						37-0420			10-31-1889	BIG WOOD RIVER
		40		.5000		37-0203			05-02-1884	BIG WOOD RIVER
		40		.6250		37-0204			07-15-1887	BIG WOOD RIVER
		40		.5000		37-0205			08-09-1889	BIG WOOD RIVER
		40		.2500		37-0206			06-01-1901	BIG WOOD RIVER
						37-0302			05-20-1902	BIG WOOD RIVER
						37-0302			05-20-1902	BIG WOOD RIVER

[redacted] D [redacted]

WATER RIGHTS BY PLACE OF USE 05/13/83 PAGE 49
SHOWING OVERLAPPING RIGHTS AND DIVERSION RATE PER ACRE

TOWNSHIP	RANGE	SECTION	TRACT	LOT	ACRES	USE	INCHES PER ACRE	ACRE FEET PER ACRE	RIGHT NUMBER	STAGE	STATUS	PRIORITY DATE	SOURCE OF WATER
01N	18E	23	NESW		40	A	1.5000		37-0047	D		10-31-1889	BIG WOOD RIVER
			SWSW	03	40	A	1.5000		37-0047	D		10-31-1889	BIG WOOD RIVER
			SESW		40	A	1.5000		37-0047	D		10-31-1889	BIG WOOD RIVER
			SWSW		40	A	1.5000		37-0047	D		10-31-1889	BIG WOOD RIVER
		24	NESE			A			37-0350	D		06-12-1886	BIG WOOD RIVER
			NENE		10	A	1.0000		37-7815	P		02-06-1980	GROUNDWATER
			NENE		05	A	1.5000		37-8012	P		06-02-1982	GROUNDWATER
			NWNE			A			37-0234	D		06-15-1884	BIG WOOD RIVER
			NWNE			A			37-0235	D		06-15-1883	BIG WOOD RIVER
			NWNE		25	A	1.0000		37-2587	P		11-25-1955	UNNAMED STREAM
			SENE			A			37-0353	D		06-12-1886	BIG WOOD RIVER
			SWNE			A			37-0234	D		06-15-1884	BIG WOOD RIVER
			SWNE			A			37-0235	D		06-15-1883	BIG WOOD RIVER
			SWNE		10	A	1.0000		37-2587	P		11-25-1955	UNNAMED STREAM
			NESW			A			37-0664	D		07-10-1884	BIG WOOD RIVER
			NESW			A			37-0667A	D		06-15-1891	BIG WOOD RIVER
			NESE		40	A	.8000	3.00	37-7020	L		04-30-1968	GROUNDWATER
			NWSE			A			37-0234	D		06-15-1884	BIG WOOD RIVER
			NWSE			A			37-0235	D		06-15-1883	BIG WOOD RIVER
			SESW			A			37-0664	D		07-10-1884	BIG WOOD RIVER
			SESW			A			37-0667A	D		06-15-1891	BIG WOOD RIVER
			SWSE			A			37-0664	D		07-10-1884	BIG WOOD RIVER
			SWSE			A			37-0667A	D		06-15-1891	BIG WOOD RIVER
		25	NENE			A			37-0111	D		04-17-1883	BIG WOOD RIVER
			NENE			A			37-0112	D		06-20-1884	BIG WOOD RIVER
			NENE			A			37-0116	D		06-02-1890	BIG WOOD RIVER
			NENE			A			37-0475	D		04-17-1883	BIG WOOD RIVER
			NENE			A			37-0476	D		06-20-1884	BIG WOOD RIVER
			NENE			A			37-0477	D		06-02-1890	BIG WOOD RIVER
			NENE		40	A	.9839	3.50	37-7064	L		04-21-1970	GROUNDWATER
			NENE			A			37-0111	D		04-17-1883	BIG WOOD RIVER
			NENE			A			37-0112	D		06-20-1884	BIG WOOD RIVER
			NENE			A			37-0116	D		06-02-1890	BIG WOOD RIVER
			NENE			A			37-0475	D		04-17-1883	BIG WOOD RIVER
			NENE			A			37-0476	D		06-20-1884	BIG WOOD RIVER
			NENE			A			37-0477	D		06-02-1890	BIG WOOD RIVER
			NENE		35	A	.9839	3.50	37-7064	L		04-21-1970	GROUNDWATER
			SENE			A			37-0111	D		04-17-1883	BIG WOOD RIVER
			SENE			A			37-0112	D		06-20-1884	BIG WOOD RIVER
			SENE			A			37-0116	D		06-02-1890	BIG WOOD RIVER
			SENE			A			37-0475	D		04-17-1883	BIG WOOD RIVER
			SENE			A			37-0476	D		06-20-1884	BIG WOOD RIVER
			SENE			A			37-0477	D		06-02-1890	BIG WOOD RIVER
			SENE		40	A	.9839	3.50	37-7064	L		04-21-1970	GROUNDWATER
			SWNE			A			37-0111	D		04-17-1883	BIG WOOD RIVER
			SWNE			A			37-0112	D		06-20-1884	BIG WOOD RIVER
			SWNE			A			37-0116	D		06-02-1890	BIG WOOD RIVER
			SWNE			A			37-0475	D		04-17-1883	BIG WOOD RIVER
			SWNE			A			37-0476	D		06-20-1884	BIG WOOD RIVER
			SWNE			A			37-0477	D		06-02-1890	BIG WOOD RIVER

[redacted] E [redacted]

WATER RIGHTS BY PLACE OF USE 05/13/83 PAGE 50
SHOWING OVERLAPPING RIGHTS AND DIVERSION RATE PER ACRE

Page No. .....

DUE April 20, 19 83

WOOD RIVER VALLEY IRRIGATION DIS. CT No. 45

BELLEVUE, IDAHO

No. 493

Robert Foard

Date of Decree	No. of Inches Of Water	Rate	Amount of Tax
1884	50	.62	31.00
1886	20	.60	12.00
	Penalty and Interest		
	Total Amount Received		43.00

RECEIPT # 83

Payment is hereby acknowledged

Date May 23 $

Cash .....

M.O. or Draft .....

Check ✓

Grace Eaks Treas.

Sec. _____ Twp. _____ S., R. _____ E. B. M.

Blaine County, Idaho

When tender is made in any other form than cash or money order, this receipt will not become an acquittance until collection is made.

RECEIVED

JUL 1 1985

Department of Water Resources
Southern District Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

August 16, 1983

Robert E. Fosnot
P. O. Box 290
Bellevue, Idaho 83313

Dear Mr. Fosnot:

As discussed, we have prepared a new Application for Transfer to replace the one you signed last February. Instead of Right No. 37-0666, the correct right number is 37-0353; the new form will correct this error.

Please sign the new form before a notary and return it to this office for further processing.

If you have questions regarding this matter, please feel free to contact this office.

Very truly yours,

James E. Stanton
Sr. Water Resource Agent

LOH:JES:marya

Encl: