

**LEGAL NOTICE
NOTICE OF PROPOSED CHANGE OF A WATER RIGHT
NO. T5609**

Notice is hereby given that Cannon Shelley Property Limited Partnership, Everett T Acor Jr and Kurt P Acor, PO Box 50130, Idaho Falls ID 83405, has applied to the Department of Water Resources to change the point of diversion and to change the place of use of groundwater and surface water sources. The rights sought to be changed are evidenced by decrees and recorded as follows:

Decree No.:	34-00256	Source:	Big Lost River
Amount:	1.47 cfs	Priority:	06/01/1889
Decree No.:	34-00416	Source:	Big Lost River
Amount:	1.60 cfs	Priority:	06/01/1896

Point(s) of Diversion: NWSESE SEC 4 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 73 acres within SEC 28 T05N R26E, B.M.

Decree No.:	34-00618	Source:	Big Lost River
Amount:	3.20 cfs	Priority:	09/01/1884

Point(s) of Diversion: NESESE SEC 4 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 139 acres within SEC 4 T04N R26E, B.M.

Decree No.:	34-02230B	Source:	Groundwater
Amount:	1.75 cfs	Priority:	06/01/1977
Decree No.:	34-12376	Source:	Groundwater
Amount:	1.25 cfs	Priority:	06/01/1977

Point(s) of Diversion: SENWSE SEC 29 T05N R26E, BUTTE COUNTY

Decree No.:	34-07077	Source:	Groundwater
Amount:	8.00 cfs	Priority:	09/05/1974
Decree No.:	34-07120	Source:	Groundwater
Amount:	2.00 cfs	Priority:	12/17/1975

Point(s) of Diversion: NWNWNW SEC 21 T05N R26E, BUTTE COUNTY

Decree No.:	34-07080B	Source:	Groundwater
Amount:	5.33 cfs	Priority:	09/23/1974

Point(s) of Diversion: SWNESE SEC 32 T05N R26E, BUTTE COUNTY

Decree No.:	34-07121B	Source:	Groundwater
Amount:	3.74 cfs	Priority:	01/09/1976

Point(s) of Diversion: SWSENE SEC 32 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 2025 acres within SEC 12 T03N R25E, SEC 17 and 18 T03N R26E, SEC 35 and 36 T04N R25E, B.M.

Decree No.:	34-02426C	Source:	Groundwater
Amount:	2.50 cfs	Priority:	04/06/1982

Point(s) of Diversion: NESWSW SEC 28 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 139 acres within SEC 12 T03N R25E, SEC 17 and 18 T03N R26E, SEC 35 and 36 T04N R25E, SEC 9 T04N R26E, and SEC 28 T05N R26E, B.M.

Decree No.:	34-07092	Source:	Groundwater
Amount:	12.00 cfs	Priority:	01/14/1975

Point(s) of Diversion: Lot 3 (NENENW) SEC 5 T04N R26E, BUTTE COUNTY
The water is used for irrigation of 635 acres within SEC 36 T04N R25E, B.M.

Decree No.:	34-07121A	Source:	Groundwater
Amount:	0.46 cfs	Priority:	01/09/1976

Point(s) of Diversion: SWNESE SEC 32 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 286 acres within SEC 12 T03N R25E, B.M.

TO BE CHANGED AS FOLLOWS:

The applicants are dividing the original Acor farm, which was limited to 2307 acres irrigated. Portions of these 12 rights are for 40.26 cfs and are staying within 2025 acres in T03N R25E SEC 12 T03N R26E SEC 17 and 18 and T04N R25E SEC 35 and 36.

Any protests against approval of the proposed change must be filed with the Idaho Department of Water Resources, 900 N Skyline Dr., Idaho Falls, ID 83402, together with a protest fee of \$25 on or before January 10, 2000. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director

Pub. Dec. 23, 1999

RECEIVED

JAN 03 2000

TRIBUNE PUBLISHING COMPANY, INC.

Department of Water Resources
Eastern RegionThe Lewiston Morning Tribune
505 C St., P.O. Box 957
Lewiston, Idaho 83501
(208) 743-9411Date 12/30/1999INVOICE NO. 218178Account No. 446600Description 218178NOTICE OF PROPOSTimes 2Lines 60

Tab. Lines

LEGAL ADVERTISING
INVOICESOLD TO: IDAHO DEPT. OF WATER RESOURCES
900 N. SKYLINE
IDAHO FALL ID 83402\$ 180.00NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.NOTICE OF PROPOSED CHANGE OF A WATER RIGHT
NO. T5609

218178

Notice is hereby given that Cannon Shelley Property Limited Partnership, Everett T Acor Jr and Kurt P Acor, P0 Box 50130, Idaho Falls ID 83405, has applied to the Department of Water Resources to change the point of diversion and to change the place of use of groundwater and surface water sources. The rights sought to be changed are evidenced by decrees and recorded as follows:

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KARL J. DREHER Director

Published in the Lewiston Morning Tribune on December 23 and 30, 1999.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 218178NOTICE OF attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 12/23, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 12/23/1999, and the last publication thereof being on the 12/30/1999 and said 218178NOTICE OF was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Karen J Lewis

SUBSCRIBED AND SWORN BEFORE ME THIS THE 30day of December 1999

Sheryl M. Lentz

Notary Public in and for the State of Id
residing at Lewiston, therein
Commission Expires June 4, 03

AFFIDAVIT OF PUBLICATION

I, COLLEEN BABCOCK
of the Arco Advertiser, a weekly newspaper of
general circulation, published weekly at Arco, Idaho,
since March, 1909, do solemnly swear that a copy of
this notice, per clipping attached, was published
weekly in the regular and entire issue of said
newspaper, and not in any supplement thereof,

for 2 consecutive weeks, commencing with

the issue dated Dec. 23, 1999

and ending with the issue dated

Dec. 30, 1999

Colleen Babcock

STATE OF IDAHO }

COUNTY OF BUTTE }

On this 30th day of December

in the year of 1999, before me, a Notary Public,

personally appeared

Colleen Babcock

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 he
executed the same.

Thomas D. [Signature]
Notary Public for Idaho

Residing at Arco, Id

My commission expires: 1-23-2004

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT

NO. T5609

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KARL J. DREHER

Director

Published in The Arco Advertiser on December 23 and 30, 1999.

RECEIVED

NOV 19 2001

Department of Water Resources

2001 NOV 13 PM 1:50

11-16-01

**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

ORDER OF PARTIAL DECREE

For Water Rights 34-13659 & 34-13660

On September 5, 2001, the Idaho Department of Water Resources filed an *Amended Director's Report* recommending that water right claim 34-256 be split and decreed as 34-13659 and 34-13660. No objection was filed to this *Amended Director's Report* and the time for filing objections has expired.

Therefore, IT IS ORDERED that water rights 34-13659 and 34-13660 are hereby decreed as set forth in the attached *Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED 11-16-01

Roger Burdick

ROGER S. BURDICK

Presiding Judge

Snake River Basin Adjudication

RECEIVED

NOV 19 2001

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 34-13659

NOV 16 PM 4:50

Department of Water Resources

NAME AND ADDRESS EVERETT T ACOR JR
 RT 1 BOX 13
 MOORE, ID 83255

SOURCE BIG LOST RIVER TRIBUTARY. SINKS

QUANTITY 0 97 CFS

PRIORITY DATE 06/01/1889

POINT OF DIVERSION T05N R26E S04 NWSESE Within Butte County

PURPOSE AND
PERIOD OF USE PURPOSE OF USE PERIOD OF USE QUANTITY
 Irrigation 05-01 TO 10-15 0 97 CFS

THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE
EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING
DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF
THE DIRECTOR.

PLACE OF USE: Irrigation Within Butte County
 T05N R26E S28 SWSW 7 0 SESW 36.0
 43 0 Acres Total

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 2277 ACRES IN A SINGLE
IRRIGATION SEASON COMBINED RIGHT NOS. 34-12376, 34-13663,
34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077,
34-07120, 34-00618, 34-00692C, 34-02330B AND 34-13661

USE OF THIS RIGHT WITH RIGHT NO. 34-13661 IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 43 ACRES IN A SINGLE
IRRIGATION SEASON

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I C. SECTION 42-1412(6)

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

Roger Burdick

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

2001 NOV 16 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

)
)
)
)

CERTIFICATE OF MAILING

Water Right(s): 34-13659

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 34-13659 was mailed
on November 16, 2001, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

EVERETT T ACOR JR
Represented by:
KENT W FOSTER
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

ROBBIN GLATZ
Chief Deputy Clerk

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TRANSFER NOS. 5609 AND)
5611 IN THE NAME OF CANNON)
SHELLEY PROPERTY LIMITED)
PARTNERSHIP, EVERETT T. ACOR)
AND KURT P. ACOR)
_____)

PRELIMINARY ORDER

FINDINGS OF FACT

1. On November 1, 1999, Cannon Shelley Property, Everett T. Acor and Kurt P. Acor ("applicants") filed Application for Transfer Nos. 5609 and 5611 ("applications") with the Idaho Department of Water Resources ("Department"). The applications were subsequently protested by Lawrence R. Babcock ("Babcock") representing the Big Lost River Water Users Association ("protestant").

2. On February 15, 2000, the Department conducted a conference in connection with the applications. As a result of the conference, on March 20, 2000, the Department issued an Order to Show Cause Why Protests Should Not be Dismissed.

3. On April 5, 2000, Babcock filed a Response to Order to Show Cause and on the same day, the Department issued an Order Dismissing Protests in connection with the applications.

4. On April 14, 2000, Babcock filed a Motion For Disqualification of the hearing officer in connection with a scheduled water right hearing and a Motion for Reconsideration, both on behalf of the protestant.

CONCLUSIONS OF LAW

1. IDAPA Rule 37.01.01750 (Rule of Procedure 750) provides in pertinent part as follows:

If an order does not designate itself as recommended, preliminary or final at its release, but is designated as recommended, preliminary or final after its release, its effective date for purposes of reconsideration or appeal is the date of the order of designation.

2. IDAPA Rule 37.01.01203 (Rule of Procedure 203) provides as follows:

From the time a party files its initial pleadings in a contested case, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties' representatives designated pursuant to Rule 200, unless otherwise directed by order or notice or by the presiding officer on the record. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The presiding officer may order parties to serve past and future documents filed in the case upon persons not parties to the proceeding before the agency.

3. IDAPA Rule 37.01.01202.01.d (Rule of Procedure 202.01.d) provides in pertinent part as follows:

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney.

4. The Order Dismissing Protests issued by the Department on April 5, 2000, was not designated as described in Procedure Rule 750.

5. Neither Babcock nor the protestant provided proof of service of its motions dated April 14, 2000, upon the other parties of record as required by Procedure Rule 203.

6. The Department should designate its April 5, 2000 order and either Babcock or the protestant should show proof of past service to the other parties of record. In addition, Babcock should be required to either show that he is authorized to represent the protestant or to practice law or to clarify that he is the protestant on his own behalf.

ORDER

IT IS THEREFORE HEREBY ORDERED that the order of the Department dated April 5, 2000 is designated as a Preliminary Order and will be considered served as of the service date of this order.

IT IS FURTHER HEREBY ORDERED that for the Department to consider the motions filed by Babcock on behalf of the Big Lost River Water Users Association that Babcock take the following actions within fourteen (14) days of the service date of this order or the motions of the protestant and/or Babcock will be considered summarily rejected for failure to comply with the rules of procedure:

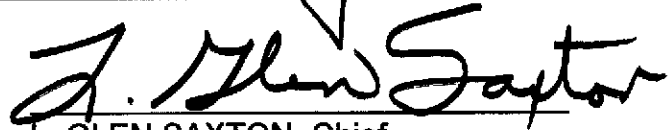
1. Provide evidence to the Department to show that the other parties have been properly served with the following documents:

Response to Order to Show Cause dated April 5, 2000
Motion For Disqualification dated April 14, 2000
Motion for Reconsideration dated April 14, 2000

2. Provide evidence to show the charter or designation document for the Big Lost River Water Users Association including the purpose of the association, its bylaws and current officers.
3. Provide authority to show that Babcock is authorized to represent the protestant in a legal capacity or clarify that he is the protestant representing himself.

The Department will not further consider the pleadings of Babcock or of the protestant if Babcock fails to timely respond or fails to adequately provide the information requested in this order.

Dated this 11th day of May, 2000.



L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 11th day of May, 2000, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

Everett Acor
Kurt Acor
Cannon Shelley Property Limited Partnership
c/o Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405

A handwritten signature in cursive script, reading "Deborah Drew-Ellis", written over a horizontal line.

Deborah Drew-Ellis
Administrative Assistant
Water Allocation Bureau

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO**

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5609 AND 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY LIMITED PARTNERSHIP,)
EVERETT T. ACOR AND KURT P. ACOR)**

.....

**ORDER
DISMISSING
PROTESTS**

WHEREAS, Applications for transfer numbered 5609 and 5611 were duly filed and advertised as required by Idaho Code §42-222, and;

WHEREAS, Protests against the approval of these applications were received from a group of people calling themselves the Big Lost Water Users Association on January 10, 2000, and;

WHEREAS, At the conference held on February 15, 2000, it was determined that the issues raised by the protestants related to objections to court actions in the Snake River Basin Adjudication (SRBA), which were not properly issues before the Department in this matter, and;

WHEREAS, On March 2, 2000 the Department requested that the protestants identify the injury that they anticipated as a result of the approval of transfers 5609 and 5611, and;

WHEREAS, The protestants failed to identify a valid basis for their protest as requested by the Department at the conference and have again failed to provide the requested information when requested in writing on March 2, 2000.

WHEREAS, On March 20, 2000 the protestants were given until April 5, 2000 to show cause why their protests should not be set aside for failure to identify a basis for protest, and;

WHEREAS, The protestants have now failed to comply with the Department's order to Show Cause why their protests should not be set aside.

NOW THEREFORE, IT IS HEREBY ORDERED, that the protests against applications for transfer 5209 and 5611 ARE HEREBY SET ASIDE and will not be considered as part of the information before the Director in processing these applications for transfer.

Dated this 5th day of April, 2000.


RONALD D. CARLSON
Regional Manager, IDWR

5609/67029

BEFORE THE DEPARTMENT OF WATER RESOURCES

COPY

OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5609 AND 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY LIMITED PARTNERSHIP,)
EVERETT T. ACOR AND KURT P. ACOR)

ORDER
TO SHOW CAUSE
WHY PROTESTS
SHOULD NOT BE
DISMISSED

.....
WHEREAS, Applications for transfer numbered 5609 and 5611 were duly filed and advertised as required by Idaho Code §42-222, and;

WHEREAS, Protests against the approval of these applications were received from a group of people calling themselves the Big Lost Water Users Association on January 10, 2000, and;

WHEREAS, On February 15, 2000 a conference was conducted by the Department to determine the issues that will be raised by the protestants at a formal hearing before the Department, and;

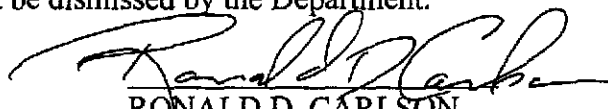
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WHEREAS, On March 2, 2000 the Department requested that the protestants identify the injury that they anticipated as a result of the approval of transfers 5609 and 5611, and:

WHEREAS, The protestants have failed to identify a valid basis for their protest as requested by the Department at the conference and again on March 2, 2000.

NOW THEREFORE The Protestants are HEREBY ORDERED TO SHOW CAUSE by April 5, 2000, why their protest should not be dismissed by the Department.

Dated this 20 day of March, 2000.


RONALD D. CARLSON
Regional Manager, IDWR

5609/67029



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

April 15, 2004

DIRK KEMPTHORNE

Governor

KARL J. DREHER

Director

Holden Kidwell Hahn & Crapo PLLC

PO Box 50130

Idaho Falls ID 83405

RE: Applications for Transfer #67029, 67031 and 69399

Dear Kent Foster:

This letter is to acknowledge receipt of your relinquishment of the above referenced applications. The Department has taken the steps necessary to void the applications in our files.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

W Roger Warner

Water Right Supervisor

WRW::sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

April 15, 2004

DIRK KEMPTHORNE

Governor

KARL J. DREHER

Director

**John A Rosholt
Barker Rosholt & Simpson LLP
PO Box 2139
Boise ID 83701-2139**

RE: Application for Transfer #69399 for Cannon-Shelley Properties

Dear Mr. Rosholt:

This is to advise you that the above referenced application has been withdrawn. A copy of the withdrawal has been enclosed.

If you have any questions, please call our office.

Sincerely,

**W Roger Warner
Water Right Supervisor**

WRW::sc

Enclosure

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPPO, L.L.C.

KENT W FOSTER
ROBERT E FARNAM
WILLIAM D FALER
CHARLES A HOMER
GARY L MEIKLE
DONALD L HARRIS
DALE W STORER
MARIE T TYLER
ROBERT M FOLLETT
FREDERICK J HAHN, III
KARL R DECKER
THEL W CASPER*
SHAN B PERRY
AMELIA A SHEETS
DeANNE CASPERSON**

1000 RIVERWALK DRIVE, SUITE 200
P O BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

RECEIVED
APR 16 2004
Arthur W Holden
Department of Water Resources
Robert B Holden
(1911-1971)
Terry L Crapo
(1939-1982)
William S Holden
(1907-1988)

Of Counsel
Fred J Hahn

*Also Licensed in Utah and Arizona
**Also Licensed in Missouri & Kansas

April 14, 2004

Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

Dear Ladies and Gentlemen:

We are writing this letter on behalf of Cannon-Shelley Properties, Ltd. Partnership, Everett T. Acor, Jr., and Kurt P. Acor to withdraw the following referenced applications for transfer:

1. Number 67029 (original 5609), filed on or about November 15, 1999, involving water rights numbers 34-00256, 34-00416, 34-00618, 34-02330B, 34-02426E, 34-07077, 34-07080B, 34-07092, 34-07120, 34-07121A, 34-07121B and 34-12376.
2. Number 67031 (original 5611), filed on or about November 15, 1999, involving water rights numbers 34-00692C and 34-07179.
3. Number 69399, filed on or about August 26, 2001, involving water rights numbers 35-2501, 35-2575, 35-2595 and 35-7784.
4. An unnumbered application filed about February 13, 2003, involving water rights numbers 34-13663, 34-07121B, 34-07080B, 34-07121A and 34-07092. This application was receipted on February 19, 2003, but, to our knowledge, nothing further has been done; Notice of it has never been published. It was filed with our law firm's check in the amount of \$1,070 for the filing fee. We assume that amount or some portion should be refunded, and we request that you do so as soon as it is convenient.

Thank you for your kind attention to this matter.

Yours very truly,



Kent W. Foster

c: IDWR - Boise office

COPY

Page 1 of 31

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No 5609/67029

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant Cannon Shelley Property Limited Partnership, Everett T. Acor, Jr., and Kurt P. Acor Phone (208) 523-0620
Post Office address P.O. Box 50130, Idaho Falls, ID 83405

A. PURPOSE OF TRANSFER

- 1 ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other reconfigure water rights on land
- 2 Describe the reason for the proposed changes To divide water rights to conform to division of land as a result of sale of land by Acors to Cannon

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1	Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
	34-00256 ✓ 13659	06/01/1889	0 970	Irrigation	04-15 to 10-15
	34-00416 ✓ 13641	06/01/1896	1 000	Irrigation	04-15 to 10-15
	34-00618 ✓	09/01/1884	3 200	Irrigation	04-15 to 10-15
	34-02330B ✓	06/01/1977	1 750	Irrigation	04-15 to 10-15
	34-02426E ✓ 13613	04/06/1982	1 260	Irrigation	04-15 to 10-15
	34-07077 ✓	09/05/1974	8.000	Irrigation	04-15 to 10-15
	34-07080B ✓	09/23/1974	5.330	Irrigation	04-15 to 10-15
	34-07092 ✓	01/14/1975	12.00	Irrigation	04-15 to 10-15
	34-07120 ✓	12/17/1975	2.000	Irrigation	04-15 to 10-15
	34-07121A ✓	01/09/1976	0 460	Irrigation	04-15 to 10-15
	34-07121B ✓	01/09/1976	3 740	Irrigation	04-15 to 10-15
	34-12376 ✓	06/01/1977	1 250	Irrigation	04-15 to 10-15

2 Total amount of water being transferred 40 26 cubic feet per second and/or acre-feet per annum

3 Source of water Big Lost River - 34-00256, 34-00416 and 34-00618 tributary to sinks
Source of water Groundwater - all others tributary to sinks

4. Point(s) of Diversion

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
	NW	SE	SE	4	5N	26E	Butte ✓	Moore Diversion for 34-00256, 34-00416 and 34-00618 ✓
	SE	NW	SE	29	5N	26E	Butte ✓	Harold Babcock well for 34-02330B and 34-12376 ✓
	SW	SE	NE	32	5N	26E	Butte ✓	North McAfee well for 34-02426B and 34-07121B ✓
	SW	NE	SE	32	5N	26E	Butte ✓	South McAfee well for 34-07080B and 34-07121A ✓
3	NE	NE	NW	5	4N	26E	Butte ✓	Niederer wells (2) for 34-07092 ✓
	NW	NW	NW	21	5N	26E	Butte ✓	Burnett well for 34-07077 and 34-07120 ✓

SUPPORT DATA

IN FILE # 34-13659

T 5609/67029

5. Lands irrigated or place of use.

Twp	Rge.	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	25E	12	39	40	40	39	40	40	40	40	31	32	31	32	39	40	36	36	595
3N	26E	17	11	25			37	39	13	5									130
		18	35	39	36	25	38	26	37	40	17	10				2			305
4N	25E	35	40	40	40	40					20			20	40	40	40	40	360
		36	38	40	40	39	40	40	40	40	40	40	40	40	39	40	40	39	635

Total Acres 2025

6 General Information

- Description of diversion system All water from Big Lost River and wells is transported to and introduced into the Timberdome Canal Company system and thence to the places of use.
- Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes No No If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer.
There will be no effect
- Remarks
A copy of the Agreement for Division of Water Rights and Related Property Rights between Acors and Cannons is attached

ACTION OF THE DIRECTOR DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 1994

A. DESCRIPTION OF RIGHT AS RECORDED: Sec Split

Claim No. R34-00256

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	05/01 to 10/15	1.47 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BIG LOST RIVER	SINKS

Priority: 06/01/1889

LOCATION OF POINT(S) OF DIVERSION: NWSESE , Sec. 4, Township 05N, Range 26E
BUTTE 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>
05N	26E	28	SWSW 37	SESW 36		73
Total number of acres irrigated:						73

CONDITIONS/REMARKS:

1. THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE WATERMASTER FOR WATER DISTRICT 34.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-00618, 34-00692C, 34-02330B AND 34-00416.
3. USE OF THIS RIGHT WITH RIGHT NO. 34-00416 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 73 ACRES IN A SINGLE IRRIGATION SEASON.
4. WATER DELIVERED THROUGH THE MOORE DIVERSION, WESTSIDE CANAL

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? No If yes, describe:

Page 4 of 31

TRANS NO.

5609

Claim No. R34-00256

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

- 10 To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
NO If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 0.97 cfs for Irrigation purposes from 5-01 to 10-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2 Point(s) of Diversion.

Lot	1/4	1/4	1/4	Sec	Twp	Rge.	County	Local name for diversion
	NW	SE	SE	4	SN	26E	Butte	

3 Lands irrigated or place of use:

Twp	Rge.	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
SN	26E	28											7	36					43

Total acres 43**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** (omit if there is no change)

1. amount 0.50 cfs for Irrigation purposes from 5-01 to 10-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2 Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge.	County	Local name for diversion
	NW	SE	SE	4	SN	26E	Butte	

3 Lands irrigated or place of use:

Twp	Rge.	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
SN	26E	28							30				*						30

* Correction per recorded use to SWSW.
HWS 4-2-2000Total acres 30

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED: See Split

Claim No. R34-00416

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	05/01 to 10/15	1.60 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BIG LOST RIVER	SINKS

Priority: 06/01/1896

LOCATION OF POINT(S) OF DIVERSION: NWSESE , Sec. 4, Township 05N, Range 26E
BUTTE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 26E 28	SWSW 37	SESW 36		73
Total number of acres irrigated:				73

CONDITIONS/REMARKS:

1. THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE WATERMASTER FOR WATER DISTRICT 34.
2. USE OF THIS RIGHT WITH THE RIGHT NO. 34-00256 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 73 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-00618, 34-00692C, 34-02330B AND 34-02330B.
3. USE OF THIS RIGHT WITH RIGHT NO. 34-00256 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 73 ACRES IN A SINGLE IRRIGATION SEASON.
4. WATER DELIVERED THROUGH THE MOORE DIVERSION, WESTSIDE CANAL

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? No If yes, describe:

Page 7 of 31

TRANS NO. 5609

Claim No. R34-00416

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

- 10 To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
NO If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

- 1 amount 1.00 cfs for Irrigation purposes from 5-01 to 10-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	SE	SE	4	5N	26E	Butte	

3 Lands irrigated or place of use:

Twp	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
5N	26E	28											7	36					43

Total acres 43

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount 0.60 cfs for Irrigation purposes from 5-01 to 10-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	SE	SE	4	5N	26E	Butte	

3 Lands irrigated or place of use

Twp.	Rge	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
5N	26E	28											30						30

Total acres 30

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R34-00618

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	05/01 to 10/15	3.20 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BIG LOST RIVER	SINKS

Priority: 09/01/1884

LOCATION OF POINT(S) OF DIVERSION: NESESE , Sec. 4, Township 05N, Range 26E
BUTTE 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	26E	4	Lot 1 (NENE)	35	Lot 2 (NWNE)	36	SWNE	36	
			SENE	32					139
					Total number of acres irrigated:				139

CONDITIONS/REMARKS:

1. THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE WATERMASTER FOR WATER DISTRICT 34.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-02330B, 34-00692C, 34-00256 AND 34-00416.
3. WATER DELIVERED THROUGH THE MOORE DIVERSION, WESTSIDE CANAL

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Page 10 of 31

TRANS NO. 5609

Claim No. R34-00618

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

PART 2

TRANS NO. 5609

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R34-02330B

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 10/31	1.75 CFS

SOURCE

GROUNDWATER

Priority: 06/01/1977

LOCATION OF POINT(S) OF DIVERSION:SENWSE , Sec. 29, Township 05N, Range 26E
BUTTE CountyPLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N 25E 12	NENE 39	NWNE 40	SWNE 40	
	SENE 39	NENW 40	NWNW 40	
	SWNW 40	SENE 40	NESW 31	
	NWSW 32	SWSW 31	SESW 32	
	NESE 39	NWSE 40	SWSE 36	
	SESE 36			595
26E 17	NENE 11	NWNE 25	NENW 37	
	NWNW 39	SWNW 13	SENE 5	130
18	NENE 35	NWNE 39	SWNE 36	
	SENE 25	NENW 38	NWNW 26	
	SWNW 37	SENE 40	NESW 17	
	NWSW 10	NWSE 2		305
04N 25E 35	NENE 40	NWNE 40	SWNE 40	
	SENE 40	NESW 20	SESW 20	
	NESE 40	NWSE 40	SWSE 40	
	SESE 40			360
36	NENE 38	NWNE 40	SWNE 40	
	SENE 39	NENW 40	NWNW 40	
	SWNW 40	SENE 40	NESW 40	
	NWSW 40	SWSW 40	SESW 40	
	NESE 39	NWSE 40	SWSE 40	
	SESE 39			635

Total number of acres irrigated: 2025

CONDITIONS/REMARKS:

Claim No. R34-02330B

CONDITIONS/REMARKS:

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. PRIORITY DATE CHANGED TO PREVENT INJURY FROM CHANGE IN USE.
3. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, AND 34-07120.
4. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-00618, 34-00692C, 34-00256 AND 34-00416.
5. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 122.5 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
5. WATER DELIVERED THROUGH THE MOORE AND TIMBERDOME CANALS.
6. RIGHT NOS. 34-02330A, 34-12376 AND 34-12377 ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice ☐ Warranty Deed ☐ Other _____

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED: See SplitClaim No. **R34-02426C**STAGE: **LICENSE**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 10/31	2.50 CFS

SOURCE

GROUNDWATER

Priority: 04/06/1982

LOCATION OF POINT(S) OF DIVERSION:NESWSW , Sec. 28, Township 05N, Range 26E
BUTTE CountyPLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N 25E 12	NENE 39	NWNE 40	SWNE 40	
	SENE 39	NENW 40	NWNW 40	
	SWNW 40	SESW 31	SWSE 36	
	NWSW 32	SESW 32		
	NESE 39	NWSE 40		
	SESE 36			595
26E 17	NENE 11	NWNE 25	NENW 37	
	NWNW 39	SWNW 13	SESW 5	130
18	NENE 35	NWNE 39	SWNE 36	
	SENE 25	NENW 38	NWNW 26	
	SWNW 37	SESW 40	NESW 17	
	NWSW 10	NWSE 2		305
04N 25E 35	NENE 40	NWNE 40	SWNE 40	
	SENE 40	NESW 20	SESW 20	
	NESE 40	NWSE 40	SWSE 40	
	SESE 40			360
36	NENE 38	NWNE 40	SWNE 40	
	SENE 39	NENW 40	NWNW 40	
	SWNW 40	SESW 40	NESW 40	
	NWSW 40	SWSW 40	SESW 40	
	NESE 39	NWSE 40	SWSE 40	
	SESE 39			635
26E 9	NENW 35	NWNW 35		70
05N 26E 28	SWSW 37	SESW 36		73

Total number of acres irrigated: 2168

Claim No. **R34-02426C****CONDITIONS/REMARKS:**

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. PRIORITY DATE CHANGED TO PREVENT INJURY FROM CHANGE IN USE.
3. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-12376, 34-02330B, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, AND 34-07120.
4. THIS RIGHT AND RIGHT NOS. 34-02426A AND 34-02426B ARE LIMITED TO A TOTAL COMBINED RATE OF DIVERSION OF 5.00 CFS.
5. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02330B, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-00618, 34-00692C, 34-00256 AND 34-00416.
6. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 139 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
6. RIGHT NOS. 34-02426A AND 34-02426B ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
7. WATER DELIVERED THROUGH WESTSIDE AND TIMBERDOME CANALS.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice ☐ Warranty Deed ☐ Other _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No

If yes, describe _____

"E" Portion

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 1.26 cfs for Irrigation purposes from 4-15 to 10-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2 Point(s) of Diversion

Lot	1/4	1/4	1/4	Sec.	Twp	Rge.	County	Local name for diversion
	NE	SW	SW	28	SN	26E	Butte	

3 Lands irrigated or place of use.

Twp.	Rge	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
																			70

Total acres 70**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** (omit if there is no change)

1. amount 1.24 cfs for Irrigation purposes from 4-15 to 10-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2 Point(s) of Diversion:

"D" Portion

Lot	1/4	1/4	1/4	Sec.	Twp	Rge	County	Local name for diversion
	NE	SW	SW	28	SN	26E	Butte	

3 Lands irrigated or place of use:

Twp	Rge	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
																			69

Total acres 69

PART 2

TRANS NO. 5609

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R34-07077

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 11/01	8.00 CFS

SOURCE

GROUNDWATER

Priority: 09/05/1974

LOCATION OF POINT(S) OF DIVERSION:NWNWNW , Sec. 21, Township 05N, Range 26E
BUTTE CountyPLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N 25E 12	NENE 39	NWNE 40	SWNE 40	
	SENE 39	NENW 40	NWNW 40	
	SWNW 40	SENW 40	NESW 31	
	NWSW 32	SWSW 31	SESW 32	
	NESE 39	NWSE 40	SWSE 36	
	SESE 36			595
26E 17	NENE 11	NWNE 25	NENW 37	
	NWNW 39	SWNW 13	SENW 5	130
18	NENE 35	NWNE 39	SWNE 36	
	SENE 25	NENW 38	NWNW 26	
	SWNW 37	SENW 40	NESW 17	
	NWSW 10	NWSE 2		305
04N 25E 35	NENE 40	NWNE 40	SWNE 40	
	SENE 40	NESW 20	SESW 20	
	NESE 40	NWSE 40	SWSE 40	
	SESE 40			360
36	NENE 38	NWNE 40	SWNE 40	
	SENE 39	NENW 40	NWNW 40	
	SWNW 40	SENW 40	NESW 40	
	NWSW 40	SWSW 40	SESW 40	
	NESE 39	NWSE 40	SWSE 40	
	SESE 39			635

Total number of acres irrigated: 2025

CONDITIONS/REMARKS:

Claim No. R34-07077

CONDITIONS/REMARKS:

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-02330B, AND 34-07120.
3. THIS RIGHT AND RIGHT NO. 34-07120 ARE LIMITED TO A TOTAL COMBINED RATE OF DIVERSION OF 9.26 CFS.
4. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-02330B, 34-07120, 34-00618, 34-00692C, 34-00256 AND 34-00416.
5. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 200 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
5. RIGHT NO. 34-07120 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
6. WATER DELIVERED THROUGH THE TIMBER DOME CANAL.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice ☐ Warranty Deed ☐ Other _____

PART 2

TRANS NO. 5609

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R34-07080B

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 11/01	5.33 CFS

SOURCE

GROUNDWATER

Priority: 09/23/1974

LOCATION OF POINT(S) OF DIVERSION:SWNESE , Sec. 32, Township 05N, Range 26E
BUTTE CountyPLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N	25E	12	NENE 39	NWNE 40	SWNE 40	
			SENE 39	NENW 40	NWNW 40	
			SWNW 40	SENE 40	NESW 31	
			NWSW 32	SWSW 31	SESW 32	
			NESE 39	NWSE 40	SWSE 36	
			SESE 36			595
	26E	17	NENE 11	NWNE 25	NENW 37	
			NWNW 39	SWNW 13	SENE 5	130
		18	NENE 35	NWNE 39	SWNE 36	
			SENE 25	NENW 38	NWNW 26	
			SWNW 37	SENE 40	NESW 17	
			NWSW 10	NWSE 2		305
04N	25E	35	NENE 40	NWNE 40	SWNE 40	
			SENE 40	NESW 20	SESW 20	
			NESE 40	NWSE 40	SWSE 40	
			SESE 40			360
		36	NENE 38	NWNE 40	SWNE 40	
			SENE 39	NENW 40	NWNW 40	
			SWNW 40	SENE 40	NESW 40	
			NWSW 40	SWSW 40	SESW 40	
			NESE 39	NWSE 40	SWSE 40	
			SESE 39			635
Total number of acres irrigated:						2025

CONDITIONS/REMARKS:

Claim No. R34-07080B

CONDITIONS/REMARKS:

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-12376, 34-02426C, 34-02330B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, AND 34-07120.
3. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-02330B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-00618, 34-00692C, 34-00256 AND 34-00416.
4. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 286 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
4. RIGHT NO. 34-07121A IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
5. WATER DELIVERED THROUGH THE TIMBER DOME CANAL.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice ☐ Warranty Deed ☐ Other _____

PART 2**A. DESCRIPTION OF RIGHT AS RECORDED:**

Claim No. R34-07092

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/15 to 10/15	12.00 CFS

SOURCE

GROUNDWATER

Priority: 01/14/1975

LOCATION OF POINT(S) OF DIVERSION: Lot 3 (NENENW), Sec. 5, Township 04N, Range 26E
BUTTE 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	25E	36	NENE 38	NWNE 40	SWNE 40	
			SENE 39	NENW 40	NWNW 40	
			SWNW 40	SENW 40	NESW 40	
			NWSW 40	SWSW 40	SESW 40	
			NESE 39	NWSE 40	SWSE 40	
			SESE 39			635
						Total number of acres irrigated: 635

CONDITIONS/REMARKS:

1. A MEASURING DEVICE AND LOCKABLE CONTROLLING WORKS OF A TYPE ACCEPTABLE TO IDWR SHALL BE PERMANENTLY INSTALLED AND MAINTAINED AS A PART OF THE DIVERTING WORKS.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-02330B, 34-07179, 34-07077, AND 34-07120.
3. TWO POINTS OF DIVERSION LOCATED IN T04N, R26E, S05, LOT 3, (NENENW).
4. THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER OCTOBER 15 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

Claim No. R34-07092

A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

5. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-02330B, 34-07179, 34-07077, 34-07120, 34-00618, 34-00692C, 34-00256 AND 34-00416.
6. WATER DELIVERED THROUGH THE TIMBER DOME CANAL.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice ☐ Warranty Deed ☐ Other _____

PART 2

TRANS NO. 5609

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R34-07120

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 11/01	2.00 CFS

SOURCE

GROUNDWATER

Priority: 12/17/1975

LOCATION OF POINT(S) OF DIVERSION:NWNWNW , Sec. 21, Township 05N, Range 26E
BUTTE CountyPLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N 25E 12	NENE 39	NWNE 40	SWNE 40	
	SENE 39	NENW 40	NWNW 40	
	SWNW 40	SENW 40	NESW 31	
	NWSW 32	SWSW 31	SESW 32	
	NESE 39	NWSE 40	SWSE 36	
	SESE 36			595
26E 17	NENE 11	NWNE 25	NENW 37	
	NWNW 39	SWNW 13	SENW 5	130
18	NENE 35	NWNE 39	SWNE 36	
	SENE 25	NENW 38	NWNW 26	
	SWNW 37	SENW 40	NESW 17	
	NWSW 10	NWSE 2		305
04N 25E 35	NENE 40	NWNE 40	SWNE 40	
	SENE 40	NESW 20	SESW 20	
	NESE 40	NWSE 40	SWSE 40	
	SESE 40			360
36	NENE 38	NWNE 40	SWNE 40	
	SENE 39	NENW 40	NWNW 40	
	SWNW 40	SENW 40	NESW 40	
	NWSW 40	SWSW 40	SESW 40	
	NESE 39	NWSE 40	SWSE 40	
	SESE 39			635

Total number of acres irrigated: 2025

CONDITIONS/REMARKS:

Claim No. R34-07120

CONDITIONS/REMARKS:

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, AND 34-02330B.
3. THIS RIGHT AND RIGHT NO. 34-07077 ARE LIMITED TO A TOTAL COMBINED RATE OF DIVERSION OF 9.26 CFS.
4. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-02330B, 34-00618, 34-00692C, 34-00256 AND 34-00416.
5. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 180 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
5. RIGHT NO. 34-07077 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
6. WATER DELIVERED THROUGH THE TIMBER DOME CANAL.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

PART 2

TRANS NO. 5609

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R34-07121A

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/15 to 10/15	0.46 CFS

SOURCE

GROUNDWATER

Priority: 01/09/1976

LOCATION OF POINT(S) OF DIVERSION: SWNESE , Sec. 32, Township 05N, Range 26E
BUTTE 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>
03N	25E	12	NENW 40	NWNW 40	SWNW 40	
			SEnw 40	NESW 31	NWSW 32	
			SWSW 31	SESW 32		286
				Total number of acres irrigated:		286

CONDITIONS/REMARKS:

1. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-12376, 34-02426C, 34-07080B, 34-02330B, 34-07121B, 34-07092, 34-07179, 34-07077, AND 34-07120.
2. THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER OCTOBER 15 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.
3. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-02330B, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-00618, 34-00692C, 34-00256 AND 34-00416.
4. RIGHT NO. 34-07080B IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Claim No. R34-07121A

5. WATER DELIVERED THROUGH THE TIMBER DOME CANAL.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? No If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

PART 2

TRANS NO. 5609

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R34-07121B

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 11/01	3.74 CFS

SOURCE

GROUNDWATER

Priority: 01/09/1976

LOCATION OF POINT(S) OF DIVERSION:SWSENE , Sec. 32, Township 05N, Range 26E
BUTTE CountyPLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N 25E 12	NENE 39	NWNE 40	SWNE 40	
	SENE 39	NENW 40	NWNW 40	
	SWNW 40	SENE 40	NESW 31	
	NWSW 32	SWSW 31	SESW 32	
	NESE 39	NWSE 40	SWSE 36	
	SESE 36			595
26E 17	NENE 11	NWNE 25	NENW 37	
	NWNW 39	SWNW 13	SENE 5	130
18	NENE 35	NWNE 39	SWNE 36	
	SENE 25	NENW 38	NWNW 26	
	SWNW 37	SENE 40	NESW 17	
	NWSW 10	NWSE 2		305
04N 25E 35	NENE 40	NWNE 40	SWNE 40	
	SENE 40	NESW 20	SESW 20	
	NESE 40	NWSE 40	SWSE 40	
	SESE 40			360
36	NENE 38	NWNE 40	SWNE 40	
	SENE 39	NENW 40	NWNW 40	
	SWNW 40	SENE 40	NESW 40	
	NWSW 40	SWSW 40	SESW 40	
	NESE 39	NWSE 40	SWSE 40	
	SESE 39			635

Total number of acres irrigated: 2025

CONDITIONS/REMARKS:

Claim No. **R34-07121B****CONDITIONS/REMARKS:**

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-02330B, 34-07092, 34-07179, 34-07077, AND 34-07120.
3. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-02330B, 34-07092, 34-07179, 34-07077, 34-07120, 34-00618, 34-00692C, 34-00256 AND 34-00416.
4. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 316 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
4. WATER DELIVERED THROUGH THE TIMBER DOME CANAL.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice ☐ Warranty Deed ☐ Other _____

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R34-12376

STAGE: BENEFICIAL USE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 10/31	1.25 CFS

SOURCE

GROUNDWATER

Priority: 06/01/1977

LOCATION OF POINT(S) OF DIVERSION:SENWSE , Sec. 29, Township 05N, Range 26E
BUTTE CountyPLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N	25E	12	NENE 39	NWNE 40	SWNE 40	
			SENE 39	NENW 40	NWNW 40	
			SWNW 40	SENW 40	NESW 31	
			NWSW 32	SWSW 31	SESW 32	
			NESE 39	NWSE 40	SWSE 36	
			SESE 36			595
	26E	17	NENE 11	NWNE 25	NENW 37	
			NWNW 39	SWNW 13	SENW 5	130
		18	NENE 35	NWNE 39	SWNE 36	
			SENE 25	NENW 38	NWNW 26	
			SWNW 37	SENW 40	NESW 17	
			NWSW 10	NWSE 2		305
04N	25E	35	NENE 40	NWNE 40	SWNE 40	
			SENE 40	NESW 20	SESW 20	
			NESE 40	NWSE 40	SWSE 40	
			SESE 40			360
		36	NENE 38	NWNE 40	SWNE 40	
			SENE 39	NENW 40	NWNW 40	
			SWNW 40	SENW 40	NESW 40	
			NWSW 40	SWSW 40	SESW 40	
			NESE 39	NWSE 40	SWSE 40	
			SESE 39			635
Total number of acres irrigated:						2025

CONDITIONS/REMARKS:

Claim No. R34-12376

CONDITIONS/REMARKS:

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. PRIORITY DATE CHANGED TO PREVENT INJURY FROM CHANGE IN USE.
3. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-02330B, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, AND 34-07120.
4. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-02330B, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-00618, 34-00692C, 34-00256 AND 34-00416.
5. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 87.5 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
5. RIGHT NOS. 34-02330A, 34-02330B AND 34-12377 ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
6. WATER DELIVERED THROUGH THE MOORE AND TIMBERDOME CANALS.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Lands irrigated or place of use

Twp.	Rge.	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indication the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

SEE ATTACHED MAP															
------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

SCALE 2 inches equal 1 mile Draw plan in ink

B. CHANGES IN NATURE OF USE

- 1 New Nature of Use Amount Hours/days/year Period of Use
(cfs/ac-ft) _____ to _____
- 2 Quantity and quality of return flows and location of discharge.
There are no return flows
- 3 Describe effects on other water uses resulting from the proposed change
There will be no effects on other water uses from the proposed change

I hereby asset that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval

Alan McClannough
(Signature of Applicant)

Kurt P. Alon
(Signature of Applicant)

Ernest J. Green, Jr.
(Signature of Applicant)

Subscribed and sworn to before me this 11th day of November, 1999.

[Signature]
Notary Public

My Commission Expires 11/20/2004

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by HWT Date 11-17-99 Protest filed by _____

Prelim. check by _____ Fee \$10086

Receipted by HWT #E025479 Date 11-17-99

Published in Dec 23 & 30, 1999 Copies of protest forwarded by _____
Post Register, Times News, Idaho Statesman

Pub dates Lewiston Tribune, Arco Advertiser Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☒ approval ☐ denial

_____ rec'd _____ by [Signature]

Copy of transfer sent to lien holder _____

MEMORANDUM

To: Files T5609 and T5611

From: L. Glen Saxton *LS*

RE: NEXT ACTION ON T5609 AND T5611

Date: August 17, 2000

On April 5, 2000, the Eastern Regional office of the department issued an Order Dismissing Protests. Since the April 5, 2000 order was not designated as a recommended order, preliminary order or final order, on May 11, 2000, I issued a preliminary order designating the April 5 order as a preliminary order. For purposes of reconsideration or appeal, the April 5 order was considered issued as of May 11, 2000.

Since the protestant did not file a petition for reconsideration or an appeal, the protest is dismissed and will not be further considered by the department.

The next action on the applications is to review them for approval.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 11, 2000

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Everett Acor
Kurt Acor
Cannon Shelley Property Limited Partnership
c/o Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405

Re: Transfer Nos. 5609 and 5611

Dear Transfer Applicants:

The Department of Water Resources (department) has issued the enclosed **Preliminary Order** pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

Please note that water right owners are required to report any change of water right ownership and/or change of 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 our homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at (208)327-7953.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Drew-Ellis".

Deborah Drew-Ellis
Administrative Assistant
Water Allocation Bureau

Enclosures

Responding To Preliminary Orders Issued By The Idaho Department Of Water Resources

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

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer 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 to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

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 Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The 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.

Skaggs, Pam

From: Saxton, Glen
Sent: Friday, May 05, 2000 7:16 AM
To: Skaggs, Pam
Subject: RE: Pending Transfers 5609 & 5611

I have copies of several documents filed in connection with the apps for trans. I have the following documents:

Order dismissing protests dated April 5, 2000
Motion for Disqualification dated April 14, 2000
Motion for Reconsideration dated April 14, 2000

On 4-18-2000, Norm sent a note to Phil asking him to work on a response with Ron and me. So far, we have not responded. Hence, just hold the transfer files until we dispose of the motions. lgs

-----Original Message-----

From: Skaggs, Pam
Sent: Tuesday, May 02, 2000 8:08 AM
To: Saxton, Glen
Subject: Pending Transfers 5609 & 5611

Glen,

I received the files for Transfers 5609 & 5611 from the Eastern Region office. The last action in the files is an Order Dismissing Protests signed 04-05-2000 by Ron Carlson. Attached to each file is a copy of a Motion for Reconsideration from the protestant that was apparently faxed to Karl on 04-14-2000 by Wade Babcock.

I don't have the original Motion for Reconsideration or any action that may have been taken. Do you know anything about these protested transfers? Should they be processed or do we have continuing protested matters to resolve?

I am holding the transfers until this question is resolved, so let me know how to proceed.

Pam

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5609 AND 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY LIMITED PARTNERSHIP.)
EVERETT T. ACOR AND KURT P. ACOR)

MOTION
FOR
RECONSIDERATION

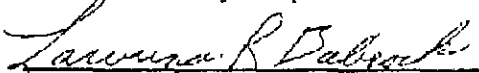
The Big Lost River Water Users Association by and through their spokesman Lawrence Babcock files this Motion for Reconsideration on "Order Dismissing Protests" filed on April 5, 2000, by Ronald D. Carlson, in the above captioned matter

Said "Order Dismissing Protests" should be reconsidered on at least the following grounds.

1. The above captioned matter was filed with Idaho Department of Water Resources and subsequently timely protested by Big Lost River Water Users Association on January 6, 2000.
2. On February 15, 2000 at a pre-hearing conference, the initial areas of protest were discussed and enlarged
3. On March 20, 2000 Ronald D. Carlson filed an Order to Show Cause Why Protests Should Not Be Dismissed.
4. On April 5, 2000 a response to Order to Show Cause was filed.
5. On April 5, 2000 Ronald D. Carlson filed an Order Dismissing Protests.
6. Ronald D. Carlson erred in arbitrarily dismissing a protest that complied with statutory requirements
7. Ronald D. Carlson exercised premature judgement before testimony was heard on the issues
8. The protest complied with statutory requirements.
9. The principle items were identified both verbally and in writing.
10. Ronald D. Carlson did not have cause to dismiss the protest.

Therefore, the "Order Dismissing Protests" should be set aside and a hearing on the above captioned matter should be scheduled in Arco at a future date

Dated this 14th day of April 2000


Lawrence R. Babcock, Spokesman
Big Lost River Water Users Association

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5609 AND 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY LIMITED PARTNERSHIP.)
EVERETT T. ACOR AND KURT P. ACOR)

RESPONSE TO
ORDER TO
SHOW CAUSE

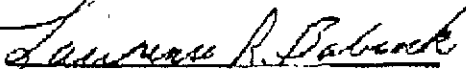
On January 6, 2000 the Big Lost River Water Users Association, a duly organized association of water users organized to represent common interests in water matters, filed a protest to Change of Water Right no 5609 and 5611. In said protest several areas of serious concern were listed, namely: injury (items 1, 3, 4, and 7); increased pressure on existing water supplies (items 2, 4, and 7); several areas of public interest criteria would be impacted; because of the geographic area of several wells in this proposed change, there is expansion of water rights.

At the pre-hearing conference conducted by the Department on February 15, several of these issues were discussed including but not limited to: additional canal shrink for several water users, expansion of water rights, delivery problems; lowering of ground water levels; and the Department's directive from Boise to Idaho Falls that the matter had to be published and could not be accomplished by simple change in ownership forms in part because, as Mr. Jones stated, the Adjudication Decision was a "nightmare" for the Department.

CONCLUSION

Therefore, the protest has complied with statutory requirements, the principle items considered have been identified both in writing and verbally, and the matter is ripe for hearing. The protests should not be dismissed.

Dated this 5th day of April, 2000



Lawrence R. Babcock
Chairman

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5609 AND 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY LIMITED PARTNERSHIP,)
EVERETT T. ACOR AND KURT P. ACOR)

ORDER
DISMISSING
PROTESTS

WHEREAS, Applications for transfer numbered 5609 and 5611 were duly filed and advertised as required by Idaho Code §42-222, and;

WHEREAS, Protests against the approval of these applications were received from a group of people calling themselves the Big Lost Water Users Association on January 10, 2000, and,

WHEREAS, At the conference held on February 15, 2000, it was determined that the issues raised by the protestants related to objections to court actions in the Snake River Basin Adjudication (SRBA), which were not properly issues before the Department in this matter, and;

WHEREAS, On March 2, 2000 the Department requested that the protestants identify the injury that they anticipated as a result of the approval of transfers 5609 and 5611, and;

WHEREAS, The protestants failed to identify a valid basis for their protest as requested by the Department at the conference and have again failed to provide the requested information when requested in writing on March 2, 2000.

WHEREAS, On March 20, 2000 the protestants were given until April 5, 2000 to show cause why their protests should not be set aside for failure to identify a basis for protest, and;

WHEREAS, The protestants have now failed to comply with the Department's order to Show Cause why their protests should not be set aside.

NOW THEREFORE, IT IS HEREBY ORDERED, that the protests against applications for transfer 5209 and 5611 ARE HEREBY SET ASIDE and will not be considered as part of the information before the Director in processing these applications for transfer.

Dated this 5th day of April, 2000.


RONALD D. CARLSON
Regional Manager, IDWR

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5609 AND 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY LIMITED PARTNERSHIP,)
EVERETT T. ACOR AND KURT P. ACOR)

MOTION
FOR
DISQUALIFICATION

The Big Lost River Water Users Association by and through their spokesman Lawrence Babcock herewith moves to disqualify Ronald D. Carlson as hearing officer in the above captioned matter.

As grounds in support of disqualification the protestant states

1. The above captioned matter was filed with Idaho Department of Water Resources and subsequently protested by Big Lost River Water Users Association on January 6, 2000.
2. On February 15, 2000 at a pre-hearing conference, the initial areas of protest were discussed and enlarged.
3. On March 20, 2000 Ronald D. Carlson filed an Order to Show Cause Why Protests Should Not Be Dismissed
4. On April 5, 2000 a response to Order to Show Cause was filed.
5. On April 5, 2000 Ronald D. Carlson filed an Order Dismissing Protests.
6. Ronald D. Carlson is an employee of IDWR and Watermaster of Water District # 1
7. Ronald D. Carlson erred in arbitrarily dismissing a protest that complied with statutory requirements
8. Ronald D. Carlson exercised premature judgement before testimony was heard on the issues
9. Ronald D. Carlson cannot render an impartial decision in the above captioned matter.

For at least the foregoing reasons Ronald D. Carlson should be disqualified as hearing officer in the above captioned matter

Dated this 14th day of April 2000


Lawrence R. Babcock, Spokesman
Big Lost River Water Users Association

F A X

To: Karl Dreher
Company:
Fax number: +1 (208) 327-7866
Business phone:

From: Wade Babcock
Fax number: +1 (208) 527-8918
Business phone:
Home phone:

Date & Time: 04/14/2000 12:27:38 PM
Pages: 6
Re:

Karl Dreher,

Enclosed find motions dealing with captioned applications. Your serious consideration will be appreciated.

Lawrence Babcock

Z 269 224 837

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided

Do not use for International Mail (See reverse)

Sent to <i>Ewerett & Kurt Acon</i>	
Street & Number <i>6 Kent Foster</i>	
Post Office, State & ZIP Code <i>P.O. Box 50130, I.F. 83405</i>	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date <i>5/11/00</i>	

PS Form 3800, April 1995

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front)

1 If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge)

2 If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article

3 If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number

4 If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article

5 Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested check the applicable blocks in item 1 of Form 3811

6 Save this receipt and present it if you make an inquiry

102595-99-M-0079

SENDER:

- ☐ Complete items 1 and/or 2 for additional services
 Complete items 3, 4a, and 4b
- ☐ Print your name and address on the reverse of this form so that we can return this card to you
- ☐ Attach this form to the front of the mailpiece, or on the back if space does not permit
- ☐ Write "Return Receipt Requested" on the mailpiece below the article number
- ☐ The Return Receipt will show to whom the article was delivered and the date delivered

I also wish to receive the following services (for an extra fee)

- 1 ☐ Addressee's Address
 2 ☐ Restricted Delivery

3 Article Addressed to:

EVERETT ACOR
 KURT ACOR
 CANNON SHELLEY PROP L.P.
 C/O KENT FOSTER
 PO BOX 50130
 IDAHO FALLS ID 83405

4a Article Number

Z 269 224 837

4b Service Type

- ☐ Registered ☐ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7 Date of Delivery

5/15/00

5 Received By. (Print Name)

TER: Hoopes

6 Signature (Addressee or Agent)

Ken Hoopes

8. Addressee's Address (Only if requested and fee is paid)

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

DEBORAH DREW-ELLIS

DEPARTMENT OF WATER RESOURCES
1301 N. ORCHARD ST.
BOISE, ID 83706-2237

4371+2237



Lotho is first

T5609

67029

Received
S.O.
4-26-00

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: *[Signature]*

1. Right number 34-00256(B) BSA Applicant CANNON SHELLEY PROPERTY LIMITED
2. Type of right: ☒ Decree ☒ License ☐ Claim PARTNERSHIP
3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Other _____

4. Check:

- a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
- b. ☒ Description of original point of diversion.
- c. ☒ Description of original place of use.

5. Amount of land &/or water transferred:

- a. ☒ All of right.
- b. ☒ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
- c. ☒ Check description of point(s) of diversion.
- d. ☒ Check description of place of use.
- e. ☒ Check map (shows p.d. and p.u. after transfer).
- f. ☒ Check for correct signature, notarization, and fee.
- g. ☒ Check proof of ownership of right &/or land from which water is transferred.
- h. ☒ Check for expansion in use of right. Comments _____

- i. ☒ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) 34-00496A, 00692D, 02330B, 02426C, 02428, 07077, 07080B, 34-07092, 07096, 07097, 07120, 07121A, 07121B, 07179, 07223, 34-10787, 10791, 12376, 12416
- j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 34

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* WATERMASTER CONTROL

4. By *[Signature]* Date 4/18/2000

* All uses within Watermaster Districts require special conditions.

WITHDRAWN
04-15-2004

67029
T5609

5609/67029

MEMO

RECEIVED

APR 26 2000

Department of Water Resources

To: Transfer files #5609 & 5611
From: Harold W. Jones

The original rights under both these transfers were decreed by Special Master Bilyou in the proceedings of the SRBA in Basin 34. The rights were made part of an overall permissible place of use covering 2307 acres. These lands were not all adjacent however but were irrigated by the use of co-mingled water from groundwater and surface waters that were delivered by canal to the respective properties. By implication of the permissible place of use concept any water could be used on any of the land list under the place of use.

These transfers only reflect a sale of a majority portion of the farm to Cannon-Shelley Properties. In so doing the buyers took the majority of the rights leaving 3 rights to stay with the original owners on their home place. The two transfers result in 2307 acres and 45.68 cfs. There is no change in place of use and the points of diversion are those listed in the Decree.

The transfers just make the amorphous permissible place of use, two specific entities with specific rights.



H. W. Jones

4-20-2000

--

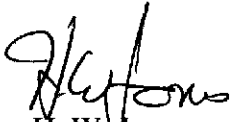
MEMO

Based on the opinion by Darrell Early, Deputy Attorney General, (attached) it would seem that Mr. Babcock's petition for reconsideration and motion to dismiss Ron Carlson as hearing officer are somewhat suspect.

To my knowledge, Mr. Babcock has never provided any documentation that shows there is a legal entity called the Big Lost River Water Users Association. In addition Mr. Babcock did not establish that any of his own property would be affected by Transfers #5609 & 5611.

Finally Mr. Babcock is, to my knowledge, a farmer and not a member of the Bar in the State of Idaho.

Both of the petitions that Mr. Babcock filed were not filed in a timely manner and Mr. Carlson's suitability as a hearing officer was never brought up prior to Order being sent.


H. W. Jones

4 - 20 - 00



FOR INFORMATION ONLY

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE
December 30, 1999

Jean Uranga
Hearing Officer
Uranga & Uranga
P.O. Box 1678
Boise, ID 83701

RE: *Rebound v. IDHW*, Docket No. 01019907

Madam Hearing Officer:

Pursuant to your request at the Scheduling Hearing on December 27, 1999, I have researched the question regarding the capacity of Mr. Soth to appear in a representative capacity before the Hearing Officer of the Department of Health and Welfare, Division of Environmental Quality. This letter addresses the legal research and factual research which I have made into this question. In addition to this research, I have conversed with Counsel for the Idaho State Bar Association Michael Oths and Assistant Bar Counsel Julia Crossland. They have confirmed that my research and analysis is consistent with the opinion of the Idaho State Bar Association.

The first case to address the issue of whether a lay person can represent an entity before a public agency in Idaho is *Idaho State Bar Ass'n v. Idaho Public Utilities Comm'n*, 102 Idaho 672, 637 P.2d 1168 (1981). In that case, the Idaho Public Utilities Commission had promulgated rules governing the appearance and representation of parties. The provisions provided that non-profit organizations "are entitled to be represented by an officer, other duly authorized representatives or by an attorney" and that utilities and motor carriers were "entitled to be represented by a partner, officer, duly authorized representative or by an attorney." The Idaho State Bar opposed these regulations on the grounds that it would allow for the unauthorized practice of law in violation of Idaho Code § 3-104. The rules were ultimately adopted and the Idaho State Bar Association appealed to the Idaho Supreme Court. The Idaho Supreme Court determined that governance of the practice of law is vested solely in the Idaho Supreme Court and that administrative agencies and the legislature cannot, by legislation or rule, alter rules governing the unauthorized practice of law. The Court then went on to hold that the Commission was without authority to adopt rules which permit the representation of a utility, motor carrier or non-profit organization by a non-attorney unconnected with the entity:

Jean Uranga

Page 2

December 30, 1999

Inasmuch as Rule 4.3(b) and (c) profess to empower third persons unconnected with the entity and acting in a representative capacity in proceedings before the Commission to engage in activities constituting practice of law, the Commission in adopting these subsections has infringed upon the inherent and singularly judicial power granted by the constitution to this court to define and regulate the practice of law.

102 Idaho at 676, 637 P.2d at 1172. The Court went on, however, to distinguish the activities of the Public Utilities Commission from other administrative proceedings.

Yet consistent with the recognition that proceedings before the Commission are quasi-judicial, and often involve matters more administrative than judicial in nature, some relaxation of the traditional rule against the practice of law by lay persons is appropriate. Accordingly, this Court has no objection to Rule 4.3(b) and (c) to the extent they allow representation of a sole proprietorship by the owner, or representation of a partnership by the partners, *or representation of a corporation or non-profit organization by the officers of those entities*. However, to the extent Rule 4.3(b) and (c) authorize representation of an entity by third persons unconnected with the entity, the objection of the Bar is well founded. It is well settled that in proceedings before regulatory bodies such as the Commission, that third persons unconnected with the entity and acting in a representative capacity in such proceedings would necessarily be engaging in activities commonly associated with the practice of law. [Citations omitted.]

102 Idaho at 676, 637 P.2d at 1172 (emphasis added) Thus, the Idaho Supreme Court held that in administrative proceedings which are nonjudicial in nature, a corporation or non-profit organization can be represented by officers of those entities.

The next case addressing the issue concerning unauthorized practice of law in proceedings before administrative agencies is *Kyle v. Beco Corp.*, 109 Idaho 267, 707 P.2d 378 (1985). In that case, a discharged employee sought unemployment benefits from the Idaho State Industrial Commission. The employer, a corporation, challenged the award of unemployment benefits. At the hearing before the Industrial Commission, the President of Beco Corporation appeared and testified. In addition, the President sought to cross-examine witnesses and make opening and closing arguments. The Industrial Commission, pursuant to its policy, prohibited the President from cross-examining witnesses or presenting opening or closing statements. While allowing him to testify, the Industrial Commission determined that the Corporation could not be represented by a lay person at the proceeding. Beco Corporation challenged this policy of the Industrial Commission in its appeal to the Idaho Supreme Court. The Idaho Supreme Court upheld the Industrial Commission's policy, finding:

Jean Uranga
 Page 3
 December 30, 1999

The general rule among this and other states has been that representation of another person before a public agency or service commission constitutes the unauthorized practice of law, where the proceedings before those tribunals are held for purposes of adjudicating the legal rights or duties of a party. *See, e.g., Idaho State Bar Ass'n v. Idaho Pub. Util. Comm'n*, 102 Idaho 672, 637 P.2d 1168 (1981); *Weston v. Gritman Memorial Hosp.*, 99 Idaho 717, 587 P.2d 1252 (1978); *Merco. Const. Engineers v. Municipal Court*, 21 Ca.3d 724, 147 Cal.Rptr. 631, 581 P.2d 636 (1978); *Algonac Mfg. Co. v. United States*, 458 F.2d 1373, 198 Ct.Cl. 258, (1972); *Public Serv. Comm'n v. Hahn Transp. Inc.*, 253 Md. 571, 253 A.2d 845 (1969); *Denver Bar Ass'n v. Pub. Util. Comm'n*, 154 Colo. 273, 391 P.2d 467 (1964); *Shortz v. Farrell*, 327 Pa. 81, 193 A. 20 (1937); *In re Eastern Idaho Loan Co.*, 49 Idaho 280, 288 P. 157 (1930).

109 Idaho at 271, 707 P.2d at 382. The Court then went on to rule that the legislature cannot delegate to the Industrial Commission a power which the legislature itself lacks to allow lay persons to represent parties in adjudicative proceedings. Only the Idaho Supreme Court can authorize corporate agents who are non-lawyers to appear on behalf of a corporation before the Industrial Commission. The Court then declined to do so, holding instead that,

where an entity chooses to incorporate under the laws of this State and to thereby receive the benefits and privileges extended to corporations, it cannot, when convenient, ask the court to ignore its corporate status and extend to it the advantages to which an individual person is commonly entitled.

Id. at 272, 707 P.2d at 383.

In a dissent, Justice Bakes pointed out that the Court's holding in *Kyle* differed from its holding in *Idaho State Bar v. Idaho Public Utilities Comm'n*. Quoting the language from *Idaho State Bar v. IPUC*, Justice Bakes pointed out that proceedings before a state commission are "quasi-judicial, and often involve matters more administrative than judicial in nature, [and] some relaxation of the traditional rule against the practice of law by lay persons is appropriate." 109 Idaho at 272, 707 P.2d at 383 (Bakes, J., dissenting). Justice Bakes criticized the majority opinion in *Kyle* for not making a rational distinction between proceedings before the Idaho State Industrial Commission and proceedings before the Idaho Public Utilities Commission.

As a result of the Court's decision today, you have one rule applying before the Public Utilities Commission and an entirely opposite rule for proceedings before the Industrial Commission. The Court does not explain why the sole owner and officer of a small family-held corporation can appear and represent the corporation before the Idaho Public Utilities Commission, but that same owner-officer cannot represent the same corporation before the Industrial Commission. There is no rational basis for that distinction, and the Court's ruling today places the small family-held incorporated

Jean Uranga
Page 4
December 30, 1999

business involved in a proceeding before the Industrial Commission at a distinct disadvantage when compared with other litigants before the Industrial Commission who may have the ability to represent themselves, or can obtain free legal aid.

Id.

Resolution of these two apparently conflicting decisions has not been made by the Idaho Supreme Court in subsequent decisions. However, it is possible to resolve this apparent conflict and Justice Bakes' concerns by focusing on the narrow exception created in *Idaho State Bar Ass'n v. IPUC* and the Court's specific language in *Beco* concerning the adjudication of legal rights.

In *Idaho State Bar Ass'n v. IPUC*, the exception created applies only to proceedings before the IPUC. The Court created this exception because of the unique nature of the IPUC and the fact that "proceedings before the Commission" (note capitalization of Commission) are often more administrative than judicial. In his dissent, Justice Bakes fails to note this nuance by lumping the Public Utilities Commission and the Industrial Commission into a singular category of "commission".

In *Beco*, however, the Court implicitly distinguishes between quasi-judicial/administrative proceedings and the "adjudication of legal rights" before the Idaho State Industrial Commission. The nature of the proceeding, therefore, can become the distinguishing factor in deciding who is authorized to appear as a representative of a corporation or non-profit organization. In the context of the Industrial Commission where the individual rights of a claimant are at issue, the Court has ruled that a corporation must appear through an attorney. Contrariwise, in proceedings before the Idaho Public Utilities Commission, which are, by the Court's description in *Idaho State Bar v. IPUC*, "quasi-judicial and often involve matters more administrative than judicial in nature", a non-lawyer may appear. Thus, the relevant consideration for the Hearing Officer in the current case is whether the rights at issue in the present case before this Hearing Officer involve purely administrative functions versus the adjudication of legal rights and remedies.

Focusing on the nature of this case, it is apparent that the challenge is presented as a contested case pursuant to IDAPA 16.05.03 *et seq.* As pointed out in the Motion to Dismiss filed by the Division of Environmental Quality, the issues in this case are purely legal concerning the interpretation of the regulatory provisions governing the issuance of permits. In addition, the legal validity of the permit issued to Rathdrum Power LLC is at stake. Thus, the argument could be advanced that the present proceeding is an adjudication of legal rights.

In addition to the questions raised about the nature of the proceedings, the *Idaho State Bar Ass'n v. IPUC* case makes Mr. Soth's unique position a relevant consideration. In that case, the Supreme Court held that a corporation or non-profit could appear through its "officers". The term "officer" is not defined but, in the normal parlance of corporate law, would suggest an executive level position such as President, Vice President, Secretary, or Treasurer. In telephone conversation with Mr. Soth on December 28, 1999, Mr. Soth informed me that he is an employee of Rebound. Mr. Soth did not indicate that he was employed as an officer or director of either Rebound, the

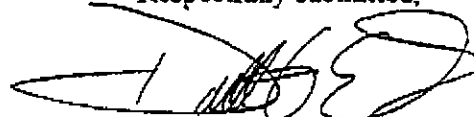
Jean Uranga
Page 5
December 30, 1999

International Brotherhood of Electrical Workers, Local 73 or the United Association of Plumbers and Steamfitters, Local 44. Thus, with respect to Rebound, Mr. Soth is not an officer, and with respect to the two unions, Mr. Soth is an unrelated third party.

Mr. Soth's unique position as "an employee" of Rebound, with no relation to either the International Brotherhood of Electrical Workers, Local 73 or the United Association of Plumbers and Steamfitters, Local 44, poses substantial questions in light of the Idaho Supreme Court's decision in *Idaho State Bar Ass'n v. IPUC* and *Kyle v. Beco*. These decisions indicate that a lay person cannot represent an entity in an administrative proceeding where the issues raised involve the adjudication of legal rights. Nor can a non-officer or unrelated third party represent an organization in an administrative proceeding. In the present context of a contested case hearing before the Idaho Department of Health and Welfare, the concern is that Mr. Soth's representation of Rebound, the International Brotherhood of Electrical Workers, Local 73 and the United Association of Plumbers and Steamfitters, Local 44 could constitute the unauthorized practice of law.

Still further questions are raised concerning the propriety of the current appeal since the petition is signed by Mr. Soth, who is neither an officer of Rebound nor related in any way to the two unions named in the petition. The Division of Environmental Quality will explore this issue further prior to the hearing on January 5, 2000.

Respectfully submitted,



Darrell G. Early
Deputy Attorney General

DGE/lvh

cc: Krista McIntyre
Jeff Soth
Doug Barnard
Scott Smith
Paula Saul

1-3-00 Doug Conde
Steve Allen

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5609 AND 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY LIMITED PARTNERSHIP,)
EVERETT T. ACOR AND KURT P. ACOR)**

**MOTION
FOR
RECONSIDERATION**

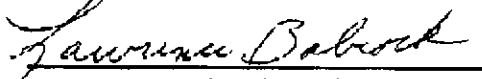
The Big Lost River Water Users Association by and through their spokesman Lawrence Babcock files this Motion for Reconsideration on "Order Dismissing Protests" filed on April 5, 2000, by Ronald D. Carlson, in the above captioned matter.

Said "Order Dismissing Protests" should be reconsidered on at least the following grounds.

1. The above captioned matter was filed with Idaho Department of Water Resources and subsequently timely protested by Big Lost River Water Users Association on January 6, 2000.
2. On February 15, 2000 at a pre-hearing conference, the initial areas of protest were discussed and enlarged.
3. On March 20, 2000 Ronald D. Carlson filed an Order to Show Cause Why Protests Should Not Be Dismissed.
4. On April 5, 2000 a response to Order to Show Cause was filed.
5. On April 5, 2000 Ronald D. Carlson filed an Order Dismissing Protests
6. Ronald D. Carlson erred in arbitrarily dismissing a protest that complied with statutory requirements
7. Ronald D. Carlson exercised premature judgement before testimony was heard on the issues.
8. The protest complied with statutory requirements
9. The principle items were identified both verbally and in writing.
10. Ronald D. Carlson did not have cause to dismiss the protest.

Therefore, the "Order Dismissing Protests" should be set aside and a hearing on the above captioned matter should be scheduled in Arco at a future date.

Dated this 14th day of April 2000.


Lawrence R. Babcock, Spokesman
Big Lost River Water Users Association

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5609 AND 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY LIMITED PARTNERSHIP,)
EVERETT T. ACOR AND KURT P. ACOR)**

**MOTION
FOR
DISQUALIFICATION**

The Big Lost River Water Users Association by and through their spokesman Lawrence Babcock herewith moves to disqualify Ronald D. Carlson as hearing officer in the above captioned matter

As grounds in support of disqualification the protestant states:

1. The above captioned matter was filed with Idaho Department of Water Resources and subsequently protested by Big Lost River Water Users Association on January 6, 2000
2. On February 15, 2000 at a pre-hearing conference, the initial areas of protest were discussed and enlarged.
3. On March 20, 2000 Ronald D. Carlson filed an Order to Show Cause Why Protests Should Not Be Dismissed.
4. On April 5, 2000 a response to Order to Show Cause was filed.
5. On April 5, 2000 Ronald D. Carlson filed an Order Dismissing Protests.
6. Ronald D. Carlson is an employee of I.D.W.R. and Watermaster of Water District # 1
7. Ronald D. Carlson erred in arbitrarily dismissing a protest that complied with statutory requirements
8. Ronald D. Carlson exercised premature judgement before testimony was heard on the issues.
9. Ronald D. Carlson cannot render an impartial decision in the above captioned matter

For at least the foregoing reasons Ronald D. Carlson should be disqualified as hearing officer in the above captioned matter.

Dated this 14th day of April 2000


Lawrence R. Babcock, Spokesman
Big Lost River Water Users Association

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5609 AND 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY LIMITED PARTNERSHIP,)
EVERETT T. ACOR AND KURT P. ACOR)**

**RESPONSE TO
ORDER TO
SHOW CAUSE**

On January 6, 2000 the Big Lost River Water Users Association, a duly organized association of water users organized to represent common interests in water matters, filed a protest to Change of Water Right no. 5609 and 5611. In said protest several areas of serious concern were listed, namely: injury (items 1, 3, 4, and 7); increased pressure on existing water supplies (items 2, 4, and 7); several areas of public interest criteria would be impacted, because of the geographic area of several wells in this proposed change, there is expansion of water rights.

At the pre-hearing conference conducted by the Department on February 15, several of these issues were discussed including but not limited to: additional canal shrink for several water users, expansion of water rights, delivery problems, lowering of ground water levels; and the Department's directive from Boise to Idaho Falls that the matter had to be published and could not be accomplished by simple change in ownership forms in part because, as Mr. Jones stated, the Adjudication Decision was a "nightmare" for the Department

CONCLUSION

Therefore, the protest has complied with statutory requirements, the principle items considered have been identified both in writing and verbally, and the matter is ripe for hearing. The protests should not be dismissed

Dated this 5th day of April, 2000


Lawrence R. Babcock
Chairman

urgent

f a c s i m i l e

To: **Ron Carlson**
Company:
Fax Number: +1 (208) 525-7177
Business Phone:

From: **Wade Babcock**
Fax Number: +1 (208) 527-8918
Business Phone:
Home Phone:

Pages: 2
Date/Time: 04/05/2000 11.13.29 AM
Subject:

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Department of Water Resources
Eastern Region

ATTN: ORDER DISMISSING PROTESTS 5609 & 5611

402=1718



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3 Article Addressed to

LAWRENCE R BABCOCK, CHAIR
 BIG LOST RIVER WATER USERS
 BOX 66
 MOORE ID 83255

4a Article Number

70000520001570570083

4b Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

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DALE SMITH

6 Signature (Addressee or Agent)

Dale Smith

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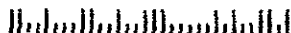
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APR 10 2000

Department of Water Resources
Eastern Region

ATTN: AMENDED NOTICE OF HEARING 5609 & 5611



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3 Article Addressed to

LAWRENCE R BABCOCK, CHAIR
 BIG LOST RIVER WATER USERS
 BOX 66
 MOORE ID 83255

4a Article Number

70000520001570570014

4b Service Type

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☐ Return Receipt for Merchandise ☐ COD

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DALE SMITH

8 Addressee's Address (Only if requested and fee is paid)

6 Signature (Addressee or Agent)

Dale Smith

SENDER:

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I also wish to receive the following services (for an extra fee)

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3 Article Addressed to

EVERETT ACOR, KURT ACOR
 CANNON SHELLEY PROPERTY PART
 C/O KENT FOSTER
 PO BOX 50130
 IDAHO FALLS ID 83405

4a Article Number

70000520001570570021

4b Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7 Date of Delivery

4-5-00

5 Received By (Print Name),**6 Signature (Addressee or Agent)**

Leri Hoopes
 X *Leri Hoopes*

8 Addressee's Address (Only if requested and fee is paid)

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Department of Water Resources
Eastern Region

ATTN: AMENDED NOTICE OF HEARING 5609 & 5611

340 1712



**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO**

**IN THE MATTER OF APPLICATIONS)
FOR TRANSFER NO. 5609 and 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY AND EVERETT ACOR)**

**AMENDED
NOTICE OF
HEARING**

On November 1, 1999, Cannon Shelley Property and Everett Acor filed with the Department of Water Resources Applications for Transfer No. 5609 and 5611. The applications were protested by the Big Lost River Water Users Association.

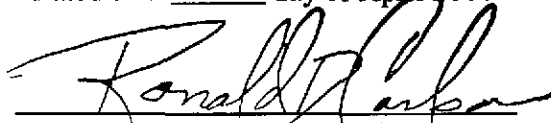
**THE DEPARTMENT HAS NOW RE-SCHEDULED THE MATTER FOR
HEARING ON APRIL 18, 2000, AT 2:00 P.M., AT THE IDWR
CONFERENCE ROOM IN IDAHO FALLS, ID.**

The hearing will be held in accordance with the provisions of the adopted Rules of Procedure of the Department of Water Resources. A copy of the rules may be obtained from the Department upon request. The presiding officer at the hearing will be Ronald D Carlson.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the Department within ten (10) days prior to the hearing.

Dated this 4th day of April 2000.



RONALD D. CARLSON
Regional Manager

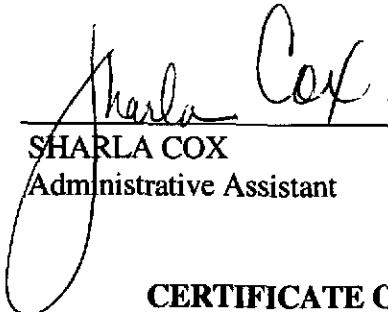
AMENDED NOTICE OF HEARING

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of April, 2000, I mailed a true and correct copy, postage prepaid, of foregoing **AMENDED NOTICE OF HEARING** to the following:

Lawrence R Babcock, Chairman
Big Lost River Water Users Association
Box 66
Moore ID 83255

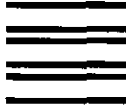
Everett Acor, Kurt Acor
Cannon Shelley Property Partnership
C/O Kent Foster
PO Box 50130
Idaho Falls ID 83405



SHARLA COX
Administrative Assistant

CERTIFICATE OF SERVICE

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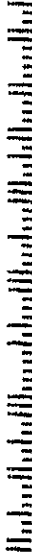
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.

IDAHO FALLS, IDAHO 83402

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MAR 24 2000

NOTICE OF HEARING T5609 and 5611
Department of Water Resources
Eastern Region



2-1712

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 BIG LOST RIVER WATER USERS
 BOX 66
 MOORE ID 83255

4a Article Number

70993220000530646835

4b Service Type

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☐ Return Receipt for Merchandise ☐ COD

7 Date of Delivery

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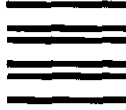
5 Received By (Print Name)

LAWRENCE BABCOCK

6 Signature (Addressee or Agent)

X *Lawrence Babcock*

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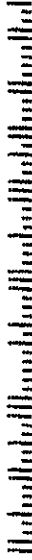
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Department of Water Resources
Eastern Region

T5609 & 5611 - ORDER TO SHOW CAUSE



4715

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3 Article Addressed to

LAWRENCE BABCOCK
 C/O BIG LOST RIVER WATER
 USERS ASSOCIATION
 BOX 66
 MOORE ID 83255

4a Article Number

70993220000530646728

4b Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
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LAWRENCE BABCOCK

6 Signature (Addressee or Agent)

X *Lawrence Babcock*

8 Addressee's Address (Only if requested and fee is paid)

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EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

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MAR 24 2000

Department of Water Resources
Eastern Region

NOTICE OF HEARING T5609 and 5611

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- Complete items 3, 4a, and 4b
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3 Article Addressed to

EVERETT ACOR, KURT ACOR
 CANNON SHELLEY PROPERTY
 C/O KENT FOSTER
 PO BOX 50130
 IDAHO FALLS ID 83405

Flier Webster headline

4a Article Number

70993220000530646842

4b Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7 Date of Delivery

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5 Received By (Print Name)

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6 Signature (Addressee or Agent)

X

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UAD

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATIONS)
FOR TRANSFER NO. 5609 and 5611)
IN THE NAME OF CANNON SHELLEY)
PROPERTY AND EVERETT ACOR)**

**NOTICE OF
HEARING**

On November 1, 1999, Cannon Shelley Property and Everett Acor filed with the Department of Water Resources Applications for Transfer No. 5609 and 5611. The application was protested by the Big Lost River Water Users Association.

**THE DEPARTMENT HAS NOW SCHEDULED THE MATTER FOR
HEARING ON APRIL 19, 2000, AT 9:30 A.M., AT THE IDWR
CONFERENCE ROOM IN IDAHO FALLS, ID.**

The hearing will be held in accordance with the provisions of the adopted Rules of Procedure of the Department of Water Resources. A copy of the rules may be obtained from the Department upon request. The presiding officer at the hearing will be Ronald D Carlson.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the Department within ten (10) days prior to the hearing.

Dated this 21st day of March 2000.


RONALD D. CARLSON
Regional Manager

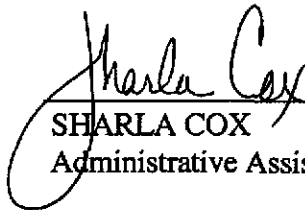
NOTICE OF HEARING

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of March, 2000, I mailed a true and correct copy, postage prepaid, of foregoing **NOTICE OF HEARING** to the following:

Lawrence R Babcock, Chairman
Big Lost River Water Users Association
Box 66
Moore ID 83255

Everett Acor, Kurt Acor
Cannon Shelley Property Partnership
C/O Kent Foster
PO Box 50130
Idaho Falls ID 83405

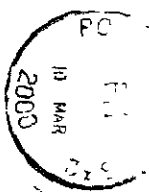

SHARLA COX
Administrative Assistant

CERTIFICATE OF SERVICE

B. J. R. M. C.

Box 66

Moore, Rd. 83255



Harold W. Jones

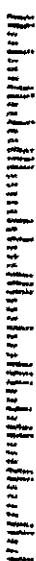
Water Right Supervisor

State Department of Water Resources

900 North Skyline Drive

State Park, Idaho 83402-1748

83402+1748



Harold W. Jones, Water Right Supervisor
Idaho Department of Water Resources
900 North Skyline Drive
Idaho Falls, Idaho 83402-1718

RECEIVED

MAR 13 2000

Department of Water Resources
Eastern Region

Dear Mr. Jones:

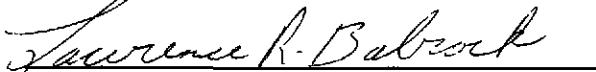
After receiving your letter dated March 2, 2000 concerning Applications for Transfer #'s 5609 and 5611, it was determined by a number of interested parties that it would be inappropriate to respond in writing to your request.

That type of information should be reserved for sworn testimony at a hearing, before a hearing officer, by individual water users.

Therefore, your request is appreciated, but respectfully denied.

Dated this 8th day of March, 2000.

Sincerely,



Lawrence R. Babcock
Chairman



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

March 2, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Lawrence R Babcock, Chairman
Big Lost River Water Users Association
Box 66
Moore ID 83255

Mr. Babcock:

During the pre-hearing conference held on Feb 15, 2000, on Applications for Transfer #5609 and #5611 (Acors and Cannon-Shelley properties) much of the conversation centered around implied injury to the protestants.

Our question is, how will the change from the way the rights are now decreed, which allows a permissible place of use and selective use of water, create an additional negative effect.

I would ask that you answer the question above specifically in writing as soon as possible.

Sincerely,

Harold W Jones
Water Right Supervisor

HWJ:sc

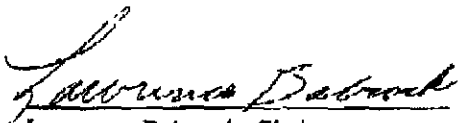
Ronald D. Carlson, Regional Director
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

February 29, 2000

RE: Prehearing Conference for Transfer #5609 and #5611

Dear Mr. Carlson:

The Big Lost River Water Users Association met and discussed the pros and cons of Transfer #5609 and 5611 and determined it is necessary to proceed through the hearing process to determine the merits of those transfers. We shall look forward to your response for the next step.


Lawrence Babcock, Chairman

cc: Everett Acor
Kurt Acor
Cannon Shelley Property Partnership
c/o Kent Foster
P.O. Box 50130
Idaho Falls, Idaho 83405

Pre-hearing Conf
Tr. 5609 + Tr. 5611

2-15-2000

Name	Address
KENT W. FOSTER	PO BOX 50150 IDAHO FALLS
Laurie Balcock	Box 66 Moore, 83255
Dale Smith	RT#1 Box 22 Moore, Id. 83255
Shoy Bingham	RT#1 Box 21 Moore Id 83255

* Need answer back from protestants by
end of February 29th - March 1st

* Prepare document for Balcock that
allows director to make a decision

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 5609 AND 5611 IN THE) NOTICE OF
NAME OF EVERETT ACOR & CANNON) PREHEARING CONFERENCE
SHELLEY PROPERTY PARTNERSHIP)**

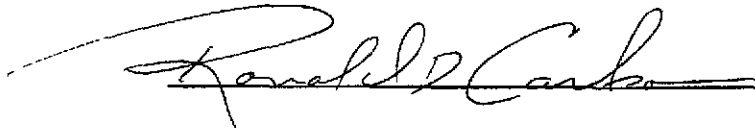
The Department has scheduled this matter for a prehearing conference at 9:30 a.m. on February 15, 2000, at the IDWR conference room in Idaho Falls, ID, in accordance with the provisions of the adopted Rules of Procedure of the Department of Water Resources.

Agenda items for this prehearing conference will include:

- 1. Identify spokesman and/or counsel representing the protestant.**
- 2. Review of the application.**
- 3. Identify issues of protest.**
- 4. Designate date for identifying witnesses.**
- 5. Designate target date for conducting administrative hearing if resolution
is not possible during the prehearing conference.**

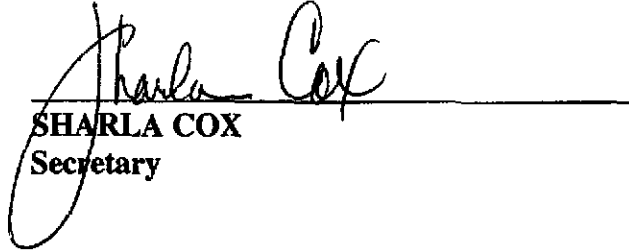
The hearing will be conducted in a facility, which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the Department within ten (10) days prior to the conference.

Dated this 26th day of January, 2000.



RONALD D. CARLSON
Regional Manager

I hereby certify that on the 27th day of January 2000, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed below:



SHARLA COX
Secretary

CERTIFIED MAIL

**Lawrence Babcock
Big Lost River Water Users
Box 66
Moore ID 83255**

**Everett Acor, Kurt Acor,
Cannon Shelley Property Partnership
C/O Kent Foster
PO Box 50130
Idaho Falls ID 83405**



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 26, 2000

LAWRENCE R BABCOCK
BOX 66
MOORE ID 83255

RE: Application for Transfer No. 5609 and 5611

Dear Protestant:

This letter acknowledges receipt of the protest filed by you against the above referenced applications for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

- 1. Are other water rights injured by the transfer?**
- 2. Does the change constitute enlargement in the use of the original right?**
- 3. Is the change consistent with the conservation of water resources within the state of Idaho?**
- 4. Does the change conflict with the local public interest?**

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

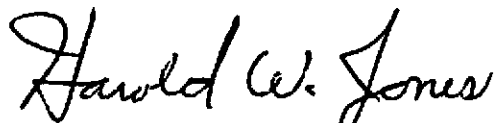
In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question. The address is as follows:

CANNON SHELLEY PROPERTY LIMITED PARTNERSHIP
EVERETT T ACOR JR AND KURT P ACOR
PO BOX 50130
IDAHO FALLS ID 83405

Page 2

If we may be of further assistance, please contact us.

Respectfully submitted,

A handwritten signature in black ink that reads "Harold W. Jones". The signature is written in a cursive style with a large, stylized 'H' and 'J'.

**HAROLD W. JONES
Water Rights Supervisor**

HWJ:sc

cc: IDWR - State Office



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 26, 2000

CANNON SHELLEY PROPERTY LIMITED PARTNERSHIP
EVERETT T ACOR JR AND KURT P ACOR
PO BOX 50130
IDAHO FALLS ID 83405

RE: Application for Transfer No.: 5609

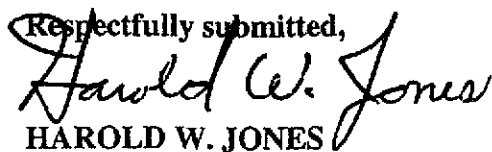
Dear Applicant:

Enclosed please find copies of the protests filed against the above referenced application for transfer of a water right. You should be aware that the following are the items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

- 1) Are other water rights injured by the transfer?
- 2) Does the change constitute enlargement in the use of the original water right?
- 3) Is the change consistent with the conservation of water resources within the state of Idaho?
- 4) Does the change conflict with the local public interest?

The applicant must be prepared to present evidence and/or testimony addressing each of the four items should an additional hearing be necessary. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:sc

cc: IDWR State Office

Idaho Dept of Water Resources

Idaho Falls

I withdraw my protest to
water application change No T5607

Reuter W. Butcher

Please remove my name

RECEIVED

JAN 12 2000

Department of Water Resources
Eastern Region

Receipt # E025549
Receipt # E025550

Karl J. Dreher, Director
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Id 83402

RECEIVED

APR 26 2000

RECEIVED

JAN 10 2000

Department of Water Resources
Eastern Region

R.E. - Protest for T5609 and T5611

Department of Water Resources

Dear Mr. Dreher,

This document is a formal protest submitted by Big Lost River Water Users Association against both proposed change of water right numbers T5609 and T5611 (a copy of such Public Notice is attached hereto) for at least but not limited to the following reasons to wit;

1. There is injury both in law and in fact.
2. There is insufficient water supply
3. Other water rights will be injured.
4. Artesian pressure will be decreased
5. It is in violation of the public interest
6. It involves illegal expansion of supplemental water rights.
7. Canal delivery will be impacted through increased shrink

Filed this 6th day of January 2000 and evidenced by at least but not limited to the following signatures

It is requested that all hearings be held in Arco

Sincerely,

Albert C Babcock
Mary Stolewick
Lawrence R. Babcock
Ann Anderson
Charles D Huggins
Lewis Rothwell
Dennis Brannell
Lundy Brannell

Lawrence R. Babcock
Lawrence R. Babcock, Chairman
Big Lost River Water Users Association
Box 66, MOORE, ID

Stanley W. Burgess
Leenie Burgess

Dale Smith

Clayton

Lloyd A. Bingham

Wade Wadsworth

Alan Wheeler

Fern B. Guthrie

Ray M. Boyack

Reuben D. Babcock

Olive Rothwell

Box 66
Moore, ID
83255

(withdrawn)

E025549
E025550

Proof of Publication

RECEIVED
JAN 11 2000
Department of Water Resources
Eastern Region

The Post Register

State of Idaho
County of Bonneville

I, S. Bob Bright or Robert Park, first being duly sworn, depose and say: That I am the Production Supervisor or Asst. Prod. Supervisor of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published daily at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to

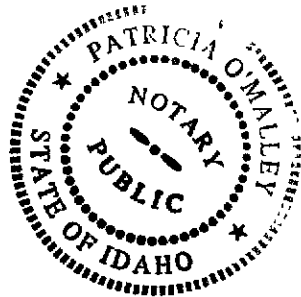
That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register for two consecutive (days) weeks, first publication having been made on the 23rd day of June, 1999, last publication having been made on the 30th day of June, 1999, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement

Robert Park

Subscribed and sworn to before me, this 1st day of January, 2000

Patricia O'Malley
Notary Public

My commission expires January 3, 2003



**NOTICE OF PROPOSED
CHANGE OF A WATER RIGHT
NO. T5609**

Notice is hereby given that Cannon Shelley Property Limited Partnership, Everett T Acor Jr and Kurt P Acor, PO Box 50130, Idaho Falls ID 83405, has applied to the Department of Water Resources to change the point of diversion and to change the place of use of groundwater and surface water sources. The rights sought to be changed are evidenced by decrees and recorded as follows:

Decree No.:
34-00256

Source: Big Lost River
Amount: 1.47 cfs
Priority: 06/01/1889

Decree No.:
34-00416

Source: Big Lost River
Amount: 1.60 cfs
Priority: 06/01/1896
Point(s) of Diversion: NWSESE SEC 4
T05N R36E, BUTTE COUNTY
The water is used for irrigation of 73
acres within SEC 28 T05N R26E, B M

Decree No.:
34-00618

Source: Big Lost River
Amount: 3.20 cfs
Priority: 09/01/1884
Point(s) of Diversion: NESESE SEC 4
T05N R26E, BUTTE COUNTY
The water is used for irrigation of 139
acres within SEC 4 T04N R26E, B.M

Decree No.:
34-02230B

Source: Groundwater
Amount: 1.75 cfs
Priority: 06/01/1977

Decree No.:
34-12376

Source: Groundwater
Amount: 1.25 cfs
Priority: 06/01/1977
Point(s) of Diversion: SENWSE SEC 29
T05N R26E, BUTTE COUNTY

Decree No.:
34-07077

Source: Groundwater
Amount: 8.00 cfs
Priority: 09/05/1974

Decree No.:
34-07120

Source: Groundwater
Amount: 2.00 cfs
Priority: 12/17/1975
Point(s) of Diversion: NWNWNW SEC
21 T05N R26E, BUTTE COUNTY

Decree No.:
34-07080B

Source: Groundwater
Amount: 5.33 cfs
Priority: 09/23/1974
Point(s) of Diversion: SWNESE SEC 32
T05N R26E, BUTTE COUNTY

Decree No.:
34-07121B

Source: Groundwater
Amount: 3.74 cfs
Priority: 01/09/1976
Point(s) of Diversion: SWSENE SEC 32
T05N R 26E BUTTE COUNTY

The water is used for irrigation of 2025
acres within SEC 12 T03N R25E, SEC 17
and 18 T03N R26E, SEC 35 and 36
T04N R25E, B.M

Decree No.:
34-02426C

Source: Groundwater
Amount: 2.50 cfs
Priority: 04/06/1982
Point(s) of Diversion: NESWSW SEC
28 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 139
acres within SEC 12 T03N R25E, SEC 17
and 18 T03N R26E, SEC 35 and 36
T04N R25E, SEC 9 T04N R26E, and
SEC 28 T05N R26E, B.M.

Decree No.:
34-07092

Source: Groundwater
Amount: 12.00 cfs
Priority: 01/14/1975
Point(s) of Diversion: Lot 3 (NENENW)
SEC 5 T04N R26E, BUTTE COUNTY
The water is used for irrigation of 635
acres within SEC 36 T04N R25E, B.M

Decree No.:
34-07121A

Source: Groundwater
Amount: 0.46 cfs
Priority: 01/09/1976
Point(s) of Diversion: SWNESE SEC 32
T05N R26E, BUTTE COUNTY
The water is used for irrigation of 286
acres within SEC 12 T03N R25E, B.M
**TO BE CHANGED
AS FOLLOWS:**

The applicants are dividing the original
Acor farm, which was limited to 2307
acres irrigated. Portions of these 12
rights are for 40.26 cfs and are staying
within 2025 acres in T03N R25E SEC 12
T03N R26E SEC 17 and 18 and T04N
R25E SEC 35 and 36

Any protests against approval of the pro-
posed change must be filed with the
Idaho Department of Water Resources,
900 N Skyline Dr., Idaho Falls, ID 83402,
together with a protest fee of \$25 on or
before January 10, 2000. The protestant
must also send a copy of the protest to
the applicant

KARL J DREHER
Director

Published December 23, 30, 1999

The Idaho Statesman

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

LEGAL ADVERTISING PROOF OF PUBLICATION

Account #	DT#	Identification	Amount
100564	171830	PROPOSED CHANGE OF WATER RIGHTS - T5609	\$216.00
Ordered by	P.O. #	Rate	Run Dates
SHARLA COX		TT	DECEMBER 23, 30, 1999
IDAHO DEPARTMENT OF WATER RESOURCES, EAST 900 N. SKYLINE DRIVE IDAHO FALLS, IDAHO 83402			Number of Lines 71 X 2
			Affidavit 1
			Legal # 5817

RECEIVED

JAN 07 2000

Department of Water Resources
Eastern 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 with the issue of: DECEMBER 23, 1999

and ending with the issue of: DECEMBER 30, 1999

Janice Hildreth

STATE OF IDAHO)

)ss

COUNTY OF ADA)

On this 3 day of JANUARY in the year of 2000
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 state-
ments therein are true, and acknowledged to me that she executed the same.

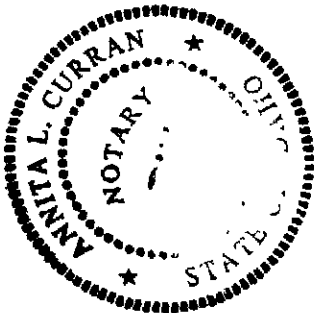
Annita L. Curran

Notary Public for Idaho

Residing at: Boise, Idaho

My Commission expires.

10/13/2001



**LEGAL NOTICE
NOTICE OF PROPOSED CHANGE OF A WATER RIGHT
NO. T5609**

Notice is hereby given that Cannon Shelley Property Limited Partnership, Everett T Acor Jr and Kurt P Acor, PO Box 50130, Idaho Falls ID 83405, has applied to the Department of Water Resources to change the point of diversion and to change the place of use of groundwater and surface water sources. The rights sought to be changed are evidenced by decrees and recorded as follows:

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Amount:	1.47 cfs	Priority:	06/01/1889
Decree No.:	34-00416	Source:	Big Lost River
Amount:	1.60 cfs	Priority:	06/01/1896

Point(s) of Diversion: NWSE SEC 4 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 73 acres within SEC 28 T05N R26E, B.M.

Decree No.:	34-00618	Source:	Big Lost River
Amount:	3.20 cfs	Priority:	09/01/1884

Point(s) of Diversion: NESE SEC 4 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 139 acres within SEC 4 T04N R26E, B.M.

Decree No.:	34-02230B	Source:	Groundwater
Amount:	1.75 cfs	Priority:	06/01/1977
Decree No.:	34-12376	Source:	Groundwater
Amount:	1.25 cfs	Priority:	06/01/1977

Point(s) of Diversion: SENWSE SEC 29 T05N R26E, BUTTE COUNTY

Decree No.:	34-07077	Source:	Groundwater
Amount:	8.00 cfs	Priority:	09/05/1974
Decree No.:	34-07120	Source:	Groundwater
Amount:	2.00 cfs	Priority:	12/17/1975

Point(s) of Diversion: NWNWNW SEC 21 T05N R26E, BUTTE COUNTY

Decree No.:	34-07080B	Source:	Groundwater
Amount:	5.33 cfs	Priority:	09/23/1974

Point(s) of Diversion: SWNESE SEC 32 T05N R26E, BUTTE COUNTY

Decree No.:	34-07121B	Source:	Groundwater
Amount:	3.74 cfs	Priority:	01/09/1976

Point(s) of Diversion: SWSENE SEC 32 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 2025 acres within SEC 12 T03N R25E, SEC 17 and 18 T03N R26E, SEC 35 and 36 T04N R25E, B.M.

Decree No.:	34-02426C	Source:	Groundwater
Amount:	2.50 cfs	Priority:	04/06/1982

Point(s) of Diversion: NESWSW SEC 28 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 139 acres within SEC 12 T03N R25E, SEC 17 and 18 T03N R26E, SEC 35 and 36 T04N R25E, SEC 9 T04N R26E, and SEC 28 T05N R26E, B.M.

Decree No.:	34-07092	Source:	Groundwater
Amount:	12.00 cfs	Priority:	01/14/1975

Point(s) of Diversion: Lot 3 (NENENW) SEC 5 T04N R26E, BUTTE COUNTY
The water is used for irrigation of 635 acres within SEC 36 T04N R25E, B.M.

Decree No.:	34-07121A	Source:	Groundwater
Amount:	0.46 cfs	Priority:	06/01/1977

Point(s) of Diversion: SWNESE SEC 32 T05N R26E, BUTTE COUNTY
The water is used for irrigation of 286 acres within SEC 12 T03N R25E, B.M.

TO BE CHANGED AS FOLLOWS:

The applicants are dividing the original Acor farm, which was limited to 2307 acres irrigated. Portions of these 12 rights are for 40.26 cfs and are staying within 2025 acres in T03N R25E SEC 12 T03N R26E SEC 17 and 18 and T04N R25E SEC 35 and 36.

Any protests against approval of the proposed change must be filed with the Idaho Department of Water Resources, 900 N Skyline Dr., Idaho Falls, ID 83402, together with a protest fee of \$25 on or before January 10, 2000. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director

Pub. Dec. 23, 1999

5817

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. T5609

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Point(s) of Diversion NWNWNW SEC 21 T05N R26E,
BUTTE COUNTY

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BUTTE COUNTY

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Amount 3.74 cfs Priority: 01/09/1976
Point(s) of Diversion SWSENE SEC 32 T05N R26E,
BUTTE COUNTY

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Decree No. 34-02426C Source: Groundwater
Amount 2.50 cfs Priority: 04/06/1982
Point(s) of Diversion NESWSW SEC 28 T05N R26E,
BUTTE COUNTY

The water is used for irrigation of 139 acres within SEC 12 T03N R25E, SEC 17 and 18 T03N R26E, SEC 35 and 36 T04N R25E, SEC 9 T04N R26E, and SEC 28 T05N R26E, B M

Decree No. 34-07092 Source: Groundwater
Amount 12.00 cfs Priority: 01/14/1975
Point(s) of Diversion: Lot 3 (NENENW) SEC 5 T04N R26E, BUTTE COUNTY

The water is used for irrigation of 635 acres within SEC 36 T04N R25E, B M

Decree No. 34-07121A Source: Groundwater
Amount 0.46 cfs Priority: 01/09/1976
Point(s) of Diversion SWNESE SEC 32 T05N R26E,
BUTTE COUNTY

The water is used for irrigation of 286 acres within SEC 12 T03N R25E, B M

TO BE CHANGED AS FOLLOWS:

The applicants are dividing the original Acor farm, which was limited to 2307 acres irrigated. Portions of these 12 rights are for 40.26 cfs and are staying within 2025 acres in T03N R25E SEC 12 T03N R26E SEC 17 and 18 and T04N R25E SEC 35 and 36.

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Karl J. Dreher, Director

PUBLISH December 23 and 30, 1999

of Publication

IDAHO
OF TWIN FALLS } SS.

I, Deputy Sheriff being first duly sworn upon oath, depose
I am Deputy Sheriff of the TIMES-NEWS, published daily, at
Idaho, and do solemnly swear that a copy of the notice of advertisement, as per
checked, was published in the regular and entire issue of said newspaper, and not in any
thereof, for two consecutive days,

with the issue dated Dec 25, 19 99,

with the issue dated Dec 30, 19 99.

I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho
published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except
of which newspapers prior to consolidation had been published under said names in said city and county
and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since
ation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said
an daily publication under said name in said city and county continuously and uninterruptedly
d I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated
which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be
kly, will be published; and that at the head of the editorial column of said combined newspapers, and in each
Thursday is announced as the day on which said legal notices will be published

IDAHO
TWIN FALLS

day of Dec in the year of 1999, before me.

ic, personally appeared Deputy Sheriff,
stified to me to be the person whose name subscribed to the within instrument, and being by me first duly
d that the statements therein are true, and acknowledged to me that he executed the same

Ineva R. Feltman
Notary Public for Idaho

Residing at Twin Falls, Idaho

My commission expires: 5/19/2000

Affidavit of Publication

STATE OF IDAHO
COUNTY OF TWIN FALLS } SS.

No 33023

I, Ruby Underhede being first duly sworn upon oath, depose
and say that I am principal clerk of the TIMES-NEWS, published daily, at
Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per
clipping attached, was published in the regular and entire issue of said newspaper, and not in any
supplement thereof, for two consecutive weeks,
commencing with the issue dated Dec 23, 19 99,
and ending with the issue dated Dec 30, 19 99.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho
Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except
Monday, both of which newspapers prior to consolidation had been published under said names in said city and county
continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since
such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said
newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated
as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be
published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each
issue thereof, Thursday is announced as the day on which said legal notices will be published.

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 5th day of Jan in the year of 2000, before me,
a Notary Public, personally appeared Ruby Underhede,
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 he executed the same.

Ineva R. Feltman
Notary Public for Idaho
Residing at Twin Falls, Idaho. 5/19/2000
My commission expires: 5/19/2000

RECEIVED

JAN 03 2000

TRIBUNE PUBLISHING COMPANY, INC. Department of Water Resources
 The Lewiston Morning Tribune Eastern Region
 505 C St., P.O.Box 957
 Lewiston, Idaho 83501
 (208) 743-9411

Date 12/30/1999INVOICE NO. 218178Account No. 446600Description 218178NOTICE OF PROPOSTimes 2Lines 60

Tab. Lines _____

LEGAL ADVERTISING INVOICE

SOLD TO: IDAHO DEPT. OF WATER RESOURCES
 900 N. SKYLINE
 IDAHO FALL ID 83402

\$ 180.00

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
 County of Nez Perce

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 218178NOTICE OF attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 12/23, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 12/23/1999, and the last publication thereof being on the 12/30/1999 and said 218178NOTICE OF was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Karen J Lewis

SUBSCRIBED AND SWORN BEFORE ME THIS THE 30

day of December 1999

Sheral M. Lentz

Notary Public in and for the State of Idaho
 residing at Lewiston, therein
 Commission Expires June 4, 03

AFFIDAVIT OF PUBLICATION

I, *Colleen Babcock*

of the Arco Advertiser, a weekly newspaper of general circulation, published weekly at Arco, Idaho, since March, 1909, do solemnly swear that a copy of this notice, per clipping attached, was published weekly in the regular and entire issue of said newspaper, and not in any supplement thereof,

for *2* consecutive weeks, commencing with

the issue dated *Dec. 23, 1999*

and ending with the issue dated

Dec. 30, 1999

Colleen Babcock

STATE OF IDAHO

COUNTY OF BUTTE

On this *30th* day of *December*

in the year of *1999*, before me, a Notary Public,

personally appeared

Colleen Babcock

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 he executed the same

Thorval D. Lund

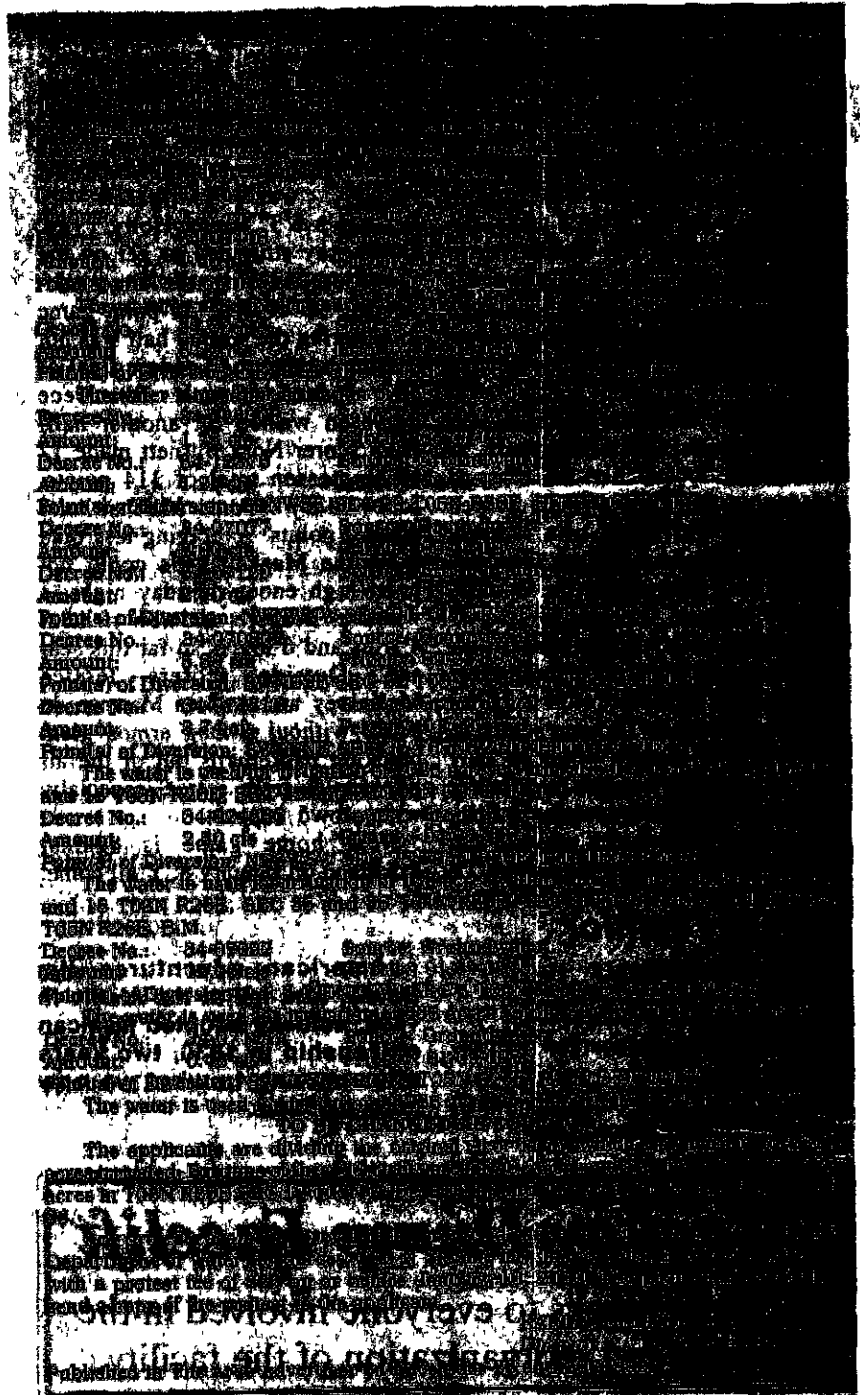
Notary Public for Idaho

Residing at

Arco, Id

My commission expires

1-23-2004



RECEIVED

DEC 22 1989

Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF
WATER RIGHT NO. 5609

WATER DISTRICT: 34

WATERMASTER:

DATE: 12-19-89

HAS THIS WATER RIGHT(S) BEEN DELIVERED WITHIN THE LAST FIVE YEARS?

YES X NO

COMMENTS: _____

X I do endorse approval of this change.

 I do not endorse approval of this change.

I recommend the following conditions of approval:

Davey Rose
Watermaster



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 14, 1999

**CANNON SHELLEY PROPERTY LIMITED PARTNERSHIP
EVERETT T ACOR JR AND KURT P ACOR
PO BOX 50130
IDAHO FALLS ID 83405**

RE: Application for Transfer #5609

Dear Applicant:

This office is currently in the process of advertising the application in the Arco Advertiser, Post Register, Times News, Idaho Statesman and the Lewiston Morning Tribune on December 23 and 30, 1999. The advertisement will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

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

Sincerely,

**Harold W. Jones
Water Right Supervisor**

HWJ::sc



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 14, 1999

DOUG ROSENKRANCE
WATERMASTER #34
PO BOX 53
MACKAY ID 83251

RE: Applications for Transfer #5609 and 5611

Dear Doug:

Please find enclosed a copy of the above referenced application. Please review the application and submit any comments you may have to our Department by January 10, 2000.

If you have any questions, please feel free to contact us.
Thank you for your cooperation in this matter.

Respectfully submitted,

Harold W. Jones
Water Right Supervisor

HWJ:sc

enc.



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 14, 1999

**LEWISTON MORNING TRIBUNE
PO BOX 957
LEWISTON ID 83501**

Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

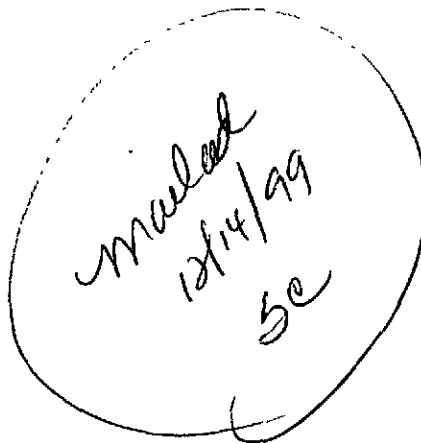
An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before January 10, 2000.

Respectfully submitted,

**Sharla Cox
Administrative Assistant**

Enc.





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 14, 1999

**POST REGISTER
PO BOX 1800
IDAHO FALLS ID 83405**

Dear Cathy Von Borstel:

Enclosed you will find a legal notice which we wish to have published on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

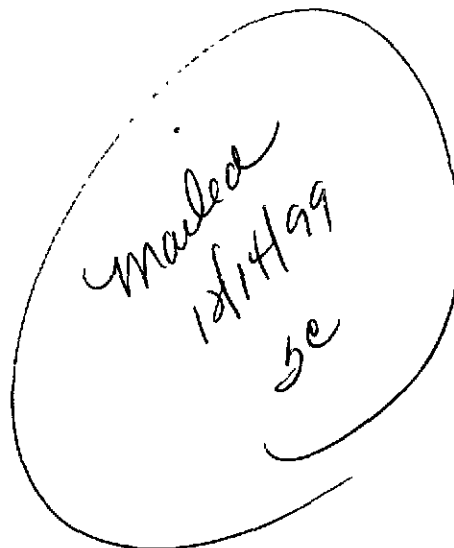
An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before January 10, 2000.

Respectfully submitted,

**Sharla Cox
Administrative Assistant**

Enc.





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 14, 1999

**TIMES NEWS
PO BOX 548
TWIN FALLS ID 83303**

Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the dates indicated in your newspaper. 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. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before January 10, 2000.

Respectfully submitted,

**Sharla Cox
Administrative Assistant**

Enc.

*Mailed
12/14/99
sc*



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 14, 1999

**ARCO ADVERTISER
PO DRAWER C
ARCO ID 83213**

Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the dates indicated in your newspaper. 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. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before January 10, 2000.

Respectfully submitted,

**Sharla Cox
Administrative Assistant**

Enc.

*mailed
12/14/99
se*



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 14, 1999

**IDAHO STATESMAN
PO BOX 40
BOISE ID 83707**

Dear Janice Hildreth:

Enclosed you will find a legal notice which we wish to have published on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

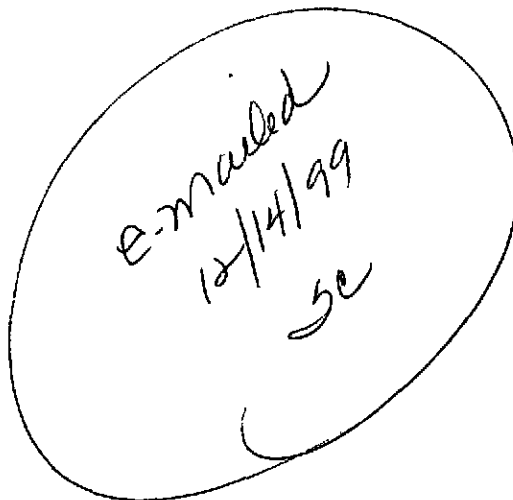
An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before January 10, 2000.

Respectfully submitted,

**Sharla Cox
Administrative Assistant**

Enc.



**NOTICE OF PROPOSED CHANGE OF A WATER RIGHT
NO. T5609**

Notice is hereby given that Cannon Shelley Property Limited Partnership, Everett T Acor Jr and Kurt P Acor, PO Box 50130, Idaho Falls ID 83405, has applied to the Department of Water Resources to change the point of diversion and to change the place of use of groundwater and surface water sources. The rights sought to be changed are evidenced by decrees and recorded as follows:

Decree No.:	34-00256	Source:	Big Lost River
Amount:	1.47 cfs	Priority:	06/01/1889
Decree No.:	34-00416	Source:	Big Lost River
Amount:	1.60 cfs	Priority:	06/01/1896

Point(s) of Diversion: NWSESE SEC 4 T05N R26E, BUTTE COUNTY

The water is used for irrigation of 73 acres within SEC 28 T05N R26E, B.M.

Decree No.:	34-00618	Source:	Big Lost River
Amount:	3.20 cfs	Priority:	09/01/1884

Point(s) of Diversion: NESESE SEC 4 T05N R26E, BUTTE COUNTY

The water is used for irrigation of 139 acres within SEC 4 T04N R26E, B.M.

Decree No.:	34-02230B	Source:	Groundwater
Amount:	1.75 cfs	Priority:	06/01/1977
Decree No.:	34-12376	Source:	Groundwater
Amount:	1.25 cfs	Priority:	06/01/1977

Point(s) of Diversion: SENWSE SEC 29 T05N R26E, BUTTE COUNTY

Decree No.:	34-07077	Source:	Groundwater
Amount:	8.00 cfs	Priority:	09/05/1974

Decree No.:	34-07120	Source:	Groundwater
Amount:	2.00 cfs	Priority:	12/17/1975

Point(s) of Diversion: NWNWNW SEC 21 T05N R26E, BUTTE COUNTY

Decree No.:	34-07080B	Source:	Groundwater
Amount:	5.33 cfs	Priority:	09/23/1974

Point(s) of Diversion: SWNESE SEC 32 T05N R26E, BUTTE COUNTY

Decree No.:	34-07121B	Source:	Groundwater
Amount:	3.74 cfs	Priority:	01/09/1976

Point(s) of Diversion: SWSENE SEC 32 T05N R26E, BUTTE COUNTY

The water is used for irrigation of 2025 acres within SEC 12 T03N R25E, SEC 17 and 18 T03N R26E, SEC 35 and 36 T04N R25E, B.M.

Decree No.:	34-02426C	Source:	Groundwater
Amount:	2.50 cfs	Priority:	04/06/1982

Point(s) of Diversion: NESWSW SEC 28 T05N R26E, BUTTE COUNTY

The water is used for irrigation of 139 acres within SEC 12 T03N R25E, SEC 17 and 18 T03N R26E, SEC 35 and 36 T04N R25E, SEC 9 T04N R26E, and SEC 28 T05N R26E, B.M.

Decree No.:	34-07092	Source:	Groundwater
Amount:	12.00 cfs	Priority:	01/14/1975

Point(s) of Diversion: Lot 3 (NENENW) SEC 5 T04N R26E, BUTTE COUNTY

The water is used for irrigation of 635 acres within SEC 36 T04N R25E, B.M.

Decree No.: 34-07121A

Source: Groundwater

Amount: 0.46 cfs

Priority: 01/09/1976

Point(s) of Diversion: SWNESE SEC 32 T05N R26E, BUTTE COUNTY

The water is used for irrigation of 286 acres within SEC 12 T03N R25E, B.M.

TO BE CHANGED AS FOLLOWS:

The applicants are dividing the original Acor farm, which was limited to 2307 acres irrigated. Portions of these 12 rights are for 40.26 cfs and are staying within 2025 acres in T03N R25E SEC 12 T03N R26E SEC 17 and 18 and T04N R25E SEC 35 and 36.

Any protests against approval of the proposed change must be filed with the Idaho Department of Water Resources, 900 N Skyline Dr., Idaho Falls, ID 83402, together with a protest fee of \$25 on or before January 10, 2000. The protestant must also send a copy of the protest to the applicant.

**KARL J. DREHER
Director**

Published in the Idaho Statesman, Post Register, Times News, Lewiston Morning Tribune and the Arco Advertiser on December 23 and 30, 1999.

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: 005477

Date: 11-17-1987
Time: 13:50:28

Received
From: HOLDEN HOWELL HAHN GRAP

Type of Payment	Program Acct	Amount
PANSE APRIL 11 (2) CANNON & ACCT	63105 279 21 1155	200.00
CHECK 60354		
	Total	200.00

Region: EASTERN

Signature:

[Handwritten Signature]

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
SHAN B. PERRY
AMELIA A. CANEGALY

U.S. BANK OF IDAHO BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

November 15, 1999

Harold Jones
IDAHO DEPARTMENT OF
WATER RESOURCES
900 North Skyline Drive
Idaho Falls, ID 83402

RECEIVED
NOV 17 1999
Department of Water Resources
Eastern Region

Dear Mr. Jones:

We are enclosing with this letter the Application for Transfer on behalf of Cannons and Acors and a separate one on behalf of Acors as well. We are also enclosing a Notice of Change of Ownership which has now been signed by Alan Cannon. We have also enclosed a map, a copy of the Warranty Deed, a copy of the Water Right Division Agreement, and a copy of the title insurance policy which has been issued to Cannons. Finally, we are enclosing our check in the amount of \$200 for the filing fees for each of the applications for transfer.

As always, if there are concerns or questions, please call us at your convenience.

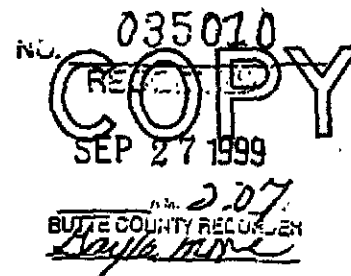
Very truly yours,



Kent W. Foster

Enclosures

G:\WPDATA\KWF\5974\IDWR1115 LTR.kmc



WARRANTY DEED

THIS INDENTURE is made this 24th day of September, 1999, by EVERETT T. ACOR, JR. a/k/a EVERETT T. "BUD" ACOR, JR. and EYLEEN P. ACOR a/k/a ILENE ACOR a/k/a RUTH P. ACOR a/k/a EYLEEN ACOR, husband and wife and DARYN P. ACOR and SHANNA A. ACOR a/k/a SHANNA ACOR, husband and wife and KURT P. ACOR and CORALEE J. ACOR, husband and wife (collectively the "Grantor"), and CANNON SHELLEY PROPERTY LIMITED PARTNERSHIP, an Idaho Limited Partnership Having As Its General Partners Alan M. Cannon Jr. and Katherine B. Cannon, husband and wife and Seth Alan Cannon whose mailing address is 707 East 1500 North, Shelley, Idaho 83274, the "Grantee".

WITNESSETH:

That the Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presents does grant, bargain, sell, convey and confirm unto the Grantee, and to the Grantee's successors and assigns forever, all of the following described property in the County of Butte, State of Idaho, to-wit:

Parcel 1:

Township 3 North, Range 26 East, Boise Meridian, Butte County, Idaho:

Section 2: S $\frac{1}{2}$ SW $\frac{1}{4}$; S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$

Section 3: SE $\frac{1}{4}$ SE $\frac{1}{4}$; S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 10: NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 11: NW $\frac{1}{4}$ lying North of the State Highway

EXCEPTING:

Beginning at a point 819.8 feet West of the NE corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 11; thence South 1055 feet to the Northerly boundary line of Highway 93; thence South 70°07' West along the boundary line of said highway 86.5 feet; thence North 1085.77 feet; thence East 81.4 feet to the POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM:

Beginning at a point on the North section line 254.5 feet East of the N $\frac{1}{4}$ corner of said Section 11; which is the POINT OF BEGINNING; running thence South 89°50' West 400 feet; thence South 826.6 feet to the Northerly Boundary Line of State Highway 93; thence in a Northeasterly direction along a one degree curve on said Highway right-of-way 437.5 feet; thence North 649.1 feet to the POINT OF BEGINNING.

Parcel 2:

Parcel A: Township 3 North, Range 26 E.B.M., Butte County, Idaho.

Section 17: Beginning at the corner of Sections 7, 18, 8, 17; thence East 2200 feet; thence Southeasterly 1190 feet; thence Southwesterly along the Arco-Carey Highway 2790 feet; thence North along the Section line 2050 feet to the POINT OF BEGINNING.

Parcel B: Township 3 North, Range 26 E.B.M., Butte County, Idaho.

Section 18: Beginning at the corner of Section 7, 8, 18, 17; thence West 1150 feet; thence Southeasterly 2350 feet; thence Northeasterly 380 feet; thence North 2050 feet to the POINT OF BEGINNING.

Parcel C: Township 3 North, Range 26 E.B.M., Butte County, Idaho.

Section 18: Beginning at the corner of Sections 12, 13, 7 and 18; thence South along the Section line 3900 feet; thence Northeasterly 3070 feet along the Arco-Carey Highway; thence Northwesterly 4100 feet to the POINT OF BEGINNING.

Parcel 3:

Township 4 North, Range 25 East, Boise Meridian, Butte County, Idaho.

Section 36: S $\frac{1}{2}$

Parcel 4:

Township 3 North, Range 25 East of the Boise Meridian, Butte County, Idaho,

Section 12: ALL, EXCEPTING and reserving to the United States all mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine and remove such deposits from the same under applicable law.

Parcel 5:

A parcel of land generally described as a portion of the SE¼ of the SE¼, Section 25, Township 4 North, Range 25 East of the Boise Meridian, Butte County, Idaho; being more particularly described as follows:

Beginning at the Southeast Corner of said Section 25, thence North 0°30'04" East, along the East boundary of said Section 25, a distance of 205.17 feet; thence North 89°39'08" West, parallel to the South boundary of said Section 25, a distance of 529.88 feet; thence South 56°00'23" West, 363.69 feet to the South boundary of said Section 25; thence South 89°39'08" East, along the South boundary of said Section 25, a distance of 829.63 feet to the POINT OF BEGINNING, subject to a 43 foot wide county road right-of-way easement parallel to and along the East boundary thereof.

Parcel 6:

Portion A: Township 3 North, Range 26 E.B.M., Butte County, Idaho

Section 17: That portion of the N½ of Section 17 lying North of the Arco-Carey Highway. Beginning at the corner of Sections 8, 17, 16, and 9, thence South 170 feet; thence Southwesterly 2800 feet along the highway; thence Northwesterly 1190 feet; thence East 3050 feet to the POINT OF BEGINNING.

Portion B: Township 3 North, Range 26 E.B.M., Butte County, Idaho

Section 18: Beginning at the corner of Sections 12, 13, 7, and 18; thence East 4000 feet; thence SE 2350 feet; thence Southwesterly 2000 feet; thence Northwesterly 4100 feet to the POINT OF BEGINNING.

Parcel 7:

Township 4 North, Range 25 East, Boise Meridian, Butte County, Idaho

Section 36: Beginning at the NE corner of said Section 36, thence South 32 feet to the POINT OF BEGINNING; thence continuing South 400 feet; thence continuing in a North Westerly direction 566 feet more or less; thence 400 feet East to POINT OF BEGINNING.

Parcel 8:

Township 4 North, Range 25 East, Boise Meridian, Butte County, Idaho

Section 36: N½,

EXCEPTING: Beginning at the NE corner of said Section 36, thence South 32 feet to the POINT OF BEGINNING; thence continuing South 400 feet; thence continuing in a North Westerly direction 566 feet more or less; thence 400 feet East to POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING:

1. All easements, ditch rights and water rights appurtenant to the above described property.
2. All tenements, hereditaments and appurtenances thereunto belonging or in any ways appertaining, any reversions, any remainders, rents, issues and profits therefrom, and all estate, right, title and interest in and to the above described property, as well in law as in equity, of the Grantor.
3. All rights of Grantor in any transfer agreements with canal companies pertaining to the transfer and conveyance of water which is appurtenant to the above described property.
4. All shares of stock owned by Grantor in any canal company which pertains to water rights which are appurtenant to the above described property.
5. All rights of Grantor in any wells which provide water which is appurtenant to the above described property.
6. All pivots, wheel lines, handlines, pumping equipment, systems, pumps, pipes, engines, motors, wells, casings and all other irrigation equipment located upon the above described real property or used by Grantor in connection with the irrigation of the above described real property.

easements are used to provide water which is appurtenant to the above described property.

11. All rights of Grantor in the wells, pumps and water system and all other easements and appurtenances thereto which is located in the Northeast Quarter Northeast Quarter Northwest Quarter of Section 5, Township 4, Range 26 East, Boise Meridian, which is used to provide water which is appurtenant to the above described property. Together with any and all other rights-of-way, easements and other rights and privileges or benefits associated with said well and water system.
12. All rights of Grantor in and to the North Half of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter of Section 1, Township 3 North, Range 25 East, Boise Meridian, Butte County, Idaho, which such property is subject to a desert land entry filed with the United States of America.

THE ABOVE DESCRIBED REAL PROPERTY IS SUBJECT TO THE FOLLOWING:

1. Agreement for Electric Service Irrigation dated May 23, 1991 between Lost River Electric Cooperative, Inc., and Daryn P. and Shanna A. Acor; recorded August 29, 1991, under Instrument No. 25178, records of Butte County, Idaho. (Parcel IV). Agreement for Electric Service recorded April 13, 1993, Instrument No. 26756; Agreement for Electric Service recorded April 13, 1997, Instrument No. 26757, records of Butte County, Idaho.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, rents, issues and profits therefrom; and all estate, right, title and interest in and to the property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD the premises and the appurtenances unto the Grantee, and to the Grantee's successors and assigns forever. The Grantor and the Grantor's heirs shall warrant and defend the premises in the quiet and peaceable possession of the Grantee and the Grantee's successors and assigns, against the Grantor and the Grantor's heirs, and against every person whomsoever who lawfully holds (or who later lawfully claims to have held) rights in the premises as of the date hereof.

In construing this Warranty Deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

Everett T. Acor, Jr.
Everett T. Acor, Jr. A/k/a Everett T. "Bud" Acor,
Jr.

Eyleen P. Acor
Eyleen P. Acor A/k/a Ilene Acor A/k/a Ruth P.
Acor A/k/a Eyleen Acor

Daryn P. Acor
Daryn P. Acor

Shanna A. Acor
Shanna A. Acor a/k/a Shanna Acor

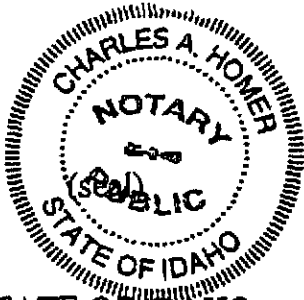
Kurt P. Acor
Kurt P. Acor

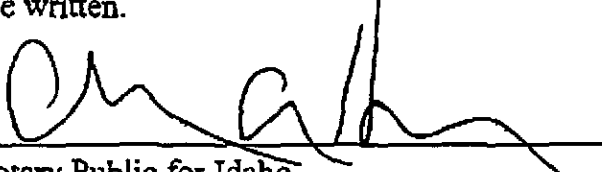
Coralee J. Acor
Coralee J. Acor

STATE OF IDAHO)
)ss.
County of Bernilla)

On the this 24th day of September, 1999, before me, the undersigned, a notary public, in and for said State, personally appeared EVERETT T. ACOR, JR. a/k/a EVERETT T. "BUD" ACOR, JR., 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.

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

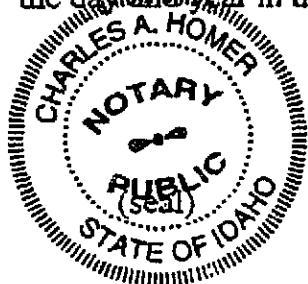


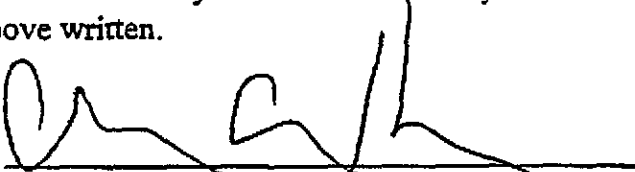

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 12/6/2004

STATE OF IDAHO)
)ss.
County of Bernilla)

On the this 24th day of September, 1999, before me, the undersigned, a notary public, in and for said State, personally appeared EYLEEN P. ACOR a/k/a ILENE ACOR a/k/a RUTH P. ACOR a/k/a EYLEEN ACOR, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she 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.

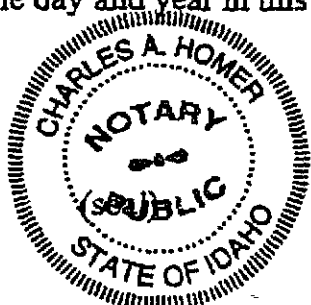


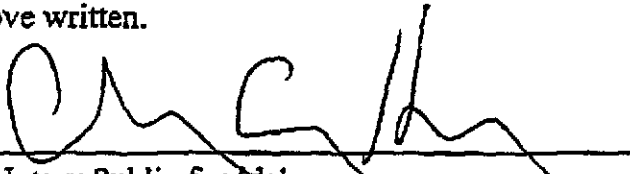

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 12/6/2004

STATE OF IDAHO)
)ss.
 County of Bonnaville)

On the this 24th day of September, 1999, before me, the undersigned, a notary public, in and for said State, personally appeared **DARYN P. ACOR**, 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.

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

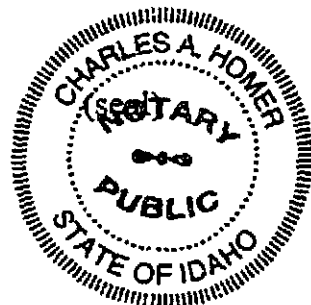


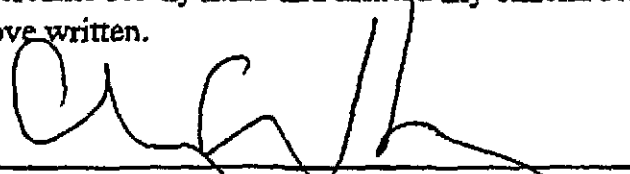

 Notary Public for Idaho
 Residing at Idaho Falls, Idaho
 My Commission Expires: 12/6/2004

STATE OF IDAHO)
)ss.
 County of Bonnaville)

On the this 24th day of September, 1999, before me, the undersigned, a notary public, in and for said State, personally appeared **SHANNA A. ACOR a/k/a SHANNA ACOR**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she 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.

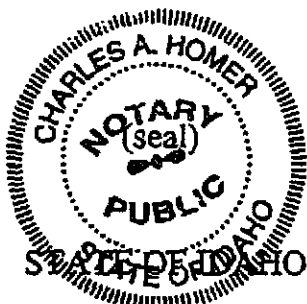



 Notary Public for Idaho
 Residing at Idaho Falls, Idaho
 My Commission Expires: 12/6/2004

STATE OF IDAHO)
)ss.
County of Bennett)

On the this 24th day of September, 1999, before me, the undersigned, a notary public, in and for said State, personally appeared **KURT P. ACOR**, 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.

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

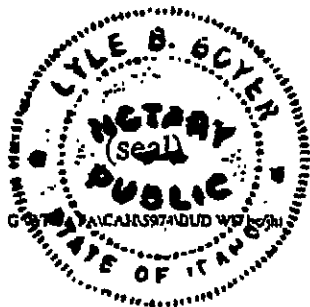


[Signature]
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 12/6/2007

STATE OF IDAHO)
)ss.
County of)

On the this _____ day of September, 1999, before me, the undersigned, a notary public, in and for said State, personally appeared **CORALEE J. ACOR**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she 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.



[Signature]
Notary Public for Idaho
Residing at Arco, ID
My Commission Expires: 5-31-2003



ISSUED BY
COMMONWEALTH LAND TITLE INSURANCE COMPANY

Commonwealth

OWNER'S POLICY OF TITLE INSURANCE

POLICY NUMBER

ABO-332069

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, COMMONWEALTH LAND TITLE INSURANCE COMPANY, a Pennsylvania corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

- 1 Title to the estate or interest described in Schedule A being vested other than as stated therein;
- 2 Any defect in or lien or encumbrance on the title;
- 3 Unmarketability of the title;
- 4 Lack of a right of access to and from the land

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

IN WITNESS WHEREOF, COMMONWEALTH LAND TITLE INSURANCE COMPANY has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, the Policy to become valid when countersigned by an authorized officer or agent of the Company

COMMONWEALTH LAND TITLE INSURANCE COMPANY

Attest:

David E. Hanning
Secretary



By:

Michael J. ...
Chairman and Chief Executive Officer

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part, or (iv) environmental protection, or the affect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy
- 2 Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge
3. Defects, liens, encumbrances, adverse claims or other matters
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy
- 4 Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (a) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (b) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (i) to timely record the instrument of transfer; or
 - (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor

1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

(a) "insured" the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

(b) "insured claimant" an insured claiming loss or damage.

(c) "knowledge" or "known" actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land" the land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage" mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records" records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a) (iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

(g) "unmarketability of the title" an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT.

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required, provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right at its own cost to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue litigation to final determination by a court of competent jurisdiction. The Company expressly reserves the right, in its sole discretion to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of the Company under this policy as to that claim.

6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS, TERMINATION OF LIABILITY.

In case of a claim under this policy, the Company shall have the following additional options.

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company up to the time of payment or tender of payment and which the Company is obligated to pay.

Upon the exercise by the Company of this option all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation and the policy shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to time of payment and which the Company is obligated to pay, or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs (b)(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

OWNERS

SCHEDULE A

Amount: \$800,000.00

Policy Number: A60-332069

Premium: \$2,280.00

Office File Number: 5186LRT

Date of Policy: SEPTEMBER 27, 1999at 2:07 PM

1. Name of Insured:

CANNON SHELLEY PROPERTY LIMITED PARTNERSHIP, AN IDAHO LIMITED PARTNERSHIP

2. The estate or interest in the land which is covered by this Policy is:

FEE SIMPLE TITLE

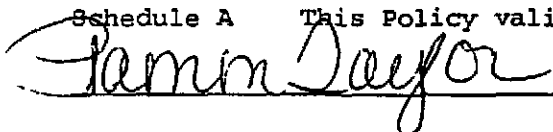
3. Title to the estate or interest in the land is vested in:

CANNON SHELLEY PROPERTY LIMITED PARTNERSHIP, AN IDAHO LIMITED PARTNERSHIP

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

The Property described in Exhibit 'A' attached hereto and made a part hereof.

Schedule A This Policy valid only if Schedule B is attached. (Standard Coverage)



Authorized Signature

SCHEDULE B

Policy Number: A60-332069

File Number: 5186LRT

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

General Exceptions:

- (1) Rights or claims of parties in possession not shown by the public records.
- (2) Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by and accurate survey or inspection of the premises including, but not limited to, insufficient or impaired access or impaired access or matters contradictory to any survey plat shown by the public records.
- (3) Easements, or claims of easements, not shown by the public records.
- (4) Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the 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) Taxes or special 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. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

SPECIAL EXCEPTIONS:

1. General Taxes for 1998 and prior years are paid. Taxes for 1999 are now a lien but not yet due and payable. (1998 Taxes: PARCEL I \$108.92, Tax No. RP03N26E026000A; \$573.88, Tax No. RP03N26E026000A; \$219.66, Tax No. RP03N26E039000A; \$152.82, Tax No. RP03N26E100100A; \$523.80, Tax No. RP03N26E112450A; PARCEL II: \$580.46, Tax No. RP03N26E170012A; \$212.20, Tax No. RP03N26E180110A; \$1,121.62, Tax No. RP03N26E184810A; PARCEL III: \$1,652.68, Tax No. RP04N25E360110A; PARCEL IV: \$3,473.84, Tax No. RP03N25E120001A; PARCEL V: \$2,362.16, Tax No. RP04N25E259780A; PARCEL VI: \$283.52, Tax No. RP03N26E170020; \$1,125.42,

Tax No. RP03N26E180101A; PARCEL VII; \$49.48, Tax No. RP04N25E360105A; PARCEL VIII; \$1,971.72, Tax No. RP04N25E360111.

2. The property of this Commitment of Title is NOT in the Big Lost River Irrigation District. BUT a charge for Water Transportation assessment dated April 1, 1999, in the names of Kurt Acor #1204 OD and Daryn Acor #1213 OD are in the amount of \$2,600.25.
3. All easements and rights-of-way for highways, roads, railroads, ditches, canals, gas, pole, power and transmission lines as they may exist.
4. Easement and Right-of-Way given by E.J. SOELBERG and EXIE A. SOELBERG, husband and wife to CRATER FARMS, INC., an Idaho Corporation, recorded June 26, 1968 in Book 5 of Miscellaneous, at page 135, under Instrument No. 49574, records of Butte County, Idaho. (PARCEL I)
5. Right-of-Way granted to THE STATE OF IDAHO, for a 100 foot strip of land crossing Sections 10, 16, 17 and 18, Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho. (PARCEL I, II)

6. Easement for Well and Irrigation Ditches dated November 1975, by and between SOELBERG FARMS, INC. an Idaho Corporation, as Grantor and CRATER FARMS, Inc., an Idaho Corporation, as Water User, recorded December 17, 1975 under Instrument No. M-4567, records of Butte County, Idaho. (PARCEL I)

7. Agreement for Electric Service Irrigation dated May 23, 1991 between LOST RIVER ELECTRIC COOPERATIVE, INC., and DARYN P. and SHANNA A. ACOR recorded August 29, 1991 under Instrument No. 25178, records of Butte County, Idaho. (PARCEL III)

8. Agreements for Electric Service Irrigation dated April 6, 1992, between LOST RIVER ELECTRIC COOPERATIVE, Inc., and DARYN P. and SHANNA A. ACOR and KURT P. and CORALEE J. ACOR, recorded April 13, 1993, under Instrument No. 26756 and 26757, records of Butte County, Idaho. (PARCEL III, VII, VIII)

9. Agreement for Easement and Right-of-Way by and between RULON J. ANDERSON and the UNITED STATES of AMERICA, by Instrument dated April 21, 1944, recorded June 9, 1944 in Book 7 of Contracts, Page 194, under Filing No. 23115, records of Butte County, Idaho, as follows: Along North boundary of Section 12, Township 3 North, Range 25 East, Boise Meridian. (PARCEL IV)

10. Easement for Irrigation Water dated April 28, 1981 between ROBERT WADDOUPS and CHARMAIN WADDOUPS, "grantor", and M2H FARMS, Partnership, represented by JOHN McAFFEE, "water user"; recorded May 4, 1981, under Instrument No. M-10435, records of Butte County, Idaho. (PARCEL IV)
11. Agreement for easement and right-of-way dated April 21, 1944, between Butte County, of Arco, State of Idaho, "grantor", and the United States of America, "grantee"; recorded June 9, 1944, under Instrument No. 23114, Book 7 of Contracts, at page 193, records of Butte county, Idaho. (PARCEL IV)
12. Agreement for easement and right-of-way between RULON J. ANDERSON, grantor and the UNITED STATES of AMERICA, grantee, "for construction of barbed wire fence", dated April 21, 1944, and recorded June 9, 1944 in Book 7 of Contracts, Page 194, under Instrument No. 23115, records of Butte County, Idaho. (PARCEL IV)
13. Easement and right-of-way granted to the United States by the Instrument recorded April 23, 1937, in Book 3 of Misc., Page 89, for pipe line, troughs, fences and truck trail across Sections 15, 16, 22, 23, 24 and 25, Township 4 North, Range 25 EBM, Butte County, Idaho. (PARCEL V)
14. Right-of-way easement granted to the United States by the Instrument recorded August 31, 1955, in Book 3 of Misc., Page 536, for a cattle guard and fence along the East boundary of the E1/2E1/2 of Section 25, Township 4 North, Range 25 EBM, Butte County, Idaho. (PARCEL V)

15. Agreement for electric service dated April 6, 1992, between LOST RIVER ELECTRIC COOPERATIVE, Inc., seller, and DARYN P. and SHANNA A. ACOR, and KURT P. and CORALEE J. ACOR dba TIMBER MOUNTAIN FARMS, Consumer; recorded April 13, 1993, under Instrument No. 26758, records of Butte County, Idaho. (PARCEL II, VI)

16. Agreement for electric service irrigation dated June 23, 1992, between LOST RIVER ELECTRIC COOPERATIVE, Inc., and REUBEN H. and MARJORIE BABCOCK, and DARYN P. and SHANNA A. ACOR, and KURT P. and CORALEE J. ACOR; recorded April 13, 1993, under Instrument No. 26761, records of Butte County, Idaho. (PARCEL II, VI and other property)

Exhibit 'A'

PARCEL I:

Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho.

Section 2: S1/2 SW1/4; S1/2 N1/2 SW1/4 Section 3: SE1/4 SE1/4; S1/2 NE1/4 SE1/4 Section 10: NE1/4 NE1/4 Section 11: NE1/4 lying North of the State Highway. EXCEPTING THEREFROM: Beginning at a point 819.8 feet West of the NE corner of the NE1/4 NW1/4 of said Section 11; thence South 1055 feet to the Northerly boundary line of Highway 93; thence South 70°07' West along the boundary line of said highway 86.5 feet; thence North 1085.77 feet; thence East 81.4 feet to the point of beginning. ALSO EXCEPTING THEREFROM: Beginning at a point on the North section line 254.5 feet East of the N1/4 corner of said Section 11, which is the point of beginning; running thence South 89°50' West 400 feet; thence south 826.6 feet to the Northerly border line of State Highway 93; thence in a Northeasterly direction along a one degree curve on said highway right-of-way 437.5 feet; thence North 649.1 feet to the point of beginning.

PARCEL II: (A,B,C)

PORTION A: Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho.

Section 17: Beginning at the corner of Sections 7, 8, 18 and 17; thence East 2200 feet; thence Southeasterly 1190 feet; thence Southwesterly along the Arco-Carey Highway 2790 feet; thence North along the Section line 2050 feet to the point of beginning.

PORTION B: Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho.

Section 18: Beginning at the corner of Section 7, 8, 18 and 17; thence West 1150 feet; thence Southeasterly 2350 feet; Northeasterly 380 feet; thence North 2050 feet to the point of beginning.

PORTION C: Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho.

Exhibit 'A' - continued

Section 18: Beginning at the corner of Sections 12, 13, 7 and 18; thence South along the Section line 3900 feet; thence Northeasterly 3070 feet along the Arco-Carey Highway; thence Northwesterly 4100 feet to the point of beginning.

PARCEL III:

Township 4 North, Range 25 East of the Boise Meridian, Butte County, Idaho.

Section 36: S1/2

PARCEL IV:

Township 3 North, Range 25 East of the Boise Meridian, Butte County, Idaho.

Section 12: All, EXCEPTING and reserving to the United States all mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine and remove such deposits from the same under applicable law.

PARCEL V:

A parcel of land generally described as a portion of the SE1/4 of the SE1/4, Section 25, Township 4 North, Range 25 East of the Boise Meridian, Butte County, Idaho; being more particularly described as follows:

Beginning at the Southeast corner of said Section 25, thence North 0°30'04" East, along the East boundary of said Section 25, a distance of 205.17 feet; thence North 89°39'08" West, parallel to the South boundary of said Section 25, a distance of 529.88 feet; thence South 56°00'23" West 363.69 feet to the South boundary of said Section 25; thence South 89°39'08" East, along the South boundary of said Section 25, a distance of 829.63 feet to the point of beginning.
SUBJECT TO: A 43 foot wide county road right-of-way easement parallel to and along the East boundary thereof.

PARCEL VI:

PORTION A: Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho.

Exhibit 'A' - continued

Section 17: That portion of the N1/2 of Section 17 lying North of the Arco-Carey Highway. Beginning at the corner of Section 8, 17, 16 and 9; thence south 170 feet; thence Southwesterly 2800 feet along the highway; thence Northwesterly 1190 feet; thence East 3050 feet to the point of beginning.

PORTION B: Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho.

Section 18: Beginning at the corner of Sections 12, 13, 7 and 18; thence East 4000 feet; thence SE 2350 feet; thence Southwesterly 2000 feet; thence Northwesterly 4100 feet to the point of beginning.

PARCEL II:

Township 4 North, Range 25 East of the Boise Meridian, Butte County, Idaho.

Section 36: Beginning at the NE corner of said Section 36, thence South 32 feet to the point of beginning; thence continuing South 400 feet; thence continuing in a Northwesterly direction 566 feet more or less; thence 400 feet East to the point of beginning.

PARCEL VIII:

Township 4 North, Range 25 East of the Boise Meridian, Butte County, Idaho.

Section 36: N1/2 EXCEPTING THEREFROM: Beginning at the NE Corner of said Section 36, thence South 32 feet to the point of beginning; thence continuing South 400 feet; thence continuing in a Northwesterly direction 566 feet more or less; thence 400 feet East to the point of beginning.

CONDITIONS AND STIPULATIONS

(Continued)

7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE.

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of

- (i) the Amount of Insurance stated in Schedule A; or,
- (ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy, or

(ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A

(c) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations

8. APPORTIONMENT.

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy

9. LIMITATION OF LIABILITY.

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto

11. LIABILITY NONCUMULATIVE

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

12. PAYMENT OF LOSS.

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations the loss or damage shall be payable within 30 days thereafter

13. SUBROGATION UPON PAYMENT OR SETTLEMENT.

(a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(b) The Company's Rights Against Non-insured Obligors

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy

14. ARBITRATION

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy, provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy

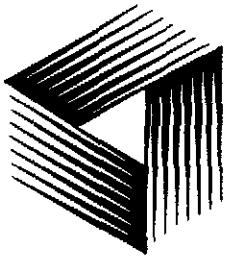
(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary or validating officer or authorized signatory of the Company

16. SEVERABILITY.

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect

17. NOTICES, WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to COMMONWEALTH LAND TITLE INSURANCE COMPANY, 101 Gateway Centre Parkway, Gateway One, Richmond, Virginia 23235-5153



**OWNER'S POLICY OF
TITLE INSURANCE**

AMERICAN LAND TITLE ASSOCIATION
(10-17-92)



Commonwealth
A LANDAMERICA COMPANY

Title Insurance Since 1876

HOME OFFICE:
101 Gateway Centre Parkway, Gateway One
Richmond, Virginia 23235-5153

B 1190-3

COPY

**AGREEMENT FOR DIVISION OF WATER RIGHTS AND
RELATED PROPERTY RIGHTS**

This agreement is made and entered into as of the 24th day of September, 1999, by and between EVERETT T. ACOR, JR. and EYLEEN P. ACOR, husband and wife, and KURT P. ACOR and CORALEE ACOR, husband and wife, and DARYN P. ACOR and SHANNA A. ACOR, husband and wife, herein collectively referred to as "Sellers", and CANNON SHELLEY LIMITED PARTNERSHIP, an Idaho limited partnership having as general partners Alan N. Cannon, Jr. and Katherine B. Cannon, husband and wife, and Seth Alan Cannon herein referred to as "Buyer", witnesseth:

Explanatory Recitals:

1. By separate agreements and documents which have been and will be executed by the parties, Sellers have agreed to sell to Buyer and Buyer have agreed to purchase from Sellers, certain farms located in the Big Lost River Valley, and known to the parties as the "Soelberg Place", the "Daniels Place", the "McAfee Place", the "Niederer Place" and the "Burnett Place" pursuant to the terms and conditions provided in said separate agreements and documents.

2. There are several water rights appurtenant to said farms and to farms being retained by Sellers, all of which have been and still are subject to a general adjudication proceeding being conducted by Idaho Department of Water Resources (hereafter IDWR) and the Fifth Judicial District Court in Twin Falls, Idaho, in civil Case No. 39576, which proceeding has been designated and is known as the "Snake River Basin Adjudication Proceeding" (hereafter SRBA).

3. The processing which has taken place in the SRBA has reached a point where a special master, appointed by the SRBA court has filed with the court some "Special Master's Report and Recommendations", dated February, 1999, recommending to the SRBA court that a partial decree, describing the nature and extent of the elements of each of the water rights referenced therein, be awarded to the Sellers for the benefit and irrigation of the above referenced farms.

4. Each of the recommended partial decrees, except with respect to right no. 34-10028, which has been recommended for the "Soelberg Place", contains a reference that the water diverted pursuant to the water right described therein is to be used in some manner for the irrigation and benefit of 2,307 acres of land. The 2,307 acres of land is the acreage on each farm authorized by the recommended partial decrees to be irrigated with the combination of the several water rights. The 2,307 acres authorized to be irrigated is allocated among the several farms as follows:

Name of Farm	Number of Acres Authorized for Irrigation
Home place	73
Dad's place	139
Sorensen place	70
Burnett place	360
Niederer place	635
McAfee place	595
Daniels place	435
Total	2,307

5. Pursuant to the referenced purchase and sale agreement, Buyer are acquiring title to the "Burnett", "Niederer", "McAfee" and "Daniels" places, containing 2,025 acres of the acreage authorized for irrigation, and Sellers are retaining the "Home", "Dad's" and "Sorensen" places, containing 282 of the authorized acres (except for 30 acres of the "Home Place" which was sold to Dexter Douglas in 1994 with 28.6 miners inches (.572 cfs) of right no. 34-02426C, 25 miners inches (.5 cfs) of right no. 34-00256, and 30 miners inches (.6 cfs) of right no. 34-00416, leaving 252 of the authorized acres which will actually be retained by Sellers). Buyer are also acquiring title to the "Soelberg place", which has water rights independent from the list of water rights which is appurtenant to the above described 2,307 acres. The recommended partial decrees for the "Soelberg place" include right no. 34-10028, a ground water right under which 4.36 cfs is diverted from a well located on the "Soelberg place", and which, when combined with right no. 34-10896, an enlargement right, is used for irrigation of 239 acres on the "Soelberg Place".

6. The water rights recommended for partial decree which reference the above described 2,307 acres include 4 surface water rights under which water is diverted from Big Lost River at the Moore diversion, and 10 ground water rights under which water is diverted from 8 wells in various locations in the Big Lost River Valley. The IDWR identification number, source, priority and amount of each such right is shown in the following chart:

ID Number	Source	Priority	Amount in cfs
34-00256	Big Lost River	June 1, 1889	1.472

34-00416	Big Lost River	June 1, 1896	1.600
34-00618	Big Lost River	September 1, 1884	3.200
34-00692C	Big Lost River	July 15, 1884	1.600
34-02330B	Groundwater	June 1, 1977	1.750
34-02426C	Groundwater	April 6, 1982	2.500
34-07077	Groundwater	September 5, 1974	8.000
34-07080B	Groundwater	September 23, 1974	5.330
34-07092	Groundwater	January 14, 1975	12.000
34-07120	Groundwater	December 17, 1975	2.000
34-07121A	Groundwater	January 9, 1976	0.460
34-07121B	Groundwater	January 9, 1976	3.740
34-07179	Groundwater	April 6, 1982	2.780
34-12376	Groundwater	June 1, 1977	1.250

7. The parties have agreed to divide the above listed water rights and other related property rights in connection with the sale and purchase of the referenced farms as provided hereafter.

Agreement:

In consideration of the referenced sale and purchase of farms by Sellers and Buyer, and the mutual covenants and promises herein set forth, the parties hereto agree as follows:

1. The above described water rights are to be divided between the Sellers and Buyer as follows:

a. Sellers shall retain:

Right Number	Portion
34-00692C	1.60 cfs
34-07179	2.78 cfs
34-02426C	0.67 cfs

b. Buyer are hereby acquiring:

Right Number	Portion
34-00256	1.472 cfs
34-00416	1.600 cfs
34-00618	3.200 cfs
34-02330B	1.750 cfs
34-02426C	1.258 cfs
34-07077	8.000 cfs
34-07080B	5.330 cfs
34-07092	12.000 cfs
34-07120	2.000 cfs
34-07121A	0.460 cfs
34-07121B	3.740 cfs
34-12376	1.250 cfs

c. In addition, Buyer is acquiring the "Soelberg place", with water rights nos. 34-10028 and 34-10896.

2. In addition to, and in connection with, the sale of the farms by Sellers to Buyer and the above described division of water rights, the Sellers hereby agree to transfer to Buyer, by the appropriate method of conveyance, whether deed, bill of sale, endorsement or assignment, the following:

a. 1.258 cfs of Right No. 34-02426C, the point of diversion for which shall be a well to be designated by Buyer and the formal transfer of which by IDWR is hereby consented to by Sellers.

b. Any and all rights of Sellers under that written or verbal well use agreement for the sharing of water diverted from the Harold Babcock well located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, T5N, R26E.

c. Any and all leases or special use permits from the United States Bureau of Land Management for the location, operation, maintenance, inspection, repair, rehabilitation or replacement of the North and South McAfee wells, located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ respectively of Section 32, T5N, R26E.

d. Any and all rights of Sellers in and to the wells water system and easement which are associated with the above referred to water rights to be received by Buyer, which are commonly referred to as the Niederer wells and which are located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 5, T4N, R26E, Boise Meridian.

e. All shares of seller of the common stock of Timberdome Canal Company.

f. Any and all transport agreements with Big Lost River Irrigation District for the conveyance of water diverted from Big Lost River or from wells which inject water into the canal system of said canal district.

3. Sellers agree that any and all costs which may be due and owing in connection with the sharing of the Harold Babcock well, lease or other payments to the Bureau of Land Management, or assessments which may be due and owing to the Timberdome Canal Company or the Big Lost River Irrigation District shall be paid and brought current by Sellers in connection with the closing of the referenced land sale and water rights division transactions.

4. Sellers and Buyer hereby mutually consent to any transfer of any of the above described water rights or any portion thereof which may be required or recommended by IDWR in connection with carrying out the intent and the provisions of this agreement. In the event the parties are unsuccessful in obtaining the formal approval of IDWR for the contemplated changes in points of diversion or places of use of the above described water rights to accomplish the division of water rights as agreed herein, then, and in such event, the parties agree that said water rights shall be and remain appurtenant to the same Property for the irrigation of the above referenced several farms in accordance with the pertinent decree or decrees of court and the records and determinations of IDWR.

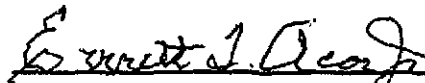
5. Sellers and Buyer agree that as soon as reasonably possible they shall take whatever action may reasonably be required in order to obtain the consent and approval of IDWR for the contemplated changes in points of diversion or places of use of the above described water rights to accomplish the division of water rights as agreed herein. Sellers and Buyer agree that Buyer shall pay the initial \$3,000.00 of the legal fees and costs incurred in connection with obtaining such approval from IDWR. Seller and Buyer shall each pay one-half of any additional fees and costs which may be incurred in connection with obtaining

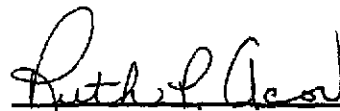
such approval from IDWR. The legal fees incurred with Seller's attorney and the legal fees incurred with Buyer's attorney for such purpose shall be combined and Buyer shall pay the first \$3,000.00 of such costs and fees and then Seller and Buyer shall each pay one-half of the remaining balance.

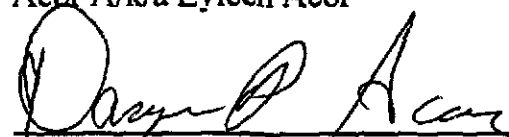
6. Simultaneous with the execution of this Agreement Buyer is entering into a Purchase and Sale Agreement with Kurt P. Acor and Coralee Acor to purchase what is known as the "Burnett Place". The division of the water rights referred to herein is based on the assumption that the sale of the Burnett Place to Buyer shall be completed. In the event such sale is not completed then the parties agree that the division of water rights referred to herein shall be modified so that Kurt P. Acor and Coralee Acor shall retain the appropriate water rights associated with the Burnett Place.

In witness whereof the parties have hereunto set their hands as the day of the first above written.

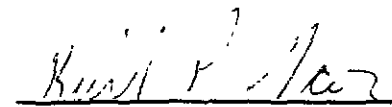
SELLER:


Everett T. Acor, Jr. A/k/a Everett T. "Bud" Acor, Jr.


Eyleen P. Acor A/k/a Ilene Acor A/k/a Ruth P. Acor A/k/a Eyleen Acor


Daryn P. Acor


Shanna A. Acor a/k/a Shanna Acor

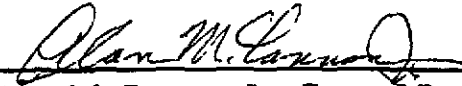

Kurt P. Acor



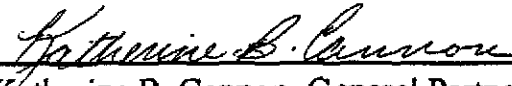
Coralee J. Acor

BUYER:

CANNON SHELLEY PROPERTY
LIMITED PARTNERSHIP



Alan M. Cannon, Jr., General Partner



Katherine B. Cannon, General Partner



Seth Alan Cannon, General Partner

G:\WPDATA\CAHS974\BUDTRGHT.AGR b0jht

MEMORANDUM

TO: FILE 34-13659
FROM: VAULT
RE: TRANSFER # TC34-22
DATE: 7-1-02

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**Original Transfer Application, Form and correspondence regarding the above
referenced Transfer is located within:**

FILE # 34-692C