

Imagery - Summer 2000

63-8796 →

6 Acre Designation

5/E N/W 31 4N 1E

T04N R01E

T03N R01E W

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Exhibit B

EXHIBIT A

Description of the Water Right

Imagery - Summer 2000

63-8796-2

6 Acre Designation

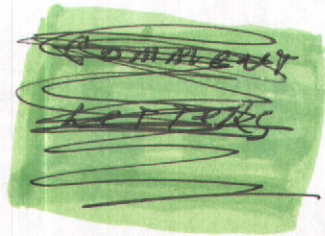
5/E N/W 31 4/N 1/E

Description of the Water Right



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OCT 29 2003

AUG - 7 2003

Form No 202a
November 2002Department of Water Resources
IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEETInitial review by DAW Date 4-1-03 Application # 63-31687REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, the names and addresses for the director, officers, and other partners must be included)
- ☒ Address
- ☒ Source (See USGS Quad for names of water sources)
- ☒ Point of Diversion (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ County
- ☒ Quantity (Flow and /or Volume)
- ☒ Period of use
- ☒ Nature of proposed use (Include description of use)
- ☒ Description of diverting works
- ☒ Time required for beneficial use of water
- ☒ Place of use or acres irrigated
- ☒ Map (Show T, R, S, QQ &/OR QQQ)
- N/A Subdivision plat (for > 1 home in restricted area $\geq$ 5 homes in non-restricted area)
- ☒ Signature (if applicant is corporation, partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid

Government Lots

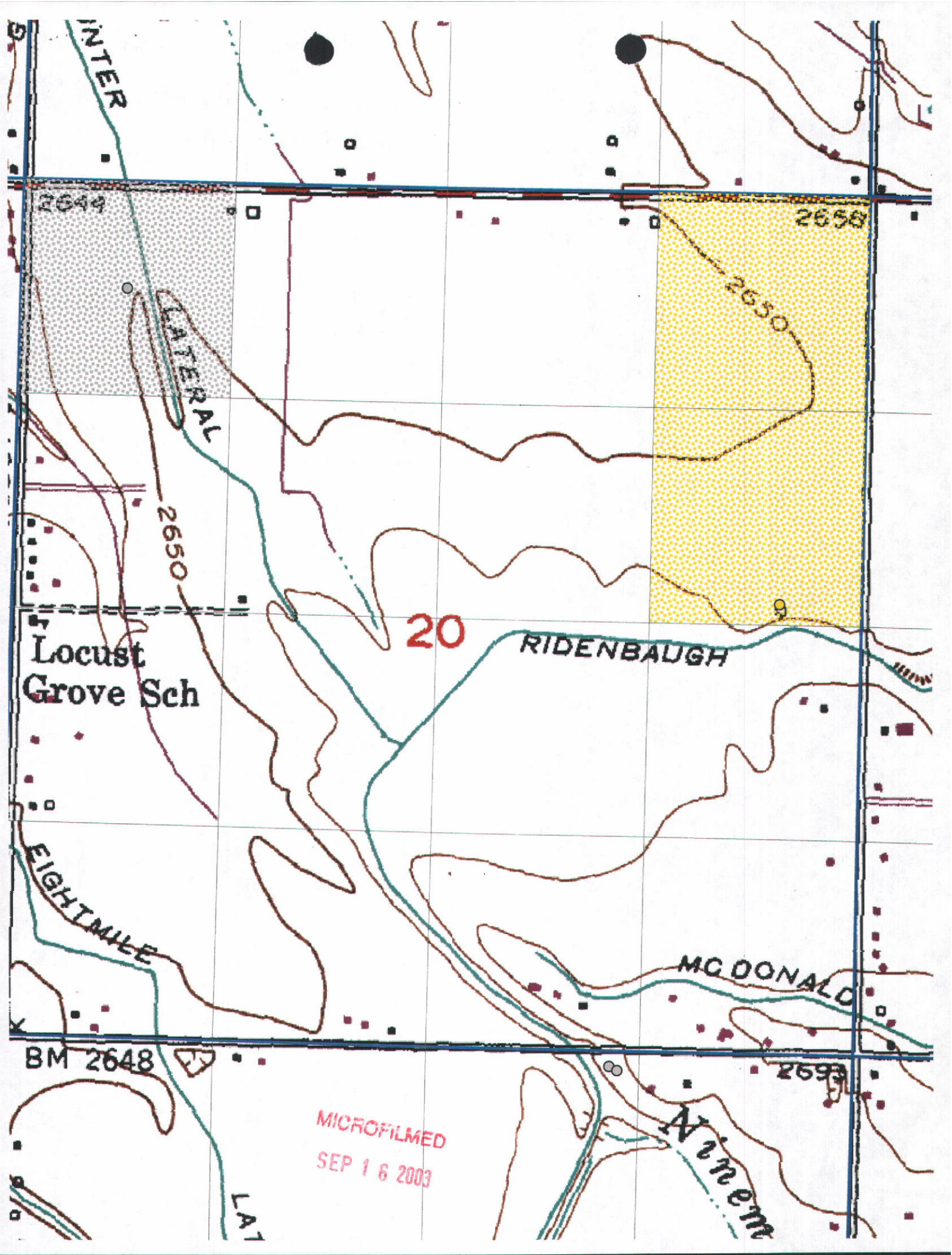
NO P/DNO P/UADDITIONAL INFORMATIONyes ADVERTISE REMARKS (Yes or No)

YES NO

- ☒ Overlapping place of use (Describe source and relationship to present application on next page) Original PIU was overlapped by SETTERS IRRIG. DIST
- ☒ Overlapping point of diversion NEW PIU IS OVERLAPPED BY Nampa MERIDIAN IRRIG. DIST
- ☒ Critical groundwater area one overlapping right for new PIU
- ☒ Ground water management area 3 overlapping rights for old PIU
- ☒ 1992 moratorium MITIGATION PROPOSED
- ☒ Surface water source, IDFG letter needed
- ☒ Protected river or minimum flow reach, notify water planning bureau
- ☒ E-mail to Dam Safety staff (for any storage)
- ☒ Mitigation plan Check any that apply
- ☒ Immediate = acceptable plan required and submitted
- ☒ Future = open areas, acceptance of condition of approval is in file
- ☒ Send power requirement letter &/or fish farm requirement letter
- ☒ Power residency affidavit
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres (if YES, attach Large Diversion supplementary analysis sheet)
- ☒ REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

MITIGATION PLAN
PROPOSED. I THINK
IT SHOULD
BE ACRP
FOR ACRP.

Date Requested _____ Date Response Received _____



Imagery - Summer 2000

EXHIBIT

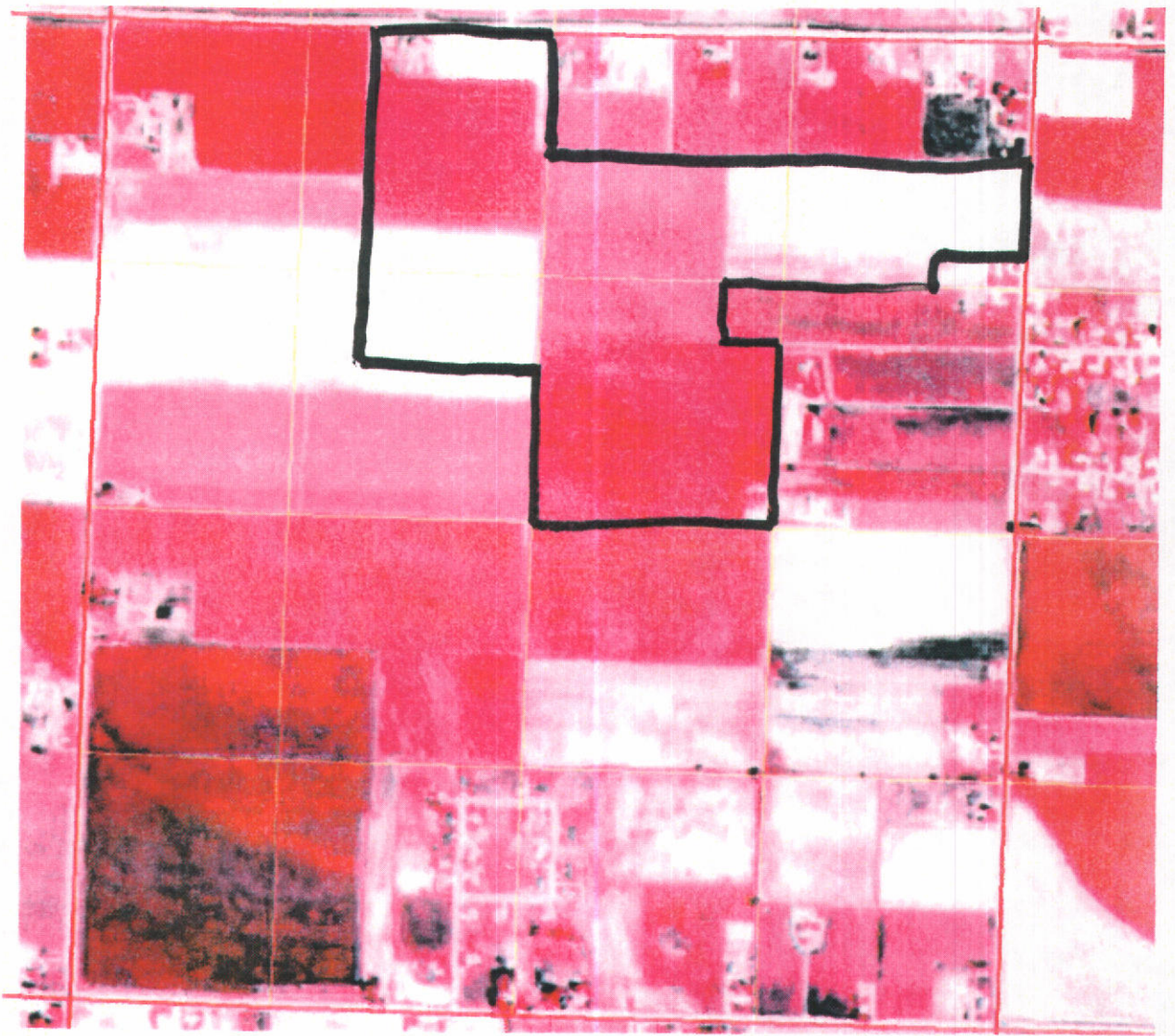
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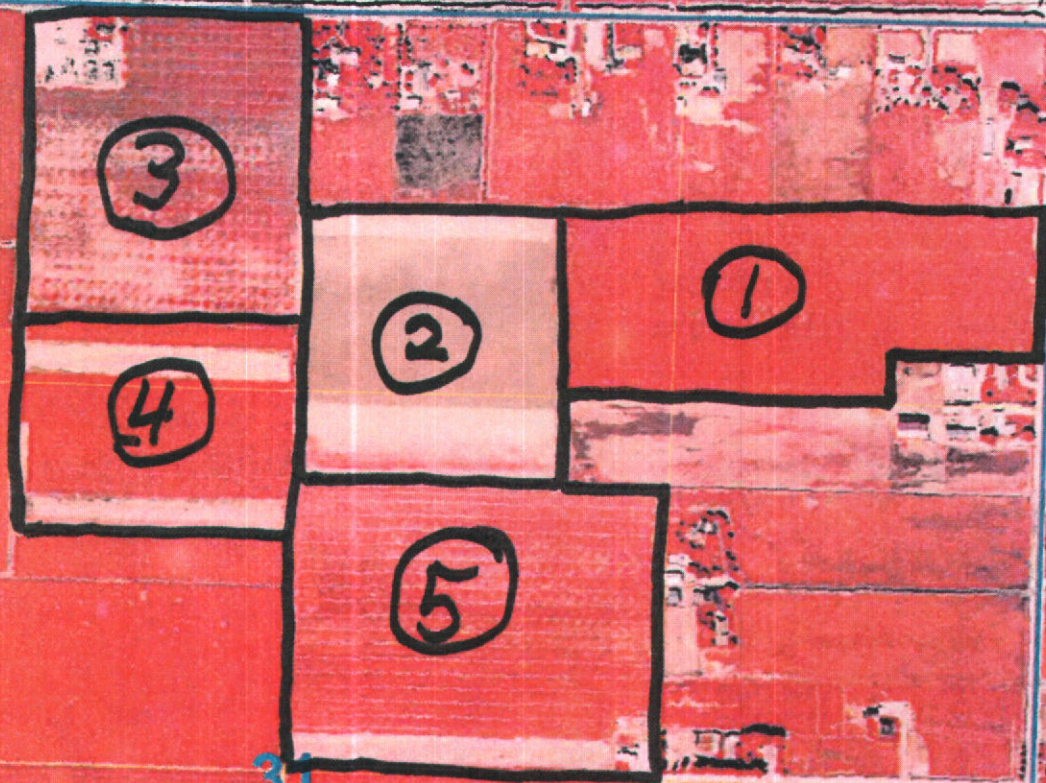
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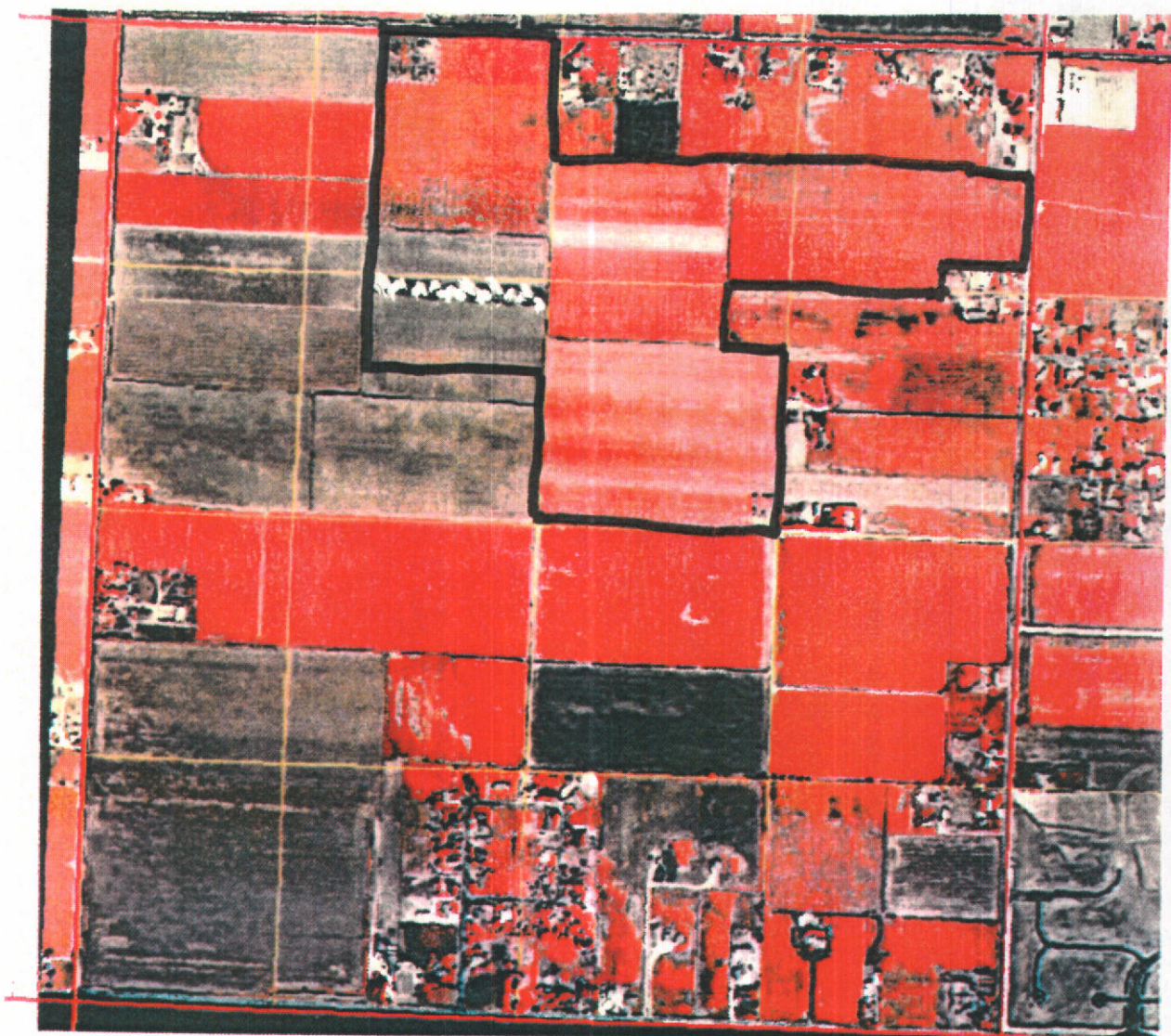
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Imagery - Summer 2000



31

T04N R01E



1994

Σ-2

Imagery - Summer 2000

EXHIBIT 5
POOR COPY PAGE 7 OF 7 EXHIBIT A
PAGE 4 OF 4

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-31687

Priority: May 19, 2003

Maximum Diversion Rate: 0.48 CFS
Maximum Diversion Volume: 27.0 AF

This is to certify, that KIMBALL PROPERTIES LIMITED PARTNERSHIP
PO BOX 8204
BOISE ID 83707-2204

has applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/01 to 11/15	0.48 CFS	27.0 AF

LOCATION OF POINT OF DIVERSION:

GROUND WATER SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 20, Twp 03N, Rge 01E, B.M., ADA County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	01E	20	12.0			12.0													24.0

Total Acres: 24

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2008**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Water bearing zone to be appropriated is 75 to 350 feet.
6. Prior to diverting water under this right, the right holder shall mitigate for the consumption of water under this right by notifying the Department that the right holder has acquired and permanently abandoned the right to divert 0.09 cfs and 27.0 afa for the irrigation of six acres under Water Right 63-31723. The right holder shall notify the Department by submitting a Notice of Change of Water Right Ownership for the portion of Water Right 63-31723 to be abandoned and by submitting a notarized affidavit attesting to the permanent abandonment of that portion of Water Right 63-31723.

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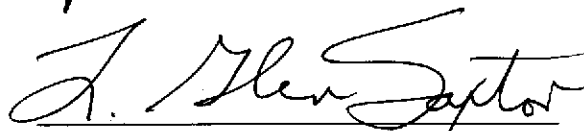
State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 63-31687

7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
8. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 108.0 af at the field headgate for the lands above.
9. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
10. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 19th day of August, 2003.


for KARL J DREHER, Director

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SEP 16 2003

RECEIVED

AUG - 7 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

AMENDED

FRONT PAGE AMENDED.
ONLY IDAN 3-3-2003

Department of Water Resources Kimball Properties Limited Partnership

1. Name of Applicant (Winston H. Moore, Managing Partner) Phone 208-323-1919

Mailing address P.O. Box 8204, Boise, ID 83707-2204

2. Source of water supply ground water which is a tributary of NA

3. Location of point of diversion is Township 3N Range 1E Sec. 20 in the 1/4,
SE 1/4, NE 1/4, Govt. Lot , B.M., Ada County;

additional points of diversion if any:

4. Water will be used for the following purposes:

Amount 0.48/27.0 for irrigation purposes from 3/1 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)

Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 0.48 and/or (b) 27.0
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source well with electric pump,
buried pipe to sprinklers

b. Height of storage dam feet; active reservoir capacity acre-feet; total
reservoir capacity acre-feet

c. Proposed well diameter is 10 inches; proposed depth of well is 350 feet

d. Is ground water with a temperature of greater than 85°F being sought? no

e. If well is already drilled, when? ; Drilling firm

Well was drilled for (well owner) ; Drilling Permit No.

7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in KW.

b. Stockwatering; list number and kind of livestock.

c. Municipal; show name of municipality.

d. Domestic; show number of households.

e. Other; describe fully.

MILKES, IDAHO

AUG 10 2003

9. Description of place of use:

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

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	1E	20	12			12													24

Total number of acres to be irrigated 24

10. Describe any other water rights used for the same purposes as described above.

Nampa & Meridian Irrigation District

11. a. Who owns the property at the point of diversion? Applicant

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Remarks: Water-bearing zone to be appropriated is 75 to 350 feet. See attached mitigation plan.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

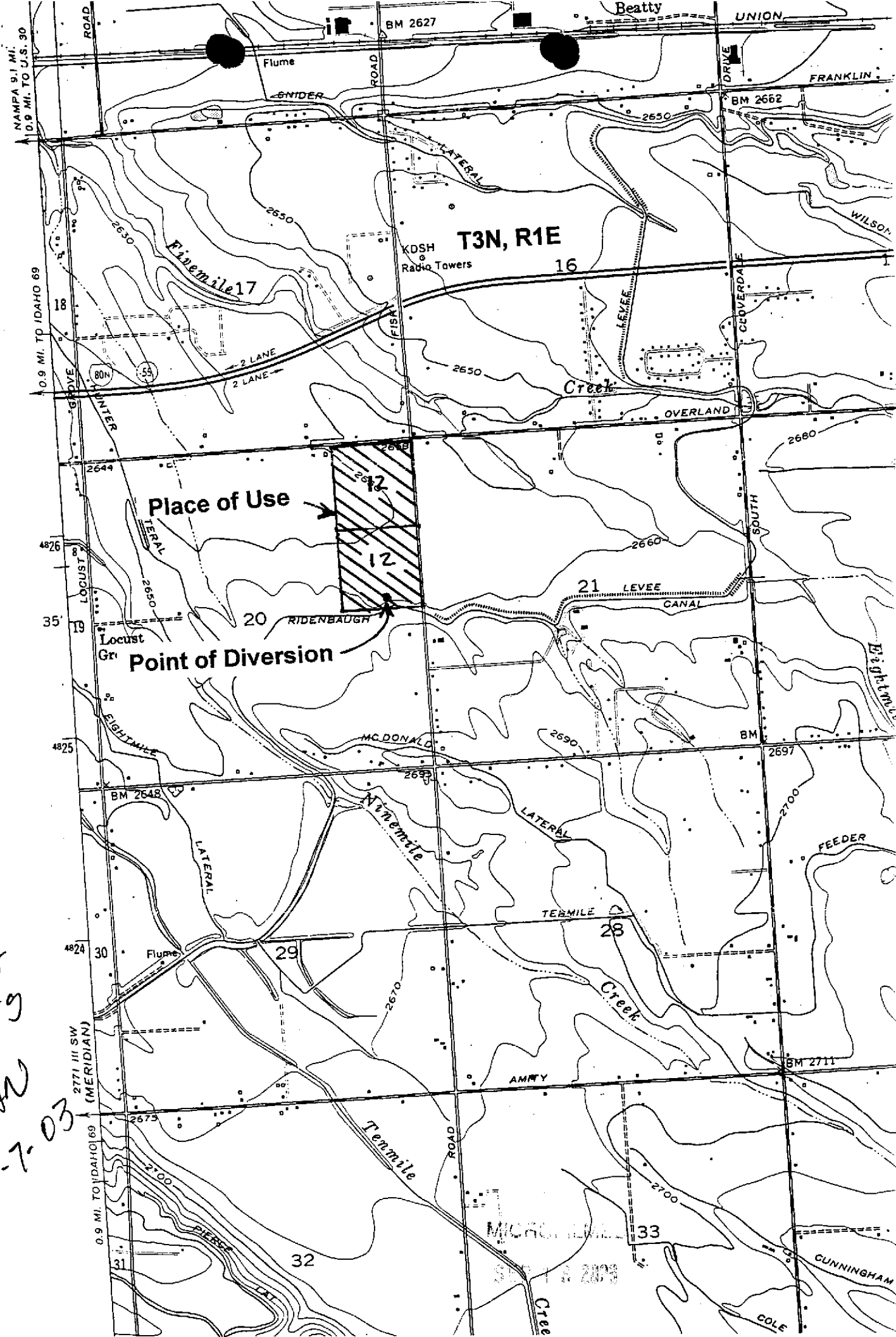
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

[Signature]
Signature of Applicant (and title, if applicable)

Received by [Signature] Date 2/10/03 Time 1:48 Preliminary check by [Signature]
 Fee \$ 25000 Received by [Signature] # W030047 Date 2/10/03
 Publication prepared by [Signature] Date 6-5-12-03 Published in THE IDAHO STATESMAN
 Publication approved _____ Date _____

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SEP 14 2003



NO
GOUT
LOTS
DAN
4-7-03

SEP 1 2 2009

REQUEST TO PROCESS

COMPLETE REQUEST IF YOU WANT YOUR APPLICATION TO BE PROCESSED USING ONE OF THE
THREE ALTERNATIVES BELOW

Name of Applicant Kimball Properties Limited Partnership
Mailing Address P.O. Box 8204
Boise, ID 83707-2204
Application No. _____
(if known)

 IN LOCAL PUBLIC INTEREST

Yes, I want my application processed and before it is advertised, I will amend my application to demonstrate that the proposed appropriation is in the local public interest including the need to preserve flows in the Snake River during the migration periods of anadromous fish.

 X PROPOSE MITIGATION NOW

Yes, I want my application processed and before it is advertised, I will ~~amend my application to~~ include proposed mitigation to offset anticipated depletions in the Snake River during periods of anadromous fish migration.

 WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

Yes, I want my application processed at this time, and I will accept a condition of approval that will require mitigation should the Director of the Idaho Department of Water Resources determine that mitigation is necessary to offset depletions from this appropriation to flows in the Snake River during periods of anadromous fish migration. I understand that mitigation is not required now but may be needed in the future. I also understand that the Director will not require mitigation until I have an opportunity to review the process by which the need for mitigation is established and the amount of water required is quantified.

Signature



Date

2/6/03

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

2003 5 12 2003

Mitigation Plan for Water Right Application by Kimball Properties Limited Partnership

As a part of the attached application for permit to appropriate groundwater for supplemental irrigation purposes, Kimball Properties Limited Partnership proposes the following mitigation plan to prevent injury to other water rights.

1. The application for permit proposes appropriation of 0.48 cfs and 27 acre feet annually for supplemental irrigation use on 24 acres of landscape in Section 20, T3N, R1E.
2. Surface water from Nampa & Meridian Irrigation District will be used as the primary source of irrigation water supply for this project. The surface water source will be fully utilized to the extent that it is available.
3. In a normal year, supplemental water is needed from about April 1 through April 15 and October 15 through October 31. Irrigation demands during these periods are normally very low. As a result, the supplemental water requirement is typically less than 10 percent of the annual irrigation diversion requirement (4.5 acre feet per acre maximum), even though the supplemental irrigation season is 15 percent of the total irrigation season. However, in drought years when canal deliveries cease in September, the supplemental supply could be as much as 20 percent of the annual irrigation requirement. In all cases, the annual supplemental irrigation requirement should be less than 1 acre foot per acre. Thus, for the 24-acre proposed place of use, the supplemental irrigation requirement should be less than 24 acre feet annually.
4. The application will be mitigated by retirement of a 6-acre portion of water right 63-8796. Water right 63-8796 has been used since the late 1970s as a primary irrigation water right at a turf farm near Meridian. The 6-acre portion of the water right is appurtenant to land in the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 31, T4N, R1E. Water right 63-8796 has been the sole water source for the place of use and has been used continuously without a 5-year period of non-use.
5. The annual diversion volume for the 6-acre portion of water right 63-8796 is 27 acre feet annually (4.5 acre feet per acre). We propose that the permit be limited to this annual diversion rate.
6. As a result of this mitigation plan, no detrimental impacts to existing water rights or stream flows are anticipated.

AMENDED
Mitigation
SPR. Plan only
3-3-03

CERTIFICATE OF LIMITED PARTNERSHIP

To the Secretary of State of Idaho,

Statehouse, Boise, Idaho 83720

OCT 23 2 40 PM '97

SECRETARY OF STATE
STATE OF IDAHO



1. The name of the limited partnership is: Kinball Properties Limited Partnership
(Must include, without abbreviation, the words "Limited Partnership.")

2. The name and business address of the registered agent are:

Winston H. Moore, 600 N. Steelhead Way #144, Boise, ID 83704

(not a P.O. Box)

3. The name and business address of each general partner are:

Name

Address

Winston H. Moore P.O. Box 8204, 600 N. Steelhead Way #144, Boise, ID 83707

Diane L. Moore P.O. Box 8204, 600 N. Steelhead Way #144, Boise, ID 83707

(If more space is needed, continue in item 5.)

4. The latest date on which the partnership will dissolve is: 12/31/2022

5. Other matters (optional):

- 5.1 Winston H. Moore is designated by the partners as the Managing General Partner with full power and authority to act for and bind the Partnership in all matters.

6. Signatures of all general partners:

Winston H. Moore

Diane L. Moore

IDAHO SECRETARY OF STATE
Secretary of State use only

10/23/1997 09:00
CK: 18574 CT: 1626 RH: 49555

1 @ 100.00 = 100.00 ORGAN LLC

L 3526

SEP 1 0 2000

WATER RIGHT PURCHASE AND SALE AGREEMENT

THIS WATER RIGHT PURCHASE AND SALE AGREEMENT ("Agreement") is entered into effective this 11th day of February, 2003 by and between Renata L. Ham, d/b/a Stonecreek Turf Farm, a sole proprietorship (the "Seller"), whose address is 5125 Morninggale Dr., Boise, ID 83713, and Kimball Properties Limited Partnership (the "Buyer"), whose address is 600 N. Steelhead Way, Suite 144, P.O. Box 8204, Boise, ID 83707-2204. In consideration of the sums to be paid by Buyer to Seller, and the mutual covenants herein contained, the parties hereby agree as follows:

RECITALS

1. Seller owns a water right to divert ground water for irrigation purposes within the Boise River Basin (administrative Basin 63), which water right is represented by license number 63-8796 in the records of the Idaho Department of Water Resources ("Department"), and which water right authorizes diversion of ground water for irrigation uses on certain lands in Ada County during the irrigation season at a rate of 0.015 cubic feet per second ("cfs") per irrigated acre and a total annual diversion volume of 4.5 acre-feet per acre per year. A copy of the water right license is attached as Exhibit A to this Agreement.
2. Seller desires to sell a six-acre, or 3/34, portion of the water right described in Exhibit A, being that portion of Seller's water right appurtenant to and beneficially used by Seller on six acres (the "Property") located in the SE¼ of the NW¼ of section 31, T4N, R1E, Boise Meridian (this portion of the water right described in Exhibit A hereafter referred to as the "Water Right"). The Property is more particularly described on Exhibit B.
2. Buyer desires to purchase the Water Right and transfer its point of diversion and place of use to Buyer's property in Ada County.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, and the covenants and conditions set forth below, Seller agrees to sell the Water Right to Buyer, and Buyer agrees to purchase it.

4. Purchase Price. The Purchase Price for the Water Right is [REDACTED] thousand dollars (\$[REDACTED]), payable as follows:
 - a. Non-refundable Earnest Money payment. Upon execution of this Agreement by Seller and Buyer, Buyer shall pay Seller Five Thousand Dollars

SEP 16 2003

(\$5,000) as a non-refundable earnest money payment ("Earnest Money"). As more particularly described below, the Earnest Money shall be applied toward the Purchase Price at Closing, but shall be retained by Seller and not refunded to Buyer if, for any reason other than Seller's refusal to close, the purchase and sale does not close.

b. Balance of purchase price. [REDACTED] thousand dollars (\$[REDACTED]), being the Purchase Price less the Earnest Money, shall be due and payable to Seller at Closing.

5. Buyer responsible for water right transfer. Within thirty days after this Agreement is signed, Buyer shall file, with the Idaho Department of Water Resources ("Department"), an application to change or transfer the Water Right to Buyer's place of use, proposed nature or time of use, and point of diversion ("Transfer"), and thereafter shall diligently pursue the Transfer at Buyer's sole cost. Upon filing the Transfer, the Water Right no longer will be diverted from the well on Seller's property or placed to beneficial use by Seller unless Buyer agrees in writing that it can be so used on an interim basis during the pendency of the Transfer.

6. Seller to cooperate with Buyer's Transfer efforts. At Buyer's request, Seller shall cooperate with Buyer in Buyer's pursuit of such Transfer, and shall provide Buyer with any information Seller has concerning the Water Right that Buyer may reasonably request in pursuit of the Transfer; provided, that if responding to such request will require Seller to incur attorney or consultant fees or costs, the following conditions shall apply:

a. Seller shall provide Buyer a written estimate of such fees and costs and shall not be obligated to provide a response until Seller receives from Buyer a written approval of such fees and costs and a commitment from Buyer to pay them directly or reimburse Seller for Seller's payment of them. Once Seller has received such approval, Seller shall provide the response to the extent of the fees and costs covered in the approval.

b. Seller shall forward to Buyer all bills for such fees and costs within thirty days after Seller receives invoices for such expenses from a consultant or attorney, and shall inform Buyer whether Seller has paid these invoices or, in the alternative, is forwarding them to Buyer for payment.

c. Within thirty days after Buyer receives them, Buyer shall either pay such invoices directly or reimburse Seller for Seller's payment of them.

7. Closing. Closing shall occur no later than the earlier of: a) ten days after the final, unappealable approval of the Transfer ("Transfer approval"), or b) 12 months after the date of this Agreement. At the Closing:

a. Seller shall deliver to Buyer: i) an executed and acknowledged Water Right Grant Deed in the form of the specimen attached to this Agreement as Exhibit C; ii) all documentation, including appropriate deeds, leases, and assignments, confirming Seller's ownership of the Water Right and its entitlement to convey it to Buyer; iii) an executed and acknowledged Notice of Change of Ownership confirming Buyer's ownership of the Water Right and the assignment of the appropriate portion of the Snake River Basin Adjudication Claim for the Water Right; and iv) such other documents as Buyer may reasonably request within thirty days prior to Closing to confirm Buyer's ownership of the Water Right or its transferability. Seller shall make best efforts to provide all documents referenced in item ii of this paragraph within 10 days after the date of this Agreement.

b. Buyer shall deliver to Seller the balance of the Purchase Price by means of a cashier's check or other means of payment acceptable to Seller. Buyer shall have responsibility for recording or filing the Grant Deed and Assignment and other documents with the county recorder, the Idaho Department of Water Resources, or any other entities Buyer deems appropriate.

8. Failure to close; Buyer's and Seller's elections. If the Transfer approval does not occur on or before the one-year anniversary date of this Agreement, Buyer at its option may either proceed to closing within 20 days after such anniversary date or terminate this Agreement by written notice and forfeit its Earnest Money. If Buyer fails to close the transaction within such 20 days or otherwise breaches this Agreement, in addition to any other remedies Seller might have, Seller at its option may terminate this Agreement and retain the Earnest Money. If this Agreement is terminated by whatever means, Buyer, at its cost, shall forthwith withdraw and cancel the Transfer and take any steps necessary to ensure that the Department cancels, reverses or otherwise nullifies the Transfer application process and any Transfer approval, and such obligations shall survive the termination.

9. Representations and Warranties.

a. Seller hereby represents and warrants that:

i. The Water Right has been beneficially used as the sole water source to irrigate the Property;

ii. The Property no longer will be irrigated by the Water Right after the date of this Agreement, subject to the provision for interim use in paragraph 5, above;

iii. Seller is the owner of the Water Right and has not conveyed, mortgaged, or pledged the Water Right to any other person or entity;

iv. Seller has not engaged or dealt with any broker or finder in connection with the sale of the Water Right;

v. Seller has the legal power, right and authority to enter into this Agreement and to perform Seller's obligations hereunder;

vi. Seller has filed a claim for the Water Right in the Snake River Basin Adjudication, but makes no representation or warranty regarding the outcome of that proceeding as it might affect the Water Right;

vii. The Water Right has been placed to continual beneficial use on the Property, and Seller has no knowledge of any continuous five-year period of nonuse of the Water Right; and

viii. Seller makes no other guarantees or warranties as to the Water Right, its yield upon transfer, or its transferability. Buyer understands and agrees that the purchase price set forth above will remain the same regardless of the amount of water Buyer ultimately is allowed to divert and place to beneficial use under the Transfer; that the amount of water could be less than the face value of the Water Right; and that, should it approve the Transfer, the Department may impose conditions on the use of the Water Right.

b. Buyer hereby represents and warrants that:

i. Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder; and

ii. Buyer has not engaged any broker or finder in connection with the purchase of the Water Right.

10. Remedies on Default. If either party breaches this Agreement, the non-breaching party shall be entitled to all remedies available at law or in equity.

11. Notices:

Seller: Renata L. Ham
5125 Morningdale Drive
Boise, ID 83713

Buyer: Kimball Properties Limited Partnership
Attn: Jonathan R. Seel
600 N. Steelhead Way, Suite 144
Boise, ID 83707.

12. General Provisions.

a. This Agreement contains the entire agreement between the parties related to the purchase and sale of the Water Right, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein.

b. No modification, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing and signed by both parties.

c. If either party commences litigation for the judicial interpretation, enforcement or rescission of this Agreement, the prevailing party shall be entitled to its reasonable attorney fees and costs.

d. Time is of the essence to this Agreement. In particular, the requirement that Closing must occur within 12 months is a central and material term, and either party's failure to close within that time period, subject to the provisions of paragraph 8, above, shall be a breach of this Agreement.

e. All obligations referred to herein that reasonably are to be performed, or may be performed, after Closing, and all representations and warranties contained herein, shall survive the Closing and delivery of Seller's Water Right Grant Deed and Assignment.

f. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective heirs, representatives, successors and assigns.

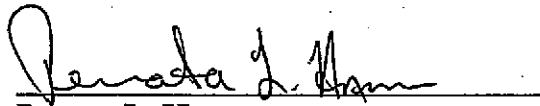
g. All notices to be given to the parties shall be in writing, delivered in hand, or by U.S. Mail, postage pre-paid directed to such parties address as stated above unless such party shall have directed in writing that notice be sent to a different address.

h. Buyer and seller acknowledge and understand that the law firm of Givens Pursley LLP has represented Buyer in several unrelated transactions and may represent buyer in the future on other matters, and that Givens Pursley LLP represents Seller with respect to this Agreement. In addition, Givens Pursley LLP represented the prior owner of buyer's property on which some or all of the Water Right may be used. Both Buyer and Seller consent to Givens Pursley LLP's representation of Seller in this transaction despite the firm's past representation of Buyer and the prior owner of the property, hereby waive any claim of conflict of interest that might appear or arise from such representations.

i. This Agreement may be executed in counterparts.

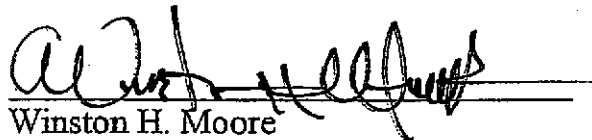
IN WITNESS WHEREOF, this Agreement has been executed by the parties, in the State of Idaho, as of the date set forth above.

SELLER:



Renata L. Ham
Stonecreek Turf Farm

BUYER:



Winston H. Moore
Kimball Properties Limited Partnership

MICRO
SEP 4 0 2003

WATER RIGHT LICENSE

WATER RIGHT NO. 63-8796

Priority: May 9, 1977 Amount: 1.05 CFS 306.0 AFA

This is to certify, that FRANK N. HAM
WYOMA HAM

4415 N. LOCUST GROVE
MERIDIAN, ID 83642

has complied with the terms and conditions of the permit issued pursuant to Application for Permit dated May 9, 1977, and has submitted proof to the Department of Water Resources on May 13, 1982, that water has been applied to a beneficial use; an examination by the Department indicates that the works have a diversion capacity of 1.05 cfs of water from a GROUNDWATER source and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>		
Irrigation	03/15 to 11/15	1.05 cfs	306.0 afa		
<u>LOCATION OF POINT OF DIVERSION(S):</u>		NWNE , Sec. 31, Township 4N, Range 1E Ada County			
<u>PLACE OF USE:</u> Irrigation					
<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
4N 1E 31	NWNE 15	SWNE 7	NENW 29	SENE 17	68
Total number of acres irrigated:					68

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 1st day of April, 1988.

RECEIVED

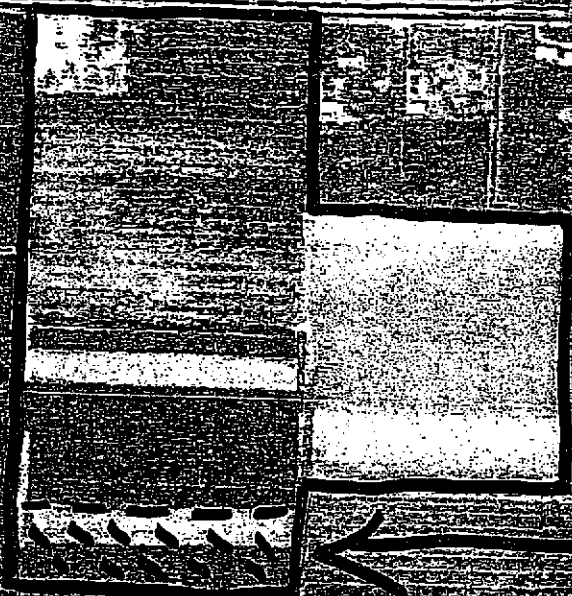
JUL 06 1988

Director

SEP 1 2 2001

Imagery - Summer 2000

63-87962



6 Acre Designation

S/E N/W 31 4N 1E

T04N R01E

T03N R01E

Exhibit B

GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Attn: Jeffrey C. Pereday

WATER RIGHT GRANT DEED

FOR VALUE RECEIVED, Grantor Renata ^{Ham} Moon, d/b/a/ Stonecreek Turf Farm, a sole proprietorship in Meridian, Idaho, hereby grants, bargains, sells and conveys unto Grantee, ~~W. Kimball Prop.~~ ^{H. Moore Company} of Boise, Idaho, all of Grantor's right, title and interest in and to that portion ^{Ltd Partners} of irrigation ground water right no. 63-8796 consisting of the right to divert at a rate of 0.15 cubic feet per second and produce an annual diversion volume of ~~45~~ ^{7.5} acre-feet, that formerly was used to irrigate ~~ten~~ ^{1.5} acres of land in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ section 31, T4N, R1E, Boise Meridian. This portion of such licensed water right being conveyed by this Grant Deed shall be referred to herein as the "Water Right." The Water Right is more particularly described on Exhibit A attached hereto.

TO HAVE AND TO HOLD the Water Right unto the Grantee, its successors and assigns, forever.

Grantor warrant only that Grantor owns the Water Right and has placed all water available under it to beneficial use for irrigation purposes yearly, has not caused the Water Right to go unused during any calendar year, and has the authority to convey ownership of the Water Right to Grantee.

The Idaho Department of Water Resources shall be entitled to enter the change in ownership of the Water Right effected hereby upon its records and those of the Snake River Basin Adjudication Court, Fifth Judicial District, in the State of Idaho, in and for the County of Twin Falls, Case No. 39576.

IN WITNESS WHEREOF, Grantor has caused her name to be subscribed to this Grant Deed effective the ___ day of February, 2003.

GRANTOR

Renata ~~Moon~~ ^{Ham}
President and Owner, Stonecreek Turf Farm

EXHIBIT C
PAGE 1 OF 3

STATE OF IDAHO

)

) ss.

County of Ada

)

On this ____ day of February, 2003, before me, a Notary Public in and for the State of Idaho, personally appeared Renata Moon, known or identified to me to be the person who executed the above Grant Deed, and acknowledged to me that she executed the same on her own behalf and on behalf of Stonecreek Turf Farm.

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

Notary Public for Idaho

Residing at:_____

My commission expires:_____

MOON
SEP 1 2003

EXHIBIT

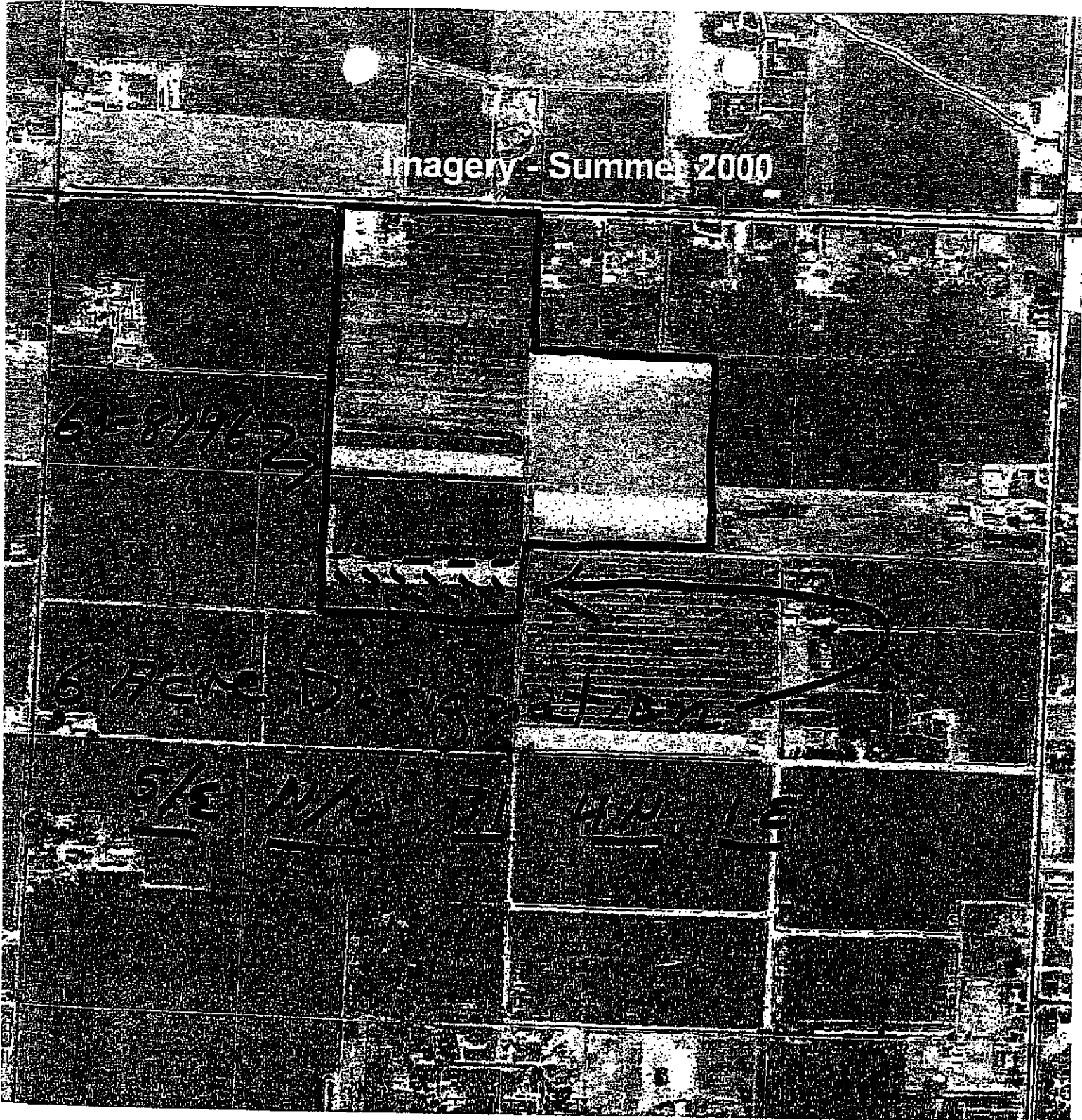
PAGE

C
2 OF 3

EXHIBIT A

Description of the Water Right

Imagery - Summer 2000



RECEIVED

FEB 10 2003

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Kimball Properties Limited Partnership

(Winston H. Moore, Managing Partner)

1. Name of Applicant _____ Phone 208-323-1919

Mailing address P.O. Box 8204, Boise, ID 83707-2204

2. Source of water supply ground water which is a tributary of NA

3. Location of point of diversion is Township 3N Range 1E Sec. 20 in the 1/4,
SE 1/4, NE 1/4, Govt. Lot _____, B.M., Ada County;

additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.48/24.0 for irrigation purposes from 3/1 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 0.48 and/or (b) 24.0
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source well with electric pump,
buried pipe to sprinklers

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet

c. Proposed well diameter is 10 inches; proposed depth of well is 350 feet

d. Is ground water with a temperature of greater than 85°F being sought? no

e. If well is already drilled, when? _____; Drilling firm _____

Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in KW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. _____

ORIGINAL

FRONT Page superceded
SEP 10 2003
DAN

Mitigation Plan for Water Right Application by Kimball Properties Limited Partnership

As a part of the attached application for permit to appropriate groundwater for supplemental irrigation purposes, Kimball Properties Limited Partnership proposes the following mitigation plan to prevent injury to other water rights.

1. The application for permit proposes appropriation of 0.48 cfs and 24 acre feet annually for supplemental irrigation use on 24 acres of landscape in Section 20, T3N, R1E.
2. Surface water from Nampa & Meridian Irrigation District will be used as the primary source of irrigation water supply for this project. The surface water source will be fully utilized to the extent that it is available.
3. In a normal year, supplemental water is needed from about April 1 through April 15 and October 15 through October 31. Irrigation demands during these periods are normally very low. As a result, the supplemental water requirement is typically less than 10 percent of the annual irrigation diversion requirement (4.5 acre feet per acre maximum), even though the supplemental irrigation season is 15 percent of the total irrigation season. However, in drought years when canal deliveries cease in September, the supplemental supply could be as much as 20 percent of the annual irrigation requirement. In all cases, the annual supplemental irrigation requirement should be less than 1 acre foot per acre. Thus, for the 24-acre proposed place of use, the supplemental irrigation requirement should be less than 24 acre feet annually.
4. The application will be mitigated by retirement of a 6-acre portion of water right 63-8796. Water right 63-8796 has been used since the late 1970s as a primary irrigation water right at a turf farm near Meridian. The 6-acre portion of the water right is appurtenant to land in the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 31, T4N, R1E. Water right 63-8796 has been the sole water source for the place of use and has been used continuously without a 5-year period of non-use.
5. The annual consumptive use for turf in the Boise-Nampa area is approximately 3.0 acre feet per acre. Based on this consumptive use, and an assumed irrigation efficiency of 75 percent for hand line sprinklers, the historic diversion volume for the 6-acre portion of water right 63-8796 has been approximately 24 acre feet annually (4.0 acre feet per acre). We propose that the permit be limited to this annual diversion rate.
6. As a result of this mitigation plan, no detrimental impacts to existing water rights or stream flows are anticipated.

ORIGINAL

mitigation
plan
~~SEA~~ superceded.

MEMORANDUM

Date: September 25, 2003
To: Water Right File 63-31687
From: Shelley Keen *SWK*
Re: Mitigation Compliance

The permit holder has complied with the mitigation requirement by submitting the ownership change notice and affidavit of abandonment on 9/23/2003. Copies of the documentation are being placed in this file and in the vault file for 63-31723. The originals will be forwarded to the Adjudication Bureau for processing.

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OCT 29 2003

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

RECEIVED

SEP 23 2003

Department of Water Resources

September 22, 2003

Mr. Shelley Keen
Water Rights Supervisor
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

Subject: Permit 63-31687 (Kimball Properties Limited Partnership)

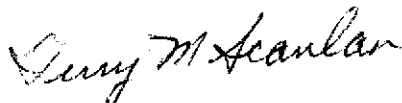
Dear Shelley:

On behalf of Kimball Properties Limited Partnership, I am pleased to submit the following documents.

1. Notice of Water Right Change of Ownership for a 6-acre portion of Water Right 63-31723.
2. A grant deed demonstrating ownership of the 6-acre water right by Kimball Properties Limited Partnership.
3. A letter from Winston H. Moore, Managing Partner for Kimball Properties, formally notifying the Department that the 6-acre portion of water right 63-31723 has been abandoned as mitigation for Permit 63-31687, per condition No. 6 of the permit.

Please contact me with any questions. We would appreciate written confirmation that we have met the requirements of permit condition No. 6.

Sincerely,



Terry M. Scanlan, P.E., P.G.

Cc: Jonathan Seel

MICROFILM

OCT 25 2003

Alexa Linton
Notary Public for Idaho
Residing at: Boise
My commission expires: 03/06

RECEIVED

SEP 23 2003

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

Department of Water Resources

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

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

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
<u>63-31723</u>	<u>63-31723</u>	<u>X</u>	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Renata Ham and Sheldon G Ham
11955 West Mesquite Drive, Boise, ID 83704
4. New Owner/Claimant(s) Kimball Properties Limited Partnership
 Name Connector (Check one): [X] and, [] or, [] and/or
- New Mailing Address P.O. Box 8204
- City, State and ZIP Code Boise, ID 83707-2204
- New Telephone Number (208) 323 - 1919
5. Date you acquired the property Water Right Only, 9/2003

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 OCT 29 2003

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

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number 63-31723

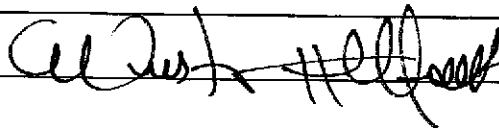
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	<u>0.09 cfs / 27 afa</u>	<u>6 acres of irrigation</u>
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	<u>0.009 cfs / 27 afa</u>	

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	

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



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

For Office Use Only

Received by _____	Date _____	Fee _____
Receipted by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____

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OCT 23 2003

GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Attn: Jeffrey C. Fereday

WATER RIGHT GRANT DEED AND ASSIGNMENT

FOR VALUE RECEIVED, Grantor Renata Moon, d/b/a/ Stonecreek Turf Farm, a sole proprietorship in Meridian, Idaho, hereby grants, bargains, sells and conveys unto Grantee Kimball Properties Limited Partnership of 600 N. Steelhead Way, Boise, Idaho, all of Grantor's right, title, and interest in and to that portion of licensed irrigation ground water right no. 63-8796 that formerly was used to irrigate six acres of land in the SE¼ of the NW¼ of section 31, T4N, R1E, Boise Meridian. This portion of such licensed water right being conveyed by this Grant Deed shall be referred to herein as the "Water Right." The Water Right is more particularly described on Exhibit A attached hereto, which is a copy of the Water Right's license and a map depicting generally that portion of the Grantor's formerly irrigated property to which the Water Right has been appurtenant.

TO HAVE AND TO HOLD the Water Right unto the Grantee, its successors and assigns, forever.

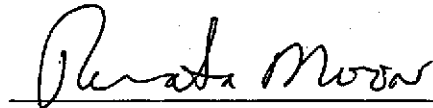
Grantor hereby further assigns to Grantee all of Grantor's right, title, and interest in and to the above-described 6-acre portion of the license for ground water right no. 63-8796 issued by the Idaho Department of Water Resources, a copy of which license is a part of Exhibit A, together with a like portion of Grantor's right, title, and interest in and to any claim for the Water Right filed in the Snake River Basin Adjudication, Fifth Judicial District, in the State of Idaho, in and for the County of Twin Falls, Case No. 39576. The Water Right conveyed by this Deed is subject to all conditions and limitations specified on such license or that may be imposed by the SRBA Court.

Grantor warrants only that Grantor owns the Water Right and has placed all water available under it to beneficial use for irrigation purposes yearly, has not caused the Water Right to go unused during any calendar year, and has the authority to convey ownership of the Water Right to Grantee.

The Idaho Department of Water Resources shall be entitled to enter the change in ownership of the Water Right effected hereby upon its records and those of the Snake River Basin Adjudication Court, Fifth Judicial District, in the State of Idaho, in and for the County of Twin Falls, Case No. 39576.

IN WITNESS WHEREOF, Grantor has caused her name to be subscribed to this Grant Deed effective the 10th day of September, 2003.

GRANTOR



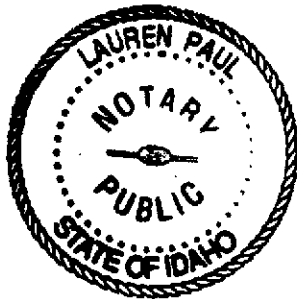
Renata Moon
President and Owner, Stonecreek Turf Farm

MICROFILMED
OCT 29 2003

STATE OF IDAHO)
) ss.
County of Ada_)

On this 10th day of September, 2003, before me, a Notary Public in and for the State of Idaho, personally appeared Renata Moon, known or identified to me to be the person who executed the above Grant Deed, and acknowledged to me that she executed the same on her own behalf and on behalf of Stonecreek Turf Farm.

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



Lauren Paul
Notary Public for Idaho
Residing at: Ada - Base
My commission expires: 5/31/08

MICROFILMED
OCT 29 2003

State of Idaho
Department of Water Resources

EXHIBIT A**WATER RIGHT LICENSE**

WATER RIGHT NO. 63-8796

Priority: May 9, 1977 Amount: 1.05 CFS 306.0 AFA

This is to certify, that FRANK N. HAM
WYOMA HAM

4415 N. LOCUST GROVE
MERIDIAN, ID 83642

has complied with the terms and conditions of the permit issued pursuant to Application for Permit dated May 9, 1977, and has submitted proof to the Department of Water Resources on May 13, 1982, that water has been applied to a beneficial use; an examination by the Department indicates that the works have a diversion capacity of 1.05 cfs of water from a GROUNDWATER source and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Irrigation	03/15 to 11/15	1.05 cfs	306.0 afa
<u>LOCATION OF POINT OF DIVERSION(S):</u>		NWNE, Sec. 31, Township 4N, Range 1E Ada County	
<u>PLACE OF USE:</u> Irrigation			

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
4N	1E	31	NWNE 15	SWNE 7	NENW 29	SENE 17	68
Total number of acres irrigated:							68

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 1st day of April, 1988.

MICROFILMED

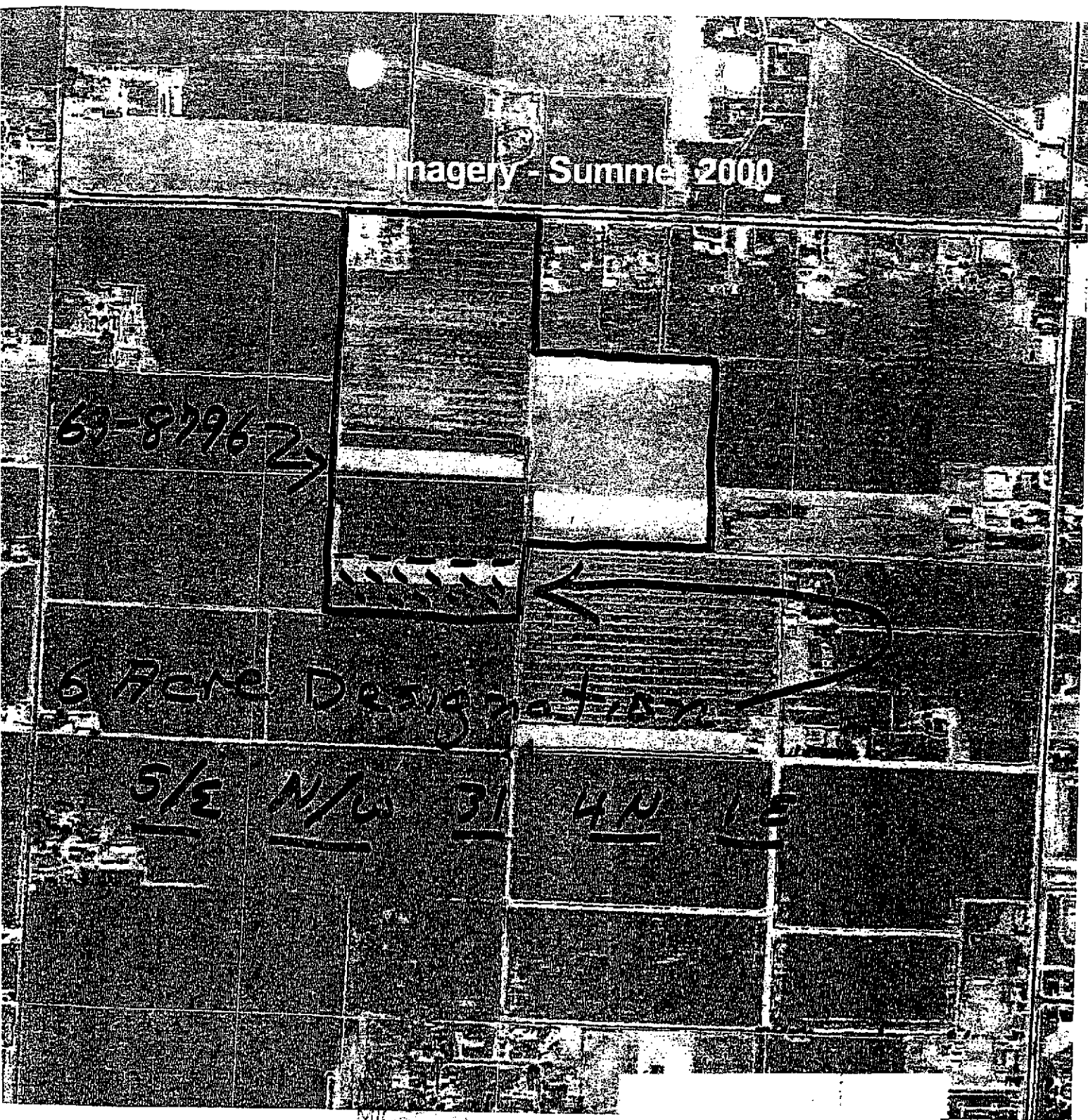
Director

JUL 06 1988

MICROFILMED

OCT 29 2003

Description of the Water Right



MICROFILM

OCT 23 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 19, 2003

KIMBALL PROPERTIES LIMITED PARTNERSHIP
PO BOX 8204
BOISE ID 83707-2204

RE: Permit No. 63-31687

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

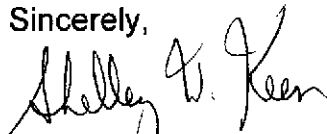
MICROFILMED

SEP 16 2003

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-327-7946.

Sincerely,



Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

cc: SCANLAN ENGINEERING

MICROFILMED
SEP 16 2003

CERTIFICATE OF SERVICE

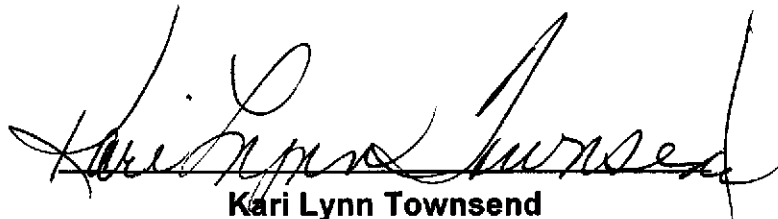
I hereby certify that on August 19, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

63-31687

**KIMBALL PROPERTIES LIMITED PARTNERSHIP
PO BOX 8204
BOISE ID 83707-2204**

**SCANLAN ENGINEERING
C/O TERRY SCANLAN
600 E RIVER PARK LN STE 105
BOISE ID 83706**



**Kari Lynn Townsend
Secretary**

**MICROFILMED
SEP 16 2003**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document 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 of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing 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 this 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 fourteen (14) 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 this 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 with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director 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 Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director 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 Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director 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 Director 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.

MICROFILMED
SEP 16 2003

RECEIVED
AUG - 7 2003

Department of Water Resources
**IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET**



Initial review by DAW Date 4-1-03 Application # 63-31687

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, the names and addresses for the director, officers, and other partners must be included)
- ☒ Address
- ☒ Source (See USGS Quad for names of water sources)
- ☒ Point of Diversion (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ County
- ☒ Quantity (Flow and/or Volume)
- ☒ Period of use
- ☒ Nature of proposed use (Include description of use)
- ☒ Description of diverting works
- ☒ Time required for beneficial use of water
- ☒ Place of use or acres irrigated
- ☒ Map (Show T, R, S, QQ &/OR QQQ)
- N/A Subdivision plat (for > 1 home in restricted area $\geq$ 5 homes in non-restricted area)
- ☒ Signature (if applicant is corporation, partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid

Government Lots
NO P/D
NO P/U

ADDITIONAL INFORMATION

ADDITIONAL REMARKS (YES or NO)

YES NO

- ☒ Overlapping place of use (Describe source and relationship to present application on next page) Original Piu was overlapped by SETTERS + TRAIL. Dist
- ☒ Overlapping point of diversion New Piu is overlapped by Nampa Meridian IRRIG. Dist.
- ☒ Critical groundwater area one overlapping right for new Piu
- ☒ Ground water management area 3 overlapping rights for old Piu
- ☒ 1992 moratorium mitigation proposed
- ☒ Surface water source, IDFG letter needed
- ☒ Protected river or minimum flow reach, notify water planning bureau
- ☒ E-mail to Dam Safety staff (for any storage)
- ☒ Mitigation plan Check any that apply
- ☒ Immediate = acceptable plan required and submitted
- ☒ Future = open areas, acceptance of condition of approval is in file
- ☒ Send power requirement letter &/or fish farm requirement letter
- ☒ Power residency affidavit
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres (if YES, attach Large Diversion supplementary analysis sheet)
- ☒ REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

MITIGATION PLAN PROPOSED. I THINK IT SHOULD BE ACRF FOR QCRF.

Date Requested _____ Date Response Received _____

PROCESSINGAPPLICATION # 63-

YES NO

☒ In form for advertising
☒ Statewide advertising (> 10 cfs &/or 1000 af)
☒ Fee amount, receipt number, and date recorded on application

SEND COPIES TO NOTE IF E-MAIL COMMENT LETTER USED

YES NO

☒ I.D. Environmental Quality
☒ I.D. District Health
☒ I.D. Fish & Game
☒ I.D. Lands

YES NO

☒ US BLM
☒ US Forest Service
☒ Water Dist #
☒ Water Planning Bureau
☒ Other

FINAL REGIONAL PROCESSING REVIEW

YES NO

☐ Affidavit of publication received
☐ Application published correctly? If not, record action taken

☐ Publication dates and paper recorded on application

☐ Final date for protest 6-23-03

☐ Protests received

☒ Recommendations attached

☒ Measuring device required

☒ Water delivered by water master? District #

☐ Special conditions of approval or cover letter

located in the SE 1/4 NW 1/4, Section 31, T4N, R1E
Annual volume diverted shall not exceed 27 acre feet.
Six acres of water right no. 63-8796, shall ~~not~~ no longer be irrigated. 065, 104

Recommended Date of Priority 5/19/03

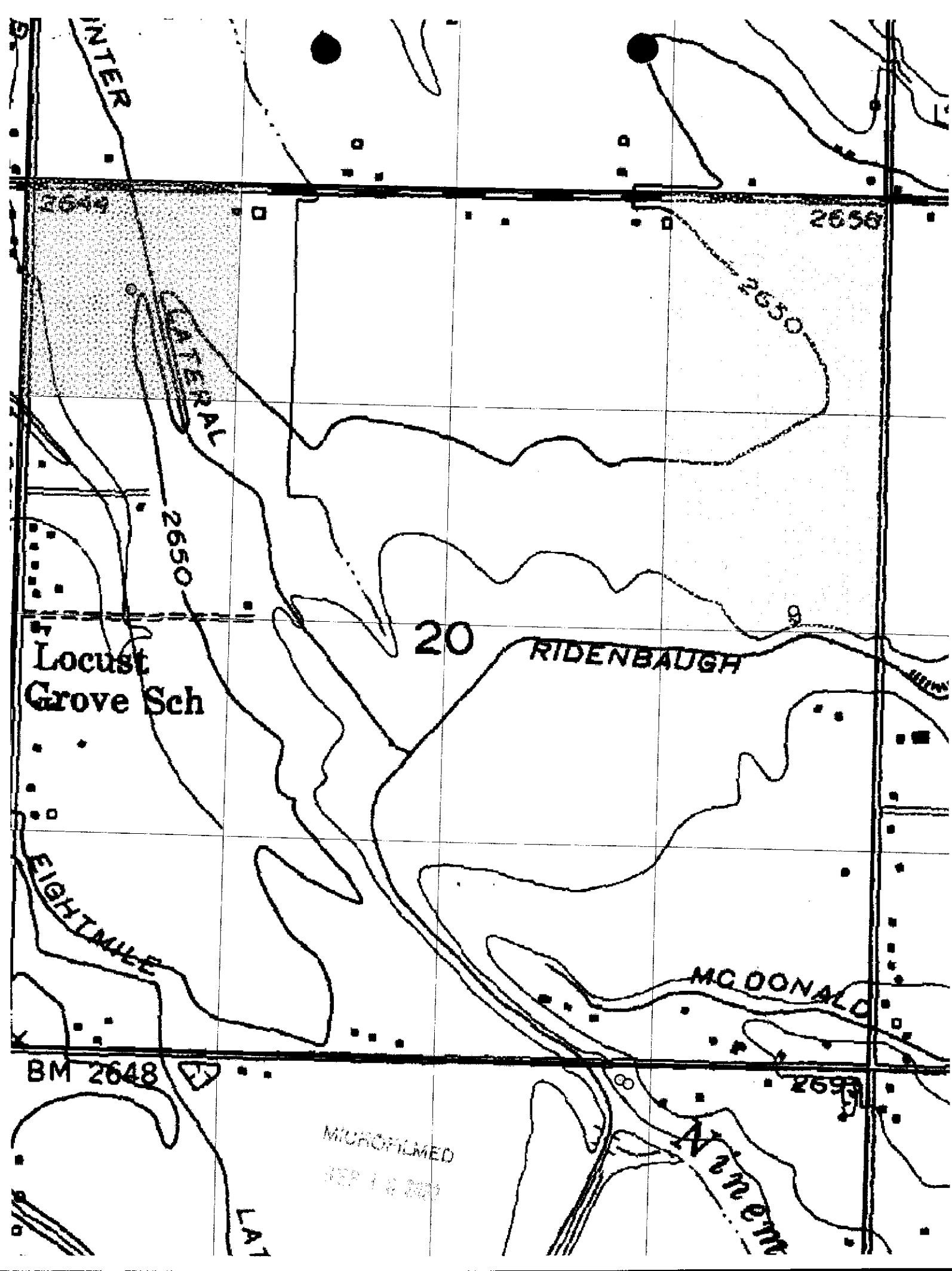
Recommendation ☒ Approve ☐ Deny by Gay Date 8/5/03

ADDITIONAL INFORMATION

☒ See attached proof report, note any Legal Notice Remarks &/or Comments

☒ See attached shapefile

See Letter Dated 7-28-03 From W.H. Moore Company FOR PRIORITY DATE Recommendation



INTER

2644

2656

2650

2650

LATERAL

Locust
Grove Sch

20

RIDENBAUGH

EIGHT MILE

BM 2648

McDONALD

2652

MICROFILMED
SEP 1 8 2003

LAT

Amenem

MEMORANDUM

TO: Shelley Keen
FROM: Steve Lester
DATE: April 11, 2003
RE: Mitigation Plan for Application for Permit No. 63-12070

Application 63-12070 is held at the State Office under the "processing hold." The application was forwarded for approval in the 1995-1996 reprocessing exercise. Further legal notice is not needed if part of the application can be approved under the mitigation plan proposed by Scanlan. The plan does not present any significant problems as seen below.

License 63-8796 is fully claimed in the SRBA under the same number and by the same owners, Wyoma or Frank Ham. The claim clarifies the P/D to 10 acres but otherwise matches the license. The P/U is about two miles south of Eagle Island near Meridian.

A transfer application is not being filed to relocate part of 63-8796. This might be because (a) a new permit offers an easier and quicker route, and/or (b) a transfer might raise issues of ground water tributary to the Boise River near Meridian being moved to a site east of Kuna where ground water might be tributary to the Snake River. The latter issue has arisen in previous mitigation plans in which the department approved the plans without going to that level of detail ("all within Basin 63 so okay"). The same approach appears acceptable here.

63-8796 was examined in 1982 and licensed in 1988. The right was claimed in 1989, tolling forfeiture. 1987 NAPP information suggests forfeiture did not occur within five years before the claim was filed. Irrigation has continued as seen in the 2000 photo in the sales agreement included with the mitigation plan. Initially filed for supplemental use according to the original application, the mitigation plan states 63-8796 has been the only right used on the licensed P/U. We have accepted such statements at face value before and should in this case, also.

SRBA recommendations remain to be done but information at hand suggests the claim will be fully recommended.

The license provides 0.015 cfs and 4.5 afa diversion volume per acre. The licensed duty of water for 10 acres is 0.15 cfs and 45 afa.

The mitigation plan offers 0.20 cfs and 45 afa for retirement of 10 acres under 63-8796.

APR 14 2003

But the sales agreement states the land to be retired will provide 0.15 cfs ("10 acres, or 10/68, portion"). This minor difference should not be a problem in the world of mitigation, particularly since annual volume is often more important than a diversion rate in ground water scenarios. Allow 0.15 cfs under the license to compensate 0.20 cfs under the application provided that volume does not increase.

The plan proposes to split Application 63-12070 into a part approved under the mitigation plan and a part to remain in the "processing hold." We used to routinely do such splits but have veered away from the practice in recent years. But I think we should honor this request. Why cause extra work and expense for the applicants and the department simply to advance the priority of the portion not being mitigated?

Recommendations

1. The mitigation plan appears acceptable. It is as good if not better than many approved mitigation plans for Basin 63.
2. Application 63-12070 can be handled without returning the file to Western Region for additional processing.
3. Wyoma or Frank Ham filed adjudication Claim 63-8796. The mitigation plan details an agreement between seller *Renata* Ham and buyer Cantlon. Cantlon should file an ownership change to split the claim. The ownership change should document the transition from Wyoma or Frank to Renata and then to Cantlon.
4. Cantlon should relinquish, in writing, that split portion of the claim. This approach offers a permanent, decipherable trail in the database.
5. Vicki Cantlon might want to amend 63-12070 prior to approval to include Roger Cantlon as noted in the mitigation plan and sales agreement. Split Application 63-12070 as proposed and approve the portion being mitigated. Allow the balance to remain on hold. Application approval should follow a successful ownership change and relinquishment process for a portion of 63-8796.
6. Apply standard conditions to the approved part of 63-12070. Include a 200-300 ft. water bearing zone. Identify the mitigation upon which the approval is based. Diversion volume will be limited by definition to a maximum of 45 afa based on the number and location of the acres to be irrigated. "Possible future mitigation" is not applicable since the new use will already be mitigated.
7. An alternative to recommendations 3 through 5 is to approve part of the application and include conditions requiring those steps to be completed in a timely manner.



W.H. MOORE
C O M P A N Y

Real Estate Development

600 N. STEELHEAD WAY, SUITE 144 (83704)
P.O. BOX 8204
BOISE, IDAHO 83707-2204

TELEPHONE (208) 323-1919 / FAX 323-7523

RECEIVED

AUG 01 2003

WATER RESOURCES

July 28, 2003

Dan Nelson
Western Region Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Subject: Priority Date for Application 63-31687 (Kimball Properties Limited Partnership)

Dear Mr. Nelson:

We understand that legal notice for the above referenced Application for Permit incorrectly listed a proposed date of priority of May 19, 2003, instead of the February 10, 2003 date when the application was received by your Department. We are very anxious to begin drilling, and hope to have a well completed by mid September of this year. To meet this schedule, we would prefer to avoid the delay associated with re-advertising the legal notice to correct the priority date error. Therefore, we are willing to accept the May 19, 2003 priority date for permit 63-31687. In doing so, we ask that you assist us by either (1) promptly completing the final processing and approval of the permit or (2) approving an expedited drilling permit to allow well construction to begin by September 1, 2003.

Sincerely,

Winston H. Moore
By [Signature], atty-in fact

Winston H. Moore, Managing Partner
Kimball Properties Limited Partnership

Cc: Terry Scanlan

MICROFILMED

AUG 1 2003

The Idaho Statesman

P.O. Box 40, Boise, Idaho 83707-0040

LEGAL ADVERTISING PROOF OF PUBLICATION

Account #	DTI#	Identification	Amount:
047628	887798	APPLICATION 63-31687	\$115.00
Attention:		P.O. #	Run Dates
SUE TAYLOR			JUNE 5, 12, 2003
IDAHO DEPT. WATER RESOURCES WEST 2735 AIRPORT WY. BOISE, ID 83705			Number of Lines 2 X 32
			Affidavit 1
			Legal # 16593

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho: 63-31687

KIMBALL PROPERTIES LIMITED PARTNERSHIP
PO BOX 8204
BOISE ID 83707-2204

Point(s) of Diversion SENE S20 T03N R01E ADA County Source GROUND WATER

Use: IRRIGATION 01/01 To 12/31 0.48 CFS 27 AFA
Total Diversion: 0.48 CFS 27 AFA

Date Filed: 05-20-2003
Place of Use: IRRAWADDY
T03N R01E S20 NENE SENE
Number of Acres 24

Remark: Applicant has proposed mitigation for consumptive use. Water bearing zone to be appropriated is from 75 to 350 feet.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 06/23/2003. The protestant must also send a copy of the protest to the applicant.

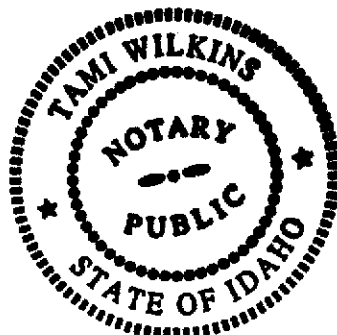
KARL J DREHER, Director

Pub. June 5, 12, 2003

RECE

JUN 1

WATER RESOURCES
WESTERN REGION



JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of *The Idaho Statesman*, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in *The Idaho Statesman*, in conformity with Section 60-108, Idaho Code, as amended, for:

TWO

☒ consecutive weekly ☐ single
☐ consecutive daily ☐ odd skip
insertion(s)

beginning issue of: JUNE 5, 2003

ending issue of: JUNE 12, 2003

Janice Hildreth

TE OF IDAHO)

.SS

JNTY OF ADA)

On this 12 day of JUNE in the year of 2003 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Tami Wilkins

Notary Public for Idaho

Residing at: Boise, Idaho

My Commission expires: 9-30-08

MICROFILMED

SEP 16 2003

The Idaho Statesman

P.O. Box 40, Boise, Idaho 83707-0040

LEGAL ADVERTISING PROOF OF PUBLICATION

Account #	DTI#	Identification	Amount
047628	887798	APPLICATION 63-31687	\$115.00
Attention:		P.O. #	Run Dates
SUE TAYLOR			JUNE 5, 12, 2003
IDAHO DEPT. WATER RESOURCES WEST 2735 AIRPORT WY. BOISE, ID 83705			Number of Lines
			2 X 32
			Affidavit
			Legal #
			1 16593

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KIMBALL PROPERTIES LIMITED PARTNERSHIP
PO BOX 8204
BOISE ID 83707-2204

Point(s) of Diversion SENE S20 T03N R01E ADA County Source GROUND WATER

Use: IRRIGATION 01/01 To 12/31 0.48 CFS 27 AFA
Total Diversion: 0.48 CFS 27 AFA

Date Filed: 05/19/2003
Place Of Use: IRRIGATION
T03N R01E S20 NENE SENE
Number of Acres 24

Remark: Applicant has proposed mitigation for consumptive use. Water bearing zone to be appropriated is from 75 to 350 feet.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 06/23/2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Pub. June 5, 12, 2003

16593

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TWO

☒ consecutive weekly ☐ single
☐ consecutive daily ☐ odd skip
insertion(s)

beginning issue of: JUNE 5, 2003

ending issue of: JUNE 12, 2003

Janice Hildreth

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 12 day of JUNE in the year of 2003 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Jami Wilkins

Notary Public for Idaho

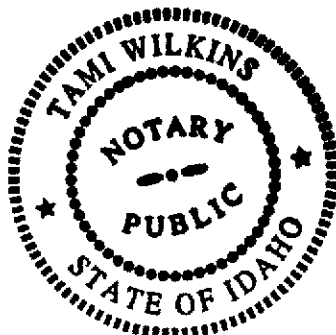
Residing at: Boise, Idaho

My Commission expires: 9-30-08

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JUN 16 2003

WATER RESOURCES
WESTERN REGION



SCANLAN ENGINEERING

Groundwater and Environmental Engineering

May 3, 2003

Dan Nelson
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

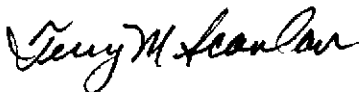
Subject: Mitigation for Kimball Properties Application for Permit

Dear Dan:

Enclosed is a revised mitigation plan for the application for permit submitted by Kimball Properties earlier this year. Based on your recommendation, the mitigation plan has been revised to increase the annual diversion volume from 24 acre feet to 27 acre feet. This change is based on current Western Region IDWR policy to recognize the IDWR standard diversion volume (in this case, 4.5 acre feet per acre) for purposes of mitigation plans. The first page of the application has been amended to show 27 acre feet rather than 24 acre feet as the annual diversion volume.

Please contact me with any questions.

Sincerely,



Terry M. Scanlan, P.E.

Cc: Jonathan Seel

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SEP 16 2003

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

RECEIVED
MAR 03 2003
WATER RESOURCES
WESTERN REGION

February 27, 2003

Steve Lester
Western Region Water Rights Supervisor
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Subject: Application for Permit – Kimball Properties Limited Partnership

Dear Steve:

As a follow-up to the application for permit that I submitted February 7 on behalf of W.H. Moore Company and Kimball Properties Limited Partnership, enclosed is a copy of the purchase and sale agreement for the 6-acre portion of irrigation water right 63-8796 proposed for mitigation. Also enclosed is proof of ownership documentation for water right 63-8796.

Please contact me with any questions.

Sincerely,



Terry M. Scanlan, P.E., P.G.

Cc: Jonathan Seel – W.H. Moore Company
Jeff Fereday – Givens Pursley

MAILED

SEP 16 2003

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

RECEIVED

FEB 10 2003

WATER RESOURCES
WESTERN REGION

February 7, 2003

Steve Lester
Western Region Water Rights Supervisor
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Subject: Application for Permit – Kimball Properties Limited Partnership

Dear Steve:

On behalf of W.H. Moore Company and Kimball Properties Limited Partnership, I am please to submit the enclosed Application for Permit for appropriation of groundwater for supplemental irrigation at the El Dorado Business Campus. The application proposes a maximum diversion rate of 0.48 cfs and a maximum annual volume of 24 acre feet for supplemental irrigation of 24 acres of landscape.

As described in the attached mitigation plan, the consumptive use proposed by this application will be mitigated by retirement of a 6-acre portion of irrigation groundwater right 63-8796. License 63-8796 has been used since the late 1970s as a primary irrigation water right at a turf farm near Meridian. We understand that right 63-8796 has been used as the sole source of irrigation for the existing place of use, and has been used continuously without a 5-year period of non-use. As a result of this mitigation, we anticipate no detrimental impacts to existing surface water or groundwater rights in the Boise River Basin. Therefore, we seek an exemption from the Administrative Processing Hold in the Boise River Basin, and ask that the Department proceed with processing of this application.

Kimball Properties Limited Partnership is in the process of finalizing the purchase agreement for the 6-acre irrigation water right proposed for mitigation, and we expect to forward a copy of the purchase agreement to your office within the next two weeks.

A check for the \$250.00 filing fee is enclosed. Please contact me with any questions.

Sincerely,



Terry M. Scanlan, P.E., P.G.

Cc: Jonathan Seel – W.H. Moore Company
Jeff Fereday – Givens Pursley

MICROFILMED

SEP 10 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 28, 2003

Legal Notice Department

IDAHO STATESMAN

PO BOX 40

BOISE ID 83707

RE: Application for Permit No. 63-31687 and No. 63-31688

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 06/23/2003. Your cooperation is appreciated.

Sincerely

Sue Taylor
Senior Secretary

Microsoft Word

SEP 1 2 2003

AFFIDAVIT OF RENATA HAM

MICROFILM

Excluded

SEP 12 2001

(Water Right Nos.

63-10566, 63-9972, 63-8796)

RECEIVED

MAR 03 2003

**WATER RESOURCES
WESTERN REGION**

TABLE OF CONTENTS

AFFIDAVIT OF RENATA HAM

(Water Right Nos. 63-10566, 63-9972, and 63-8796)

<u>TAB</u>	<u>CONTENTS</u>
1.	AFFIDAVIT OF RENATA L. HAM, also known as RENATA L. MOON
A.	Legal Description Of Property
B.	Water License Copies
	B-1 63-10566
	B-2 63-9972
	B-3 63-8796
C.	Deed from Frank and Wyoma Ham to Gayle and Renata Ham
D.	Court Appointment of Personal Representative of Sheldon Gayle Ham
E.	Aerial Photos
	E-1 1987
	E-2 1994
	E-3 2000 (includes field designators)
F.	Goldsmith Option Reserving Water Rights
G.	Representative Lease
H.	Deed from MEDCO Farms
I.	Quitclaim of Water Right from Maclocust
J.	Lender Quitclaim

AFFIDAVIT OF RENATA L. HAM

Renata L. Ham, of legal age and of her own personal knowledge, states as follows:

1. I am the owner or recent seller of approximately 122 acres of agricultural land more fully described on Exhibit A attached hereto (the "Property") in the N ½ of Section 31, T4N, R1E, BM, near Meridian, Idaho. The Property is being developed into a residential subdivision, and I have sold certain portions of it to the subdivision developer. In these sales, I have reserved to myself or re-acquired by deed the three licensed irrigation ground water rights that have been used on the Property: licensed rights Nos. 63-10566, 63-9972, and 63-8796 attached hereto as Exhibits B-1, B-2, and B-3, respectively (together, the "Water Rights"). Each of these rights is appurtenant to a separate portion of the Property.

2. The Water Rights divert from a common point of diversion, a 16-inch-diameter well in the N/W ¼ of the N/E ¼ of Section 31, T4N, R1E. The well is 239 feet deep and has always provided a reliable water supply. The well is still operational and was in use in the 2002 irrigation season.

3. Beginning in 1976, the Property has been operated and irrigated with the Water Rights as a turf-growing operation known, first, as Wyasan Turf Farm. In approximately 1991, the farm's name was changed to Stonecreek Turf, an assumed business name of the general partnership of Sheldon Gayle Ham (dec'd) and Renata Ham ("Stonecreek").

4. I am very familiar with the operation of Stonecreek, having been the co-owner and manager of the company since 1993. In these capacities I assisted in the management and operation of the turf business. I am familiar with how and where ground water, diverted under the Water Rights, has been used on the Property.

5. All three Water Rights were licensed in the name of Frank and Wyoma Ham, my parents-in-law. The Ham's son, the late Gayle Ham, was my husband. Gayle and I acquired the Property and all three water rights from Frank and Wyoma by deed dated June 17, 1997, a copy of which is attached as Exhibit C. We operated the turf business thereafter. Gale died suddenly on June 18, 2001 leaving me the Property (including all water rights) and his interest in Stonecreek. I have been appointed by the court as the personal representative of Gayle's estate, as noted on Exhibit D. We had never filed with the Idaho Department of Water Resources a change of ownership form memorializing the change in ownership of the water rights from Frank and Wyoma to Gayle and me.

6. I have remarried and now am married to Todd Moon. However, I have not yet officially changed my name. Therefore, for purposes of the land and water

right transactions discussed in this Affidavit, I have decided to continue using the surname of my late husband.

7. In managing the turf business, Stonecreek divided the Property into five separate turf fields, numbered one through five. These are depicted on Exhibit E-3 to this Affidavit. Historical aerial photos of the Property are included as Exhibits E-1 and E-2 for reference. The basic facts about each of the fields are as follows (all acreages listed below are within Section 31 of T4N, R1E, BM, and should be understood to be modified by the phrase "more or less"):

a. Field 1 (Water right license 63-10566/See Exhibit B-1):

- i. Consists of 24 irrigated acres in the N/E $\frac{1}{4}$ of the N/E of Section 31 (19 acres) and the N/W $\frac{1}{4}$ of the N/E $\frac{1}{4}$ of Section 31 (5 acres).
- ii. The field is owned by Renata Ham, subject to an option to purchase it held by Martin Goldsmith. The option, a copy of which is attached as Exhibit F, excludes the ground water right from the sale.
- iii. Has been continuously irrigated in each irrigation season solely with licensed ground water right 63-10566 since a permit was granted for this water right in early 1988. The license for this water right was issued in 1994. The place of use on this license describes the same 24 acres described above.
- iv. Last irrigated April 17, 2001.

b. Fields 2, 3, and 4 (Water right license 63-8796/See Exhibit B-3):

- i. Together consist of 68 acres in the N/W $\frac{1}{4}$ of the N/E $\frac{1}{4}$, and the S/W $\frac{1}{4}$ of the N/E $\frac{1}{4}$, and the N/E $\frac{1}{4}$ of the N/W $\frac{1}{4}$, and the S/E $\frac{1}{4}$ of the N/W $\frac{1}{4}$ of Section 31.
- ii. These fields were owned from March, 1978 until May 31, 2002 by MEDCO FARMS, an Idaho general partnership, but leased to Gayle Ham and me, Renata Ham, husband and wife, for use in the Stonecreek business pursuant to annual leases such as that attached as Exhibit G. Prior to the leases to Gayle and me, Frank and Wyoma Ham had similar leases on Fields 2, 3, and 4. As I have previously explained, Frank and Wyoma obtained the ground water right (No. 63-8796) on Fields 2, 3, and 4, and I now own that water right.

- iii. Since a permit was granted for this water right in May 1977, Fields 2, 3, and 4 have been continuously irrigated by Stonecreek in each irrigation season solely with licensed ground water right 63-8796. The license for this right was issued in 1988.
- iv. The place of use under water right 63-8796 is this same 68-acre parcel.
- v. The specifics of Fields 2, 3, and 4 are as follows:
 - 1. Field 2 consists of 22 acres. Twelve acres of Field 2 still are being irrigated for the Stonecreek operation. The other ten acres were last irrigated on November 1, 2002.
 - 2. Field 3 consists of 23 acres. Field 3 was last irrigated on August 4, 2001.
 - 3. Field 4 consists of 23 acres. Field 4 was last irrigated on May 28, 2002.
- vi. I exercised a purchase option I held on Fields 2, 3, and 4 and purchased them from Medco on May 31, 2002. The deed from Medco to me is attached as Exhibit H. I then sold them on May 31, 2002 to MACLOCUST, L.L.C., an Idaho limited liability company. Due to an oversight, the deed to MACLOCUST, L.L.C. did not reserve to me the ground water right on this property as the contract of sale required. Accordingly, MACLOCUST, L.L.C. quitclaimed the water right to me on January 8, 2003. A copy of the water right quitclaim deed is attached as Exhibit I. I received a quitclaim and release of mortgage on the Water Rights on February 7, 2003, a copy of which is attached as Exhibit J.

c. Field 5 (Water right license 63-9972/See Exhibit B-2):

- i. Consists of 28 irrigated acres in the S/W $\frac{1}{4}$ of the N/E $\frac{1}{4}$ of Section 31.
- ii. 14 acres of Field 5 were last irrigated on August 18, 2001; the other 14 were last irrigated on August 8, 2002.
- iii. I still own Field 5, subject to an option to purchase Field 5 which is held by Martin Goldsmith, who is a principal in MACLOCUST, L.L.C. The option, a copy of which is

attached as Exhibit F, excludes the ground water right from the sale.

8. The Property lies within the Settlers Irrigation District ("Settlers"), and is entitled to receive surface water from Settlers for irrigation. A ditch carrying water from Settler's runs along the eastern boundary of Field 5, and annual assessments to Settlers for the Property have been paid. However, no surface water, from Settlers or any other entity, has been used on the Property since the ground water permits were obtained. Since that time, the Property has been irrigated solely with ground water diverted under the Water Rights.

9. In my experience, using surface water is impractical for irrigating a commercial turf operation. In my role as a manager of the turf farm, I became informed that, before the well was installed, Frank Ham and his son (and my former husband) Gayle Ham, initially did use surface water from Settlers to irrigate the turf farm. This proved infeasible because the weed seed, chemical wastes, and other wastes present in the ditch water produced an inferior turf product that could not compete in the marketplace. Furthermore, the timing of ditch supplies was not reliable enough for the exacting requirements of turf. We often need to begin irrigating as early as March 15, and we continue irrigating as late as November 15 in many years. Settlers usually begins providing water in April and ends deliveries in October. Using ditch water also would require installing two separate pumping systems to pressurize the sprinklers. Although it was attempted before the ground water rights were acquired, it simply has never been practical to use surface water to irrigate this turf farm.

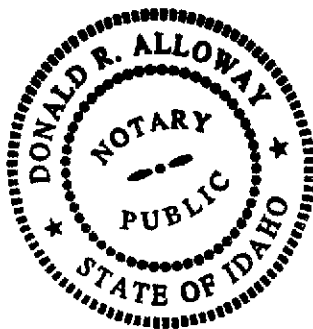
10. Even though water right 63-10566 is licensed as a "supplemental" water right, it has been used as the sole source of irrigation water for Field 1 during each irrigation season since the permit for this right was acquired in 1988. The reason for this is that using surface water was not possible for this economic use. Again, no surface water has been used since before the dates the respective Water Rights were established.

11. In the spring of 2001, I began closing the turf growing operation and have sold 68 acres of the land to the developers of Havasu Creek Subdivision for a residential housing development. I since have entered contracts to sell another 53 acres. In these transactions, I have reserved the Water Rights to myself (or, as explained above in paragraph 6.b.vi, received a quitclaim deed from the buyer for the water rights). As stated above, I continued turf farming on approximately ten of these acres during the 2002 season, but anticipate ceasing these uses in the near future as the entire parcel is sold and developed.

12. I have reviewed aerial photographs of the Stonecreek operation from 1987 (Exhibit E-1) and 1994 (Exhibit E-3) and I have noted that the nearly square parcel


Renata L. Ham

Subscribed and sworn before me this 11th day of February, 2003.



AFFIDAVIT OF RENATA L. HAM—5
S:\CLIENTS\65581\RENATA HAM AFFIDAVIT.DOC

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT "A"

PARCEL I

A PARCEL OF LAND LOCATED IN THE NORTH 1/2 NORTHEAST 1/4 OF SECTION 31 OF TOWNSHIP 4 NORTH AND RANGE 1 EAST OF THE BOISE MERIDIAN, ADA COUNTY, IDAHO. THE PARCEL IS ALSO DESCRIBED AS LOT 8 AND PART OF LOT 9 OF CRESTWOOD SUBDIVISION NO. 1, MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 31; THENCE SOUTH ALONG THE EASTERLY SECTION LINE OF SAID SECTION 31, A DISTANCE OF 660.00 FEET TO A POINT; THENCE SOUTH 89 DEGREES 41 MINUTES 53 SECONDS WEST, (FORMERLY SOUTH 89 DEGREES 40 MINUTES 27" WEST), A DISTANCE OF 33.00 FEET TO A POINT, THE NORTHEAST CORNER OF SAID LOT 8, THE REAL POINT OF BEGINNING; THENCE SOUTH ALONG THE EASTERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1, A DISTANCE OF 495.52 FEET TO AN IRON PIN; THENCE SOUTH 88 DEGREES 54 MINUTES 35 SECONDS WEST, A DISTANCE OF 475.48 FEET TO AN IRON PIN; THENCE SOUTH A DISTANCE OF 167.06 FEET TO AN IRON PIN ON THE SOUTHERLY BOUNDARY OF SAID LOT 8; THENCE SOUTH 89 DEGREES 39 MINUTES 49 SECONDS WEST ALONG THE SOUTHERLY BOUNDARY OF SAID LOT 9, A DISTANCE OF 1137.90 FEET TO AN IRON PIN, THE SOUTHWEST CORNER OF SAID LOT 9 OF THE CRESTWOOD SUBDIVISION NO. 1; THENCE NORTH 0 DEGREE 01 MINUTES 41 SECONDS EAST (FORMERLY NORTH 0 DEGREE 02 MINUTES 20 SECONDS EAST), ALONG THE WESTERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1, A DISTANCE OF 664.91 FEET TO AN IRON PIN, THE NORTHWEST CORNER OF SAID LOT 8; THENCE NORTH 89 DEGREES 28 MINUTES 18 SECONDS EAST, A DISTANCE OF 1396.02 FEET, (FORMERLY NORTH 89 DEGREES 28 MINUTES 32 SECONDS A DISTANCE OF 1395.89 FEET), TO AN IRON PIN ON THE NORTHERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1; THENCE NORTH 89 DEGREES 41 MINUTES 53 SECONDS EAST, (FORMERLY NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST), ALONG THE NORTHERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1, A DISTANCE OF 217.00 FEET TO THE REAL POINT OF BEGINNING.

PARCEL II

PART OF THE SOUTHWEST 1/4 NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 4 NORTH, RANGE 1 EAST, BOISE MERIDIAN, ADA COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
FROM THE QUARTER CORNER COMMON SECTIONS 31 AND 32, TOWNSHIP 4 NORTH, RANGE 1 EAST, BOISE MERIDIAN, THENCE SOUTH 89 DEGREES 58' WEST 1320.00 FEET ALONG THE EAST WEST MID SECTION LINE TO THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31; THENCE NORTH 0 DEGREES 03' EAST 10.00 FEET ALONG THE ONE-SIXTEENTH LINE TO THE POINT OF BEGINNING; THENCE NORTH 0 DEGREES 03' EAST 987.48 FEET; THENCE NORTH 89 DEGREES 58' WEST 1317.89 FEET TO A POINT ON THE NORTH SOUTH MID SECTION LINE OF SECTION 31; THENCE

EXHIBIT A

PAGE 1 OF 4

CONTINUED

COMMITMENT FOR TITLE INSURANCE

File Number: P152788

SOUTH 0 DEGREES 05' WEST 978.79 FEET ALONG SAID NORTH SOUTH MID SECTION
LINE TO A POINT WHICH IS NORTH 0 DEGREES 05' EAST 20.00 FEET FROM THE
CENTER OF SECTION 31; THENCE
SOUTH 89 DEGREES 36' EAST 1320.45 FEET TO THE POINT OF BEGINNING.

END OF LEGAL DESCRIPTION

PARCEL III

The East 30 acres of the Northeast quarter of the Northwest quarter; the East 15 acres of the North half of the Southeast quarter of the Northwest quarter; the Southwest quarter of the Northwest quarter of the Northeast quarter; the West half of the Southeast quarter of the Northwest quarter of the Northeast quarter; the Southwest quarter of the Northeast quarter, All in Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho.

EXCEPT THEREFROM the Northeast quarter of the Northeast quarter of the Southwest quarter of the Northeast quarter of said Section 31.

ALSO EXCEPT the tract of land described as follows:

From the quarter corner common to Sections 31 and 32, Township 4 North, Range 1 East of the Boise Meridian; thence

South 89°58' West 1320.20 feet along the East West mid-section line to the Southwest corner of the Southeast quarter of the Northeast quarter of Section 31; thence

North 0°03' East 10.00 feet along the 1/16 line to the POINT OF BEGINNING; thence

North 0°03' East 987.48 feet; thence

North 89°58' West 1317.89 feet to a point on the North South mid-section line of Section 31; thence

South 0°05' West 978.79 feet along said North South mid-section line to a point which is North 0°05' East, 20 feet from the center of Section 31; thence

South 89°36' East, 1320.45 feet to the POINT OF BEGINNING, All in the Southwest quarter of the Northeast quarter of Section 31, Township 4 North, Range 1 East of the Boise Meridian, Ada County, Idaho.

AND FURTHER EXCEPTING ditch and road rights of way.

EXHIBIT A PAGE 3 OF 4 EXHIBIT A

Agency - Summer 2000

EXHIBIT

A

PAGE

4

OF

4

EXHIBIT

B-1 LICENSE 63-10566

B-2 LICENSE 63-9972

B-3 LICENSE 63-8796

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-10566

Priority: August 3, 1989

Maximum Diversion Rate:

0.48 CFS

Maximum Diversion Volume:

108.0 AF

This is to certify, that FRANK N HAM
WYOMA HAM

4415 N LOCUST GROVE
MERIDIAN ID 83642

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 11, 1988; and has submitted Proof of Beneficial Use on August 3, 1989. An examination indicates that the works have a diversion capacity of 2.490 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	0.48 CFS	108.0 AF

LOCATION OF POINT(S) OF DIVERSION:

NWNE , Sec. 31, Township 04N, Range 01E
ADA County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
04N	01E	31	NENE 19	NWNE 5		24

Total number of acres irrigated: 24

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount that can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.
6. The right holder shall fully use all surface water rights appurtenant to the lands identified above prior to using water under this right.
7. Rights 63-08796 and 63-09972 are also diverted through point of diversion described above.

OCT 21 1994

B-1

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-09972

Priority: December 9, 1983

Maximum Diversion Rate:
Maximum Diversion Volume:¹

0.60 CFS
135.0 AF

This is to certify, that FRANK N. HAM
WYOMA HAM

4415 N. LOCUST GROVE
MERIDIAN, ID 83642

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 21, 1983; and has submitted Proof of Beneficial Use on January 17, 1989. An examination indicates that the works have a diversion capacity of 2.490 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	0.60 CFS	135.0 AF

LOCATION OF POINT(S) OF DIVERSION: NWNE , Sec. 31, Township 04N, Range 01E
ADA County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
04N 01E 31	SWNE 30			30

Total number of acres irrigated: 30

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.

MICROFILMED

SEP 18 1990

B-2 5"

WATER RIGHT LICENSE

WATER RIGHT NO. 63-8796

Priority: May 9, 1977

Amount: 1.05 CFS

306.0 AFA

This is to certify, that FRANK N. HAM
WYOMA HAM

4415 N. LOCUST GROVE
MERIDIAN, ID 83642

has complied with the terms and conditions of the permit issued pursuant to Application for Permit dated May 9, 1977, and has submitted proof to the Department of Water Resources on May 13, 1982, that water has been applied to a beneficial use; an examination by the Department indicates that the works have a diversion capacity of 1.05 cfs of water from a GROUNDWATER source and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Irrigation	03/15 to 11/15	1.05 cfs	306.0 afa

LOCATION OF POINT OF DIVERSION(S): NWNE , Sec. 31, Township 4N, Range 1E
Ada County

PLACE OF USE: Irrigation

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
4N	1E	31	NWNE 15	SWNE 7	NENW 29	SENW 17	68

Total number of acres irrigated: 68

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 1st day of April, 1988.

NOTARIAL SEAL

[Signature]
Director

JUL 06 1988

EXHIBIT C

**Deed from Frank and Wyoma Ham
To Gayle and Renata Ham**



A Pioneer Company

PIONEER TITLE COMPANY
OF ADA COUNTY

8151 W. Rifleman Ave / Boise, Idaho 83704 / (208) 377-2700

cu AH

WARRANTY DEED

(INDIVIDUAL)

FOR VALUE RECEIVED FRANK N. HAM AND WYOMA HAM, HUSBAND AND WIFE

Grantor s, do hereby grant, bargain, sell and convey unto SHELDON G. HAM AND RENATA HAM, HUSBAND AND WIFE

the Grantee s, whose current address is: 11955 W. MESQUITE DRIVE, BOISE, ID 83704 the following described real property in ADA County, State of Idaho, more particularly described as follows, to-wit:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

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

Dated: June 16, 1997

Frank N. Ham *Wyoma Ham*
FRANK N. HAM WYOMA HAM

STATE OF IDAHO, County of ADA, ss.

On this 16 day of June, in the year of 1997, before me PENNY R. COMBS, a notary public, personally appeared FRANK N. HAM AND WYOMA HAM known or identified 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: *Penny R. Combs*
Residing at: MERIDIAN, IDAHO
My Commission Expires: 05/04/00

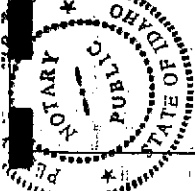


EXHIBIT C
PAGE 1 OF 3

EXHIBIT "A"

PARCEL I

A PARCEL OF LAND LOCATED IN THE NORTH 1/2 NORTHEAST 1/4 OF SECTION 31 OF TOWNSHIP 4 NORTH AND RANGE 1 EAST OF THE BOISE MERIDIAN, ADA COUNTY, IDAHO. THE PARCEL IS ALSO DESCRIBED AS LOT 8 AND PART OF LOT 9 OF CRESTWOOD SUBDIVISION NO. 1, MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 31; THENCE SOUTH ALONG THE EASTERLY SECTION LINE OF SAID SECTION 31, A DISTANCE OF 660.00 FEET TO A POINT; THENCE SOUTH 89 DEGREES 41 MINUTES 53 SECONDS WEST, (FORMERLY SOUTH 89 DEGREES 40 MINUTES 27" WEST), A DISTANCE OF 33.00 FEET TO A POINT, THE NORTHEAST CORNER OF SAID LOT 8, THE REAL POINT OF BEGINNING; THENCE SOUTH ALONG THE EASTERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1, A DISTANCE OF 495.52 FEET TO AN IRON PIN; THENCE SOUTH 88 DEGREES 54 MINUTES 35 SECONDS WEST, A DISTANCE OF 475.48 FEET TO AN IRON PIN; THENCE SOUTH A DISTANCE OF 167.66 FEET TO AN IRON PIN ON THE SOUTHERLY BOUNDARY OF SAID LOT 9; THENCE SOUTH 89 DEGREES 39 MINUTES 49 SECONDS WEST ALONG THE SOUTHERLY BOUNDARY OF SAID LOT 9, A DISTANCE OF 1137.90 FEET TO AN IRON PIN, THE SOUTHWEST CORNER OF SAID LOT 9 OF THE CRESTWOOD SUBDIVISION NO. 1; THENCE NORTH 0 DEGREE 01 MINUTES 41 SECONDS EAST (FORMERLY NORTH 0 DEGREE 02 MINUTES 20 SECONDS EAST), ALONG THE WESTERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1, A DISTANCE OF 664.91 FEET TO AN IRON PIN, THE NORTHWEST CORNER OF SAID LOT 8; THENCE NORTH 89 DEGREES 28 MINUTES 18 SECONDS EAST, A DISTANCE OF 1396.02 FEET, (FORMERLY NORTH 89 DEGREES 28 MINUTES 32 SECONDS A DISTANCE OF 1395.89 FEET), TO AN IRON PIN ON THE NORTHERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1; THENCE NORTH 89 DEGREES 41 MINUTES 53 SECONDS EAST, (FORMERLY NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST), ALONG THE NORTHERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1, A DISTANCE OF 217.00 FEET TO THE REAL POINT OF BEGINNING.

PARCEL II

PART OF THE SOUTHWEST 1/4 NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 4 NORTH, RANGE 1 EAST, BOISE MERIDIAN, ADA COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
FROM THE QUARTER CORNER COMMON SECTIONS 31 AND 32, TOWNSHIP 4 NORTH, RANGE 1 EAST, BOISE MERIDIAN, THENCE SOUTH 89 DEGREES 58' WEST 1320.00 FEET ALONG THE EAST WEST MID SECTION LINE TO THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31; THENCE NORTH 0 DEGREES 03' EAST 10.00 FEET ALONG THE ONE-SIXTEENTH LINE TO THE POINT OF BEGINNING; THENCE NORTH 0 DEGREES 03' EAST 987.48 FEET; THENCE NORTH 89 DEGREES 58' WEST 1317.89 FEET TO A POINT ON THE NORTH SOUTH MID SECTION LINE OF SECTION 31; THENCE

EXHIBIT

PAGE

2 OF 3

CONTINUED

COMMITMENT FOR TITLE INSURANCE

File Number: P152788

SOUTH 0 DEGREES 05' WEST 978.79 FEET ALONG SAID NORTH SOUTH MID SECTION
LINE TO A POINT WHICH IS NORTH 0 DEGREES 05' EAST 20.00 FEET FROM THE
CENTER OF SECTION 31; THENCE
SOUTH 89 DEGREES 36' EAST 1320.45 FEET TO THE POINT OF BEGINNING.

END OF LEGAL DESCRIPTION

EXHIBIT S
PAGE 3 OF 3

EXHIBIT D

**Court Appointment of Personal Representative
of Sheldon Gayle Ham**

COPY

SEP 17 2001

DAVID NAVARRO, Clerk
CLERK OF DISTRICT COURT
IDAHO

1 ROBERT L. ALDRIDGE, CHARTERED
2 Attorney at Law
3 1209 North Eighth Street
4 Boise, Idaho 83702-4297
5 Telephone: (208) 336-9880
6 Fax: (208) 336-9882
7 Idaho State Bar No 1296
8 Attorney for Personal Representative

9 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
10 STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

11 _____)
12 IN THE MATTER OF THE ESTATE OF)
13 Sheldon Gayle Potts,)
14 also known as Sheldon Gayle Ham,)
15 Deceased)
16 _____)

Probate Case No

LETTERS OF ADMINISTRATION

(I.C. §15-3-602 & §15-3-702)

17 Renata Ham is hereby appointed personal representative of the estate of Sheldon Gayle Potts, also
18 known as Sheldon Gayle Ham, deceased, with all authority pertaining thereto. Administration of
19 the estate is unsupervised. These Letters are issued to evidence the appointment, qualification,
20 and authority of the said personal representative.

21 WITNESS: Hon. John F. Dutcher, Magistrate of the District Court, County of Ada, State of Idaho,
22 with the seal of the Court affixed this September 17, 2001.

23 _____
24 Hon. John F. Dutcher, Magistrate

STATE OF IDAHO
COUNTY OF ADA
CLERK OF DISTRICT COURT
IDAHO

Letters of Administration, In the Matter of the Estate of Sheldon Gayle Potts, a.k.a. Sheldon Gayle Ham

EXHIBIT

PAGE

1 OF 2

Page 1

1 STATE OF IDAHO)
2) ss.
3 COUNTY OF ADA)

4 The undersigned, Renata Ham, hereby accepts the appointment to the office of personal
5 representative of the Estate of Sheldon Gayle Potts, also known as Sheldon Gayle Ham, deceased,
6 and does solemnly swear that I will perform, according to law, the duties of personal representative
7 of said estate.

8
9
10 
11 Renata Ham
12 12127 West Patrina Drive
Boise, Idaho 83713
Telephone: (208) 938-9898

EXHIBIT DPAGE 2 OF 2

**EXHIBIT
AERIAL PHOTOS**

E-1 1987

E-2 1994

E-3 2000 (With fields numbered 1-5 for identification)



1987

E-1

magery - Summer 2000

T04N-R01E



1997

Σ-2

EXHIBIT F
GOLDSMITH OPTION

FEB 13 2003

OPTION TO PURCHASE

Givens Pursley, LLP

On this 18 day of October, 2000, in consideration of the payment by Marty Goldsmith, or his assigns ("Optionee"), [REDACTED] ("Option Money"), to be held by Transnation Title Company ("Escrow Agent"), subject to the terms herein, receipt of which is hereby acknowledged by Sheldon Ham ("Optionor"), Optionor grants to Optionee an option to purchase the real property situate in the County of Ada, State of Idaho, described on Exhibits "A" and "B" attached hereto, excepting the "Excluded Parcel" and the "Ground Water Rights," for the price of approximately [REDACTED] upon the following terms and conditions:

- a. Exact purchase price to be [REDACTED] per surveyed acre of said real property (+/- 118 acres).
- b. This Agreement is contingent upon Optionee giving his written acceptance of the condition of the Property within forty-five (45) days of the date hereof. Upon such written acceptance of the condition of the property, Optionee shall pay an additional [REDACTED] Option money and the total of [REDACTED] Option Money shall become nonrefundable.
- c. Optionee's failure to give his written acceptance within said forty-five day period will terminate this Agreement and the Option Money paid shall be refunded to the Optionee.
- d. Optionee may exercise this option by tendering the entire purchase price (less any Option Money paid) to the Escrow Agent on or before December 1, 2001 or the date when Meridian City sewer and water services are developed to any part contiguous to the property (the "Expiration Date"), whichever is sooner.
- e. The Expiration Date for the term of this Option may be extended for two consecutive ninety-day extension periods, provided the Optionee pays to the Optionor additional Option money in the sum of [REDACTED] for each ninety-day extension sought, which payment(s) shall be made, if at all, during the then current term of the Option.
- f. Seller may, at Seller's option, retain a well lot, which shall consist of approximately one-half-acre of the real property described on Exhibit "A," which well lot is at the location of the existing well and shall be surveyed by Optionor, prior to the Expiration Date, to include a sufficient area for the maintenance and continued operation of the well. The well lot, together with the existing pump and well facilities are defined as the "Excluded Parcel" and may be retained, provided Optionor agrees that Optionee may include the well lot as a platted lot in Optionee's proposed residential subdivision should Optionee choose to exclude the well lot from the property optioned herein. In such event, Optionor shall cooperate with Optionee by executing all documents reasonably required to process Optionee's proposed application for a residential subdivision development, including without limitation affidavits of ownership, signing the plat as owner, and signing proposed reasonable restrictive covenants, conditions and restrictions affecting the subdivision. In the event Optionee

OPTIONEE:

Marty Goldsmith
MARTY GOLDSMITH

OPTIONOR:

Sheldon Ham 10-12-00
SHELDON HAM Date

Renata Ham 10-12-00
RENATA HAM Date

STATE OF IDAHO,)
) ss.
County of Ada.)

On this ____ day of October, 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared SHELDON HAM and RENATA HAM, known and identified 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 seal the day and year in this certificate above written.

Notary Public for Idaho
Residing at _____, Idaho
Commission expires: _____

EXHIBIT 1
PAGE 4 OF 17

EXHIBIT A

LEGAL DESCRIPTION OF HAM PROPERTY

PARCEL I

A parcel of land located in the North Half Northeast Quarter of Section 31 of Township 4 North and Range 1 East of the Boise Meridian, Ada County, Idaho. The parcel is also described as Lot 8 and part of Lot 9 of CRESTWOOD SUBDIVISION NO. 1, more particularly described as follows:

BEGINNING at the Northeast corner of said Section 31; thence South along the Easterly section line of said Section 31, a distance of 660.00 feet to a point; thence South $89^{\circ}41'53''$ West, (formerly South $89^{\circ}40'27''$ West), a distance of 33.00 feet to a point, the Northeast corner of said Lot 8, the REAL POINT OF BEGINNING; thence South along the Easterly boundary of CRESTWOOD SUBDIVISION NO. 1, a distance of 495.53 feet to an iron pin; thence South $38^{\circ}54'35''$ West, a distance of 475.48 feet to an iron pin; thence South a distance of 167.06 feet to an iron pin on the Southerly boundary of said Lot 9; thence South $89^{\circ}39'49''$ West along the Southerly boundary of said Lot 9 a distance of 1137.90 feet to an iron pin, the Southwest corner of said Lot 9 of the CRESTWOOD SUBDIVISION NO. 1; thence North $00^{\circ}03'41''$ East (formerly North $00^{\circ}03'20''$ East), along the Westerly boundary of CRESTWOOD SUBDIVISION NO. 1, a distance of 664.91 feet to an iron pin, the Northwest corner of said Lot 9; thence North $89^{\circ}28'18''$ East, a distance of 1395.03 feet, (formerly North $89^{\circ}28'32''$ a distance of 1395.39 feet), to an iron pin on the Northerly boundary of CRESTWOOD SUBDIVISION NO. 1; thence North $89^{\circ}41'53''$ East (formerly North $89^{\circ}40'27''$ East) along the Northerly boundary of CRESTWOOD SUBDIVISION NO. 1, a distance of 217.00 feet to the REAL POINT OF BEGINNING.

PARCEL II

Part of the Southwest Quarter Northeast Quarter of Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho, more particularly described as follows:

From the Quarter corner common to Sections 31 and 32, Township 4 North, Range 1 East, Boise Meridian; thence South $89^{\circ}58'$ West 1320.00 feet along the East West mid section line to the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 31; thence North $00^{\circ}03'$ East 987.48 feet to a point on the North South mid section line of Section 31; thence the POINT OF BEGINNING; thence North $00^{\circ}03'$ East 987.48 feet; thence North $89^{\circ}58'$ West 1317.89 feet to a point on the North South mid section line of Section 31; thence

Continuation of Exhibit A

South 00°05' West 978.79 feet along said North South mid section
line to a point which is North 00°05' East 20.00 feet
from the center of Section 31; thence
South 89°36' East 1320.45 feet to the POINT OF BEGINNING.

LEGAL DESCRIPTION OF MEDCO PROPERTY

PARCEL III

The East 30 acres of the Northeast Quarter of the Northwest Quarter; the East 15 acres of the North Half of the Southeast Quarter of the Northwest Quarter; the Southwest Quarter of the Northwest Quarter of the Northeast Quarter; the West Half of the Southeast Quarter of the Northwest Quarter of the Northeast Quarter; the Southwest Quarter of the Northeast Quarter, all in Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho.

EXCEPT THEREFROM the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter of said Section 31.

EXCEPT ALSO the tract of land described as follows:

From the Quarter corner common to Sections 31 and 32, Township 4 North, Range 1 East of the Boise Meridian; thence South 89°58' West 1320.20 feet along the East-West mid-section line to the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 31; thence North 00°03' East 10.00 feet along the 1/16 line to the POINT OF BEGINNING; thence North 00°03' East 987.48 feet; thence North 89°58' West 1317.89 feet to a point on the North-South midsection line of Section 31; thence South 00°05' West 978.79 feet along said North-South mid-section line to a point which is North 00°05' East, 20 feet from the center of Section 31; thence South 89°36' East, 1320.45 feet to the POINT OF BEGINNING ALL in the Southwest Quarter of the Northeast Quarter of Section 31, Township 4 North, Range 1 East of the Boise Meridian.

FEB 13 2003

ADDENDUM TO OPTION TO PURCHASE

Givens Pursley, LLP

This Addendum is made this ____ day of December 2001, to that certain Option to Purchase dated the 18th day of October, 2000 (the "Agreement"), wherein the Optionor was Sheldon Ham and Renata Ham, who executed the Agreement on October 12, 2000, and the Optionee was Marty Goldsmith.

RECITALS

- A. The Agreement provided for an expiration date of December 1, 2001, subject to two consecutive 90 day extension periods provided the Optionee paid to the Optionor additional option money in the sum of [REDACTED] for each 90 day extension sought.
- B. The Optionee has extended the expiration date to March 1, 2001, by payment of additional money of [REDACTED] and the Optionee has indicated his intent to further extend the expiration date for a second 90 day extension period, by making an additional [REDACTED] payment on or before March 1, 2002.
- C. The Optionee has requested and the Optionor has agreed to provide Optionee with the right to further extend the expiration date for Optionee's option upon the terms and conditions set forth hereunder.

NOW, THEREFORE, for good and valuable consideration, including the mutual covenants contained herein, the parties agree to the following terms:

1. Optionor. Renata Ham represents and warrants that she is the sole successor in interest to the rights of Sheldon Ham under the Agreement and that she has the power and authority to enter into this Addendum as the Optionor.

2. Extension. Subject to the conditions set forth hereunder, Optionor extends the expiration date for the term of the option to purchase the real property situate in the county of Ada, state of Idaho, more particularly described on Exhibit "A" attached to the Agreement and further attached as Exhibit "A" hereto for a one year extension period running from May 29, 2002 through May 29, 2003 (the "One Year Extension").

3. Conditions for Extension. The One Year Extension granted herein is subject to the following conditions precedent. The failure of any such condition will negate and void the One Year Extension granted herein.

(a) Optionee shall have timely exercised his option to extend the expiration date from March 1, 2002 for ninety (90) days to May 29, 2002, by paying Optionor an additional [REDACTED] pursuant to the Agreement, which payment must be made on or before March 1, 2002.

(b) Optionee shall have paid in current funds to Optionor the additional sum of [REDACTED] ("Additional Consideration") on or before May 29, 2002 for the One Year Extension granted herein. The Additional Consideration has been computed by adding ten percent (10%) of the purchase price for the real property described on Exhibit "A" [REDACTED] times 52.14 acres) to the following out-of-pocket costs that will be incurred by Optionor in the event Optionee utilizes the entire One Year Extension: [REDACTED] (real property taxes); [REDACTED] (Settlers' irrigation fees); [REDACTED] (liability insurance).

4. Earlier Termination. Consistent with the Agreement, the expiration date for the option shall continue to be the earlier of the term of the option including the One Year Extension, if validly exercised, OR the date when Meridian City sewer and water services are extended to any point of the real property described on Exhibits "A" and "B" to the Agreement. Should Meridian City sewer and water services be so extended prior to the expiration date of the option, Optionee shall (a) be given a period of thirty (30) days thereafter in which to exercise his option by tendering the entire purchase price to the escrow agent, and (b) there shall be credited towards the purchase price an amount calculated by multiplying the per diem Additional Consideration times the number of days that the closing date is prior to May 29, 2003. The parties agree that the Additional Consideration for the One Year Extension to the term of the option corresponds to a [REDACTED] per diem extension fee. No other portion of the Additional Consideration shall be credited against the purchase price at Closing, it being the parties' intent that the Additional Consideration represent the value of funds that the Optionor otherwise would have but for the extension.

5. Time is of the Essence. The parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof.

6. Binding Effect. This Agreement shall be binding upon and inure to the benefit of both of the parties, their heirs, executors, administrators, successors and assigns.

7. Attorney Fees. In the event that a party hereto shall bring any action or suit against another party hereunder by reason of any breach of any of the covenants, agreements or provisions on the part of the other party arising out of this Agreement, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including actual attorneys' fees, accounting and engineering fees and any other professional fees resulting therefrom.

8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and the same Agreement.

9. Notice. All notices required or permitted herein shall be in writing and shall be served on the parties at the following addresses:

Optionee Address:

Marty Goldsmith
[REDACTED]

Buyer and Notice Address:

Renata Ham
12127 W. Patrina
Boise, Idaho 83713
[REDACTED]

Any such notices shall be either (a) sent by overnight delivery using a nationally recognized overnight carrier, in which case notice shall be deemed delivered (b) sent by telefax, in which case notice shall be deemed delivered upon transmission of such notice, or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt.

IN WITNESS WHEREOF, the parties have hereunto executed this Addendum as of the day and year first above written.

OPTIONOR:

OPTIONEE:

Renata Ham
RENATA HAM

Marty Goldsmith
MARTY GOLDSMITH

HAM PROPERTY

Exhibit "A"

Parcel I

A parcel of land located in the North half of the Northeast quarter of Section 31, Township 4 North, Range 1 East of the Boise Meridian, Ada County, Idaho. The parcel is also described as Lot 8 and part of Lot 9 of CRESTWOOD SUBDIVISION NO. 1, more particularly described as:

Beginning at the Northeast corner of said Section 31;

thence South along the Easterly section line of said Section 31, a distance of 660.00 feet to a point;

thence South $89^{\circ}41'53''$ West (formerly South $89^{\circ}40'27''$ West), a distance of 33.00 feet to a point, the Northeast corner of said Lot 8, the **REAL POINT OF BEGINNING**;

thence South along the Easterly boundary of Crestwood Subdivision No. 1, a distance of 495.52 feet to an iron pin;

thence South $88^{\circ}54'35''$ West, a distance of 475.48 feet to an iron pin;

thence South a distance of 167.66 feet to an iron pin on the Southerly boundary of said Lot 9;

thence South $89^{\circ}39'49''$ West along the Southerly boundary of said Lot 9, a distance of 1137.90 feet to an iron pin, the Southwest corner of said Lot 9 of the Crestwood Subdivision No. 1;

thence North $0^{\circ}01'41''$ East (formerly North $0^{\circ}02'20''$ East), along the Westerly boundary of Crestwood Subdivision No. 1, a distance of 664.91 feet to an iron pin, the Northwest corner of said Lot 8;

thence North $89^{\circ}28'18''$ East, a distance of 1396.02 feet (formerly North $89^{\circ}28'32''$ a distance of 1395.89 feet), to an iron pin on the Northerly boundary of Crestwood Subdivision No. 1;

thence North $89^{\circ}41'53''$ East (formerly North $89^{\circ}40'27''$ East), along the Northerly boundary of Crestwood Subdivision No. 1, a distance of 217.00 feet to the **REAL POINT OF BEGINNING**.

EXCEPT ditch and road rights of way.

(continued)

Parcel II

Part of the Southwest quarter of the Northeast quarter of Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho, more particularly described as follows:

From the quarter corner common to Sections 31 and 32, Township 4 North, Range 1 East, Boise Meridian;

thence South $89^{\circ}58'$ West 1320.00 feet along the East West mid-section line to the Southwest corner of the Southeast quarter of the Northeast quarter of Section 31;

thence North $0^{\circ}03'$ East 10.00 feet along the 1116 line to the POINT OF BEGINNING;

thence North $0^{\circ}03'$ East 987.48 feet;

thence North $89^{\circ}58'$ West 1317.89 feet to a point on the North South mid-section line of Section 31;

thence South $0^{\circ}05'$ West 978.79 feet along said North South mid-section line to a point which is North $0^{\circ}05'$ East 20.00 feet from the center of Section 31;

thence South $89^{\circ}36'$ East 1320.45 feet to the POINT OF BEGINNING.
EXCEPT ditch and road rights of way.

SECOND ADDENDUM TO OPTION TO PURCHASE

THIS SECOND ADDENDUM is made this 17th day of January, 2003, to that certain Option to Purchase dated the 18th day of October, 2001 (the "Agreement") and to that certain Addendum to Option to Purchase dated December 2001 (the "First Addendum"), wherein Renata Ham, the successor to Sheldon Ham and Renata Ham, is the Optionor, and Marty Goldsmith ("Goldsmith") is the Goldsmith. Renata Ham remarried, and her name is Renata Moon (hereinafter "Optionor").

RECITALS

- A. The Agreement granted Goldsmith the right to purchase those certain two parcels of real property identified therein and herein on Exhibit "A" as the "Ham Property" and on Exhibit "B" as the "Medco Property."
- B. Goldsmith exercised its option to purchase and the parties consummated the sale of the Medco Property to Goldsmith on or about May 24, 2002.
- C. Pursuant to the First Addendum, the Expiration Date for the term of the option to purchase the Ham Property was extended to May 29, 2003, by virtue of Goldsmith's payment of the Additional Consideration, to wit: the sum of [REDACTED] none of which Additional Consideration shall be credited toward the Purchase Price except and unless under the terms set forth in paragraph 4 of the first Addendum.
- D. The Option Monies paid by Goldsmith in the sum of [REDACTED] was to be credited toward the purchase price, pursuant to the parties' Agreement; and of that sum the amount of [REDACTED] was credited towards the closing of the Medco Property in May of 2002, leaving [REDACTED] of the option money uncredited to date.
- E. The Agreement provided that Optionor, at her option, might retain a well lot at the location of the existing well to be surveyed by the Optionor, which well lot would include an area sufficient for the maintenance and continued operation of the well; and further provided that Goldsmith at its election could include the well lot as a platted lot in Goldsmith's proposed Residential Subdivision; which provisions are more particularly set forth in Section (f) in the Agreement.
- F. Goldsmith has applied to the City of Meridian for preliminary plat approval for a residential subdivision to be known as Havasu Creek.
- G. Two wells are located on that portion of the preliminary plat, platted as Lot 1, Block 11, Havasu Creek Subdivision (the "Lot"), an older well (the "Old Well") and a newer and larger operational well (the "New Well").
- H. The Optionor has elected to abandon the wells, pump, pump house and related well facilities, including its electrical panel (the "Well Facilities").
- I. The parties wish to clarify and amend the Agreement and the first Addendum to reflect actions taken and additional terms negotiated, all upon the terms and conditions set forth in this Addendum.

EXHIBIT F

PAGE 13 17

NOW, THEREFORE, for good and valuable consideration, including the mutual covenants contained herein, the parties agree to the following terms:

1. Recitals. The recitals expressed herein are not mere recitals, and the parties acknowledge and agree that they are representations that are a part of this Agreement.

2. Option Money. Provided Goldsmith exercises its Option to purchase the remaining Ham Property in accordance with the terms of the Agreement and the First Addendum, at the closing thereof, Goldsmith shall be entitled to have credit towards the purchase price the sum of [REDACTED]

3. Amendment. In consideration for Goldsmith's payment of the sum of [REDACTED] to Optionor contemporaneously at the execution of this Addendum, and receipt whereof is hereby acknowledged, Optionor releases any and all interest in the Lot and Goldsmith is discharged from any obligations with respect to providing Optionor with a "well lot." Section (f) of the Agreement is deleted in its entirety.

4. Credit. The [REDACTED] payment represents payment for the Lot which is [REDACTED] square feet or .2296 acres, which will reduce to 52.36 acres of the Ham Property to be purchased by Goldsmith at closing.

5. Term. The parties confirm that pursuant to the First Addendum the Expiration Date for the term of the Option runs through May 29, 2003. Further, Goldsmith represents that Meridian City sewer and water has been extended to the parcel of property that borders on the south of the Ham Property, but that the sewer and water services have not been extended to any point of the Ham Property.

6. Well Facilities. Optionor will be responsible for and undertake all steps administratively required by the Department of Water Resources in connection with abandoning the wells. Notwithstanding the foregoing, Goldsmith shall seal the Old Well as soon as possible and will be responsible for physically removing the Well Facilities.

7. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, executors, administrators, successors and assigns.

8. Attorney Fees. In the event that a party hereto shall bring any action or suit against another party hereunder by reason of any breach of any of the covenants, agreements or provisions on the part of the other party arising out of this Agreement, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including actual attorneys' fees, accounting and engineering fees and any other professional fees resulting therefrom.

9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and the same Agreement.

EXHIBIT F
PAGE 14 OF 17

IN WITNESS WHEREOF, Optionor and Goldsmith have executed this Second Addendum as of the day and year first above written.

OPTIONOR:

GOLDSMITH:


Renata Moon

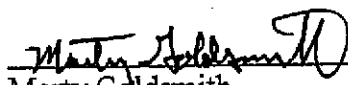

Marty Goldsmith

EXHIBIT F
PAGE 15 of 17

PARCEL I

A parcel of land located in the North half of the Northeast quarter of Section 31, Township 4 North, Range 1 East of the Boise Meridian, Ada County, Idaho. The parcel is also described as Lot 8 and part of Lot 9 of CRESTWOOD SUBDIVISION NO. 1, more particularly described as:

Beginning at the Northeast corner of said Section 31; thence South along the Easterly section line of said Section 31, a distance of 660.00 feet to a point; thence South 89°41'53" West (formerly South 89°40'27" West), a distance of 33.00 feet to a point, the Northeast corner of said Lot 8, the REAL POINT OF BEGINNING; thence South along the Easterly boundary of Crestwood Subdivision No. 1, a distance of 495.52 feet to an iron pin; thence South 88°54'35" West, a distance of 475.48 feet to an iron pin; thence South a distance of 167.66 feet to an iron pin on the Southerly boundary of said Lot 9; thence South 89°39'49" West along the Southerly boundary of said Lot 9, a distance of 1137.90 feet to an iron pin, the Southwest corner of said Lot 9 of the Crestwood Subdivision No. 1; thence North 0°01'41" East (formerly North 0°02'20" East), along the Westerly boundary of Crestwood Subdivision No. 1, a distance of 664.91 feet to an iron pin, the Northwest corner of said Lot 8; thence North 89°28'18" East, a distance of 1396.02 feet (formerly North 89°28'32" a distance of 1395.89 feet), to an iron pin on the Northerly boundary of Crestwood Subdivision No. 1; thence North 89°41'53" East (formerly North 89°40'27" East), along the Northerly boundary of Crestwood Subdivision No. 1, a distance of 217.00 feet to the REAL POINT OF BEGINNING.

EXCEPT ditch and road rights of way.

PARCEL II

Part of the Southwest quarter of the Northeast quarter of Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho, more particularly described as follows:

From the quarter corner common to Sections 31 and 32, Township 4 North, Range 1 East, Boise Meridian; thence South 89°58' West 1320.00 feet along the East West mid-section line to the Southwest corner of the Southeast quarter of the Northeast quarter of Section 31; thence North 0°03' East 10.00 feet along the 1/16 line to the POINT OF BEGINNING; thence North 0°03' East 987.48 feet; thence North 89°58' West 1317.89 feet to a point on the North South mid-section line of Section 31; thence South 0°05' West 978.79 feet along said North South mid-section line to a point which is North 0°05' East 20.00 feet from the center of Section 31; thence South 89°36' East 1320.45 feet to the POINT OF BEGINNING.

EXCEPT ditch and road rights of way.

EXHIBIT

F

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EXHIBIT A

The East 30 acres of the Northeast quarter of the Northwest quarter; the East 15 acres of the North half of the Southeast quarter of the Northwest quarter; the Southwest quarter of the Northwest quarter of the Northeast quarter; the West half of the Southeast quarter of the Northwest quarter of the Northeast quarter; the Southwest quarter of the Northeast quarter, All in Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho.

EXCEPT THEREFROM the Northeast quarter of the Northeast quarter of the Southwest quarter of the Northeast quarter of said Section 31.

ALSO EXCEPT the tract of land described as follows:

From the quarter corner common to Sections 31 and 32, Township 4 North, Range 1 East of the Boise Meridian; thence

South 89°58' West 1320.20 feet along the East West mid-section line to the Southwest corner of the Southeast quarter of the Northeast quarter of Section 31; thence

North 0°03' East 10.00 feet along the 1/16 line to the POINT OF BEGINNING; thence

North 0°03' East 987.48 feet; thence

North 89°58' West 1317.89 feet to a point on the North South mid-section line of Section 31; thence

South 0°05' West 978.79 feet along said North South mid-section line to a point which is

North 0°05' East, 20 feet from the center of Section 31; thence

South 89°36' East, 1320.45 feet to the POINT OF BEGINNING, All in the Southwest quarter of the Northeast quarter of Section 31, Township 4 North, Range 1 East of the Boise Meridian, Ada County, Idaho.

AND FURTHER EXCEPTING ditch and road rights of way.

EXHIBIT

F

PAGE

17 OF 17

EXHIBIT

3

G

EXHIBIT G
REPRESENTATIVE LEASE

RECEIVED

JAN 23 2003

Givens Pursley, LLP

FARM LEASE

THIS INDENTURE, Made and entered into this 24th day of May, 1995, by and between MEDCO FARMS, an Idaho general partnership, the party of the first part, hereinafter referred to for as Lessor; and GAYLE HAM and RENATA HAM, husband and wife, hereinafter referred to as Lessee;

W I T N E S S E T H:

THAT The Lessor hereby leases, lets and demises unto the Lessee, the following described real property, situated in the County of Ada, State of Idaho, and more particularly described as follows, to wit:

SEE EXHIBIT A

for a term commencing on the 1st day of July, 1995, and ending on the 30th day of November, 1997.

RENTAL: The total rent for the term is the sum of [REDACTED], lawful money of the United State of America, which Lessee agrees to pay to the Lessor without deduction or offset at such place or places as may be designated from time to time by the Lessor in installments as follows:

1. The sum of [REDACTED] on or before the 15th day of September, 1995;

2. The sum of [REDACTED] on or before the 15th day of April, 1996 and a like sum of [REDACTED] on or before the 15th day of September, 1996.

3. The sum of [REDACTED] on or before the 15th day of April, 1997, and a like sum of [REDACTED] on or before the 15th day of September, 1997.

LESSOR'S COVENANTS: The Lessor covenants and agrees with the Lessee as follows:

1. That the Lessee paying the rent herein reserved and observing and performing the covenants and stipulations on its part to be performed, shall peacefully hold and enjoy the demised premises during the term, subject to the right of the Lessor to enter upon said premises at any reasonable time for the purpose of inspecting the same or making improvements therein.

2. That the Lessor shall pay all real estate taxes levied or assessed against the above described property during the term of this Lease.

3. The Lessor shall pay all capital improvements assessments of the irrigation district. In this regard, it is understood and agreed that Lessor shall have the right to direct Lessee's vote at any meeting of the irrigation district held for the purposes of voting on said assessments.

LESSEE'S COVENANTS: The Lessee covenants with the Lessor as follows:

1. To pay the rent hereby reserved in the manner hereinbefore set forth.

2. To keep said premises in good condition and repair, and to repair all fences, gates, drainage and irrigation ditches, and to keep the same in as good a condition as they now are, or may be put in, during the term hereof, providing that the Lessor shall pay for all materials used in the construction of any permanent gates or checks or other permanent improvements to ditches or fences.

3. To farm, cultivate, fertilize and manage the whole of the premises in a good and farmlike manner, according to the usual course of farming practice in the community, and to keep the same free and clear from weeds and noxious weeds, and not to assign or underlet any part of said premises or this Agreement, without the written consent of the Lessor.

4. To not commit or allow to be committed any waste upon said premises.

5. To pay all of the expenses of planting, cultivating, farming and harvesting the crops grown on said premises and to save the Lessor harmless from any claims or demands arising from said operation.

6. To pay all irrigation water charges, excluding any capital improvement assessments, made or levied upon or against the premises, and including all excess water charges.

7. To not allow nor permit any liens or encumbrances to remain outstanding against said premises after receiving notice of said liens or encumbrances.

8. To yield up said premises, at the expiration of the tenancy, in such state of repair, cultivation and management as

shall be in compliance with the Lessee's Covenants hereinbefore contained.

HOUSE: The parties acknowledge and agree that there exists a residential house located on the premises and that Lessee shall be entitled to rental income therefrom in the event they wish to sublease the said house. Lessee agrees to provide all repairs necessary to maintain the house at their own expense. Lessee shall maintain liability insurance coverage with policy limits of at least THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00), insuring against premises liability arising from occupancy of the house by third parties. Lessee agrees to indemnify and hold harmless Lessor from any claims or actions arising from the use of said house.

SECURITY INTEREST: The Lessor is hereby granted a security interest in the crops grown on the above described property as security for the payment of the lease payments herein provided for. Concurrently with the execution of this Agreement, Lessee agrees to execute and deliver to the Lessor a UCC-1F Farm Products Financing Statement, disclosing the security interest of the Lessor in the crops to be grown on the above described property during the term of this Lease.

The Lessor agrees that within thirty (30) days from a termination of this Lease as provided herein, Lessor shall file a terminating statement with the Secretary of State releasing all its interest in said crops located on the subject property.

DEFAULT: It is understood and agreed that in the event the Lessee should fail to perform any of the covenants and agreements herein contained, that the Lessor shall have the privilege of terminating this Lease by giving to the Lessee a written notice by registered mail addressed to the Lessee at his present address, said notice to set forth the failure or delinquency on the part of the Lessee, and if the Lessee shall have failed to comply with this Agreement, or with said notice, at the expiration of thirty (30) days from the date of the mailing of the same, this Lease shall, at the option of the Lessor, terminate and the Lessor shall be entitled to immediate possession of the premises.

It is understood and agreed that possession by the Lessor in the event of default as set forth herein does not give Lessor an interest in any crops planted or growing on said real property except as set forth in the security agreement herein.

It is further understood and agreed that the security agreement together with the financing statement executed and delivered to the Lessor concurrent with this Agreement secures Lessor to only the amount the Lessee is in default should default occur as provided herein.

ENFORCEMENT EXPENSES: In the event that it is necessary for legal action to be brought by either of the parties hereto to enforce the provisions of this Lease, it is hereby agreed that the prevailing party shall be entitled to reasonable attorney's fees to be fixed by the Court in addition to any costs allowed by law.

PREPARATION OF DOCUMENTS: Lessee acknowledges that legal ethics do not permit an attorney to represent both parties to a transaction for the reason, among other things, that the parties thereto have potentially conflicting interests. Lessee further acknowledges that it has not sought the counsel and advice of Lessor's attorney or accountant and acknowledges further that David E. Kerrick is the attorney representing the Lessor.

Lessee does agree, however, to reimburse the Lessor for one-half (1/2) of the cost of Lessor's attorney fees incurred in the preparation of this Agreement and the related documents in this transaction.

BINDING EFFECT: This Agreement is binding upon the heirs, executors, administrators and assigns of all of the parties hereto, and time is of the essence of this Agreement in all of its provisions.

IN WITNESS WHEREOF, The parties hereto have hereunto set their hands and seals the day and year in this Agreement first above written.

MEDCO FARMS

By

Gerald C. Bauman
GERALD C. BAUMAN, M.D.

By

T.E. Dillon
T.E. DILLON, M.D.

LESSOR

Gayle Ham
GAYLE HAM
Renata Ham
RENATA HAM

LESSEE

STATE OF IDAHO)
: ss.
County of Canyon)

On this 1st day of June, 1995, before me, the undersigned, a Notary Public in and for said State, Personally appeared GERALD C. BAUMAN, M.D. and T.E. DILLON, M.D., partners in the partnership of MEDCO FARMS, and the partners who subscribed said partnership name to the foregoing document and acknowledged to me that they executed the same in the partnership name.

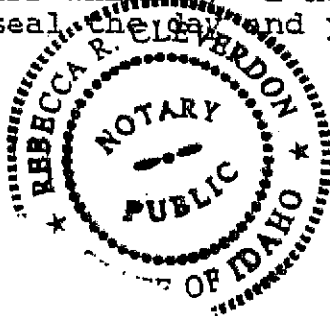
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

RL
Notary Public for Idaho
Residing at Caldwell
My Commission Expires: 4/1/00

STATE OF IDAHO)
: ss.
County of Ada)

On this 24th day of May, 1995, before me, the undersigned, a Notary Public in and for said State, Personally appeared GAYLE HAM and RENATA HAM, husband and wife, known to me to be the persons who executed the foregoing document 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.



Rebecca R. Cleverdon
Notary Public for Idaho
Residing at Boise, Idaho
My Commission expires: 8-23-97

FARM LEASE -

Page 7

EXHIBIT G
PAGE 7 OF 9

EXHIBIT A

The East 30 acres of the Northeast Quarter of the Northwest Quarter; the East 15 acres of the North Half of the Southeast Quarter of the Northwest Quarter; the Southwest Quarter of the Northwest Quarter of the Northeast Quarter; the West Half of the Southeast Quarter of the Northwest Quarter of the Northeast Quarter; the Southwest Quarter of the Northeast Quarter, ALL in Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho.

EXCEPT THEREFROM The Northeast Quarter of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter of said Section 31.

EXCEPT ALSO The tract of land described as follows: From the quarter corner common to Sections 31 and 32, Township 4 North, Range 1 East of the Boise Meridian; thence South 89° 58' West 1320.20 feet along the East-West mid-section line to the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 31; thence North 0° 03' East 10.00 feet along the 1/16 line to the Point of Beginning; thence North 0° 03' East 987.48 feet; thence North 89° 58' West 1317.89 feet to a point on the North-South midsection line of Section 31; thence South 0° 05' West 978.79 feet along said North-South midsection line to a point which is North 0° 05' East, 20 feet from the center of Section 31; thence South 89° 53' East, 1320.45 feet to the Point of Beginning and containing 29.815 acres, more or less, ALL in the Southwest Quarter of the Northeast Quarter of Section 31, Township 4 North, Range 1 East of the Boise Meridian.

EXHIBIT

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PAGE

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copy sent 3-7-95

JAN 73 2003

MEDCO FARM PROPOSAL

Givens Pursley, LLP

MAXIMUM AMOUNT FOR LEASED LAND IN THIS AREA IS [REDACTED] PER ACRE. PLEASE NOTE THAT IRRIGATION AND PROPERTY TAXES ARE ALSO PAID BY LESSOR. WE ARE CURRENTLY PAYING [REDACTED] PER ACRE AND WITH TAXES WE ARE PAYING [REDACTED] PER ACRE. IN OUR NEW PROPOSAL IN 1996 WE WOULD OFFER YOU [REDACTED] PER ACRE, WITH TAXES [REDACTED] PER ACRE. IN 1997 [REDACTED] PER ACRE AND WITH TAXES [REDACTED] PER ACRE. IN 1998 GAYLE AND I WOULD LIKE TO HAVE ENOUGH MONEY SAVED FOR A DOWN PAYMENT TO PURCHASE THE PROPERTY.

1995-1997

[REDACTED] SEPTEMBER 15TH 1995
[REDACTED] APRIL 15TH 1996
[REDACTED] SEPTEMBER 15TH 1996
[REDACTED] APRIL 15TH 1997
[REDACTED] SEPTEMBER 15TH 1997

[REDACTED] TOTAL LEASE PAYMENT

[REDACTED] IRRIGATION TAXES FOR 1995
[REDACTED] PROPERTY TAXES FOR 1995
[REDACTED] IRRIGATION TAXES FOR 1996
[REDACTED] PROPERTY TAXES FOR 1996
[REDACTED] IRRIGATION TAXES FOR 1997
[REDACTED] PROPERTY TAXES FOR 1997

[REDACTED] ESTIMATED TAXES

[REDACTED] ESTIMATED TAXES

[REDACTED] PER ACRE

[REDACTED] AVERAGE PER ACRE OVER 2.5 YEARS

H

EXHIBIT H

**Deed from MEDCO FARMS
through MEDCO/PRICE to
to Sheldon Gayle Ham and Renata Ham**

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

RECORDED - REQUEST OF

2002 MY 31 PM 4:36

TITLE ONE

FEE

102061890

Order No.: A028564

WARRANTY DEED

FOR VALUE RECEIVED,

MEDCO FARMS, PARTNERSHIP, an Idaho General Partnership AS TO AN
UNDIVIDED 80% INTEREST AND DONALD D. PRICE AND ROSE MARIE PRICE,
HUSBAND AND WIFE AS TO AN UNDIVIDED 20% INTEREST

The Grantor(s), do(es) hereby grant, bargain self and convey unto
SHELDON GAYLE POTTS AKA SHELDON HAM AND RENATA POTTS AKA
RENATA HAM, HUSBAND AND WIFE

whose current address is 555 E. MCMILLAN ROAD MERIDIAN, ID 83642

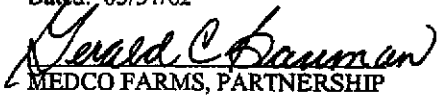
the Grantee(s), the following described premises, in ADA County, Idaho, TO WIT:

A parcel of land being a portion of the North half of Section 31, Township 4 North,
Range 1 East, Boise Meridian, Ada County, Idaho, more particularly described as
follows:

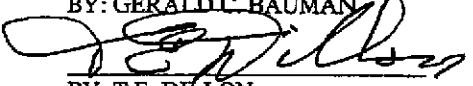
SEE ATTACHED EXHIBIT "A"

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(es) hereby covenant to and with the said Grantee(s),
that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances
EXCEPT: Subject to all existing patent reservations, easements, right(s) of way, protective covenants,
zoning ordinances, and applicable building codes, laws and regulations, general taxes and assessments,
including irrigation and utility easements (if any) for the current year, which are not due and payable,
and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: 05/31/02


MEDCO FARMS, PARTNERSHIP
BY: GERALD C. BAUMAN


DONALD D. PRICE-AS TO 20%


BY: T.E. DILLON


ROSE MARIE PRICE-AS TO 20%

STATE OF IDAHO
COUNTY OF ADA

ON THIS 30TH DAY OF MAY, 2002, BEFORE ME, THE UNDERSIGNED, A
NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED,
GERALD C. BAUMAN AND T.E. DILLON PERSONALLY KNOWN TO ME OR
PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE, TO BE TWO
OF THE PARTNERS IN THE PARTNERSHIP OF MEDCO FARMS, AND THE
PARTNERS WHO SUBSCRIBED SAID PARTNERSHIP'S NAME TO THE
FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE
EXECUTED THE SAME IN SAID PARTNERSHIP NAME.


TAMERA L. HOVDE
NOTARY PUBLIC
RESIDING AT: NAMPA
COMMISSION EXPIRES: 11/29/03



EXHIBIT

H

PAGE

1 OF 3

STATE OF IDAHO)
COUNTY OF ADA)

ON THIS 31ST OF MAY, 2002, BEFORE ME, THE UNDERSIGNED, A NOTARY
PUBLIC PERSONALLY APPEARED, DONALD D. PRICE AND ROSE MARIE
PRICE KNOWN TO ME OR PROVEN TO ME ON THE BASIS OF SATISFACTORY
EVIDENCE TO BE THE PERSON (S) WHOSE NAMES ARE SUBSCRIBED TO THE
WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY
EXECUTED TO SAME.

Tamera L. Hoyle

NOTARY PUBLIC

RESIDING AT: _____

RESIDING IN NAMPA, IDAHO
MY COMM. EXP. 11-29-2003

MY COMMISSION EXPIRES: _____

(SEAL)



EXHIBIT H
PAGE 2 OF 3

EXHIBIT "A"

"MEDCO"

PROPERTY DESCRIPTION

The land referred to in this Commitment is described as follows:

The East 30 acres of the Northeast quarter of the Northwest quarter, the East 15 acres of the North half of the Southeast quarter of the Northwest quarter, the Southwest quarter of the Northwest quarter of the Northeast quarter, the West half of the Southeast quarter of the Northwest quarter of the Northeast quarter, the Southwest quarter of the Northeast quarter, All in Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho.

EXCEPT THEREFROM the Northeast quarter of the Northeast quarter of the Southwest quarter of the Northeast quarter of said Section 31.

ALSO EXCEPT the tract of land described as follows:

From the quarter corner common to Sections 31 and 32, Township 4 North, Range 1 East of the Boise Meridian; thence
South 89°58' West 1320.20 feet along the East West mid-section line to the Southwest corner of the Southeast quarter of the Northeast quarter of Section 31; thence
North 0°03' East 10.00 feet along the 1/16 line to the POINT OF BEGINNING; thence
North 0°03' East 987.48 feet; thence
North 89°58' West 1317.89 feet to a point on the North South mid-section line of Section 31; thence
South 0°05' West 978.79 feet along said North South mid-section line to a point which is North 0°05' East, 20 feet from the center of Section 31; thence
South 89°36' East, 1320.45 feet to the POINT OF BEGINNING, All in the Southwest quarter of the Northeast quarter of Section 31, Township 4 North, Range 1 East of the Boise Meridian, Ada County, Idaho.

AND FURTHER EXCEPTING ditch and road rights of way.

EXHIBIT

H

PAGE

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OF

3

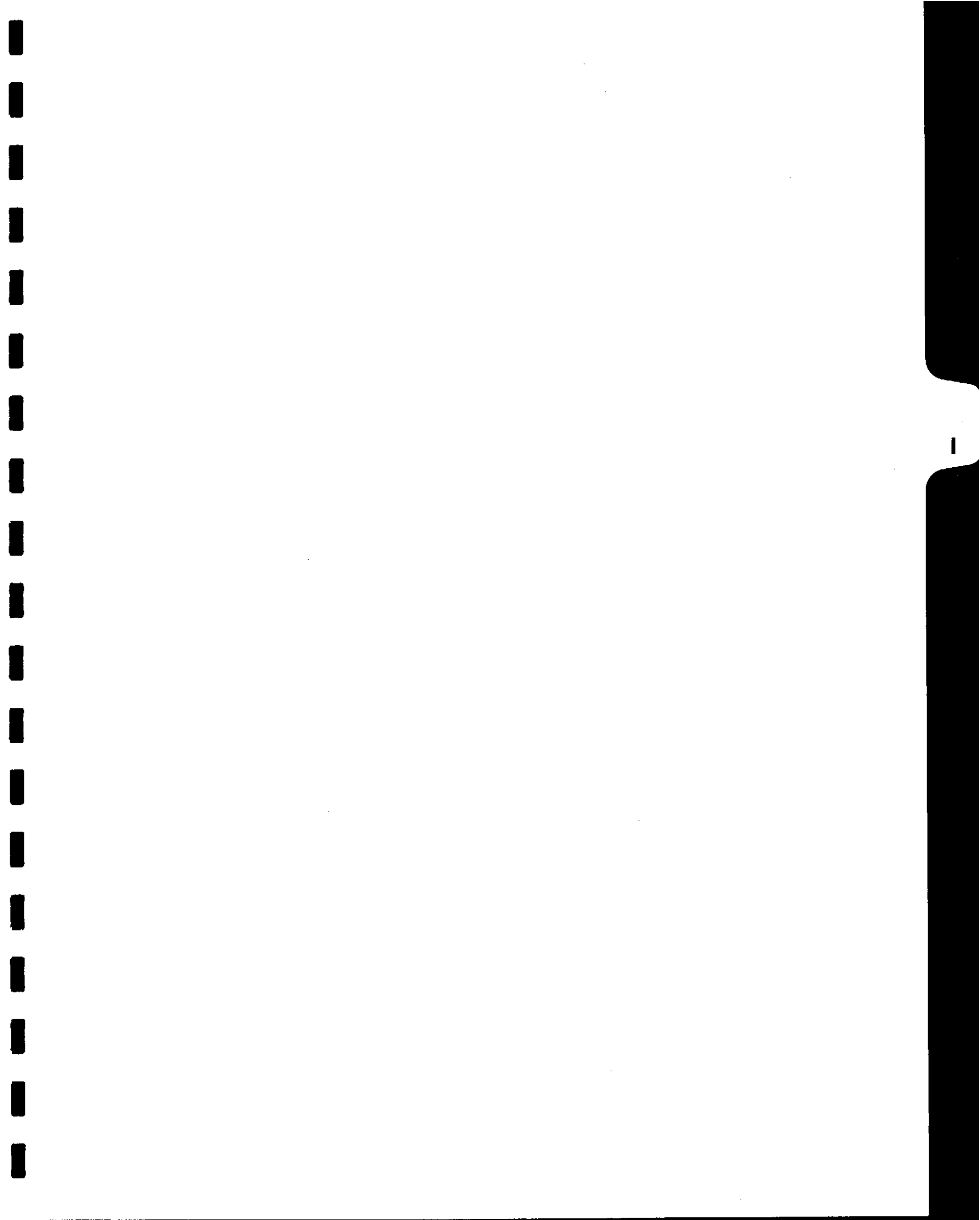


EXHIBIT I

**QUITCLAIM OF WATER RIGHT
from MACLOCUST, L.L.C.
to RENATA HAM**



WATER RIGHT QUITCLAIM DEED

FOR VALUE RECEIVED, Grantor MACLOCUST, L.L.C., an Idaho limited liability company, hereby grants, bargains, sells, conveys, and quitclaims unto Grantee, Renata Moon of Meridian, Idaho, all of Grantor's right, title and interest in and to those certain ground water rights appurtenant to, delivered to, or placed to beneficial use upon the following described premises, in Ada County, Idaho, TO WIT:

A parcel of land being a portion of the North half of Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho, more particularly described as follows: SEE ATTACHED EXHIBIT "A."

which water rights are more particularly described as licensed water right nos. 63-8796, 63-9972, and 63-10566 as reflected in the records of the Idaho Department of Water Resources and/or the Snake River Basin Adjudication Court, Fifth Judicial District, in and for the County of Twin Falls, Idaho, Case No. 39576.

TO HAVE AND TO HOLD all such water rights unto the Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor has caused his name to be subscribed to this Grant Deed effect the 8th day of January, 2003.

GRANTOR:

MACLOCUST, L.L.C., an Idaho
Limited Liability Company

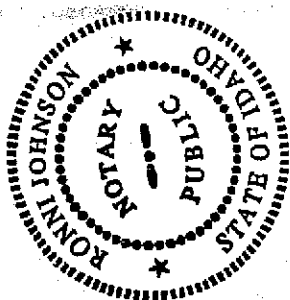
By: Marty Goldsmith managing member
Marty Goldsmith, Managing Member

EXHIBIT I
PAGE 1 OF 3

STATE OF IDAHO,)
 : ss.
County of Ada.)

On this 8th day of January, 2003, before me a Notary Public in and for the State of Idaho, personally appeared Marty Goldsmith, known or identified to me to be the person who executed the above Grant Deed, and acknowledged to me that he executed the same on his own behalf and on behalf of MACLOCUST, L.L.C., an Idaho limited liability company.

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



Ronni Johnson
Notary Public for Idaho -
Residing at Boise, Idaho
My commission expires: 6/30/2003

EXHIBIT I
PAGE 2 OF 3

PARCEL III

The East 30 acres of the Northeast quarter of the Northwest quarter; the East 15 acres of the North half of the Southeast quarter of the Northwest quarter; the Southwest quarter of the Northwest quarter of the Northeast quarter; the West half of the Southeast quarter of the Northwest quarter of the Northeast quarter; the Southwest quarter of the Northeast quarter, All in Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho.

EXCEPT THEREFROM the Northeast quarter of the Northeast quarter of the Southwest quarter of the Northeast quarter of said Section 31.

ALSO EXCEPT the tract of land described as follows:

From the quarter corner common to Sections 31 and 32, Township 4 North, Range 1 East of the Boise Meridian; thence

South 89°58' West 1320.20 feet along the East West mid-section line to the Southwest corner of the Southeast quarter of the Northeast quarter of Section 31; thence

North 0°03' East 10.00 feet along the 1/16 line to the POINT OF BEGINNING; thence

North 0°03' East 987.48 feet; thence

North 89°58' West 1317.89 feet to a point on the North South mid-section line of Section 31; thence

South 0°05' West 978.79 feet along said North South mid-section line to a point which is North 0°05' East, 20 feet from the center of Section 31; thence

South 89°36' East, 1320.45 feet to the POINT OF BEGINNING, All in the Southwest quarter of the Northeast quarter of Section 31, Township 4 North, Range 1 East of the Boise Meridian, Ada County, Idaho.

AND FURTHER EXCEPTING ditch and road rights of way.

EXHIBIT

I

PAGE

3 OF 3

EXHIBIT

A

EXHIBIT J

**LENDER QUITCLAIM
to RENATA HAM**



Filed at the request of:
When recorded return to:

Givens Pursley LLP
277 N. 6th Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701
Attn: Donald R. Alloway

WATER RIGHT RELEASE, RECONVEYANCE AND QUITCLAIM DEED

FOR VALUE RECEIVED, Hopkins Mortgage Fund, L.L.C., and Idaho Limited Liability Company, "as trustee for the benefit on a parity for all Series "A" Debenture Holders" as to their undivided 55% interest, Hopkins Growth Fund, L.L.C., an Idaho Limited Liability Company, "as trustee for the benefit on a parity for all Series "G" Debenture Holders" as to their undivided 30% interest, and Timbre Wolfe, an unmarried man as to his undivided 15% interest, (collectively, the "Grantors") hereby release, sell, convey, and quitclaim unto Renata Ham, a/k/a Renata Moon, whose address is 5125 Morningdale Dr., Boise, Idaho 83713, ("Grantee") all of Grantors' right, title and interest in and to those certain ground water rights appurtenant to, delivered to, or placed to beneficial use upon the following described premises, being a portion of the North half of Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho, TO WIT:

SEE ATTACHED EXHIBIT "A."

which water rights are more particularly described as licensed water right nos. 63-8796, 63-9972, and 63-10566 as reflected in the records of the Idaho Department of Water Resources and/or the Snake River Basin Adjudication Court, Fifth Judicial District, in and for the County of Twin Falls, Idaho, Case No. 39576.

TO HAVE AND TO HOLD all such water rights unto the Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantors have caused their names to be subscribed to this Deed effective the 3 day of FEBRUARY, 2003

GRANTOR

HOPKINS MORTGAGE FUND, L.L.C.,
an Idaho Limited Liability Company

EXHIBIT 5

PAGE 1 OF 7

By: [Signature]

Its: AUTHORIZED OFFICER & AGENT

GRANTOR

HOPKINS GROWTH FUND, L.L.C.,
an Idaho Limited Liability Company

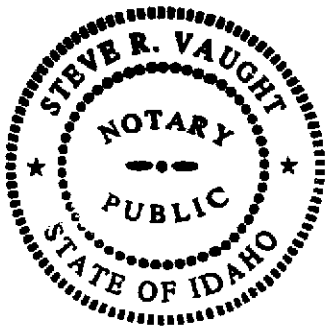
By: *Dana I. Vaught*
Its: AUTHORIZED OFFICER & AGENT

GRANTOR

Timbre Wolf
Timbre Wolf, an unmarried man

State of Idaho)
) ss.
County of Ada)

On this 3 day of FEBRUARY, in the year of 2003, before me, a Notary Public in and for said State, personally appeared AARON L. VAN DER AA, known or identified to me to be a member of **HOPKINS GROWTH FUND, L.L.C.**, an Idaho limited liability company, the member or one of the members who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that HE executed the same in said limited liability company name.

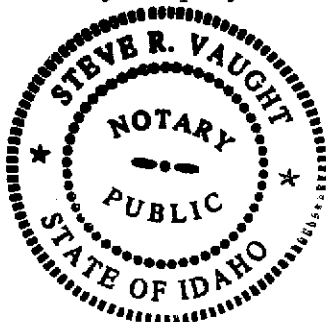


[Signature]
Notary Public for Idaho
Residing at Boise, ID
My Commission expires 7/1/05

EXHIBIT 5
PAGE 2 OF 7

State of Idaho)
) ss.
County of Ada)

On this 3 day of FEBRUARY, in the year of 2003, before me, a Notary Public in and for said State, personally appeared AARON L. VAN DER AAN, known or identified to me to be a member of **HOPKINS MORTGAGE FUND, L.L.C.**, an Idaho limited liability company, the member or one of the members who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that HE executed the same in said limited liability company name.

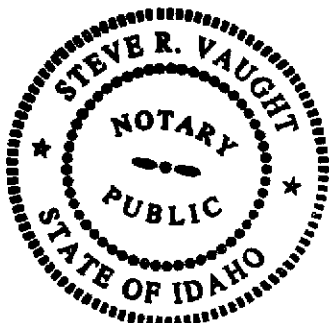


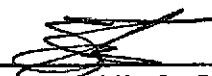


Notary Public for Idaho
Residing at Boise, ID
My Commission expires 7/1/03

State of Idaho)
) ss.
County of Ada)

On this 3 day of FEBRUARY, in the year of 2003, before me, a Notary Public in and for said State, personally appeared **TIMBRE WOLFE**, an unmarried individual, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.





Notary Public for Idaho
Residing at Boise, ID
My Commission expires 7/1/03

EXHIBIT 5
PAGE 3 OF 7

EXHIBIT "A"

PARCEL I

A PARCEL OF LAND LOCATED IN THE NORTH 1/2 NORTHEAST 1/4 OF SECTION 31 OF TOWNSHIP 4 NORTH AND RANGE 1 EAST OF THE BOISE MERIDIAN, ADA COUNTY, IDAHO. THE PARCEL IS ALSO DESCRIBED AS LOT 8 AND PART OF LOT 9 OF CRESTWOOD SUBDIVISION NO. 1, MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 31; THENCE SOUTH ALONG THE EASTERLY SECTION LINE OF SAID SECTION 31, A DISTANCE OF 660.00 FEET TO A POINT; THENCE SOUTH 89 DEGREES 41 MINUTES 53 SECONDS WEST, (FORMERLY SOUTH 89 DEGREES 40 MINUTES 27" WEST), A DISTANCE OF 33.00 FEET TO A POINT, THE NORTHEAST CORNER OF SAID LOT 8, THE REAL POINT OF BEGINNING; THENCE SOUTH ALONG THE EASTERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1, A DISTANCE OF 495.52 FEET TO AN IRON PIN; THENCE SOUTH 88 DEGREES 54 MINUTES 35 SECONDS WEST, A DISTANCE OF 475.48 FEET TO AN IRON PIN; THENCE SOUTH A DISTANCE OF 167.06 FEET TO AN IRON PIN ON THE SOUTHERLY BOUNDARY OF SAID LOT 9; THENCE SOUTH 89 DEGREES 39 MINUTES 49 SECONDS WEST ALONG THE SOUTHERLY BOUNDARY OF SAID LOT 9, A DISTANCE OF 1137.90 FEET TO AN IRON PIN, THE SOUTHWEST CORNER OF SAID LOT 9 OF THE CRESTWOOD SUBDIVISION NO. 1; THENCE NORTH 0 DEGREE 01 MINUTES 41 SECONDS EAST (FORMERLY NORTH 0 DEGREE 02 MINUTES 20 SECONDS EAST), ALONG THE WESTERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1, A DISTANCE OF 664.91 FEET TO AN IRON PIN, THE NORTHWEST CORNER OF SAID LOT 8; THENCE NORTH 89 DEGREES 28 MINUTES 18 SECONDS EAST, A DISTANCE OF 1396.02 FEET, (FORMERLY NORTH 89 DEGREES 28 MINUTES 32 SECONDS A DISTANCE OF 1395.89 FEET), TO AN IRON PIN ON THE NORTHERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1; THENCE NORTH 89 DEGREES 41 MINUTES 53 SECONDS EAST, (FORMERLY NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST), ALONG THE NORTHERLY BOUNDARY OF CRESTWOOD SUBDIVISION NO. 1, A DISTANCE OF 217.00 FEET TO THE REAL POINT OF BEGINNING.

PARCEL II

PART OF THE SOUTHWEST 1/4 NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 4 NORTH, RANGE 1 EAST, BOISE MERIDIAN, ADA COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE QUARTER CORNER COMMON SECTIONS 31 AND 32, TOWNSHIP 4 NORTH, RANGE 1 EAST, BOISE MERIDIAN, THENCE SOUTH 89 DEGREES 58' WEST 1320.00 FEET ALONG THE EAST WEST MID SECTION LINE TO THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31; THENCE NORTH 0 DEGREES 03' EAST 10.00 FEET ALONG THE ONE-SIXTEENTH LINE TO THE POINT OF BEGINNING; THENCE NORTH 0 DEGREES 03' EAST 987.48 FEET; THENCE NORTH 89 DEGREES 58' WEST 1317.89 FEET TO A POINT ON THE NORTH SOUTH MID SECTION LINE OF SECTION 31; THENCE

EXHIBIT

EXHIBIT

PAGE

PAGE

CONTINUED

SOUTH 0 DEGREES 05' WEST 978.79 FEET ALONG SAID NORTH SOUTH MID SECTION
LINE TO A POINT WHICH IS NORTH 0 DEGREES 05' EAST 20.00 FEET FROM THE
CENTER OF SECTION 31; THENCE
SOUTH 89 DEGREES 36' EAST 1320.45 FEET TO THE POINT OF BEGINNING.

END OF LEGAL DESCRIPTION

EXHIBIT J

PAGE 5 OF 7

EXHIBIT A

PAGE 2 OF 4

PARCEL III

The East 30 acres of the Northeast quarter of the Northwest quarter; the East 15 acres of the North half of the Southeast quarter of the Northwest quarter; the Southwest quarter of the Northwest quarter of the Northeast quarter; the West half of the Southeast quarter of the Northwest quarter of the Northeast quarter; the Southwest quarter of the Northeast quarter, All in Section 31, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho.

EXCEPT THEREFROM the Northeast quarter of the Northeast quarter of the Southwest quarter of the Northeast quarter of said Section 31.

ALSO EXCEPT the tract of land described as follows:

From the quarter corner common to Sections 31 and 32, Township 4 North, Range 1 East of the Boise Meridian; thence

South 89°58' West 1320.20 feet along the East West mid-section line to the Southwest corner of the Southeast quarter of the Northeast quarter of Section 31; thence

North 0°03' East 10.00 feet along the 1/16 line to the POINT OF BEGINNING; thence

North 0°03' East 987.48 feet; thence

North 89°58' West 1317.89 feet to a point on the North South mid-section line of Section 31; thence

South 0°05' West 978.79 feet along said North South mid-section line to a point which is North 0°05' East, 20 feet from the center of Section 31; thence

South 89°36' East, 1320.45 feet to the POINT OF BEGINNING, All in the Southwest quarter of the Northeast quarter of Section 31, Township 4 North, Range 1 East of the Boise Meridian, Ada County, Idaho.

AND FURTHER EXCEPTING ditch and road rights of way.

EXHIBIT 5 EXHIBIT A
PAGE 6 OF 7 PAGE 3 OF 4
EXHIBIT A

imagery - Summer 2000

EXHIBIT 5
POOR COPY PAGE 7 OF 7 EXHIBIT A
PAGE 4 OF 4