



RECEIVED

JUL 22 2004

DEPARTMENT OF  
WATER RESOURCES

Jonathon C. Bowling, P.E.  
Engineering Leader  
Water Management Department

(208) 388-2905  
(208) 388-6495 FAX  
jbowlings@idahopower.com

July 21, 2004

Jeff Peppersack  
State of Idaho  
Department of Water Resources  
1301 N. Orchard St.  
Boise, ID 83720

Dear Jeff,

Enclosed please find signed copies of the Application to Rent Water From the Water Supply Bank and the Water Supply Bank Rental Agreement for the USBR natural flow rental program for 2004 for 78,759.9 acre feet of water.

Please return to IPC copies of the signed documents.

Please let me know if you have any questions or comments.

Sincerely,

Jonathon C. Bowling, P.E.  
Engineering Leader

Before the Idaho Water Resource Board

**WATER SUPPLY BANK RENTAL AGREEMENT**

The Idaho Water Resource Board ("Board") being authorized to operate a Water Supply Bank ("bank") and to contract by and through the Director of the Idaho Department of Water Resources ("Director") for rental of water from the bank agrees to rent water as follows:

1. Renter: Twin Falls Canal Company  
PO Box 326  
Twin Falls, ID 83303  
  
North Side Canal Company  
921 North Lincoln  
Jerome, ID 83338
2. Source of water: Snake River
3. Volume of water rented: 26458.9 af
4. Diversion period: April 10 to August 31, 2004
5. Use of water: Temporary exchange of water with Bureau of Reclamation
6. a) Renter's point of diversion:  
  
Legal description:  
  
b) Renter's place of use:  
  
Legal description:
7. The right from which water will be rented is: 2-10205 – see water lease agreement attached

The undersigned renter agrees to pay \$ 21167.12 for administrative fees for rental of the above described water and agrees to use the water in compliance with the Water Supply Bank rules and in compliance with the conditions of water use shown below:

Conditions of water use under this agreement:

1. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code.

2. Acceptance of a right into the Bank does not confirm the validity of the right or any elements of the right.
3. Upon Department request, the renter shall provide for the measurement of the water diverted in a manner acceptable to the Director and shall report the amount of water diverted at the end of the irrigation season.
4. Use of water under this agreement does not constitute a dedication of the water to renter's land and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
5. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
6. Renter agrees to hold the Board, the Director and the State of Idaho harmless from all liability on account of negligent acts of the renter while using water.
7. Renter acknowledges and agrees that the Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
8. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.

Twin Falls Canal Company

North Side Canal Company

\_\_\_\_\_  
signature and title

\_\_\_\_\_  
signature and title

\_\_\_\_\_  
date

\_\_\_\_\_  
date

-----

Having determined that this agreement satisfies the provisions of Section 42-1763, Idaho Code, and, IDAPA 37.02.03030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and conditions herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
KARL J. DREHER, Director  
Department of Water Resources

JUL 22 2004

Department of Water Resources

WATER LEASE AGREEMENT

This WATER LEASE AGREEMENT is made and entered into this 20 day of July, 2004, by and between BELL RAPIDS MUTUAL IRRIGATION COMPANY (hereinafter referred to as "BRMIC") and TWIN FALLS CANAL COMPANY / NORTH SIDE CANAL COMPANY (hereinafter referred to as "TFNS"). Collectively, BRMIC and TFNS shall hereinafter be referred to as "Parties."

**RECITALS**

WHEREAS, BRMIC is the legal title holder of water right no. 02-10205, entitling it to divert up to 414.85 cubic feet per second "cfs" and 98,046 acre-feet per year "afa" from the Snake River for its shareholders for irrigation purposes; and

WHEREAS, BRMIC and individual shareholders are not irrigating certain lands and have enrolled certain project lands in the United States Department of Agriculture's (USDA) Crop Reserve Program (CRP) for 2004; and

WHEREAS, BRMIC and individual shareholders wish to lease available water appurtenant to these irrigable acres that will not be farmed in 2004; and

WHEREAS, BRMIC has approval and is acting on behalf of the individual shareholders that own lands within the project to which the above mentioned water right is appurtenant; and

WHEREAS, TFNS holds certain storage space in the United States Bureau of Reclamation's (Reclamation) reservoirs in Water District No. 1; and

WHEREAS, TFNS previously agreed to lease Reclamation three percent (3%) of its allocated storage space in 2004 for Reclamation's "flow augmentation" program; and

WHEREAS, The Idaho Legislature authorized Reclamation to annually lease up to 427,000 acre-feet of storage water during the years 2002-2004 under the provisions of Idaho Code § 42-1763B; and

WHEREAS, Reclamation instituted a pilot leasing program in 2004, where in exchange for payment, water right holders have agreed to forego irrigation of land and place their water right into the Idaho State Water Supply Bank for purposes of Reclamation's "flow augmentation" program; and

WHEREAS, 2004 is the fifth consecutive year of drought in the State of Idaho, and carryover storage in Reclamation's Upper Snake River Basin reservoir system from 2003 was one of the lowest years on record; and

WHEREAS, for similar reasons intended by the pilot leasing program, Reclamation has agreed to accept natural flow leases from the Snake River below Milner

Dam in lieu of releasing the three percent (3%) of TFNS' storage space for the 2004 "flow augmentation" program; and

WHEREAS, TFNS and Reclamation intend to enter into a temporary water exchange agreement for 2004 pursuant to I.C. § 42-222A; and

WHEREAS, officials from BRMIC and TFNS met directly with each other in June 2004, and TFNS agreed to lease available water from BRMIC and provide it to Reclamation; and

WHEREAS, the Parties wish to provide a lease arrangement for their mutual benefit and memorialize their agreement in writing.

## COVENANTS

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, which the Parties agree are good and sufficient consideration, the Parties agree as follows:

1. Water Leased. TFNS agrees to lease approximately thirty-two thousand eight hundred seven and six tenths (32,807.6) acre-feet from BRMIC under water right no. 02-10205.
2. Payment. TFNS agrees to pay BRMIC a total of two hundred sixty-two thousand four hundred sixty dollars and eighty cents (\$262,460.80) representing a lease price of eight dollars (\$8) per acre-foot, upon receipt of written confirmation of IDWR's approval of the temporary water exchange agreement, as submitted by TFNS and Reclamation.
3. Idled Acres. BRMIC agrees to idle, or not irrigate the lands identified in Exhibit "A" during 2004, approximately 8,201.9 acres to which the 32,807.6 acre-feet are appurtenant. Such lands are either enrolled in the USDA's CRP program or are not being farmed in 2004. BRMIC agrees the land may not be irrigated from any source, regardless of whether there is another valid water right appurtenant to the lands.
4. Warrant. BRMIC warrants that BRMIC has the right, title, and interest necessary to enter into this Agreement, and that there are no agreements, leases, licenses, liens or encumbrances which would prohibit BRMIC from placing a portion of water right no. 02-10205 into the Water Bank; and that to the extent necessary, BRMIC has obtained any consent or approval necessary to authorize the execution of this Agreement. TFNS similarly warrants that it has obtained any consent or approval necessary to authorize the execution of this Agreement.
5. Monitoring. BRMIC agrees to allow the collection of data and access to the project for field visits by the Idaho Department of Water Resources (IDWR) or Reclamation if monitoring the idled lands is deemed necessary by the agencies.

6. Mistake. If it is determined after the execution of this Agreement that certain acres are not eligible to lease because of a mistake, error, or miscalculation, the number of acre-feet appurtenant to those acres shall be reduced from the total acre-feet leased by TFNS in Paragraph 1, and the total payment referenced in Paragraph 2 shall be reduced proportionate to the reduced number of acre-feet.

8. Term. The Agreement shall become effective on the date of the last signature hereto, or the date the Parties receive written confirmation of IDWR's approval of the temporary water exchange agreement between TFNS and Reclamation, whichever is later, and shall extend through November 15, 2004.

9. Approval by IDWR. This Agreement is contingent upon and subject to IDWR's approval of the temporary water exchange entered into between TFNS and the United States of America, Department of Interior, acting through the Bureau of Reclamation. Should IDWR deny the temporary water exchange between TFNS and Reclamation in whole or in part, this Agreement shall be null and void if written confirmation is sent by either party within ten (10) days following IDWR action.

10. Miscellaneous. BRMIC, or the represented shareholder, is responsible for all taxes, assessments, soil conservation measures such as weed and erosion control and other obligations related to any of the land covered by this Agreement. BRMIC, or the represented shareholder, will indemnify and hold harmless TFNS from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death, or property damage of any nature caused by BRMIC or the represented shareholder, or any person, firm, or corporation acting on BRMIC's or the represented shareholder's behalf related to or arising out of this Agreement.

11. Integration. With respect to the subject matter of this Agreement, the Parties declare that this Agreement states their entire agreement. No amendment or other modification of this Agreement is valid or enforceable unless the Parties execute an addendum to this Agreement that states the applicable amendment or other modification in writing.

12. Jurisdiction. The Parties are subject to the jurisdiction of the state of Idaho. The venue of any and all claims for relief is Twin Falls County, Idaho. The laws of the State of Idaho govern this Agreement, including, but not limited to, its interpretation and construction.

13. Binding Successors and Assigns. This Agreement binds and benefits the Parties, as well as their successors and assigns.

14. Time is of the Essence. The Parties agree that "time is of the essence."

DATED this 20 day of July, 2004.

BELL RAPIDS MUTUAL IRRIGATION CO.

Bruce L. Brown  
President – Board of Directors

STATE OF IDAHO                    )  
  ) ss.  
County of Twin Falls            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2004, before me, a Notary Public for said County and State, personally appeared \_\_\_\_\_, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/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: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

DATED this 20th day of July, 2004.

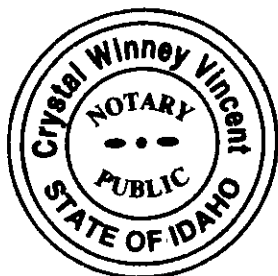
TWIN FALLS CANAL COMPANY

Ron H. Humaker  
Chairman – Board of Directors

STATE OF IDAHO                     )  
  ) ss.  
County of Twin Falls             )

On this 20th day of July, 2004, before me, a Notary Public for said County and State, personally appeared Ron H. Humaker, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/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.



Crystal Winney Vincent  
NOTARY PUBLIC FOR IDAHO  
Residing at: Twin Falls  
My commission expires: 4-8-2010



DATED this 20<sup>th</sup> day of July, 2004.

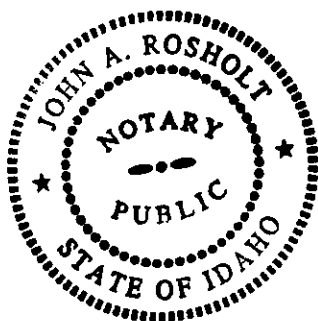
NORTH SIDE CANAL COMPANY

Russell Woolley  
Chairman – Board of Directors

STATE OF IDAHO                    )  
  ) ss.  
County of Jerome                 )

On this 20<sup>th</sup> day of July, 2004, before me, a Notary Public for said County and State, personally appeared Russell Woolley, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/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.



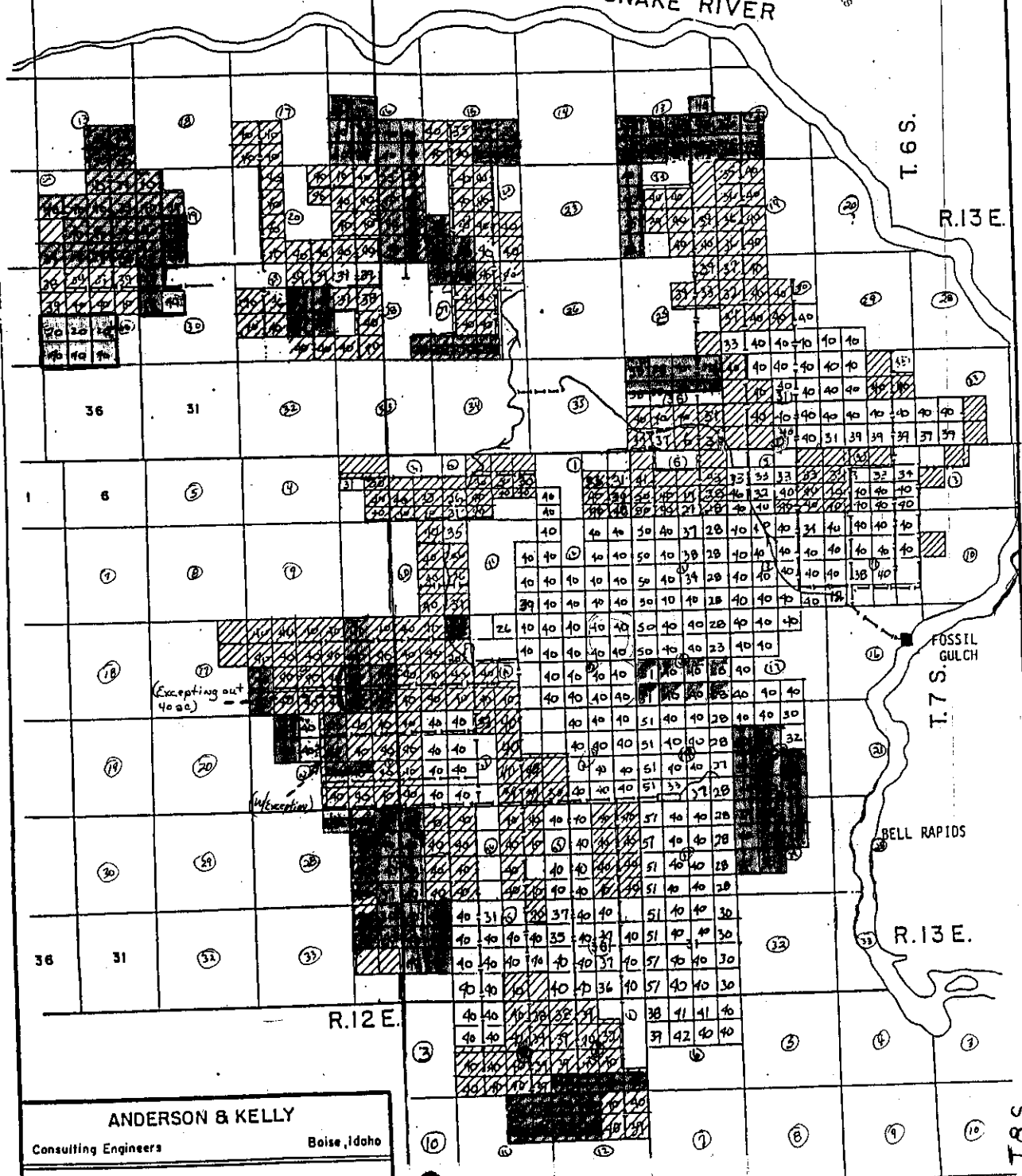
John A. Rosholt  
NOTARY PUBLIC FOR IDAHO  
Residing at: Twin Falls  
My commission expires: 2008

ELMORE COUNTY

TWIN FALLS COUNTY  
R. 12 E.

RECEIVED  
JUL 28 2004  
DEPARTMENT OF  
WATER RESOURCES

Snake River



ANDERSON & KELLY  
Consulting Engineers Boise, Idaho

BELL RAPIDS IRRIGATION PROJECT  
PROPOSED CONSTRUCTION  
(Third and Subsequent Stages)

April 1, 1972

- 2 POD'S
- 02-07353; 6.34 cfs; 380.0 ac.; Priority 6/22/1981
- 02-02268; 432.0 cfs; 25526.0 ac; Priority 12/16/1963
- A47-11839; Domestic 0.04 cfs; 1 house/shop
- A02-02268A; filing overlaps 02-02268; made by Jill Hausner; 5.28 cfs; 312 ac.; Priority 12/12/1963 (same as 02-02268)

N

5413  
For  
F. Travis  
Thompson  
7/28/04  
9



Prepared by: M. Wilson  
 Idaho Department of Water Resources  
 1201 North Capitol Blvd.  
 Boise, ID 83726  
 (208) 333-1000

Water right boundaries identify the quarter quarters within the leased or permitted place of use, but do not represent the number of acres authorized.

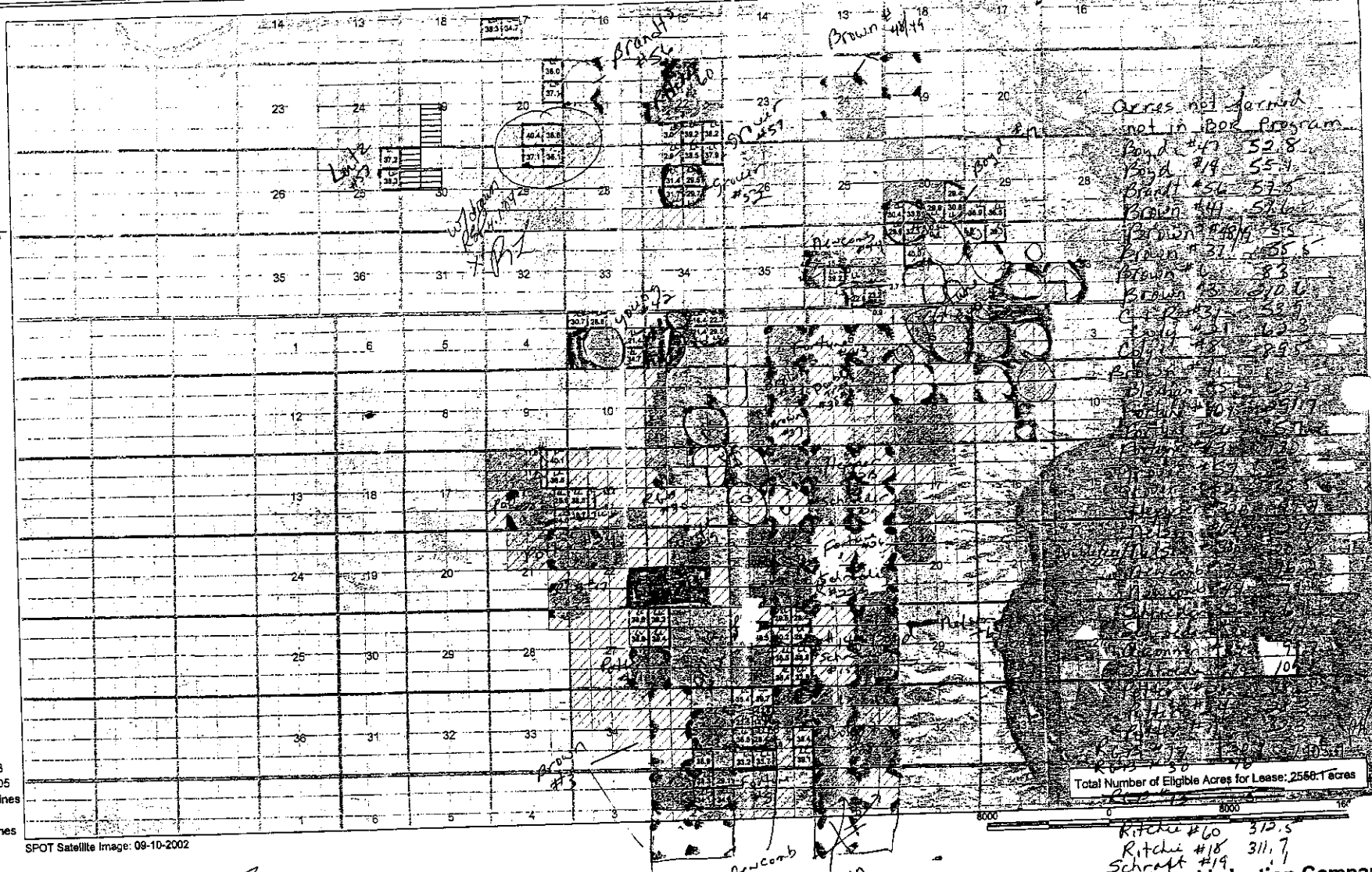
RECEIVED  
 JUL 28 2004  
 DEPARTMENT OF  
 WATER RESOURCES

- ☐ ELIGIBLE
- ☐ INELIGIBLE
- ☐ QUESTIONABLE
- ☐ Water Right 2-7353
- ☐ Water Right 2-10205
- ☐ Township/Range Lines
- ☐ Section Lines
- ☐ Quarter/Quarter Lines

SPOT Satellite Image: 09-10-2002

X Robert Zinkovich Gene S. Brown 4/2/04  
 Applicant Signature Date

Robert H. Hax  
 USBOR Signature Date



Acres not farmed  
 net in BOK Program

Boyd #47 52.8  
 Boyd #49 55.1  
 Brown #56 57.5  
 Brown #44 57.6  
 Brown #48/49 58.5  
 Brown #31 58.6  
 Brown #32 58.7  
 Brown #33 58.8  
 Brown #34 58.9  
 Brown #35 59.0  
 Brown #36 59.1  
 Brown #37 59.2  
 Brown #38 59.3  
 Brown #39 59.4  
 Brown #40 59.5  
 Brown #41 59.6  
 Brown #42 59.7  
 Brown #43 59.8  
 Brown #44 59.9  
 Brown #45 60.0  
 Brown #46 60.1  
 Brown #47 60.2  
 Brown #48 60.3  
 Brown #49 60.4  
 Brown #50 60.5  
 Brown #51 60.6  
 Brown #52 60.7  
 Brown #53 60.8  
 Brown #54 60.9  
 Brown #55 61.0  
 Brown #56 61.1  
 Brown #57 61.2  
 Brown #58 61.3  
 Brown #59 61.4  
 Brown #60 61.5  
 Brown #61 61.6  
 Brown #62 61.7  
 Brown #63 61.8  
 Brown #64 61.9  
 Brown #65 62.0  
 Brown #66 62.1  
 Brown #67 62.2  
 Brown #68 62.3  
 Brown #69 62.4  
 Brown #70 62.5  
 Brown #71 62.6  
 Brown #72 62.7  
 Brown #73 62.8  
 Brown #74 62.9  
 Brown #75 63.0  
 Brown #76 63.1  
 Brown #77 63.2  
 Brown #78 63.3  
 Brown #79 63.4  
 Brown #80 63.5  
 Brown #81 63.6  
 Brown #82 63.7  
 Brown #83 63.8  
 Brown #84 63.9  
 Brown #85 64.0  
 Brown #86 64.1  
 Brown #87 64.2  
 Brown #88 64.3  
 Brown #89 64.4  
 Brown #90 64.5  
 Brown #91 64.6  
 Brown #92 64.7  
 Brown #93 64.8  
 Brown #94 64.9  
 Brown #95 65.0  
 Brown #96 65.1  
 Brown #97 65.2  
 Brown #98 65.3  
 Brown #99 65.4  
 Brown #100 65.5

Total Number of Eligible Acres for Lease: 2550.1 acres

Ritchie #60 312.5  
 Ritchie #18 311.7  
 Schraft #19  
 Young #42 146.4  
 Bell Rapids Mutual Irrigation Company  
 2004 Snake River Pilot Leasing Program  
 Rental of Water from the Water Supply Bank  
 Prepared: March 31, 2004

Lot 2 #53 2.5  
 2750.2

COPY