

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

IN THE MATTER OF APPLICATION FOR)
TEMPORARY EXCHANGE OF WATER)
NO. TC-01-53 IN THE NAME OF TWIN FALLS)
CANAL CO., NORTH SIDE CANAL CO., AND)
U. S. BUREAU OF RECLAMATION)
_____)

**ORDER AUTHORIZING
TEMPORARY EXCHANGE**

WHEREAS, drought emergencies have been declared for Gooding, Jerome, and Twin Falls Counties to allow administrative actions to lessen the severe impacts of drought conditions in the counties; and

WHEREAS, Idaho Code § 42-222A provides that upon declaration of a drought emergency, the Director of the Department of Water Resources ("Director" or "Department") is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights or temporary exchanges of water authorized under water rights when the Director determines that such changes can be accomplished in accordance with the provisions of Idaho Code § 42-222A; and

WHEREAS, on July 22, 2004, the Twin Falls Canal Company, North Side Canal Company, and U. S. Bureau of Reclamation ("Applicants") requested that the Director approve the attached Temporary Water Exchange Agreement ("Application"); and

WHEREAS, the Director has reviewed the Application and has determined the Application can be approved with certain conditions.

ORDER

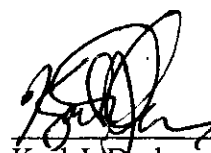
IT IS HEREBY ORDERED that the Application is **APPROVED** subject to the following conditions:

1. The agreement to exchange water under the contract rights held or controlled by the applicants as described in the Application is authorized at the locations described in the Application.
2. The watermaster of Water District No. 01 is authorized to administer the temporary exchange as approved. The watermaster shall regulate and keep a record of the amount of water diverted and accumulated as described in the Application under the exchange of contract rights held or controlled by the applicants.

SUPPORT DATA

3. The applicants assume all risk of curtailment or mitigation should the diversion and use of water under the temporary exchange be subsequently determined to cause injury to other water rights, constitute an enlargement in use of the original rights, be inconsistent with the conservation of water resources within the state of Idaho, or not be in the local public interest.
4. This temporary exchange as approved may only be used to provide a replacement water supply to lands or other uses that normally have a full water supply, except for the drought condition. This temporary exchange may not be used to provide water for new development or to allow expansion of the use of water under existing water rights.
5. This temporary exchange as approved does not grant any right-of-way or easement to use the diversion works or conveyance works of any other person or entity.
6. This temporary exchange as approved does not authorize the use of diversion works or a delivery system owned by or managed by a corporation or an irrigation district without the written consent of such corporation or irrigation district.
7. The applicants agree to hold the Director and the State of Idaho harmless from all liability on account of the diversion and use of water under this temporary exchange.
8. Approval of this temporary exchange expires at the end of the period described on the Application unless rescinded or extended by the Director. Thereafter, the water rights shall revert to the point of diversion, place of use, and nature of use existing prior to the temporary exchange approval.
9. By diversion and use of water under this temporary exchange, the Applicants acknowledge and agree that the Director may terminate diversion of water under this temporary exchange if the Director determines there is interference with or injury to other water rights.
10. The natural flow made available to the U. S. Bureau of Reclamation under this temporary exchange as approved shall be protected from diversion by others to Idaho Power's Hells Canyon Complex located in Washington and Adams Counties, Idaho.

DATED this 31st day of July 2004.



Karl J. Dreher
Director

JUL 22 2004

Department of Water Resources

TEMPORARY WATER EXCHANGE AGREEMENT

This TEMPORARY WATER EXCHANGE AGREEMENT is made and entered into this 22nd day of July, 2004, by and between TWIN FALLS CANAL COMPANY ("TFCC"), NORTH SIDE CANAL COMPANY ("NSCC") (hereinafter collectively referred to as "TFNS"), and THE UNITED STATES OF AMERICA, acting by and through the Department of Interior, Bureau of Reclamation, represented by the officer executing this instrument on its behalf (hereinafter referred to as "Reclamation"). Collectively, TFCC, NSCC, TFNS, and Reclamation shall hereinafter be referred to as "Parties."

RECITALS

WHEREAS, Reclamation has commitments under Biological Opinions on the operation of the Federal Columbia River Power System and the operation and maintenance of Reclamation Projects in the Snake River Basin above Brownlee Dam to provide flow augmentation for delivery at Lower Granite Dam; 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 is conducting a pilot leasing program under which water right holders in the Snake River below Milner Dam submitted proposals to idle land and place their water rights, or portions thereof, in the State Water Supply Bank (Water Bank), thereby increasing water flow downstream to Lower Granite Dam; and

WHEREAS, TFNS holds certain storage space in the Reclamation Project reservoirs above Milner Dam in Water District No. 1; and

WHEREAS, Water District No. 1, by and through the Committee of Nine, recommended that its spaceholders consider leasing three percent (3%) of their allocated storage in 2004 to the Reclamation to assist the Reclamation's "flow augmentation" program; and

WHEREAS, TFNS previously agreed to lease Reclamation three percent (3%) of its allocated storage space in 2004 for Reclamation's "flow augmentation" program through the Water District 01 rental pool; and

WHEREAS, NSCC agreed to lease 40,000 acre-feet to the Idaho Water Resource Board (IWRB) to mitigate for ground water pumping in connection with the Eastern Snake Plain Aquifer Mitigation, Recovery and Restoration Agreement; 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, the Director of IDWR and the Governor issued drought declarations for Twin Falls and Gooding Counties in 2004; 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, twenty-two thousand seven hundred sixty nine (22,769) acre-feet, and a portion of the water provided by NSCC to IWRB (27,342 acre-ft); and

WHEREAS, Reclamation has agreed to release up to fifty thousand one hundred eleven (50,111) acre-feet of water in the Upper Snake River Basin reservoirs above Milner to TFNS in exchange for natural flow leases of an equal amount of water acquired by TFNS in 2004, pursuant to the terms and conditions identified in Exhibit "A"(July 12, 2004 Letter from McDonald to Diehl and Alberdi); and

WHEREAS, TFNS has acquired thirty two thousand eight hundred seven and six tenths (32,807.6) acre-feet from Bell Rapids Mutual Irrigation Company (BRMIC) through a natural flow lease and seventeen thousand three hundred three and four tenths (17,303.4) acre-feet from other individuals and entities through private leases; and

WHEREAS, TFNS has entered into private leases with BRMIC and the other water right holders with natural flow rights to the Snake River below Milner Dam; and

WHEREAS, to facilitate the transfer of the natural flow leases to Reclamation and release the storage space to TFNS, the Parties wish to provide a temporary exchange agreement pursuant to Idaho Code § 42-222A.

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. Natural Flow Leases. TFNS has acquired the following amounts of natural flow water from the Snake River below Milner Dam for 2004 through private leases ; 1) Lease from BRMIC of 32,807.6 acre-feet dated July 20, 2004 (Exhibit B); 2) Lease from private individuals and entities of 17,303.4 acre-feet dated July 20, 2004 (Exhibit C).

2. Water Bank Procedures. TFNS acknowledges and agrees that it is responsible for all terms of the leases with BRMIC and other water right holders, including payment and compliance with the Idaho Water Resource Board's (IWRB) Water Bank Rules, IDAPA 37.02.03, if applicable. Reclamation acknowledges and agrees that it is responsible for the lease of storage water (50,111 acre-feet) through the rental pool committee for Water District No. 1, the Committee of Nine, said amount

including the storage water allocated to TFNS and previously agreed to be provided to Reclamation's "flow augmentation" program.

2. Leases to Benefit Reclamation's "Flow Augmentation" Program.

Reclamation acknowledges and understands that TFNS will exchange the water under the above-referenced natural flow leases for Reclamation's "flow augmentation" program in 2004.

3. Release of Storage to TFNS. In exchange for the natural flow leases provided above, Reclamation agrees to exchange and release 50,111 acre-feet of storage water from the Upper Snake River Basin above Milner to TFNS, pursuant to Idaho Code § 42-222A, such water includes TFNS' three percent (3%) of accrued storage space that had been previously agreed to be provided to Reclamation, and a portion of NSCC's storage water provided to IWRB.

4. Term. The Agreement shall become effective on the date of the last signature hereto, and shall extend through December 31, 2004.

5. Acceptance by Idaho Department of Water Resources. This Agreement shall constitute TFNS' temporary exchange application pursuant to Idaho Code § 42-222A. Should IDWR deny TFNS' proposed temporary exchange 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.

6. 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.

7. Officials Not to Benefit. No member of or delegate to Congress or the Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, but this restriction shall not be construed to extend to this Agreement if made with a corporation or company for its general benefit.

8. Covenant Against Contingent Fees. TFNS warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee except bona fide employees and bona fide commercial agencies maintained by TFNS for the purpose of securing business, including Barker Rosholt & Simpson LLP. For breach or violation of this warranty, Reclamation shall have the right to revoke this Agreement without liability or in its discretion to require TFNS to pay the full amount of such commission, percentage, brokerage, or contingency fee to the United States.

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

DATED this 22nd day of July, 2004.

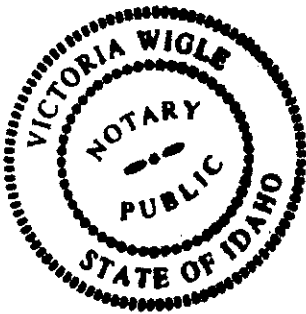
U.S. BUREAU OF RECLAMATION

Kenneth R. Pedde
J. William McDonald, Regional Director Pacific
Northwest Regional Office

STATE OF IDAHO)
) ss.
County of Ada)

On this 22nd day of July, 2004, before me, a Notary Public
for said County and State, personally appeared Kenneth Pedde, 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.



Victoria Wigle
NOTARY PUBLIC FOR IDAHO
Residing at: Boise
My commission expires: 5/29/10

DATED this 20th day of July, 2004.

TWIN FALLS CANAL COMPANY

Alan H. Newmaker
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 Alan H. Newmaker, 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 20th day of July, 2004.

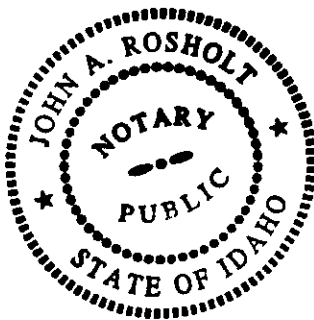
NORTH SIDE CANAL COMPANY

Russell Woolley
Chairman – Board of Directors

STATE OF IDAHO)
) ss.
County of Jerome)

On this 20th 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



IN REPLY
REFER TO:

United States Department of the Interior

BUREAU OF RECLAMATION
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise, Idaho 83706-1234

JUL 12 2004

PN-1080
RES-3.50

Mr. Ted Diehl
General Manager
North Side Canal Company
921 North Lincoln
Jerome ID 83338

Mr. Vince Alberdi
General Manager
Twin Falls Canal Company
PO Box 326
Twin Falls ID 83303

Subject: Flow Augmentation/Natural Flow Exchange

Gentlemen:

Please accept this one response to your jointly signed letter of June 30, 2004, and North Side Canal Company's letter of the same date, both urging Reclamation's prompt reply. The joint letter discusses the flow augmentation commitment of the two Companies, amounting to 3 percent of the Companies total system storage for 2004, or 22,769 acre-feet. The NSCC letter addresses the 40,000 that NSCC had agreed to make available to mitigate for ground water pumping in the event the Idaho Water Resources Board, (IWRB) was unable to secure the water.

Reclamation fully understands the dire water supply conditions that exist in 2004. We were hopeful as late as February that near normal runoff conditions would exist that would partially offset record low system carryover from the preceding year. March and April turned out to be dry and warm, and conditions deteriorated drastically. We can be grateful that May precipitation and June temperatures were more favorable than last year, and hope that we do not have a repeat of last year's extreme high temperatures.

Since its inception, Reclamation's flow augmentation program has had two fundamental underpinnings — water will be provided from willing sellers/renters, and water will be provided in accordance with state law. We would observe that probably none of the spaceholders in Water District One has any surplus storage in 2004. If carryover storage exists at the end of this irrigation season, it will mean that weather conditions have been more favorable than those that

Exhibit A

exist most summers. Your Companies' commitments to provide water this year is a sign of true leadership.

When we met in June, the discussion focused mainly on an exchange of the 3 percent of the Companies storage that has been dedicated to flow augmentation. As conditions of Reclamation's further consideration of this proposal, we asked to be assured (1) that Watermaster Ron Carlson still agrees with his previous analysis that essentially all of the impacts from flow augmentation rentals in 2004 would be manifest in reductions to the Companies 2005 storage entitlements, regardless of which spaceholders actually provided the water, and (2) that Idaho Water Resources Director Karl Dreher would protect the exchanged flows against the Swan Falls minimums. Reclamation asked for these conditions in order to assure that Reclamation's valuable relationship with the entire Water District One would not be compromised through a special exchange with two spaceholders, and that Reclamation could be assured that the exchanged natural flows are deemed by the State to be valid and protectable water rights, and thus "in accordance with state law."

Your letters enclosed a letter from Watermaster Carlson which addressed Reclamation's first concern. Your joint letter stated that Director Dreher has said that the exchanged natural flows would be protected, thus addressing Reclamation's second concern. We will presume, subject to formal confirmation that Director Dreher is of the same opinion with respect to an exchange of the mitigation water that NSCC has committed to provide.

Having considered your letters and discussed this issue with NOAA Fisheries, Reclamation hereby approves these two exchanges, subject to the following conditions:

The natural flows rentals are formalized under the IWRB's Water Bank procedures.

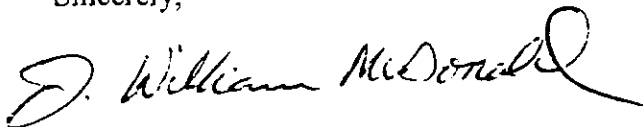
The State's commitment to protect the natural flows viz. a. viz. the Swan Falls minimums is articulated either in a letter from IDWR Director Dreher or order from the IWRB.

The water available for exchange is the volume that accrues to the Snake River during the period April 10 through August 31, 2004.

The total volume exchanged is limited to the amount of water that is available to Reclamation for flow augmentation, or 50,111 acre-feet.

If any party has concerns or questions, please contact me or Rich Rigby at 208-378-5092.

Sincerely,

A handwritten signature in black ink, reading "J. William McDonald". The signature is fluid and cursive, with a large, stylized "J" and "M".

J. William McDonald
Regional Director

cc: See attached list

cc:

Mr. Robert D. Lohn
Regional Administrator
NOAA Fisheries...
7600 Sandpoint NE BIN C1570
Seattle WA 98115-0070

Mr. Karl Dreher
Idaho Department of Water Resources
1301 N Orchard
Boise ID 83706

Mr. John Simpson
Barker Rosholt & Simpson
PO Box 2139
Boise ID 83701-2139

Mr. John Rosholt
Barker Rosholt & Simpson
113 Main Ave West Ste 303
Twin Falls ID 83301

Members, Committee of Nine:

Mr. Larry Kerbs
213 N 2500 E
St Anthony ID 83445

Mr. Charles Coiner
3866 N 3800 E
Hansen ID 83334

Mr. Claude Storer
11245 N 75 E
Idaho Falls ID 83401

Mr. Paul Berggren
178 Berggren Lane
Blackfoot ID 83221

Mr. Ron Carlson
State of Idaho
Department of Water Resources
900 N Skyline Drive
Idaho Falls ID 83402-1718

Mr. Roger Ling
Ling & Robinson
615 H Street
Rupert ID 83350

Mr. Michael Bogert
Counsel to the Governor
Office of the Governor
700 West Jefferson 2nd Floor
Boise ID 83720

Mr. Clive Strong
Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 83720
Boise ID 83720-0010

Mr. Albert Lockwood
1721 E 1200 S
Eden ID 83325

Mr. Don Hale
250 N 300 W
Blackfoot ID 83221

Mr. Dale Rockwood
6665 N 55 E
Idaho Falls ID 83401

Mr. Leonard Beck
272 W 200 S
Burley ID 83318

Mr. Leland Clark
954 N 3400 E
Ashton ID 83420

Members, Idaho Water Resources Board:

Mr. Jerry Rigby
Chairman, Idaho Water
Resource Board
553 East 4th South
Rexburg ID 83440

Mr. Richard Wyatt
Secretary
1422 8th Ave Blvd
Lewiston ID 83501

Mr. Leonard Beck
Member – District 3
200 S 272 W
Burley ID 83318

Mr. Joseph Jorden
Member – At Large
5855 W Farm Market Rd
Boise ID 83714

Mr. Claude Storer
Member – District 4
11245 N 75 E
Idaho Falls ID 83401

Mr. Terry T. Uhling
Vice-Chairman
999 Main St Ste 1300
Boise ID 83702

Mr. Bob Graham
Member – At Large
6808 Marx Court
Bonners Ferry ID 83805

Mr. Gary M. Chamberlain
Member – At Large
Chamberlain Ranch
HC 63
Challis ID 83226

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


signature and title

General Mgr.
date

July 30, 2004

North Side Canal Company


signature and title

July 30, 2004
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 2nd day of August, 2004.


for KARL J. DREHER, Director
Department of Water Resources

RECEIVED

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.

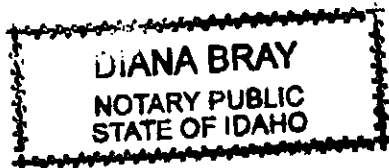
Bruce L. Brown
President - Board of Directors

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

On this 20 day of July, 2004, before me, a Notary Public for said County and State, personally appeared Bruce Brown, 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.

Diana Bray
NOTARY PUBLIC FOR IDAHO
Residing at: Wagman
My commission expires: 4/22/05



DATED this 20th day of July, 2004.

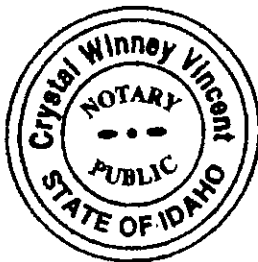
TWIN FALLS CANAL COMPANY

Ron H. Hummer
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 *Don L. Newnham*, 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 20th day of July, 2004.

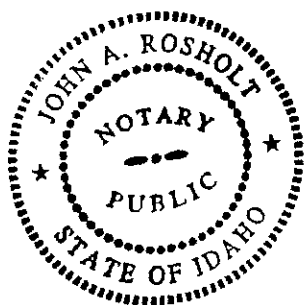
NORTH SIDE CANAL COMPANY

Russell Woolley
Chairman - Board of Directors

STATE OF IDAHO)
) ss.
County of Jerome)

On this 20th 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

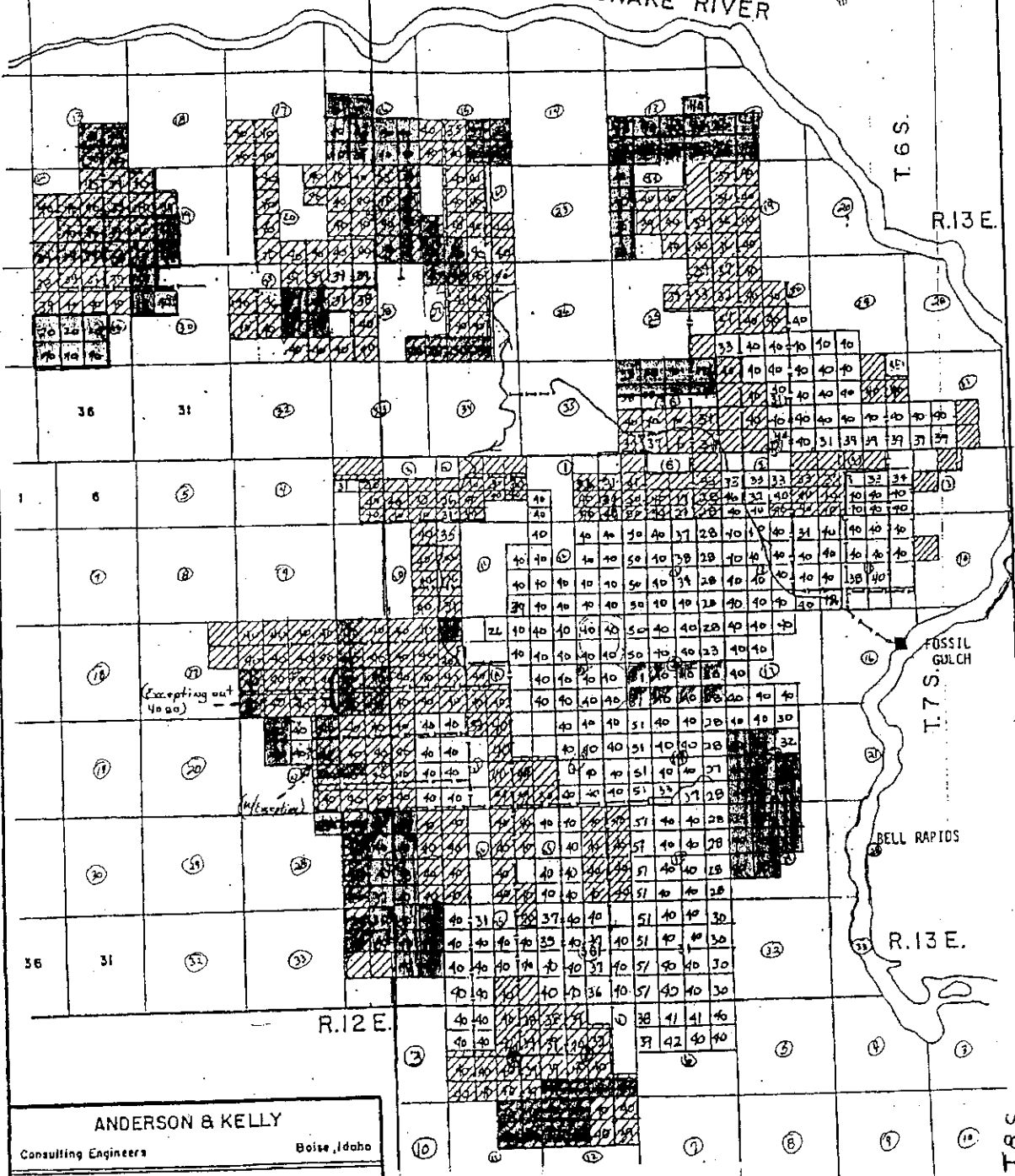
TWIN FALLS COUNTY
R.12 E.

RECEIVED
JUL 28 2004
DEPARTMENT OF
WATER RESOURCES

SNAKE RIVER

T.6 S.

R.13 E.

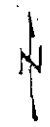


ANDERSON & KELLY
Consulting Engineers Boise, Idaho

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)



5413
For
Trans
Thompson
7/28/04



U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
1600 SOUTH 10TH AVENUE
DENVER, CO 80202

RECEIVED
JUL 18 2004
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
WATER RESOURCES

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

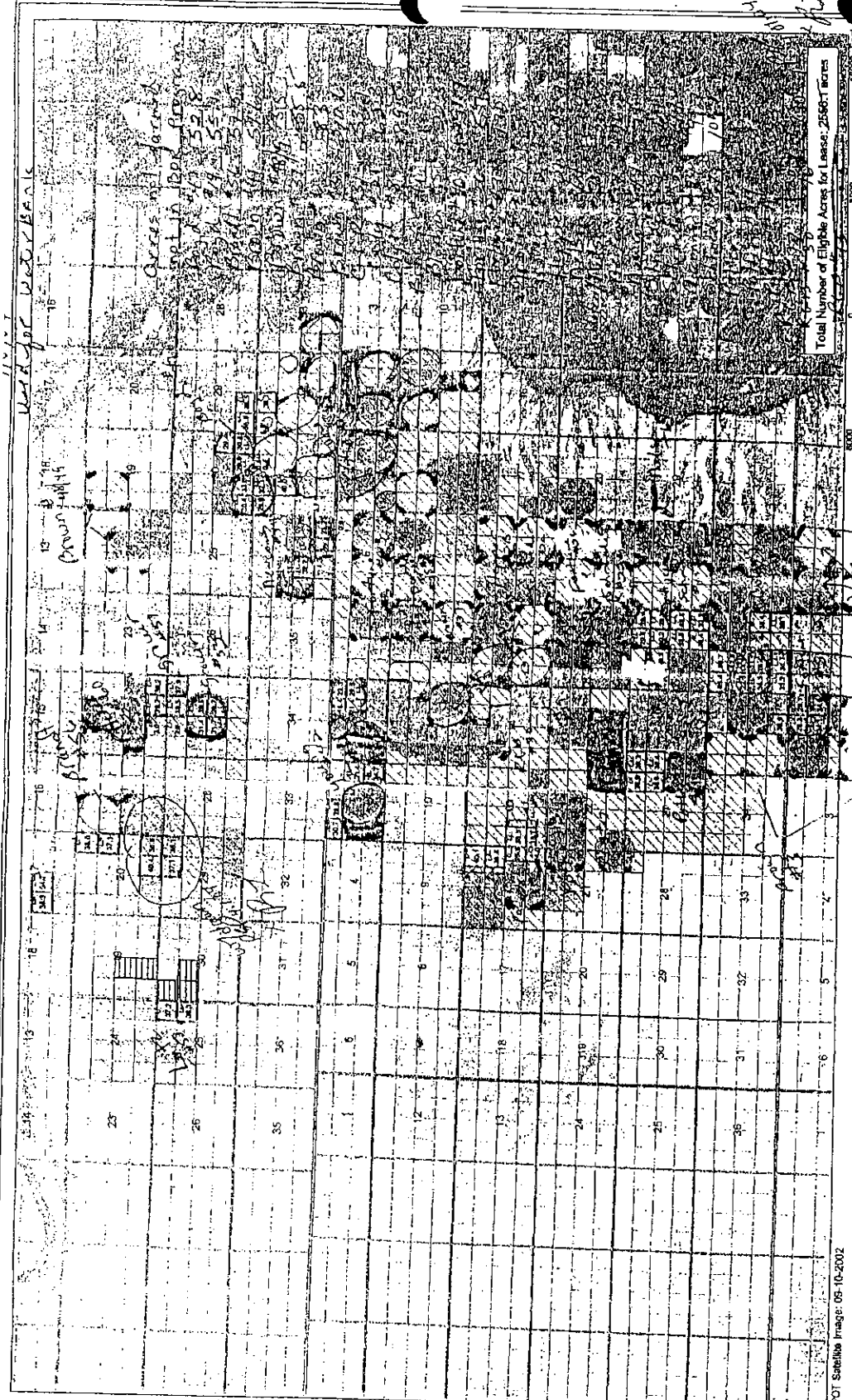
SPOT Satellite Image: 05-10-2002

[Signature]
Applicant Signature

Date

[Signature]
USBOR Signature

Date



Bell Rapids Mutual Irrigation Company
2004 Snake River Pilot Leasing Program
Rental of Water from the Water Supply Bank

Prepared: March 31, 2004

Lot 2 453 25 2750.2
COPY

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: 23652.1 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: See attached list of water rights

The undersigned renter agrees to pay \$ 260173.10 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.

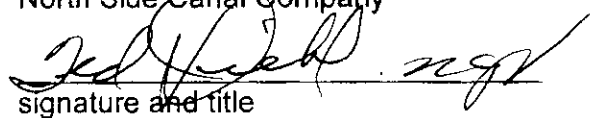
Twin Falls Canal Company


signature and title

General MGR.
date

July 30, 2004

North Side Canal Company


signature and title

July 30, 2004
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 2nd day of August, 2004.


for KARL J. DREHER, Director
Department of Water Resources

List of Water Rights to be Rented from the Water Supply Bank

Water Rights		Lessor	Source	Priority	Rate (cfs)	Volume ap/laug (af)	Acres	Use	Date in Bank
Basin	Seq.	Suffix							
2	10208		COTTONWOOD MUTUAL CANAL CO	2/25/1963	49.16	6635.9	2458.0	Irrigation	3/22/1991
2	10189		ROBERT AND CONNIE SMITH	2/25/1963	2.83	379.6	141.5	Irrigation	3/22/1991
2	7065	C	US ECOLOGY IDAHO, INC	5/14/1970	4.17	1466.2	404.0	Irrigation	6/12/1992
2	2261	D	GISELA SCHAAL	12/19/1963	0.80	161.3	40.0	Irrigation	10/6/1998
2	7237	A	ROBERT AND CONNIE SMITH	12/23/1976	5.90	1189.6	295.0	Irrigation	5/18/1999
2	7064		ROBERT AND CONNIE SMITH	4/23/1970	6.36	1282.3	318.0	Irrigation	7/9/1999
2	10180		ROBERT DIRKS	4/9/1970	1.60	258.1	80.0	Irrigation	7/9/1999
2	10181		ROBERT AND CONNIE SMITH	4/9/1970	3.20	516.2	160.0	Irrigation	7/9/1999
2	7061		JOHN T FIELD	4/9/1970	6.32	1274.3	316.0	Irrigation	4/12/2001
2	7062		JOHN T FIELD	4/9/1970	4.10	826.7	205.0	Irrigation	4/12/2001
2	7157	C	JOHN T FIELD	5/24/1974	7.44	1200.1	372.0	Irrigation	4/12/2001
2	2261	A	HILL WAY, INC	12/19/1963	4.40	887.2	220.0	Irrigation	3/27/2003
2	2259		HILL WAY, INC	12/18/1963	5.14	1036.4	257.0	Irrigation	4/28/2003
2	4		FLOPET INC	6/1/1956	0.22	32.3	10.0	Irrigation	8/25/2003
2	7287		FLOPET INC	6/1/1956	2.00	403.3	100.0	Irrigation	8/25/2003
2	2357	B	ARTHUR J MERRICK	9/10/1964	1.80	362.9	90.0	Irrigation	1/12/2004
2	7046	E	ARTHUR J MERRICK	7/30/1969	2.82	443.6	162.0	Irrigation	1/12/2004
2	2240		MARK MCDONOUGH	10/25/1963	2.25	0.0	112.5	Irrigation	3/12/2004
2	2431		MARK MCDONOUGH	12/5/1958	1.49	453.7	112.5	Irrigation	3/12/2004
2	10209		MARK MCDONOUGH	2/25/1963	0.22	29.7	11.0	Irrigation	3/16/2004
2	202	A	TED E CANTRELL	6/1/1912	0.24	46.4	13.0	Irrigation	4/12/2004
2	2262		GRINDSTONE BUTTE MUTUAL CANAL CO	12/6/1963	16.26	4766.7	1182.1	Irrigation	4/27/2004
						23652.1	total rented		