

**STARTING
LEFT
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FILE**

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

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NOV 30 2001

WATER RESOURCES
WESTERN REGION

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.

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DEC - 3 2001

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
57-07081	- Paid \$25.00	_____	_____	_____	_____
57-10440	_____	_____	_____	_____	_____
~~57-10441~~	_____	_____	_____	_____	_____
57-2261	- Paid \$25.00	_____	_____	_____	_____

Department of Water Resources

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) DeWayne Merritt and Deva Merritt
Rt 1 Box 196, Marsing, ID 83639
4. New Owner/Claimant(s) DeRuyter Properties, L.P.
Name Connector (Check one): [] and, [] or, [] and/or
- New Mailing Address P.O. Box 580
- City, State and ZIP Code Marsing, ID 83639
- New Telephone Number (208) 896-5402
5. Date you acquired the property May 30, 2001

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See file # 57-2261 for support data

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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 _____		
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 _____		

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)

Dick J. Deluster, manager

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 50.00
 Receipted by John Fontaine Date 11-30-01 Receipt No. W028537
 Processed by _____ AJ Date _____ WR _____ Date _____

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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 _____		
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 _____		

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.)
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Domestic	_____	_____
Other _____	_____	_____
Total _____		

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

Nick J. Deluster, manager

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 50.00
 Receipted by Janis Fontaine Date 11-30-01 Receipt No. W028537
 Processed by _____ AJ Date _____ WR _____ Date _____

MICROFILMED

MAR 16 2004



DeRuyter Dairy
PO Box 580
Rt 1 Box 197 - Buntrock R
Marsing ID 83639-0580

337-507

First American Title Insurance Company

INFORMATION

The Company will give you a sample of the Policy form, if you ask.

The Commitment is subject to its Requirements, Exceptions and Conditions.

THIS INFORMATION IS NOT PART OF THE TITLE INSURANCE COMMITMENT.

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YOU SHOULD READ THE COMMITMENT VERY CAREFULLY.

If you have any questions about the Commitment, please contact the Issuing office.

SCHEDULE A

Effective Date: **May 30, 2001 @ 7:30 a.m.**

Commitment No: **PO4001**

To:
PIONEER TITLE COMPANY OF CANYON COUNTY
Escrow Department
Attn: Blanca Acosta PN63795

Escrow inquiries should be directed to:
Blanca Acosta PN63795
Title inquiries should be directed to:
Michael D. Thill

Policy or Policies to be issued:

Owner's Policy - STANDARD
ALTA Form 1402.92 (10-17-92)
Proposed Insured:
DeRUYTER PROPERTIES, L.P.

Amount

Fee

Loan Policy -
ALTA Form 1056.92 (10-17-92)
Proposed Insured:

Endorsements:

3. Fee simple interest in the land described in this Commitment is owned, at the Commitment Date by:

PARCEL I:
DeWAYNE E. MERRITT and DEVA A. MERRITT, husband and wife

PARCEL II:
BRENT E. MERRITT and LISA MERRITT, husband and wife

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

See Attached Exhibit "A"

PO4001**Exhibit "A"****PARCEL I:**

The Southwest Quarter of Section 29, Township 3 North, Range 4 West, Boise Meridian, Owyhee County, Idaho and the Southwest Quarter of the Northwest Quarter, the North Half of the Northwest Quarter lying South of the OREGON SHORT LINE RAILROAD right-of-way as described in the Judgment Quieting Title, recorded April 25, 2000 as Instrument No. 232117, Owyhee County Records, in Section 29, Township 3 North, Range 4 West, Boise Meridian, Owyhee County, Idaho.

LESS a parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section 29, Township 3 North, Range 4 West, Boise Meridian, Owyhee County, Idaho, more particularly described as follows:

BEGINNING at the Northeast corner of said Northeast Quarter of the Southwest Quarter, Section 29, Township 3 North, Range 4 West, Boise Meridian, Owyhee County, Idaho; thence

West a distance of 208.7 feet; thence

South a distance of 626.1 feet; thence

East a distance of 208.7 feet to the East line of said Northeast Quarter of the Southwest Quarter; thence

North on said East line a distance of 626.1 feet to the POINT OF BEGINNING.

PARCEL II:

a parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section 29, Township 3 North, Range 4 West, Boise Meridian, Owyhee County, Idaho, more particularly described as follows:

BEGINNING at the Northeast corner of said Northeast Quarter of the Southwest Quarter, Section 29, Township 3 North, Range 4 West, Boise Meridian, Owyhee County, Idaho; thence

West a distance of 208.7 feet; thence

South a distance of 626.1 feet; thence

East a distance of 208.7 feet to the East line of said Northeast Quarter of the Southwest Quarter; thence

North on said East line a distance of 626.1 feet to the POINT OF BEGINNING.

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10. **Reservations contained in deed from the Gem Irrigation District; recorded October 9, 1950 in Book 40 of Deeds, Pages 303 and 306, Owyhee County Records, substantially as follows:**

The said party of the first part reserves such right of way without compensation as may be necessary for the construction and maintenance for necessary service, waste and drainage ditches for the irrigation of lands within said District and to carry away the waste and drainage water therefrom; and also the right of way for roads 25 feet in width necessary to provide ingress to any legal subdivision from a public highway.

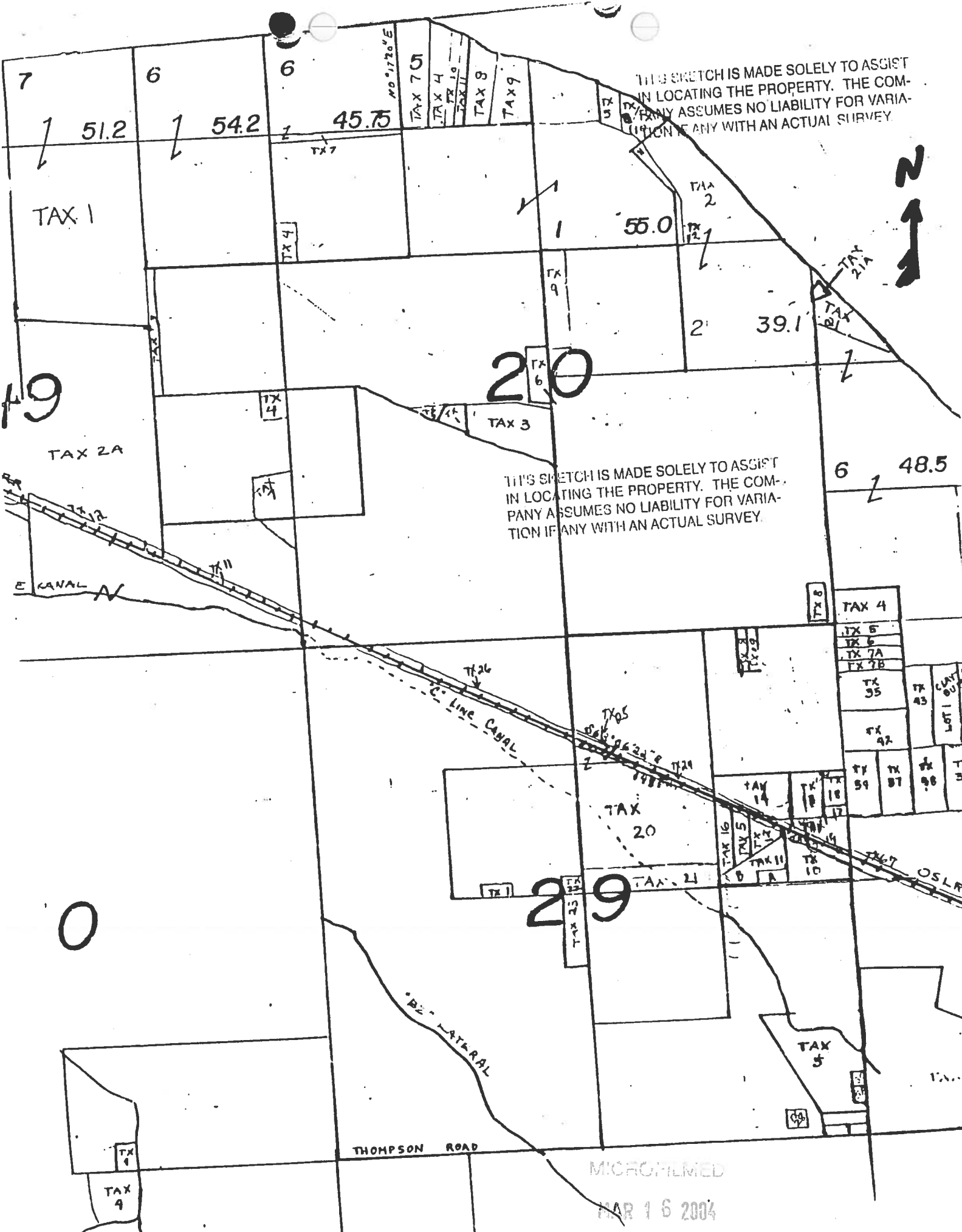
11. **Power line easement as granted to IDAHO POWER COMPANY, a corporation, by instrument recorded September 24, 1963 in Book 56 of Deeds, Page 427 and recorded December 12, 1963 in Book 56 of Deeds, Page 535 and on August 16, 1965 in Book 58 of Deeds, Page 249, records of Owyhee County, Idaho...including the right from time to time to cut, trim and remove trees, brush, overhanging branches and other obstructions which may injure or interfere with the Grantee's use, occupation or enjoyment of this easement and the operation, maintenance and repair of Grantee's electrical system.**
12. **Easement granted to IDAHO POWER COMPANY, a corporation, recorded October 8, 1976 as Instrument No. 148776, records of Owyhee County, Idaho.**
13. **Easement for road 25 feet in width to WALLACE H. NAKANO, etux, recorded November 8, 1979 as Instrument No. 161186, Owyhee County Records.**
14. **A Deed of Trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby**

Amount:	[REDACTED]
Dated:	February 22, 2001
Trustor/Grantor:	BRENT E. MERRITT and LISA MERRITT, husband and wife
Trustee:	PIONEER TITLE COMPANY OF CANYON COUNTY
Beneficiary:	ZIONS FIRST NATIONAL BANK, N.A.
Recorded:	February 28, 2001 as Instrument No. 235164
Affects:	Parcel II

15. **Any claim or loss which may occur due to the indefinite location of "B-2" Lateral of the Gem Irrigation District. (Affects Parcel I)**

NOTE: PURSUANT TO THE STATE OF IDAHO INSURANCE REGULATIONS, A CANCELLATION FEE IS TO BE CHARGED ON ALL CANCELLED ORDERS, UNLESS OTHERWISE ADVISED, ORDERS WILL BE CONSIDERED CANCELLED SIX MONTHS AFTER THE EFFECTIVE DATE ON THE COMMITMENT. THE AMOUNT OF THE FEE ASSESSED SHALL BE IN ACCORDANCE WITH OUR RATE FILING WITH THE IDAHO DEPARTMENT OF INSURANCE.

The following page is a copy of the Owyhee County Treasurer's records and is for your information only and not within the insuring provision of the commitment or policy.



THIS SKETCH IS MADE SOLELY TO ASSIST
IN LOCATING THE PROPERTY. THE COM-
PANY ASSUMES NO LIABILITY FOR VARIA-
TION IF ANY WITH AN ACTUAL SURVEY.

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IN LOCATING THE PROPERTY. THE COM-
PANY ASSUMES NO LIABILITY FOR VARIA-
TION IF ANY WITH AN ACTUAL SURVEY.



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SCHEDULE B - Section 1
Requirements

Commitment No.: **PO4001**

The following requirements must be met:

- (a) Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
- (b) Pay us the premiums, fees and charges for the policy.
- (c) Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
- (d) Special requirements:

ITEM No. 1:

THE COMPANY WILL REQUIRE THE ENCLOSED SELLER OR BORROWER AFFIDAVIT (REGARDING STATE LIENS AND INDIGENT CARE SERVICES) BE SIGNED AND RETURNED IN ORDER TO ISSUE THE POLICY HEREIN.

ITEM No. 2:

Terms, conditions, and provisions of the Agreement of Limited Partnership, of DeRUYTER PROPERTIES L.P. We require proof of the power and authority of the party or parties who plat to execute the forthcoming conveyance or mortgage on behalf of said Limited Partnership.

Note: The listed general partner is DeRUYTER DAIRY, LLC

ITEM No. 3:

We require a copy of the articles of organization, operating agreement and resolutions, and any amendments showing the power and authority of the party or parties who plan to execute the forthcoming conveyance or mortgage on behalf of said Limited Liability Company.

SCHEDULE B - Section 2
Exceptions

Commitment No.: PO4001

The policy or policies to be issued will contain exceptions to the following unless the same are disposed of to the satisfaction of the Company.

PART I:
GENERAL EXCEPTIONS

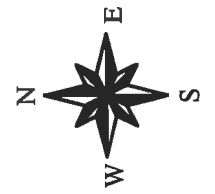
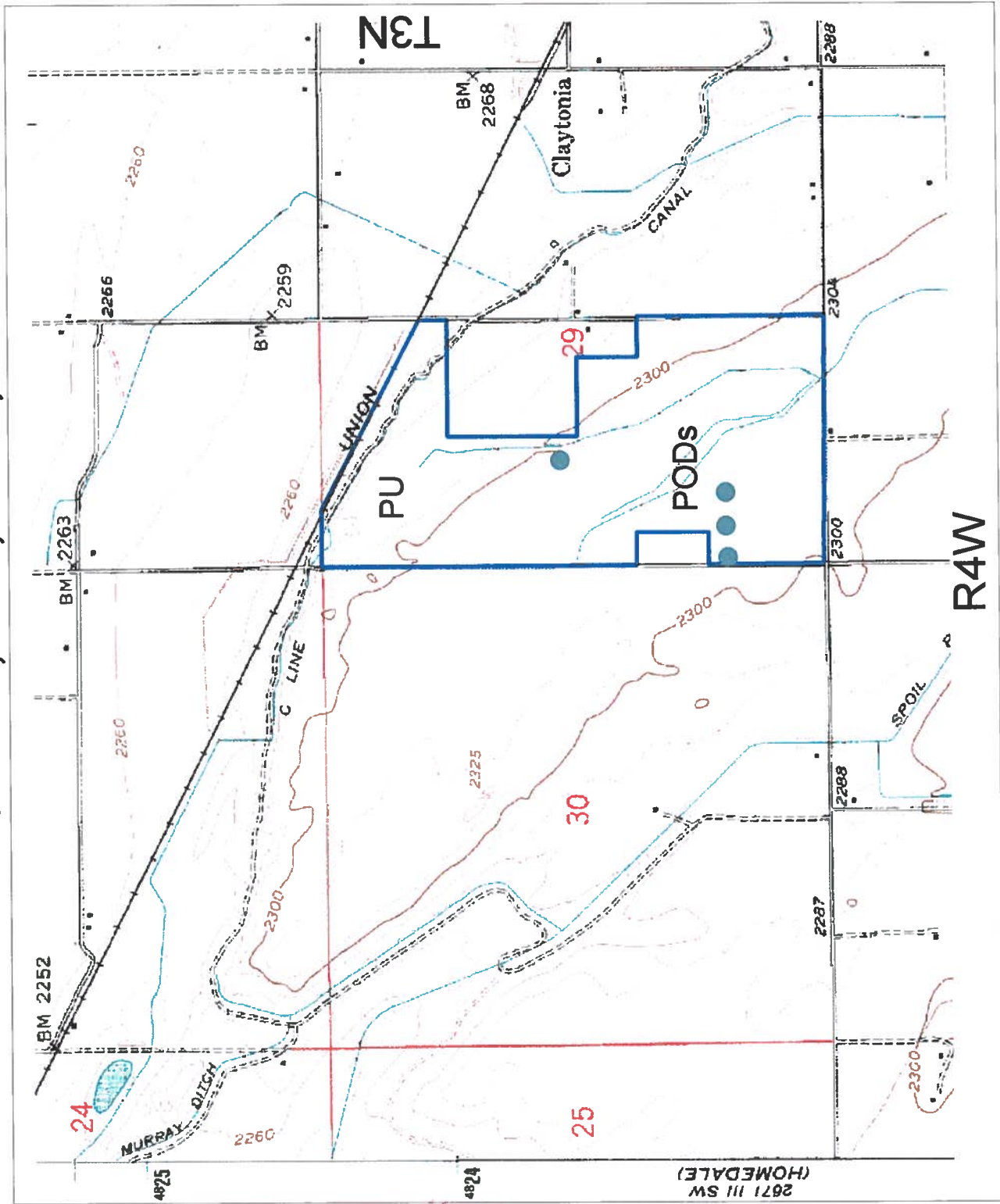
(Only an Extended Coverage Policy will eliminate the following Exceptions, provided they are taken care of to our Satisfaction.)

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims or easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.
6. Any liens, or rights to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

SPECIAL EXCEPTIONS

7. General taxes for the year 2001 which are a lien, payable on or before December 20 of said year and not delinquent until after said date.
8. General taxes for the year 2000, which are a lien, of which the first half is paid and the second half is due and payable on or before June 20, 2001 and are not delinquent until after said date.
9. Liens and assessments of Gem Irrigation District, and the rights and powers of said district as by law provided. No search made.

Place of Use and Point of Diversion Map for 57-7081, 2261, 10440, and 10441



1000 0 1000 2000 3000 4000 Feet

Important Information About Your Water Right

February 21, 2003

Dewayne Merritt
Deva Merritt
Rt 1 Box 196
Marsing, Idaho 83639

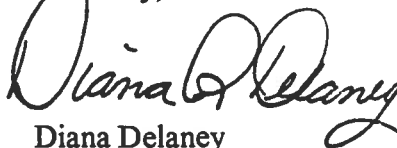
Dear Water Right Claimant(s):

This letter accompanies copies of an *Order Amending Irrigation Period of Use Element in Partial Decree, Nunc Pro Tunc* (hereinafter "*Order*") for water right numbers 57-02261 and 57-07081. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of these water rights. If you are not the current owner, please contact IDWR immediately at:

Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706
800-451-4129

The purpose of the *Order* is to set forth beginning and ending dates for the irrigation period of use for each of these water rights. As stated in the face of each *Order*, this action was necessary following the decision of the Idaho Supreme Court in *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998). The *Order* also incorporates into the *Partial Decrees* an express statement that each *Partial Decree* is subject to such general provisions necessary for the definition or for the efficient administration of the water right. This express statement is necessary to comply with the requirements of Idaho Code section 42-1412(6). These *Orders*, in combination with the *Partial Decrees* that were issued for these water rights on February 9, 1998, set forth all of the elements of your water rights. The Snake River Basin Adjudication (SRBA) Court suggests that you keep these documents in a safe location together with a copy of each *Partial Decree* to show evidence of these water rights. The original of these *Orders* and the original of each *Partial Decree* for these water rights are on file with SRBA Court. If you do not have a copy of the original *Partial Decree*, one can be obtained by contacting the SRBA Court at (208) 736-3011. Please note that the *Orders* are entered *Nunc Pro Tunc*, meaning that the *Orders* will be treated as if they were issued on the same date that the *Partial Decrees* were originally issued.

Sincerely,



Diana Delaney
Case Administrator

SCANNED

FEB 24 2003

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MAR 16 2004

2003 FEB 21 PM 2 24

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Water Right 57-02261
	)	
	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
Case No. 39576	)	INCORPORATING INTO PARTIAL DECREES AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, <i>NUNC PRO TUNC</i>

A *Partial Decree* was entered for the above-captioned irrigation water right on February 9, 1998. The period of use element was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, on July 26, 1999, IDWR filed a *Supplemental Director's Report, Reporting Area 2, IDWR Basin 57, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation for this water right. No objections were filed to this *Supplemental Director's Report*

THEREFORE, IT IS ORDERED that the period of use element for the irrigation portion of the above-captioned water right is hereby amended and decreed as:

PERIOD OF USE: 04-01 to 10-31
The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned water right is hereby amended and decreed to contain the following:

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

This order is being entered *nunc pro tunc* as of the date the *Partial Decree* was issued and is not intended to modify subsequent administrative changes for the water right, if any, which occurred following entry of the *Partial Decree*.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Dated February 21, 2003



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 57-02261

1998 FEB -9 PM 1:05

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

NAME & ADDRESS: DEWAYNE MERRITT
DEVA MERRITT
RT 1 BOX 196
MARSING ID 83639

SOURCE: GROUNDWATER

QUANTITY: 0.82 CFS

USE OF THIS RIGHT WITH RIGHT NO. 57-07081 IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 355.5 AF.

PRIORITY DATE: 02/28/1963

POINT OF DIVERSION: T03N R04W S29 SWSW Within Owyhee County

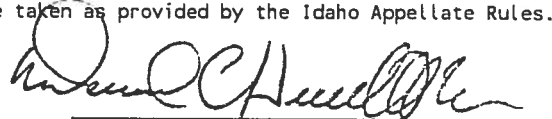
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	IRRIGATION	Irrigation Season	0.82 CFS

PLACE OF USE:	IRRIGATION	Within Owyhee County
	T03N R04W S29	NWNW 9 SWNW 10 NWSW 20 SWSW 38
	77 ACRES TOTAL	

USE OF THIS RIGHT WITH RIGHT NO. 57-07081 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 79 ACRES IN A SINGLE
IRRIGATION SEASON.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

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MAR 16 2004

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 57-02261

PAGE 1
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JAN 7 8 2003

**STARTING
RIGHT
SIDE OF
FILE**



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

October 15, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

DERUYTER PROPERTIES LP
C/O NICK DERUYTER
PO BOX 580
MARSING ID 83639

**RE: APPLICATION TO LEASE WATER RIGHT NOS. 57-2261 AND 57-7081 TO THE
WATER SUPPLY BANK**

Dear Mr. Deruyter:

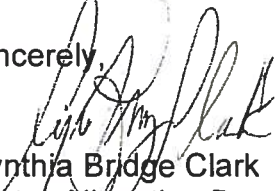
The department received your letter requesting that the Water Supply Bank ("bank") lease period for the water rights referenced above been changed to an "indefinite" duration. Please consider that the offered water right(s) are accepted into the bank for an indefinite period of time.

Several items to keep in mind in connection with the lease of a water right to the bank are as follows:

1. There is no rental payment to the owner of the water right if the right or a part thereof is not rented from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

If you have questions, please feel free to contact me.

Sincerely,


Cynthia Bridge Clark
Water Allocation Bureau

c: Steve Lester – IDWR Western Regional Office
57-2261 & 57-7081

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OCT 29 2003
SCANNED
NOV 02 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

APRIL 14, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

STEVEN HANNULA
ERO RESOURCES CORP
1106 N COLE RD
BOISE ID 83704-8661

RE: 57-2261 and 57-7081 – Water Supply Bank

Dear Mr. Hannula:

Enclosed, please find copies of the Application to Lease Water Right No(s): 57-2261 / 57-7081, dated August 12, 2002; a letter requesting the rights to be left in the water bank for an indefinite term, dated May 28, 2003; and the departments acceptance of the change of duration dated, October 15, 2003.

Since the lease is still valid and will stay in the Water Supply Bank “indefinitely”, I am returning the Application to Lease Water Right No(s): 57-2261/57-7081, submitted to the department on March 11, 2005.

If you have any questions, please feel free to call me.

Sincerely,

for Cynthia Bridge Clark
Water Allocations

Enc: 5



ERO Resources Corp.
1106 N. Cole Rd. Suite C
Boise, ID 83704-8661
(208) 373-7983
Fax: 373-7985
Denver • Boise
www.eroresources.com
eroboise@eroresources.com

RECEIVED

MAR 11 2005

DEPARTMENT OF
WATER RESOURCES

March 10, 2005

Cynthia Bridge-Clark
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Dear Ms. Bridge-Clark:

Enclosed you will find two Applications to Sell or Lease Water to the Idaho Water Supply Bank in the name of DeRuyter Properties L.P. for water right Nos. 57-7081 and 57-2261. If you have any questions or need additional information please don't hesitate to contact me.

Sincerely yours,

A handwritten signature in blue ink that reads "Steven Hannula". The signature is fluid and cursive, with the first name "Steven" being more prominent than the last name "Hannula".

Steven Hannula

ERO Resources, Inc.

SRH:kz

Encl.

COPY

RECEIVED
MAR 11 2005
DEPARTMENT OF
WATER RESOURCES

Water Supply Bank No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE
WATER SUPPLY BANK

*Should questions arise
during the processing of
this application please
contact: Steven Hannula
ERO Resources Corp.
(208) 373-7983*

Name of Seller/Lessor DeRuyter Properties L.P.

Phone (208) 896-5402

Post office address P.O. Box 580 Marsing, Idaho 83639

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 57-2261 Decreed to DeRuyter Properties L.P.
(Name)
in case of _____ vs. _____

dated February 21, 2003 in District Court - SRBA county of Twin Falls
(Name of court)

b. License No. _____ Issued by the Idaho Department of Water Resources.

c. Permit No. _____ Issued by the Idaho Department of Water Resources.

2. Source of water Ground Water tributary to N/A

3. Date of priority 6/18/1972

4. Water is used for the following purposes:

amount 0.82 cfs for Irrigation purposes from 3/15 to 11/15
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day - both dates inclusive)

5. Total amount of water under right: a. 0.82 cubic feet per second
&/or
b. _____ acre feet per annum

6. Location of point of diversion is SW ¼ of SW ¼ of Section 29 Township 3N Range 4W, B.M. in
OWYHEE County

Additional points of diversion, if any _____

7. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3N	4W	29						9	10			20	38						77

Total number of acres to be irrigated 79 (in combination with 57-7081)

B. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE (If the entire right is for sale or lease, omit part B.)

- Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
- Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
- Place of Use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total number of acres to be irrigated _____

C. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

1. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right.

DeRuyter Properties acquired the water rights in a purchase of land from DeWayne and Deva Merritt on May 30, 2001. A change of ownership form was submitted to IDWR on November 28, 2001.

2. Describe the frequency of water use under the right, or portion thereof, during the past 5 years. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture:

This water right in combination with 57-7081 was the sole source of irrigation water for 79 acres until 1990. A claim was filed in the SRBA court in 1988. A decree was issued on 2/9/1998. This water right was decreed in the SRBA on February 21, 2003.

3. Describe the relative availability of water to fill the right, or portion thereof. Attach evidence to support the availability:

No curtailment of water rights due to lack of availability has ever occurred in this area.

4. Describe any other water rights with the same purpose and place of use as the right, or portion thereof. Will the present place of use continue to receive water from any source? If so, describe.

Applicant is currently seeking Gem Irrigation water to satisfy irrigation needs.

5. If the water right is a permit, describe the work accomplished toward developing the right.

The well is a 12-inch diameter borehole, with a 12-inch casing having a total depth of 275 feet. Water from this right in combination with 57-7081 was used as the sole source of irrigation for 79 acres until 1990.

6. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

7. If the right is included in an ongoing adjudication, a copy of the claim must be provided with this application.

8. Draw a map indicating the point(s) of diversion and place of use of the right, or portion thereof. Show clearly the land involved by section, township, and range.

SCALE: 2 inches equal 1 mile. Draw plan in ink.

(Insert Map from Original Form)

9. Remarks This water right (57-2261) when combined with water right 57-7081 will provide irrigation water at 0.02 cfs/ac and 4.5 ac-ft/ac for 79 acres.

D. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale
XXX For lease for period from 2005 to indefinite
_____ As a gift to the State of Idaho.
(year) (year)

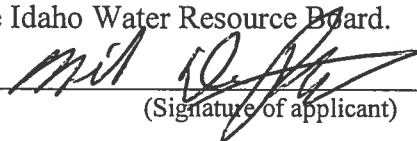
2. The minimum payment acceptable to the Seller/Lessor is: (Include the method of determining the minimum payment) Prevailing water bank rental rates.

3. Payment contingent on subsequent sale or leasing of this right, or portion thereof, is:

XX Acceptable _____ Not Acceptable

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer the sale or lease of this right to the Idaho Water Resource Board.

3-3-05
(Date)


(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____



COPY

RECEIVED
MAR 11 2005
DEPARTMENT OF
WATER RESOURCES

Water Supply Bank No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE
WATER SUPPLY BANK

*Should questions arise
during the processing of
this application please
contact: Steven Hannula
ERO Resources Corp.
(208) 373-7983*

Name of Seller/Lessor DeRuyter Properties L.P.

Phone (208) 896-5402

Post office address P.O. Box 580 Marsing, Idaho 83639

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 57-7081 Decreed to DeRuyter Properties L.P.
(Name)
in case of _____ vs. _____

dated February 21, 2003 in District Court - SRBA county of Twin Falls
(Name of court)

b. License No. _____ Issued by the Idaho Department of Water Resources.

c. Permit No. _____ Issued by the Idaho Department of Water Resources.

2. Source of water Ground Water tributary to N/A

3. Date of priority 6/18/1972

4. Water is used for the following purposes:

amount 0.58 cfs for Irrigation purposes from 3/15 to 11/15

amount _____ for _____ purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____
(month/day - both dates inclusive)

5. Total amount of water under right: a. 0.58 cubic feet per second
&/or

b. _____ acre feet per annum

6. Location of point of diversion is SW ¼ of SW ¼ of Section 29 Township 3N Range 4W, B.M. in
OWYHEE County

Additional points of diversion, if any _____

7. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3N	4W	29										20	40						60

Total number of acres to be irrigated 79 (in combination with 57-2261)

B. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE (If the entire right is for sale or lease, omit part B.)

- Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
- Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
- Place of Use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total number of acres to be irrigated _____

C. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

1. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right.

DeRuyter Properties acquired the water rights in a purchase of land from DeWayne and Deva Merritt on May 30, 2001. Change of ownership was filed with the IDWR on November 28, 2001.

2. Describe the frequency of water use under the right, or portion thereof, during the past 5 years. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture:

This water right in combination with 57-2261 was the sole source of irrigation water for 79 acres until 1990. A claim was filed in the SRBA court in 1988. A decree was issued on 2/9/1998. This water right was decreed in the SRBA on February 21, 2003.

3. Describe the relative availability of water to fill the right, or portion thereof. Attach evidence to support the availability:

No curtailment of water rights due to lack of availability has ever occurred in this area.

4. Describe any other water rights with the same purpose and place of use as the right, or portion thereof. Will the present place of use continue to receive water from any source? If so, describe.

Applicant is currently seeking Gem Irrigation water to satisfy irrigation needs.

5. If the water right is a permit, describe the work accomplished toward developing the right.

Two wells are claimed as POD, one well is the same as claimed for 57-2261. Both wells have a 12-inch diameter borehole and 12-inch casing. One well is 275 feet deep the other is unknown.

6. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

7. If the right is included in an ongoing adjudication, a copy of the claim must be provided with this application.

8. Draw a map indicating the point(s) of diversion and place of use of the right, or portion thereof. Show clearly the land involved by section, township, and range.

SCALE: 2 inches equal 1 mile. Draw plan in ink.

(Insert Map from Original Form)

9. Remarks This water right (57-7081) when combined with water right 57-2261 will provide irrigation water at 0.02 cfs/ac and 4.5 ac-ft/ac for 79 acres.

D. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale
XXX For lease for period from 2005 to Indefinite
(year) (year)
_____ As a gift to the State of Idaho.

2. The minimum payment acceptable to the Seller/Lessor is: (Include the method of determining the minimum payment) Prevailing water bank rental rates.

3. Payment contingent on subsequent sale or leasing of this right, or portion thereof, is:

XX Acceptable _____ Not Acceptable

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer the sale or lease of this right to the Idaho Water Resource Board.

3-3-05
(Date)

Mrs. H. J. [Signature]
(Signature of applicant)

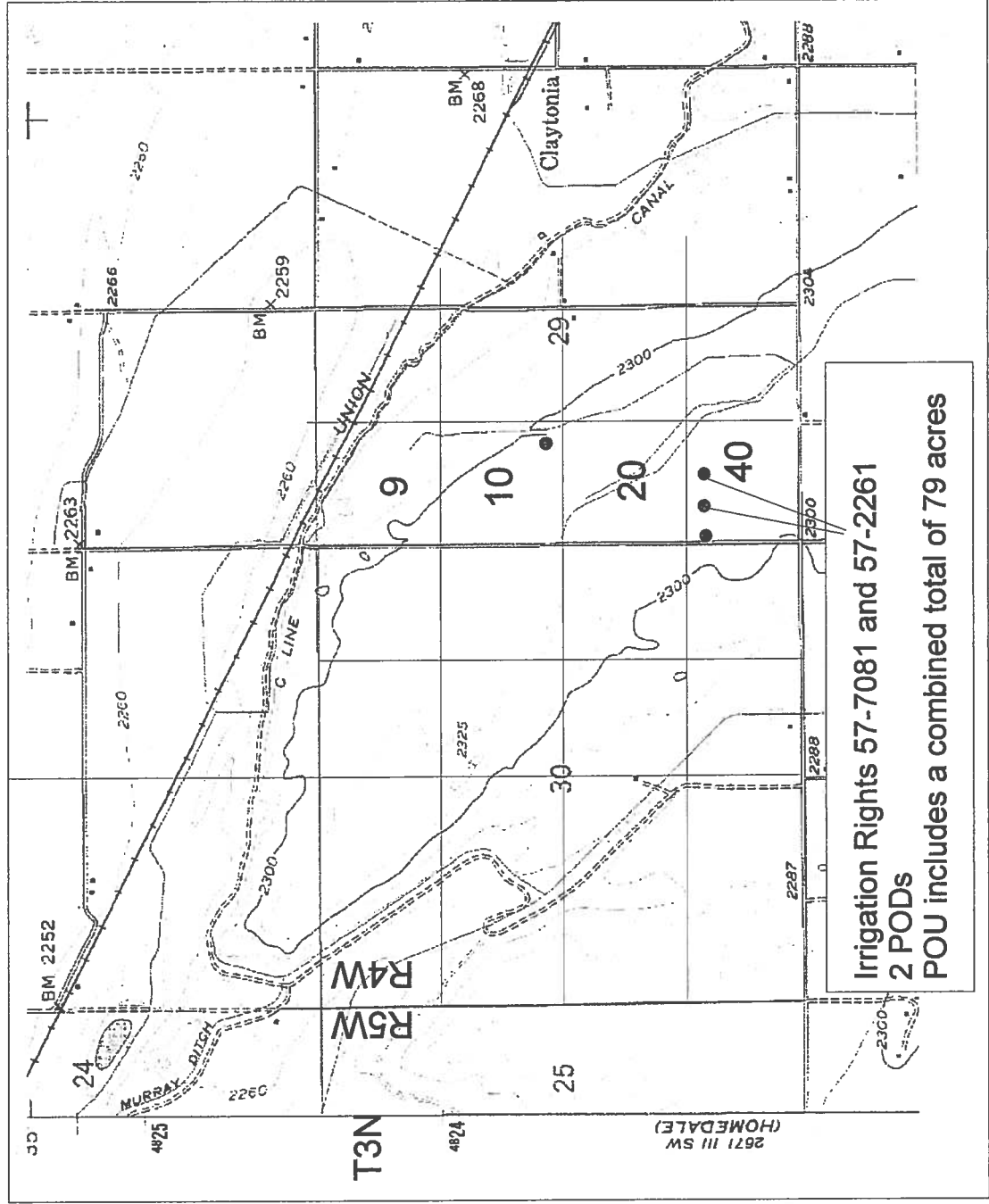
FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

POU and POD Map for 57-2261 and 57-7081





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

October 15, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

DERUYTER PROPERTIES LP
C/O NICK DERUYTER
PO BOX 580
MARSING ID 83639

**RE: APPLICATION TO LEASE WATER RIGHT NOS. 57-2261 AND 57-7081 TO THE
WATER SUPPLY BANK**

Dear Mr. Deruyter:

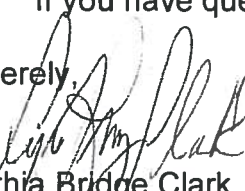
The department received your letter requesting that the Water Supply Bank ("bank") lease period for the water rights referenced above been changed to an "indefinite" duration. Please consider that the offered water right(s) are accepted into the bank for an indefinite period of time.

Several items to keep in mind in connection with the lease of a water right to the bank are as follows:

1. There is no rental payment to the owner of the water right if the right or a part thereof is not rented from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

If you have questions, please feel free to contact me.

Sincerely,


Cynthia Bridge Clark
Water Allocation Bureau

c: Steve Lester – IDWR Western Regional Office
57-2261 & 57-7081

RECEIVED

OCT 16 2004

SCANNED
OCT 21 2004

RECEIVED

JUN 18 2003

Department of Water Resources

DeRuyter Properties, L.P.
P.O. Box 580
Marsing, ID 83639

May 28, 2003

Idaho Department of Water Resources
Attn: Chief, Water Allocation Bureau
P.O. Box 83720
Boise, ID 83720-0098

RE: 57-2261 and 57-7081 – Water Supply Bank

Dear Mr. Saxton:

The above referenced water rights were accepted into the Water Supply Bank in August 2002. The current term expires December 2003. This letter is to request these rights be left in the water bank with an indefinite term.

If you have any questions please contact Steve Hannula at ERO Resources Corp. at (208) 373-7983.

Sincerely,



Nick DeRuyter
Owner, DeRuyter Properties, L.P.

MICROFILMED

MAR 16 2004



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

June 9, 2003

DE RUYTER PROPERTIES L P
PO BOX 580
MARSING ID 83639

RE: Change of Ownership for Water Rights 57-2261 and 57-7081

Dear Water Right Holder(s):

The department acknowledges receipt of correspondence changing ownership of the above referenced water rights to you. The department has modified its records to reflect the changes in ownership and has enclosed computer-generated reports for your records.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

Please feel free to contact this office if you have any questions regarding this matter.

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

cc: Steve Hannula, ERO

MICROFILMED

MAR 16 2004

ERO Resources Corp.
1106 N. Cole Rd., Suite C
Boise, ID 83704-8661
(208) 373-7983
Fax: 373-7985



Denver • Boise

www.eroresources.com
eroboise@eroresources.com

RECEIVED

DEC - 3 2001

Department of Water Resources

RECEIVED

NOV 30 2001

WATER RESOURCES
WESTERN REGION

November 28, 2001

Lori Graves
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, Idaho 83705-5082

Dear Ms. Graves:

Enclosed you will find a Notice of Change in Water Right Ownership for rights acquired by DeRuyter Properties, L.P. from DeWayne and Deva Merritt. If you need any additional information please let me know.

Regards,

A handwritten signature in cursive script that reads "Steven R. Hannula".

Steven R. Hannula

SRH:sw

Encl.

cc: DeRuyter Properties, L.P.

MICROFILMED

MAR 16 2004

Consultants in
Natural Resources
and the Environment



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 12, 2002

Steven R. Hannula
ERO Resources Corp.
1106 N. Cole Rd, Suite C
Boise, ID 83704-8661

**RE: APPLICATION TO LEASE WATER RIGHT NOS. 57-2261 and 57-7081 TO
THE WATER SUPPLY BANK**

Dear Mr. Hannula:

The department has reviewed the Application to Sell or Lease a Water Right to the Water Supply Bank ("bank") that you submitted to this office in the name of DeRuyter Properties, L.P. Please consider that the offered water rights are accepted into the bank.

Several items to keep in mind in connection with lease of the rights to the bank are as follows:

1. There is no rental payment to the owner of the water right if the right or a part thereof is not rented from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not in itself confirm the validity of the right or any elements of the water right.

If you have questions, please feel free to contact me.

Sincerely,

L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

c: Gary Spackman - IDWR
✓ 57-2261 and 57-7081

MICROFILMED
MAR 16 2004

ERO Resources Corp.
1106 N. Cole Rd., Suite C
Boise, ID 83704-8661
(208) 373-7983
Fax: 373-7985



Denver • Boise

www.eroresources.com
eroboise@eroresources.com

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AUG 07 2002

WATER RESOURCES
WESTERN REGION

RECEIVED

AUG - 9 2002

Department of Water Resources

August 7, 2002

Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, ID 83705-5082

RE: Water bank application for water right no. 57-2261 and 57-7081

Dear Mr. Saxton

In conjunction with this letter, DeRuyter Properties L.P. (applicant) is filing a water bank lease application for water right nos. 57-2261 and 57-7081.

In my own review of these rights, two issues came to mind that I am sure you would have requested information about. They are 1) are the ground water rights primary or supplemental, and 2) if primary, were they forfeited.

The purpose of this letter is to provide a chronology of the two water rights that shows that these water rights were the primary irrigation rights and not supplemental as interpreted from the decree. Also, by filing the claim in the Snake River Basin Adjudication (SRBA), which resulted in a decreed water right in 1998, forfeiture should not be an issue. The following chronology is based in part on Mr. DeWayne Merritt's recollection of the irrigation practices while he owned the farm and the information compiled during the department's review of the claims.

1) On February 9, 1998, the SRBA Court issued a decree for water right 57-7081 as follows:

Ident. No: 57-7081
Priority: June 18, 1972
Source: Groundwater
Rate of Div: 0.58 cubic feet per second (cfs)
Max. ann. vol: 355.5 acre-feet (AF) when combined with water right 57-2261
Pt. Of Div: SWSW Section 29, T3N, R4W, B.M., Owyhee County
Use: Irrigation
Place of Use: 60 acres in parts of section 29, T3N, R4W as follows:
Section 29 – NWSW (20 ac)
SWSW (40 ac)

2) On February 9, 1998, the SRBA Court issued a decree for water right 57-2261 as follows:

Ident. No: 57-2261

MICROFILMED

MAR 16 2004

Consultants in
Natural Resources
and the Environment

Priority: February 28, 1963
Source: Groundwater
Rate of Div: 0.82 cfs
Max. ann. vol: 355.5 acre-feet (AF) when combined with water right 57-7081
Pt. Of Div: SWSW Section 29, T3N, R4W, B.M., Owyhee County
Use: Irrigation
Place of Use: 77 acres in parts of section 29, T3N, R4W as follows:
Section 29 – NWNW (9 ac)
 SWNW (10 ac)
 NWSW (20 ac)
 SWSW (38 ac)

3) Mr. DeWayne Merritt purchased the water rights and accompanying land from the Nakano family in 1972 and sold to DeRuyter Properties L.P. in 2001.

4) Water was diverted from the wells as the sole water source under these water rights to provide all of the irrigation water supply for 79 acres of irrigation. The remainder of the farm was irrigated with Gem Irrigation water through flood irrigation, hand lines, and wheel lines. Throughout the 1980s an increasing portion of the farm was converted to sprinkler systems. Pivots were installed in 1990. The pivots irrigated the entire farm. Up until 1990, the 79 acres associated with the ground water rights were irrigated solely with ground water.

5) A rotation of row crops, alfalfa, and wheat were grown on the farm

6) In 1990, after the pivots were installed, the power to the pumps was disconnected, as these water rights were not intended to be supplemental water rights. Mr. Merritt filed claims for the two water rights in 1988 in the Snake River Basin Adjudication. The claims were decreed in 1998.

7) Idaho Power records from the late 1980s were not retained by Mr. Merritt. Idaho Power does not retain that type of information past 7 years and therefore does not have the records on file from that time period.

8) DeRuyter Properties LP now seeks approval to put water rights 57-2261 and 57-7081 in the water bank, which will make the rights available for use by others and will preserve the 1998 decrees from forfeiture.

This chronology shows that the water rights are the sole source of water for the lands they were used to irrigate. Also, the fact that claims were filed in the SRBA showed that there was no intention of forfeiting these rights. A decree was issued for each right in 1998, and based on the recent Memorandum Decision and Order on Challenge; and, Order of Partial Decree by Judge Burdick, the five-year statutory period of non-use for establishing forfeiture tolls upon filing a claim in the SRBA and begins anew upon issuance of a decree.

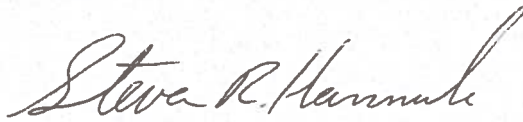
MICROFILMED

MAR 16 2004

It is the applicant's position that water rights 57-2261 and 57-7081 are primary irrigation rights and have not been forfeited and that the placement of these rights into the water bank should proceed without delay.

If there are any questions, please feel free to contact me.

Regards



Steven R. Hannula

cc DeRuyter Properties, L.P.

MICROFILMED
MAR 16 2004

RECEIVED

AUG 09 2002

Department of Water Resources

Water Supply Bank No. _____

Water Right No. _____

RECEIVED

AUG 07 2002

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE
WATER SUPPLY BANK

*Should questions arise
during the processing of
this application please
contact: Steven Hannula
ERO Resources Corp.
(208) 373-7983*

Name of Seller/Lessor DeRuyter Properties L.P.

Phone (208) 896-5402

Post office address P.O. Box 580 Marsing, Idaho 83639

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 57-2261 Decreed to DeWayne and Deva Merritt
(Name)
in case of _____ vs. _____
dated _____ in _____ county of _____
(Name of court)
- b. License No. _____ Issued by the Idaho Department of Water Resources.
- c. Permit No. _____ Issued by the Idaho Department of Water Resources.

2. Source of water Ground Water tributary to N/A

3. Date of priority 6/18/1972

4. Water is used for the following purposes:

amount 0.82 cfs for Irrigation purposes from 3/15 to 11/15
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day - both dates inclusive)

5. Total amount of water under right: a. 0.82 cubic feet per second
&/or
b. _____ acre feet per annum

6. Location of point of diversion is SW ¼ of SW ¼ of Section 29 Township 3N Range 4W, B.M. in
OWYHEE County

Additional points of diversion, if any _____

MICROFILMED

MAR 16 2004

7. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
3N	4W	29						9	10			20	38						77

Total number of acres to be irrigated 79 (in combination with 57-7081)

B. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE (If the entire right is for sale or lease, omit part B.)

- Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
- Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
- Place of Use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total number of acres to be irrigated _____

C. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

1. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right.

DeRuyter Properties acquired the water rights in a purchase of land from DeWayne and Deva Merritt on May 30, 2001. A change of ownership form was submitted to IDWR on November 28, 2001.

2. Describe the frequency of water use under the right, or portion thereof, during the past 5 years. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture:

This water right in combination with 57-7081 was the sole source of irrigation water for 79 acres until 1990. A claim was filed in the SRBA court in 1988. A decree was issued on 2/9/1998.

3. Describe the relative availability of water to fill the right, or portion thereof. Attach evidence to support the availability:

No curtailment of water rights due to lack of availability has ever occurred in this area.

4. Describe any other water rights with the same purpose and place of use as the right, or portion thereof. Will the present place of use continue to receive water from any source? If so, describe.

Applicant is currently seeking Gem Irrigation water to satisfy irrigation needs.

5. If the water right is a permit, describe the work accomplished toward developing the right.

The well is a 12-inch diameter borehole, with a 12-inch casing having a total depth of 275 feet. Water from this right in combination with 57-7081 was used as the sole source of irrigation for 79 acres until 1990. This water right was decreed on 2/9/1998

6. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

7. If the right is included in an ongoing adjudication, a copy of the claim must be provided with this application.

9. Remarks This water right (57-2261) when combined with water right 57-7081 will provide irrigation water at 0.02 cfs/ac and 4.5 ac-ft/ac for 79 acres.

D. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale

XXX For lease for period from 2002 to 2003
(year) (year)

_____ As a gift to the State of Idaho.

2. The minimum payment acceptable to the Seller/Lessor is: (Include the method of determining the minimum payment) Prevailing water bank rental rates.

3. Payment contingent on subsequent sale or leasing of this right, or portion thereof, is:

XX Acceptable _____ Not Acceptable

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer the sale or lease of this right to the Idaho Water Resource Board.

8-5-02
(Date)

[Signature]
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by J. Fontaine Date 8/7/02 Preliminary check by [Signature]

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

MICROFILMED

MAR 15 2004