

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

In the Matter of Samaria Water &)
Irrigation Company, I.C. 42-243)
Notice of Statutory Claim Re Water)
Right No. 15-4066)
_____)

NOTICE OF EXCEPTION

RECEIVED

DEC 16 2005

Department of Water Resources
Eastern Region

NOTICE IS HEREBY GIVEN that the undersigned Jeff Davis hereby files this Notice of Exception with the Idaho Department of Water Resources ("IDWR") pursuant to Idaho Code §42-244 for the purpose of taking exception to the Place of Use set forth by Samaria Water & Irrigation Company (hereinafter the "Company") in its Statutory Claim pursuant to Idaho Code §42-243 to water in Thomas Davis Creek, Water Right No. 15-4066. The following is provided in support of this exception, to-wit:

1. Jeff Davis is the general partner and with his wife the owners of M.J. Davis Memorial Limited Partnership (hereinafter "Davis"). Davis owns a residential home located at 5054 S. 4600 W., Samaria, Idaho, together with farmland in and around Samaria. The Davis property was acquired in approximately 1999 from Melvin Joseph Davis and Louise Davis, husband and wife, the parents of Jeff Davis. The property was owned by Jeff's parents from approximately 1965 until sold to Jeff Davis in 1999. It was previously owned from approximately 1943 to 1965 by Melvin Martin Davis, the grandfather of Jeff Davis and father of Melvin Joseph Davis.

2. The water rights owned by Davis consist of 11.125 shares of water stock in Samaria Water & Irrigation Company and IDWR Water Right License No. 15-07032.

3. The Davis property includes the W1/2 of Section 27, Township 15 South, Range 35 E., B.M., Oneida County, containing 320 acres, together with the appurtenant water rights which includes 11.125 shares of water stock in the Company. Pursuant to these shares, Davis has a lawful right to utilize his proportionate share of available water in Thomas Davis Springs to irrigate said property. Water from Thomas Davis Springs has been used pursuant to the Company's shares by Davis's predecessors in interest, his grandfather Melvin Martin Davis during the period 1943 to 1965, his predecessor Daniel Campbell and his predecessor Edward

Receipt
#E031503.

Daniel Campbell dated October 9, 1928, Oneida County Instrument No. 46003, which reflects that one-half share of stock in the Company is appurtenant to the W1/2 of Section 27. In recent years, water from Thomas Davis Springs has not been used on the W1/2 of Section 27 pursuant to the Company's shares for the reason that the property has been enrolled in the CRP program since the early 1980s.

4. Continuously since sometime prior to 1928, all water from Thomas Davis Springs has been diverted out of the natural channel into an artificial ditch located to the east of the natural channel. The ditch follows the contour of the hill through the Davis property in the W1/2 of Section 27. The ditch is believed to have been constructed for the sole purpose of delivering irrigation water to the Davis property in the W1/2 of Section 27 as it would serve no other purpose.

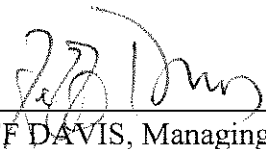
5. Based on the foregoing, Davis takes exception to the Company's statutory claim to the extent that it does not include the Davis property in the W1/2 of Section 27 in the designated place of use. Davis submits that his property in the W1/2 of Section 27, Township 15 South, Range 35 East should be included in the place of use of the Company with respect to Water Right No. 15-4066.

6. This Notice of Exception is being filed with IDWR pursuant to Idaho Code §42-244 and a copy of this Notice of Exception has been mailed to the Claimant Company in accordance with the attached certificate of mailing.

DATED this 8th day of October, 2005.
December

M.J. DAVIS MEMORIAL PARTNERSHIP

By


JEFF DAVIS, Managing Partner/Owner

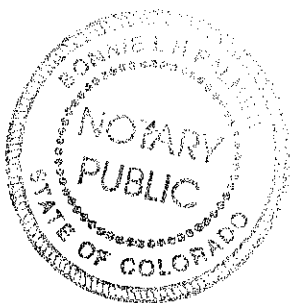
STATE OF Colorado)
 : SS
COUNTY OF El Paso)

Jeff Davis, being first duly sworn under oath, deposes and states that the foregoing is true and correct to the best of his knowledge, information and belief.

Dated this 8th ^{December} day of October, 2005.

Jeff Davis
JEFF DAVIS, Managing Partner/Owner

SUBSCRIBED AND SWORN TO before me this 8th day of October, 2005.
December



Bonnie L. H. Palmer
NOTARY PUBLIC FOR: PSP/Centura
Residing at: 3205 N. Academy
My Commission Expires: _____

MY COMMISSION EXPIRES
01/06/2008

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 8th ^{December} day of October, 2005, I mailed a true and complete copy of the foregoing instrument, postage prepaid, to the following:

Samaria Water & Irrigation Company
Board of Directors
c/o David Reel, President
5176 S. 4400 W.
Malad, Idaho 83252

Kent Foster
Holden, Kidwell, Hahn & Crapo
P.O. Box 50130
Idaho Falls, ID 83405-0130

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Randall C. Budge

THIS INDENTURE, Made this 9th day of October in the year of our Lord one thousand nine hundred and Twenty-eight between Edward Martin and his wife Emma Martin

of Samaria: County of Oneida State of Idaho the part ies of the first part, and
Daniel Campbell
of Malad County of Oneida State of Idaho the part y of the second part,

WITNESSETH: That the said part ies the first part, for and in consideration of the sum of

Three Thousand and no/100----- Dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, in ve granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said part y of the second part, and to his heirs and assigns forever, all the following described real estate situated in Oneida County, State of Idaho, to-wit:

The West half of Section Twenty-Seven(27) in Township Fifteen South, Range Thirty-Five(35) East of the Boise Meridian, in Idaho, containing 320 acres; together with all improvements located thereon and all acquired rights of roadway leading to and from the above described premises to the main highway.

Also One-Half share of the Capital Stock of the Samaria Water and Irrigation Company, an Idaho Corporation

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estates, right, title and interest in and to the said property, as well in law as in equity, of the said part ies of the first part.

TO HAVE AND TO HOLD, All and singular, the above mentioned and described premises, together with the appurtenances, unto the said part y of the second part, and to his heirs and assigns forever. And the said parties of the first part, and their heirs, the said premises in a quiet and peaceable possession of the said part y of the second part, his heirs and assigns, against the said parties of the first part, and their heirs and against all and every person and persons whomsoever lawfully claiming or to claim the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The said part ies of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of
S.T. Jeppsen

Edward Martin

(SEAL)

Emma Martin

(SEAL)

(SEAL)

(SEAL)

STATE OF Utah

County of Weber

ss.

On this Tenth day of June in the year 19 29 before me,

S.T. Jeppesen

a Notary Public

in and for said County, personally appeared

Edward Martin and his wife Emma Martin

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

(SEAL)

S.T. Jeppesen

(SEAL)

My Commission Expires

Notary Public; Residing at Ogden, Utah

Aug. 29, 1930

Filed for record this 30th day of July

A. D. 1929 at 2-40 o'clock P. M.

J.V. Lykins

Ex-Officio Recorder.

By

Deputy.