

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 11-7512

WATER RIGHT NUMBER: 11-7512

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	HARRY M STEELE & SONS
Current Owner	GRACE, ID 83241 ASTARIS PRODUCTION LLC PO BOX 839 SODA SPRINGS, ID 83276-0839 (208) 547-2700

Priority Date: 06/01/1954
 Basis: Statutory Claim
 Status: Active

<u>Source</u>	<u>Tributary</u>
LEDGER CREEK	BEAR RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 11/01	3.060 CFS	
	<u>Total Diversion:</u>	3.060 CFS	

Location of Point(s) of Diversion

LEDGER CREEK	NW1/4NE1/4	Sec. 29, Twp 09S, Rge 42E, B.M.
CARIBOU County		
LEDGER CREEK	NE1/4SW1/4	Sec. 17, Twp 09S, Rge 42E, B.M.
CARIBOU County		
LEDGER CREEK	NE1/4NW1/4	Sec. 17, Twp 09S, Rge 42E, B.M.
CARIBOU County		

Place of UseIRRIGATION Within CARIBOU County

T09S R42E S19	SENE	20.0	T09S R42E S19	NESE	40.0
T09S R42E S20	SWNE	37.0	T09S R42E S20	NESW	30.0
T09S R42E S20	NWSW	40.0	T09S R42E S20	SESW	30.0
T09S R42E S20	NWSE	15.0	T09S R42E S20	SWSE	15.0
T09S R42E S29	NVNE	40.0			
Total Acres: 267					

Conditions of Approval:Remarks:

Page 2

11/08/2002

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 11-7512

Comments:

1. scurtis 11/8/2002 Ownership Change

Comment: Rights 11-7511 and 11-7512 are the resulting rights from a split of Right 11-4034 by an ownership change.

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

RECEIVED

NOV - 5 2002

Department of Water Resources

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s)	Adjudication Claim No(s)	Split	Water Right No(s)	Adjudication Claim No(s)	Split
<u>4024</u> Claim <u>11-4043</u>	<u>11-07511</u> <u>11-07512</u>	☒	_____	_____	☐
_____	_____	☐	_____	_____	☐
_____	_____	☐	_____	_____	☐
_____	_____	☐	_____	_____	☐
_____	_____	☐	_____	_____	☐

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
OR
 If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Harry M. Steele & Sons c/o Edith P.LLC
Grace, ID 83241
4. New Owner/Claimant(s) Astaris Production LLC
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
P.O. Box 839
 New Mailing Address Soda Springs, ID 83276-0839
 City, State and ZIP Code
 New Telephone Number 208) 547-2700 x17
5. Date you acquired the property March 21, 2001 (Deed enclosed)

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in Item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number <u>11-4034</u>		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	<u>3.0576 cfs/</u>	<u>70 AFA 427 acres</u>
Stock	_____	_____
Domestic	_____	_____
Other	_____	_____
Total	<u>3.0576 cfs/ 70 AFA 427 acres (proportional split)</u>	

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other	_____	_____
Total	_____	

7. Signature of New Owner(s) or Claimant(s) Gary R. Resh
(include title if applicable) Dry Valley Mine Manager

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only			
Received by <u>J. H. [Signature]</u>	Date <u>11-5-02</u>	Fee <u>\$100.00</u>	
Receipted by <u>J. H. [Signature]</u>	Date <u>11-5-02</u>	Receipt No. <u>0065616</u>	
Processed by <u>AJ</u>	Date _____	WR _____	Date _____

WARRANTY DEED

Edith P.L.L.C., an Idaho limited liability company, whose address is 780 South 3rd East, PO Box 433, Soda Springs, ID 83276, **Grantors**, do hereby grant, bargain, sell and convey unto Astaris Production, LLC, a Delaware limited liability company, whose address is 2275 Dry Valley Road, PO Box 839, Soda Springs, ID 83276, **Grantee**, as its property, the following described premises located in Caribou County, Idaho and as more fully described below:

See Exhibit "A" attached hereto and made a part of this Deed.

SUBJECT to all easements and rights of way of record and those exceptions listed in Section B of the Title Commitment to Insure covering the premises described above issued by Caribou Land Title Inc., under order No. 15817 with an effective date of March 1, 2001.

TO HAVE AND TO HOLD the said premises, with its appurtenances unto the said **Grantee**, its heirs and assigns forever, and the said **Grantors** does hereby covenant to and with the said **Grantee** that it is the owner in fee simple of said premises; that they are free from all encumbrances, except as set forth above, and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: This 21 day of March, 2001.

EDITH P.L.L.C.

Edith P. Steele

By Edith P. Steele
Managing Agent

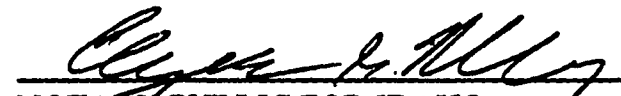
STATE OF IDAHO } ss 163210
County of Caribou }
I hereby certify that this instrument was filed at the request
of Caribou Title
at 3:30 o'clock P m this 21ST day of
March, 2001 in my office and duly
recorded official Records
Recorder Edie Izatt
Krista M. Spurr 9.00/chg.
Signature Deputy

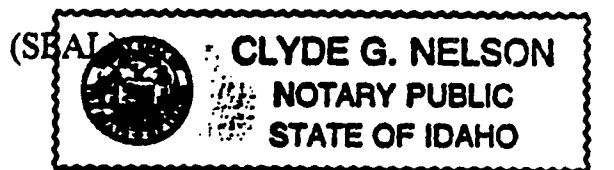
163210

STATE OF IDAHO)
 : ss
County of Caribou)

On this 21st day of March, 2001, before me, Clyde G. Nelson, a notary public, personally appeared Edith P. Steele, known or identified to me to be the Managing Agent of Edith P.L.L.C., the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that said limited liability company 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 Soda Springs



Soda Springs, Idaho
Commission Expires 8/28/04

EXHIBIT "A"

Caribou County, Idaho:

Township 9 South, Range 42 East of the Boise Meridian:

Section 19: SXSEXNEX, NEXSEX.

Section 20: SWXNEX, NWX, NXSWX, SEXSWX, WXSEX.

Section 29: NWXNEX, NXNWX, ALSO, All that part of the SWXNWX lying North of the center line of Bear River, and more particularly described as follows:

Beginning at a point where the West line of said Section 29, intersects the center line of Bear River, and running thence North on said West line 345 feet, more or less, to the North 1/16th corner on said West Line;
thence East on the North 1/16th line, 1320 feet, more or less, to the Northwest 1/16th corner of said Section;
thence South along the West 1/16th line 730 feet, more or less, to the center line of Bear River;
thence following the center line of Bear River in a Westerly direction, to the point of beginning.

Water Right Report

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[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

10/25/2002

WATER RIGHT NO. 11-4034

Owner Type	Name and Address
Current Owner	HARRY M STEELE & SONS GRACE, ID 83241

Priority Date: 06/01/1954
Basis: Statutory Claim
Status: Active

Source	Tributary
LEDGER CREEK	BEAR RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	5.46 CFS	
IRRIGATION STORAGE	1/01	12/31		125 AFA
IRRIGATION FROM STORAGE	4/01	11/01		125 AFA
Total Diversion			5.46 CFS	

Location of Point(s) of Diversion:

LEDGER CREEK	NENW	Sec. 17	Township 09S	Range 42E	CARIBOU County
LEDGER CREEK	NESW	Sec. 17	Township 09S	Range 42E	CARIBOU County
LEDGER CREEK	NWNE	Sec. 29	Township 09S	Range 42E	CARIBOU County

IRRIGATION STORAGE Use:
Acre Limit: 768

<http://www.idwr.state.id.us/apps/ExtSearch/RightReportAJ.asp?BasinNumber=11&Sequ...> 10/25/2002

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

10/25/2002

WATER RIGHT NO. 11-4034

Owner Type	Name and Address
Current Owner	HARRY M STEELE & SONS GRACE, ID 83241

Priority Date: 06/01/1954

Basis: Statutory Claim

Status: Active

Source	Tributary
LEDGER CREEK	BEAR RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	5.46 CFS	
IRRIGATION STORAGE	1/01	12/31		125 AFA
IRRIGATION FROM STORAGE	4/01	11/01		125 AFA
Total Diversion			5.46 CFS	

Location of Point(s) of Diversion:

LEDGER CREEK	NENW	Sec. 17	Township 09S	Range 42E	CARIBOU County
LEDGER CREEK	NESW	Sec. 17	Township 09S	Range 42E	CARIBOU County
LEDGER CREEK	NWNE	Sec. 29	Township 09S	Range 42E	CARIBOU County

IRRIGATION STORAGE Use:

Acre Limit: 768

IRRIGATION FROM STORAGE Use:
Acre Limit: 768

Place(s) of use:

Place of Use Legal Description: IRRIGATION CARIBOU County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
09S	42E	18		NENE	40		NWNE	40		SWNE	40		SENE	40
				NESE	40		NWSE	40		SESE	40			
		19		SENE	20									
				NESE	40									
		20		SWNE	37									
				NENW	30		NWNW	40		SWNW	40		SENW	40
				NESW	40 - 10		NWSW	40		SESW	30			
				NWSE	15		SWSE	15						
		29		NENE	40		NWNE	40		SWNE	21			

Place of Use Legal Description: IRRIGATION FROM STORAGE same as IRRIGATION

Total Acres: 768

341
- 160
267

*Portion appurtenant
to Asteris' Property -*

Dates:

Licensed Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Water Right Report

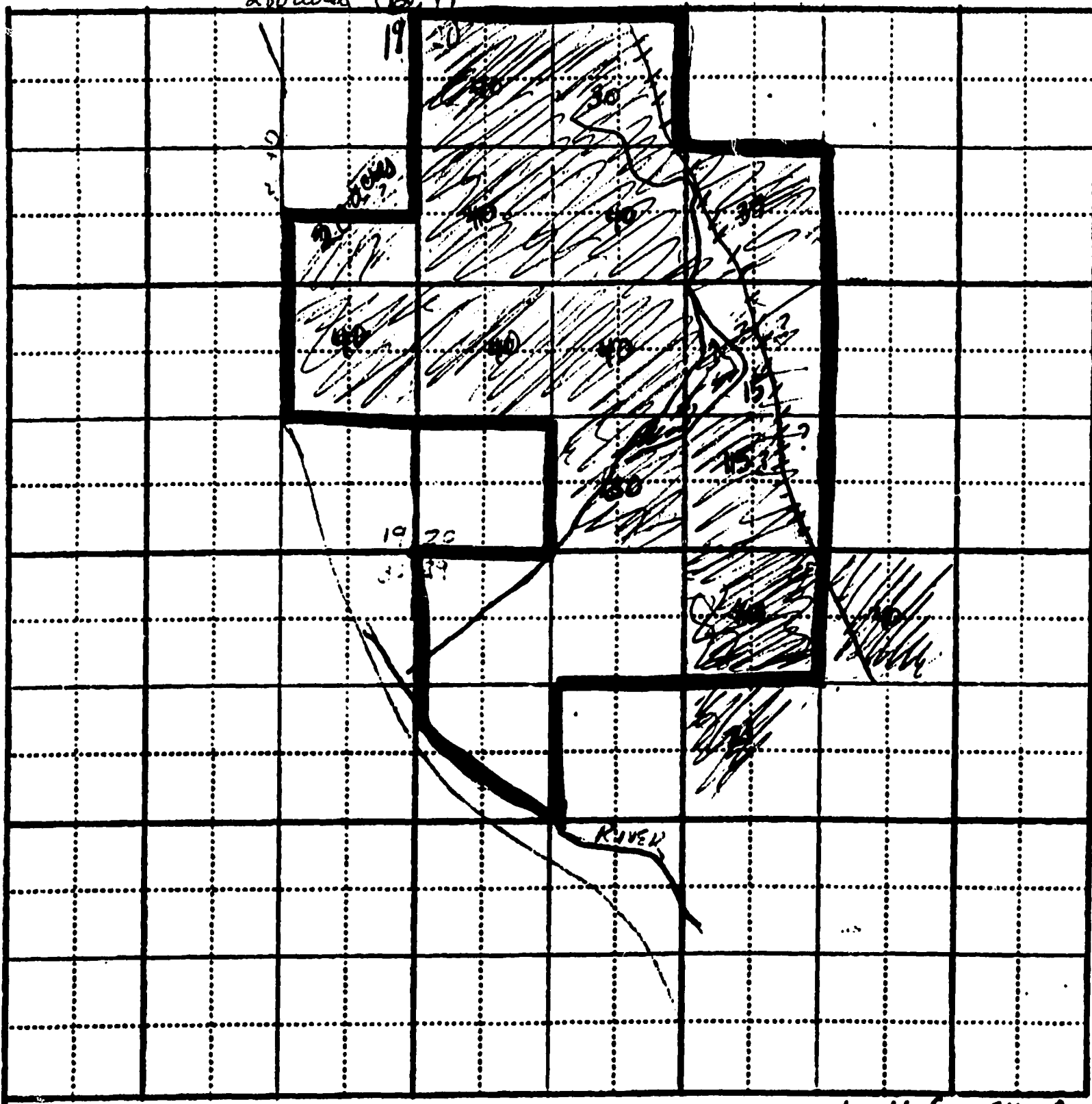
Page 3 of 3

Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

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

A. Draw a map or attach a USGS map indicating 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.

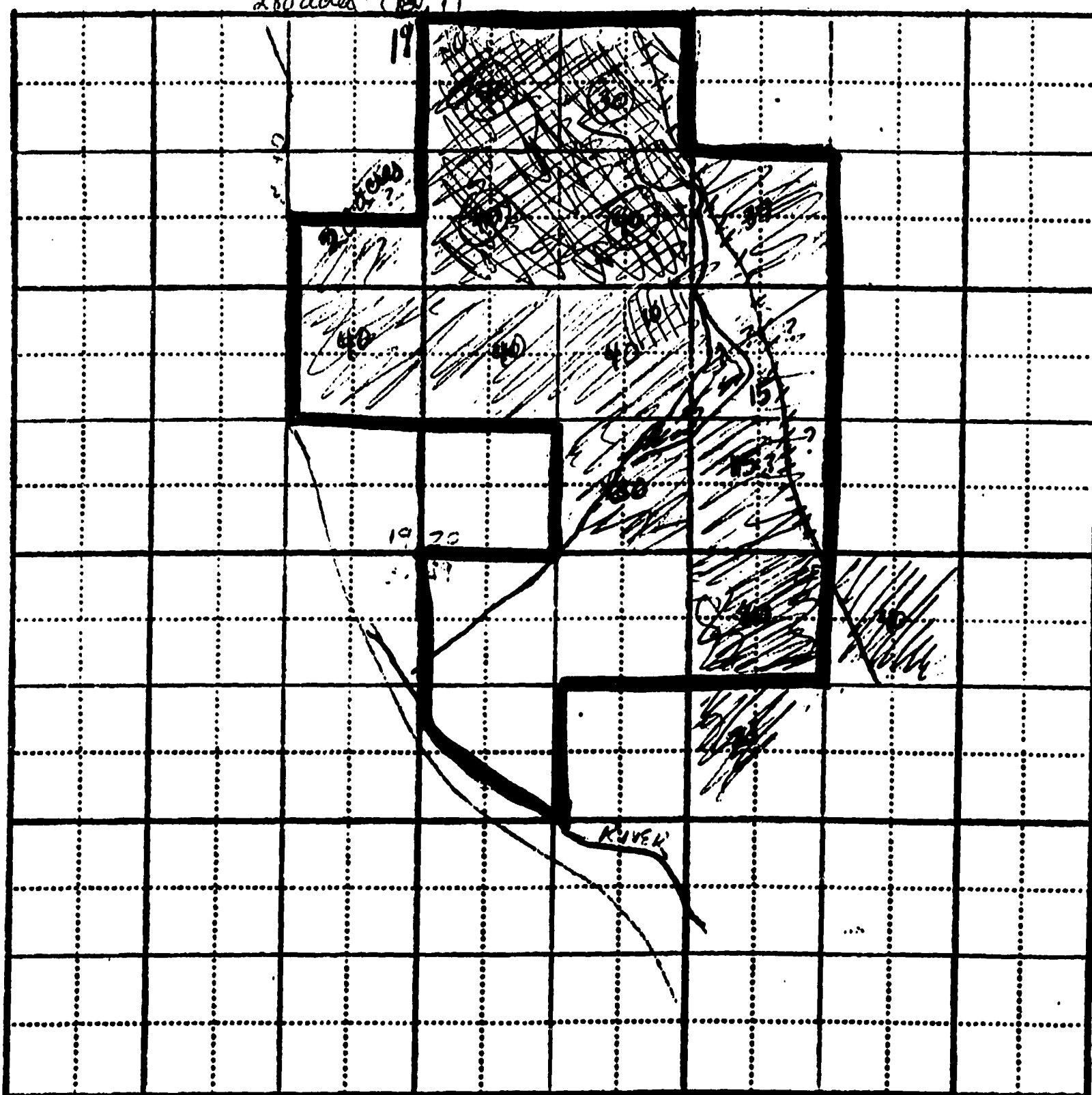


— Astan's bought from Edith PULL
— 11-4043 claim - 768 acres
Storage in 342520

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

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

A. Draw a map or attach a USGS map indicating 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.

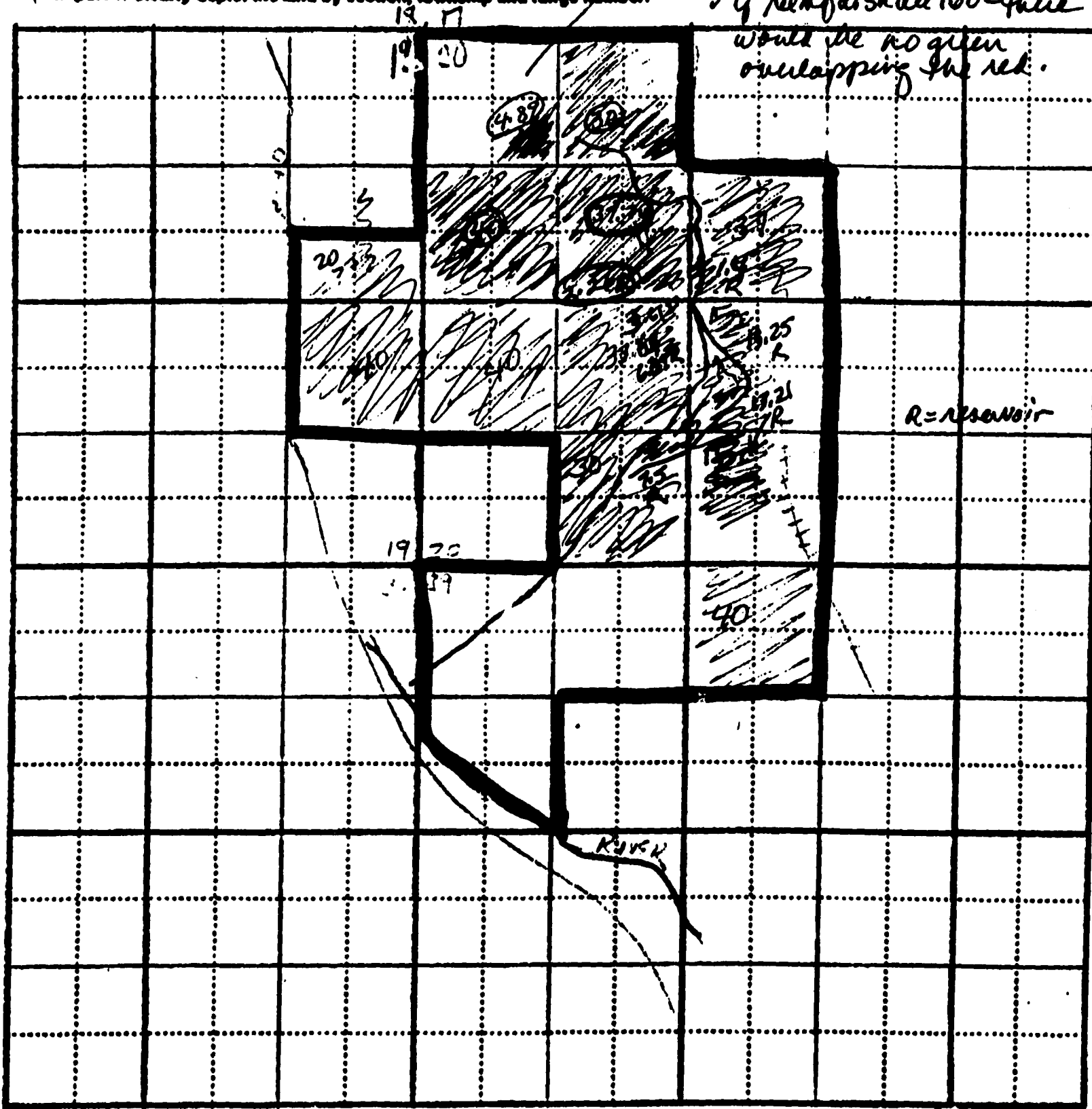


SCALE: 2 inches equal 1 mile. Draw plan in ink.

— Astan's bought from Edith Pell
 — 11-4043 claim - 768 acres
 — 11-0044B Right - 160 acres original

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

A. Draw a map or attach a USGS map indicating 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.



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

- Astor's bought from Edith Pell
- 11-4043 if relinquished overlapping 43.8 acres
- Bears 11-00446 post transfer.

Copy to File 11-4034

HOLLAND & HART LLP
ATTORNEYS AT LAW

DENVER • ASPEN
BOULDER • COLORADO SPRINGS
DENVER TECH CENTER
BILLINGS • BOISE • CASPER
CHEYENNE • JACKSON HOLE
SALT LAKE CITY • SANTA FE
WASHINGTON, D.C.

SUITE 1400
101 SOUTH CAPITOL BOULEVARD
BOISE, IDAHO 83702-7714
MAILING ADDRESS
P.O. BOX 2527
BOISE, IDAHO 83701-2527

TELEPHONE (208) 342-5000
FACSIMILE (208) 343-8869

LINDA B. JONES
ljones@hollandhart.com

October 18, 2002

RECEIVED

NOV - 5 2002

Department of Water Resources

Pamela S. Skaggs
Senior Water Rights Agent
Department of Water Resources
P.O. Box 83720
1301 North Orchard Street
Boise, Idaho 83720-0098

Re: Astaris Production LLC's Application
for Transfer of Water Right 69620/Right 11-44B

Dear Pamela:

This letter is sent to you at the request of Astaris Production LLC ("Astaris"), to follow up on our telephone conversation and your letter dated August 23, 2002 regarding Statutory Claim 11-4034 and its apparent overlap in place of use with Water Right 11-44B. The following provides some history of the Claim and Astaris' proposed resolution of the "overlap."

The Statutory Claim was filed by Astaris' predecessor in interest, Harold Steele and his sons, on property now owned by Astaris (the "Property"). Prior to Astaris' purchase of the Property, the Steele family owned several parcels in the vicinity. The family members holding title conveyed the Property to Edith P. LLC prior to the conveyance to Astaris. As I understand it, the Claim filed by Harold Steele and Sons was intended to document all of the Steele family's water rights as used on their properties, including water used pursuant to Right 11-44B. Right 11-44B is an old decreed right that was acquired by one of Steele's sons when he purchased land from the decreed water right owner. The Steele family "transferred" this Right to the Property when they purchased the Property from the City of Soda Springs in about 1954. The City had reserved all water rights appurtenant to the Property when it conveyed the Property to the Steeles. The Department's file for Claim 11-4034 (which I reviewed prior to the purchase) documents the Steele's claims to water rights, including Right 11-44B, that were "transferred" to or appropriated for irrigation of the Property when they acquired it from the City. This family "transfer" of Right 11-44B was not formally documented with the Department until late 1999 (prior to the Astaris acquisition). The Claim mistakenly listed 1954 as the priority date.

Pamela Skaggs
October 18, 2002
Page 2

This was the date the Steele's purchased the land and began using the water on the Property, not the actual adjudicated priority date of the Right.

Before Astaris purchased the Property, the Steele family (Edith P. LLC as the vested owner) initiated a formal water rights transfer process to correct the Department's records and to document the prior transfer in fact of Right 11-44B to the Property. The file for Right 11-44B documents this transfer. But, Claim 11-4034 was not similarly amended to reflect this transfer (i.e., to delete the water used pursuant to Right 11-44B from the Claim). Thus, Claim 11-4034 (as reflected in the Department's records) is actually, in part, a duplicate claim to water previously decreed under Right 11-44B and transferred to the Property.

Based on the foregoing explanation, the extent to which Claim 11-4034 "overlaps" with Right 11-44B, it is because Claim 11-4034 still reflects the Steele's prior inclusion of this water right owned by the Steele family under Right 11-44B. When Astaris purchased the Property, it acquired Right 11-44B (as transferred to the Property in fact and of record) and Astaris filed a Notice of Change in Ownership for this Right. Astaris did not also file a Notice of Change in Ownership for Claim 11-4034. However, pursuant to Idaho law, Astaris acquired with the Property additional water rights under Claim 11-4034 to the extent they are valid and appurtenant to the Property. But, it is Astaris' understanding and position that these additional water rights are only to the extent such water rights are in addition to and do not overlap with Right 11-44B.

A Notice of Change in Ownership for Statutory Claim 11-4034, to the extent appurtenant to the Property, is enclosed. This will result in a split of Statutory Claim 11-4034, as portions of the water rights as claimed by Harold Steele and Sons lie outside the boundaries of the Property acquired by Astaris (that portion used in Section 18 and the portions used in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 29). These latter portions remain with Harold Steele and Sons, or whoever owns these portions of land. The enclosed Notice requests a split of the Claim based on acreage acquired by Astaris.

To avoid further confusion concerning the apparent overlap of the Claim and the Right, Astaris, by signing below, relinquishes any interest it has or may have had in Claim 11-4034 to the extent it duplicates (or overlaps with) Right 11-44B. Astaris also confirms its ownership and use of Water Right 11-44B, as stated in the pending transfer application (referenced above). Astaris requests that the pending transfer of Right 11-44B be finalized, as stated in the application, and relinquishes any interest in water claimed under Claim 11-4034

Pamela Skaggs
October 18, 2002
Page 3

to the extent such claim overlaps or is inconsistent with Astaris' place and nature of use of Right 11-44B, as existing pre-transfer or as changed post-transfer. Accordingly, Astaris' interest in Statutory Claim 11-4034 under the enclosed Change in Ownership is only to that portion of the claimed water right that is appurtenant to the Property but not overlapping with Right 11-44B.

Please give Gary Resh or me a call if you have questions, if want to discuss this issue and request, or if you require further information in order to complete the pending water right transfer or to process the enclosed change in ownership.

Sincerely,

HOLLAND & HART LLP


Linda B. Jones

LBJ:cd

cc: Miguel Ugarte, Esq.
Gary Resh
Harold Jones (IDWR Eastern Region)

Pamela Skaggs
October 18, 2002
Page 4

The undersigned confirms for and on behalf of Astaris Production LLC that Astaris Production LLC hereby relinquishes its interest in water rights under Statutory Claim 11-4034 to the extent they duplicate or overlap with Water Right 11-44B, as described in the foregoing letter.

Astaris Production LLC

By: Gay R. Rosh / Gary R. Rosh
Title: Dry Valley mine manager

Relinquishment of
Part 11-4034

Idaho Department of Water Resources Receipt

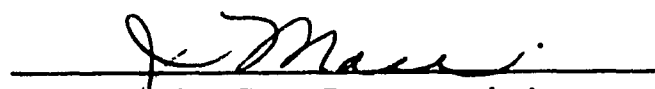
Receipt ID C065616

Payment Amount **\$100.00** Date Received **11/5/2002 9:35:04 AM** Region **State** Status ☒
Payment Type **Check** Check Number **0620001980**

Payer **HOLLAND & HART LLP**
Comment **WATE RIGHT 11-44b CLAIM 11-4043 4034**

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$100.00	OWNERSHIP CHANGES/SECURITY INTERESTS	0229	21	56140	1155


Signature Line (Dept. Representative)



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 6, 2002

ASTARIS PRODUCTION LLC
PO BOX 839
SODA SPRINGS ID 83276-0839

RE: Change of Ownership for Water Right 11-7512

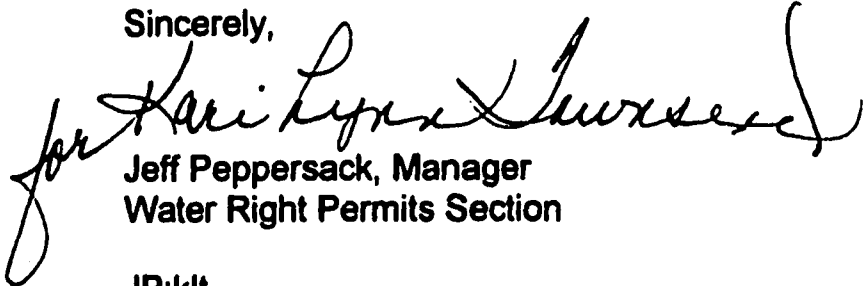
Dear Water Right Holder(s):

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

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

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

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure