

Transfer No. 2990Water Right No. 13-0104  
0105  
0107  
0108**APPROVED**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**APPLICATION FOR TRANSFER OF WATER RIGHT****To Change the Point of Diversion and/or the Place of Use**Name of applicant Claire Hatch Phone 747-3424  
Post Office address Rt. 1, Box 109, Clifton, Idaho 83278**A. DESCRIPTION OF RIGHT AS RECORDED**

## 1. Right evidenced by:

- a. Decree No. 13-0104 Decreed to James N. Grant  
(Name)  
in case of A.W. Eaton, et al vs W.F. Fisher  
dated in July 30, 1888 in 3rd Judicial District county of Bingham  
(Name of court)
- b. License No. \_\_\_\_\_ issued by the Idaho Department of Water Resources
- c. Claim No. \_\_\_\_\_ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant Applicant acquired right through purchase. See attached chain of title

3. Source of water Oxford Creek tributary to Oxford Slough
4. Date of priority July 30, 1888

## 5. Water is used for the following purposes:

\*amount 20 shares for Irrigation purposes from 4-1 to 11-1  
amount 12 shares for Irrigation purposes from 4-1 to 6-1  
amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(month/day — both dates inclusive)

6. Total amount of water under right: a. 32 Shares cubic feet per second  
&/or  
b. \_\_\_\_\_ acre feet per annum

Not specified in decree

7. Location of original point of diversion is \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of Section \_\_\_\_\_  
Township \_\_\_\_\_ Range \_\_\_\_\_, B.M., in \_\_\_\_\_ County  
Additional points of diversion, if any \_\_\_\_\_

8. Lands irrigated or place of use: Not specified in decree

| TWP. | RANGE | 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 |        |
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Total number of acres to be irrigated \_\_\_\_\_

9. Describe any other water rights used for the same purpose as described above None
10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No if yes, describe in item D, REMARKS.

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. \_\_\_\_\_ cubic feet per second  
&/or  
b. \_\_\_\_\_ acre feet per annum
- ✓ Point of diversion \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_  $\frac{1}{4}$ , Section \_\_\_\_\_ Township \_\_\_\_\_  
Range \_\_\_\_\_, B.M., \_\_\_\_\_ County  
Additional points \_\_\_\_\_
3. Place of use:

| TWP. | RANGE | SEC. | NE $\frac{1}{4}$ |                  |                  |                  | NW $\frac{1}{4}$ |                  |                  |                  | SW $\frac{1}{4}$ |                  |                  |                  | SE $\frac{1}{4}$ |                  |                  |                  | TOTALS |
|------|-------|------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|--------|
|      |       |      | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ |        |
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Total number of acres to be irrigated \_\_\_\_\_

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information

- a. Amount of water to be diverted 162 shares c.f.s. &/or \_\_\_\_\_ acre feet
- b. Description of diverting works Ditch and pipeline to gravity system and sprinklers.
- c. Describe the reasons for the proposed changes Applicant wishes to record ownership of the water and show the change in point of diversion and place of use after purchase of the water.

2. Change in point of diversion

Point of diversion NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , Section 30 Township 13S  
Range 38E, B.M., Franklin County  
Additional points NW $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 32, T. 13S, R. 38E.

3. Change in place of use

- a. Are there liens, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes \_\_\_\_\_ No X. If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.
- b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer  
The land formerly irrigated by the above rights will no longer be irrigated with said rights.

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 13-0105 Decreed to Nels Georgenson  
 in case of A.W. Eaton, et al vs W.F. Fisher  
 dated in July 30, 1888 in 3rd Judicial Dist. county of Bingham  
 (Name of court)
- b. License No. \_\_\_\_\_ issued by the Idaho Department of Water Resources
- c. Claim No. \_\_\_\_\_ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant Applicant  
acquired thru purchase . See atatched chain of title

3. Source of water Oxford Creek tributary to Oxford Slough

4. Date of priority July 30, 1888

5. Water is used for the following purposes:

- \* amount 30 Shares for Irrigation purposes from 4-1 to 11-1  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (month/day — both dates inclusive)

6. Total amount of water under right: a. 30 shares cubic feet per second  
 &/or  
 b. \_\_\_\_\_ acre feet per annum

Not specified

7. Location of original point of diversion is \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of Section \_\_\_\_\_  
 Township \_\_\_\_\_ Range \_\_\_\_\_, B.M., in \_\_\_\_\_ County  
 Additional points of diversion, if any \_\_\_\_\_

8. Lands irrigated or place of use: Not specified in decree.

| TWP. | RANGE | 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 |        |
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|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total number of acres to be irrigated \_\_\_\_\_

9. Describe any other water rights used for the same purpose as described above None

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D. REMARKS.

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 13-0107 Decreed to Jas. Boyle (Name)  
in case of A.W. Eaton vs W.F. Fisher  
dated in July 30, 1888 in 3rd Judicial Dist. county of Bingham  
(Name of court)
- b. License No. \_\_\_\_\_ issued by the Idaho Department of Water Resources
- c. Claim No. \_\_\_\_\_ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant Applicant  
acquired thru purchase. See attached chain of title.

3. Source of water Oxford Creek tributary to Oxford Slough

4. Date of priority July 30, 1888

5. Water is used for the following purposes:

- \* amount 35 shares for Irrigation purposes from 4-1 to 11-1  
amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(month/day — both dates inclusive)

6. Total amount of water under right: a. 35 Shares cubic feet per second  
&/or  
b. Not specified acre feet per annum

7. Location of original point of diversion is \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of Section \_\_\_\_\_  
Township \_\_\_\_\_ Range \_\_\_\_\_, B.M., in \_\_\_\_\_ County  
Additional points of diversion, if any \_\_\_\_\_

8. Lands irrigated or place of use: Not specified in decree

| TWP. | RANGE | 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 |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
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Total number of acres to be irrigated \_\_\_\_\_

9. Describe any other water rights used for the same purpose as described above None

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS.

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 13-0108 Decreed to B.S. Dudley (Name)  
in case of A.W.Eaton, et al vs W.F. Fisher  
dated in July 30, 1888 3rd Judicial Dist. county of Bingham (Name of court)
- b. License No. \_\_\_\_\_ issued by the Idaho Department of Water Resources
- c. Claim No. \_\_\_\_\_ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant Applicant acquired right thru purchase. See attached chain of title.

3. Source of water Oxford Creek tributary to Oxford Slough

4. Date of priority July 30, 1888

5. Water is used for the following purposes:

- \* amount 65 shares for Irrigation purposes from 4-1 to 11-1  
amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(month/day — both dates inclusive)

6. Total amount of water under right: a. 65 shares cubic feet per second  
&/or  
Not specified in decree <sup>b</sup> acre feet per annum

7. Location of original point of diversion is \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of Section \_\_\_\_\_  
Township \_\_\_\_\_ Range \_\_\_\_\_, B.M., in \_\_\_\_\_ County  
Additional points of diversion, if any \_\_\_\_\_

8. Lands irrigated or place of use: Not specified in decree

| TWP. | RANGE | 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 |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
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|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total number of acres to be irrigated \_\_\_\_\_

9. Describe any other water rights used for the same purpose as described above \_\_\_\_\_

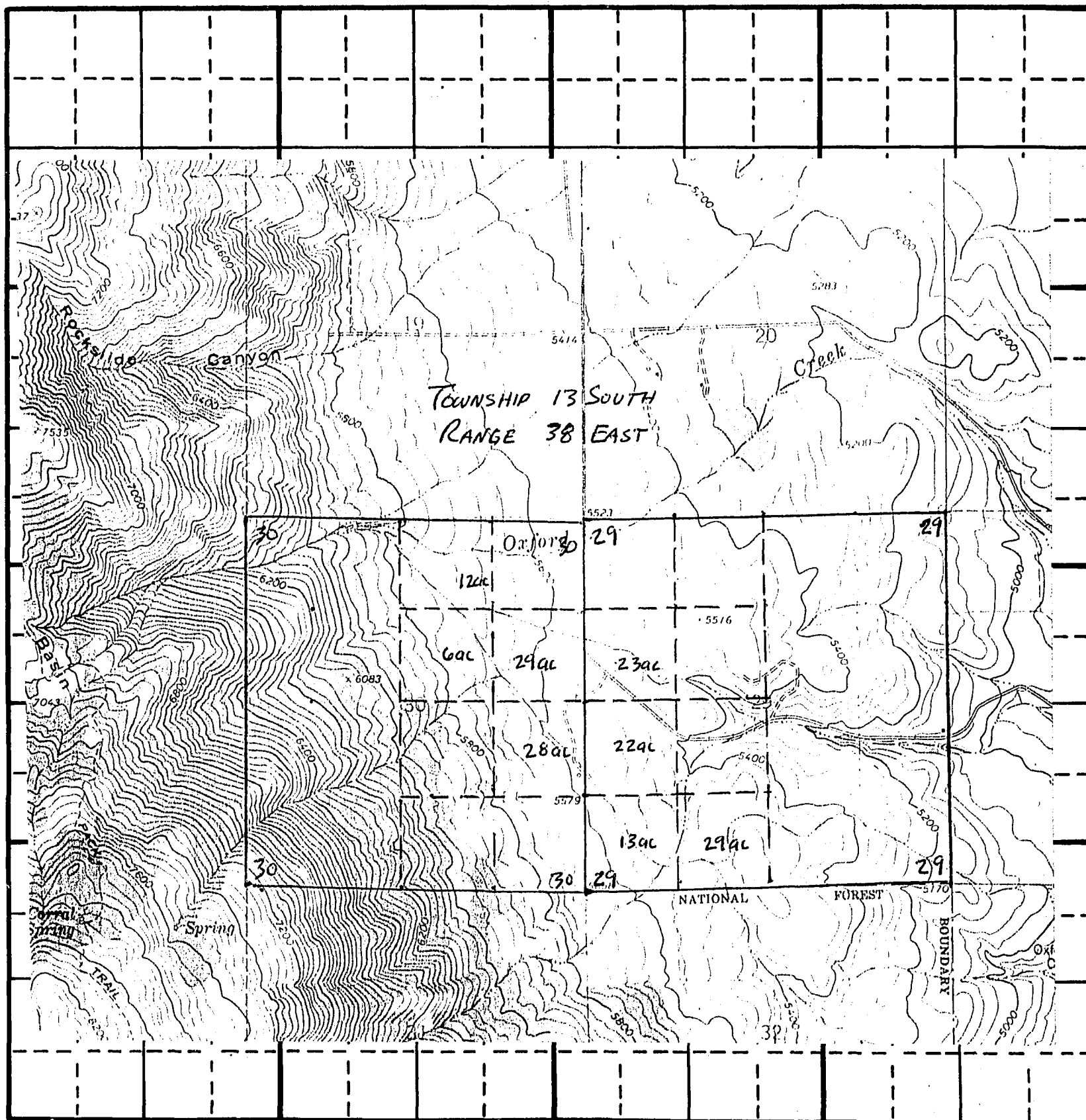
10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? \_\_\_\_\_ If yes, describe in item D, REMARKS.

c. Describe the land or place of use to which the right will be transferred:

| TWP.          | RANGE | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTALS    |
|---------------|-------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----------|
|               |       |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |           |
| Plow Shares   |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |           |
| 13S           | 38E   | 29   |     |     |     |     |     |     | 23  |     |     | 22  | 13  | 29  |     |     |     |     | 87        |
|               |       | 30   |     |     | 6   | 29  |     |     |     |     |     |     |     |     | 28  |     |     |     | 63        |
|               |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     | 150 Total |
| Meadow Shares |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |           |
| 13S           | 38E   | 30   |     | 12  |     |     |     |     |     |     |     |     |     |     |     |     |     |     | 12 total  |

Total number of acres to be irrigated 162

4. Describe any other water rights used for the same purpose as described above. None
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



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

D. REMARKS

The decree specifies the number of acres irrigated by each individual. Each stockholder receives 1 share per acres of land. 1 share is equivalent to 1 hour of water on rotation of the water users in the decree.

\*Date of priority is based upon date of decree by the court.

I hereby assert 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 willfull misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this

9<sup>th</sup>

day of

Claire Hatch  
(Signature of Applicant)

, 19 83

William Wray  
(Notary Public)

My commission expires

6-15-85

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 13-0104/0105/0107/0108 and said application is hereby APPROVED, subject to the following limitations and conditions:  
PURSUANT TO MEMORANDUM DECISION AND ORDER.

Witness my hand this

7<sup>th</sup>  
day of

, 19 86

L. Glen Saxton  
L. GLEN SAXTON, Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

|                                               |                                          |                                                  |
|-----------------------------------------------|------------------------------------------|--------------------------------------------------|
| Received by <u>S.M.</u>                       | Date <u>6-7-83</u>                       | Protest filed by <u>James D. Boyce Withdrawn</u> |
| Prelim. check by <u>HWS</u>                   | Fee <u>50.00</u>                         |                                                  |
| Receipted by <u>BP</u>                        | Date <u>6/9/83 #30831</u>                |                                                  |
| Published in <u>Preston Citizen</u>           | Copies of protest forwarded by <u>CW</u> |                                                  |
| Pub. dates <u>2/2 : 2/9/84</u>                | Hearing held by _____ Date _____         |                                                  |
| Watermaster recommendation requested on _____ | Recommended for <u>approval</u> denial   |                                                  |
| <u>13-R</u> rec'd. <u>3-05-84</u>             | by <u>RC Sim</u>                         |                                                  |

TUESDAY, FEB. 7 — Hamburger gravy, whipped potatoes, peas, chilled aspic, bread and butter, chocolate milk.  
 WEDNESDAY, FEB. 8 — Taco beef sandwich, butter-  
 THURSDAY, FEB. 9 — Pork chow mein, fruited gelatin, oatmeal cookies, bread and butter, chocolate milk.  
 FRIDAY, FEB. 10 — Chili and crackers, fruit cocktail, cinnamon rolls, milk.

# Public Notices

## NOTICE OF PROPOSED CHANGE OF WATER RIGHT

No. 13-0104-0105-0107-0108  
 Notice is hereby given that Claire Hatch, Clifton, Ida., has applied to the Dept. of Water Resources for a change in the point of diversion and place of use of the waters of Oxford Creek tributary to Oxford Slough. The rights sought to be changed are evidenced by the decree in case of A. W. Eaton et al vs. W. F. Fisher dated in 7-30-1888 in Third Judicial District Court, Bingham County, with a priority date of 7-30-1888 and recorded as follows:

- 13-0104 to James N. Grant  
 AMOUNT: 32 Shares  
 13-0105 to Nels Georgenson  
 AMOUNT: 30 Shares  
 13-0107 to Jas Boyle  
 AMOUNT: 35 Shares  
 13-0108 to B. S. Dudley  
 AMOUNT: 65 Shares

The point of diversion and place of use are not specified in the decree. TO BE CHANGED AS FOLLOWS  
 162 shares of water will be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 30, NW $\frac{1}{4}$ NW $\frac{1}{4}$  Sec 32, T. 13S, R. 38E, B.M. Franklin County and used to irrigate 3 acres within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 30, T. 13S, R. 38E, B.M.  
 Any protests against the above proposed change of water right must be filed with the Dept. of Water Resources 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83401, on or before February 20, 1984.

A. KENNETH DUNN  
 Director  
 Published in the Preston Citizen on 2-2 & 2-9-84.  
 Legal No. 2046 —42L— Published February 2, 9, 1984.

## LEGAL ADVERTISEMENT FOR BIDS

Sealed proposals will be received by the Idaho Military Division, State of Idaho, at Gowen Field, P.O. Box 45, Boise, ID 83707, Bldg. 518, until 2:00 p.m., prevailing local time on February 15, 1984 for: DPW Project No. 79-10 - Preston Armory Addition, Military Division, Preston, Idaho. Proposals will be opened and publicly read at the above hour and date.

Plans, specifications, proposal forms, and other information are on file for examination at the following locations:

- Division of Public Works  
 650 W. State Street  
 Boise, Idaho 83720  
 Intermountain Contractor  
 5295 Emerald Street  
 Boise, Idaho 83706

Associated General Contractors  
 110 N. 27th St.  
 Boise, Idaho 83702  
 Associated General Contractors  
 1776 Science Center Dr.  
 Idaho Falls, Idaho 83401  
 Documents may be obtained for bidding purposes from:  
 Sundberg & Associates  
 P. O. Box 2379  
 Idaho Falls, Idaho 83401  
 Phone: (208) 522-6001

A bid bond in the amount of five percent of the bid is required.  
 A Public Works Contractor's license for the State of Idaho will be required of the successful bidder prior to award of a contract.

BRIAN J. CHASE  
 Administrator  
 Division of Public Works  
 Legal No. 2042 —44L— Published January 26, February 2, 1984.

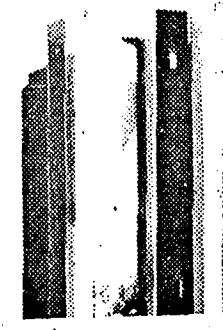


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**\$2**

**Come In To**  
**852-0112 or 852**

2.13-84

Dept. of Water Resources  
150 Shoup Ave., Suite 15  
Idaho Falls, Idaho 83401

RECEIVED

FEB 15 1984

Department of Water Resources  
Eastern District Office

Dear Sirs.

This is to file a protest against the proposed Change of Water Right No. 13-0104-0105-0107-0108 as advertised in the Preston Citizen 2-2- & 2-9-84 copy attached.

According to the copies of the Decrees I have, the acres differ from those shown on advertisement. See copies and areas circled in red.

Who is going to come along & claim the early water on the splits?

I am Secretary of Water Dist #13 and I am responsible for sending out water bills. These water rights are and have been figured at so much per plow share and so much per meadow share.

#130107 doesn't reflect the 17 acres meadow shares, & 108 doesn't reflect the 30 acres meadow shares. 105 is ok.

If your decrees show different acres we would like a copy for our records. These copies were supplied by your office several years ago.

Thank you,  
James H. Boyce

SUBSCRIBED AND SWORN to before me this 13th day of February, 1984.

(SEAL)

Michael A. Sevelles  
Notary Public for Idaho  
Residing at Pocatello, Idaho

Dept. Water Resources  
150 Bloop Ave. Suite 15  
Idaho Falls, Idaho 83401

3-5-84

Dear Sirs-

Please withdraw my protest to  
proposed change of Water Right  
No 13-0104-0105-0107-0108 dated  
2-13-84.

Thank you.

James D Boyce

RECEIVED

MAR 5 1984

Department of Water Resources  
Eastern District Office

TITLE  
OF  
CASE

A. W. Eaton, et al

VS

M. F. Fisher, et al

SOURCE Oxford Creek

PAGE 1

WATER DIST. 13-R

COUNTY Franklin

JUDICIAL DIST. 5

JUDGE Case, Proctorick

DATE OF DECREE 7-30-88

JUDGE RECORDED IN BOOK NO. 3 AT PAGE NO. 145 FILE NO. 50-1

| PH. | DN. | DECREED OWNER     | NAME | PRESENT OWNER | AMT. SEC. FT. D. | PRIORITY | SUBDIV. | SEC. | TWR. | RE. | REMARKS, LAND TO BE IRRIGATED, ETC. | C.T. |
|-----|-----|-------------------|------|---------------|------------------|----------|---------|------|------|-----|-------------------------------------|------|
| 13  | 103 | A. W. Eaton       |      |               | 8                | 5-1-65   |         |      |      |     |                                     |      |
| 13  | 104 | Jas. N. Grant     |      |               | 32               | "        |         |      |      |     |                                     |      |
| 13  | 105 | Nels Georgeson    |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 106 | H. O. Harkness    |      |               | 30               | "        |         |      |      |     |                                     |      |
| 13  | 107 | Jas. Boyle        |      |               | 115              | "        |         |      |      |     |                                     |      |
| 13  | 108 | B. S. Dudley      |      |               | 70               | "        |         |      |      |     |                                     |      |
| 13  | 109 | Thomas F. Scott   |      |               | 52               | "        |         |      |      |     |                                     |      |
| 13  | 110 | Preston Thomas    |      |               | 35               | "        |         |      |      |     |                                     |      |
| 13  | 111 | N. R. Lewis       |      |               | 95               | "        |         |      |      |     |                                     |      |
| 13  | 112 | W. D. Hendricks   |      |               | 65               | "        |         |      |      |     |                                     |      |
| 13  | 113 | C. Crowshaw       |      |               | 22               | "        |         |      |      |     |                                     |      |
| 13  | 114 | Edwin Smith       |      |               | 60               | "        |         |      |      |     |                                     |      |
| 13  | 115 | A. H. Boyce       |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 116 | Joseph B. Kendall |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 117 | Joseph Y. Boyce   |      |               | 10               | "        |         |      |      |     |                                     |      |
| 13  | 118 | John F. Harris    |      |               | 34               | "        |         |      |      |     |                                     |      |
| 13  | 119 | A. N. Clements    |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 120 | W. B. Homer       |      |               | 11               | "        |         |      |      |     |                                     |      |
| 13  | 121 | Fred Walker       |      |               | 7                | "        |         |      |      |     |                                     |      |
| 13  | 122 |                   |      |               | 0                | "        |         |      |      |     |                                     |      |
| 13  | 123 |                   |      |               | 35               | "        |         |      |      |     |                                     |      |
| 13  | 124 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 125 |                   |      |               | 120              | "        |         |      |      |     |                                     |      |
| 13  | 126 |                   |      |               | 40               | "        |         |      |      |     |                                     |      |
| 13  | 127 |                   |      |               | 4                | "        |         |      |      |     |                                     |      |
| 13  | 128 |                   |      |               | 11               | "        |         |      |      |     |                                     |      |
| 13  | 129 |                   |      |               | 11               | "        |         |      |      |     |                                     |      |
| 13  | 130 |                   |      |               | 34               | "        |         |      |      |     |                                     |      |
| 13  | 131 |                   |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 132 |                   |      |               | 10               | "        |         |      |      |     |                                     |      |
| 13  | 133 |                   |      |               | 60               | "        |         |      |      |     |                                     |      |
| 13  | 134 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 135 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 136 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 137 |                   |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 138 |                   |      |               | 21               | "        |         |      |      |     |                                     |      |
| 13  | 139 |                   |      |               | 51               | "        |         |      |      |     |                                     |      |
| 13  | 140 |                   |      |               | 60               | "        |         |      |      |     |                                     |      |
| 13  | 141 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 142 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 143 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 144 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 145 |                   |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 146 |                   |      |               | 21               | "        |         |      |      |     |                                     |      |
| 13  | 147 |                   |      |               | 51               | "        |         |      |      |     |                                     |      |
| 13  | 148 |                   |      |               | 60               | "        |         |      |      |     |                                     |      |
| 13  | 149 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 150 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 151 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 152 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 153 |                   |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 154 |                   |      |               | 21               | "        |         |      |      |     |                                     |      |
| 13  | 155 |                   |      |               | 51               | "        |         |      |      |     |                                     |      |
| 13  | 156 |                   |      |               | 60               | "        |         |      |      |     |                                     |      |
| 13  | 157 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 158 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 159 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 160 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 161 |                   |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 162 |                   |      |               | 21               | "        |         |      |      |     |                                     |      |
| 13  | 163 |                   |      |               | 51               | "        |         |      |      |     |                                     |      |
| 13  | 164 |                   |      |               | 60               | "        |         |      |      |     |                                     |      |
| 13  | 165 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 166 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 167 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 168 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 169 |                   |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 170 |                   |      |               | 21               | "        |         |      |      |     |                                     |      |
| 13  | 171 |                   |      |               | 51               | "        |         |      |      |     |                                     |      |
| 13  | 172 |                   |      |               | 60               | "        |         |      |      |     |                                     |      |
| 13  | 173 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 174 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 175 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 176 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 177 |                   |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 178 |                   |      |               | 21               | "        |         |      |      |     |                                     |      |
| 13  | 179 |                   |      |               | 51               | "        |         |      |      |     |                                     |      |
| 13  | 180 |                   |      |               | 60               | "        |         |      |      |     |                                     |      |
| 13  | 181 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 182 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 183 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 184 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 185 |                   |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 186 |                   |      |               | 21               | "        |         |      |      |     |                                     |      |
| 13  | 187 |                   |      |               | 51               | "        |         |      |      |     |                                     |      |
| 13  | 188 |                   |      |               | 60               | "        |         |      |      |     |                                     |      |
| 13  | 189 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 190 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 191 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 192 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 193 |                   |      |               | 19               | "        |         |      |      |     |                                     |      |
| 13  | 194 |                   |      |               | 21               | "        |         |      |      |     |                                     |      |
| 13  | 195 |                   |      |               | 51               | "        |         |      |      |     |                                     |      |
| 13  | 196 |                   |      |               | 60               | "        |         |      |      |     |                                     |      |
| 13  | 197 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 198 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |
| 13  | 199 |                   |      |               | 20               | "        |         |      |      |     |                                     |      |
| 13  | 200 |                   |      |               | 9                | "        |         |      |      |     |                                     |      |

LEGEND P.M. PRIORITY NUMBER

D.M. DEGREE MINUTES

QUANTITIES



Page 3

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF IDAHO,  
IN AND FOR BINGHAM COUNTY.

A. W. Eaton, et al., )

-vs-

W. F. Fisher, et al. )

D E C R E E

The Court having filed its findings and decision this 30th day of July, 1888, now on motion of H. M. Bennett and Smith and Smith, attorneys for plaintiffs, it is Ordered Adjudged and Decreed herein as follows:

That the title of the plaintiffs and defendants be forever quieted as against each other and as against the other parties to this suit as follows: That is to say, so that the following named plaintiffs and defendants shall have the right to use of the waters of Oxford Creek in Bingham County, Idaho, in the following proportions measured one share to one acre.

|         | Name.           | Flow Land | Meadow.  |
|---------|-----------------|-----------|----------|
| 13 0103 | A. W. Eaton     | 8 acres   | None     |
| 13 0104 | Jas. H. Grant   | 20 acres  | 12 acres |
| 13 0105 | Nels Georgeson  | 30 acres  | None     |
| 13 0106 | O. Harkness     | 70 acres  | 45 acres |
| 13 0107 | Jas. Boyle      | 35 acres  | 17 acres |
| 13 0108 | B. S. Dudley    | 65 acres  | 50 acres |
| 13 0109 | Thomas E. Scott | 22 acres  | None     |
| 13 0110 | Preston Thomas  | None      | 5 acres  |
| 13 0111 | N. R. Lewis     | 15 acres  | 3 acres  |
| 13 0112 | W. D. Hendricks | 5 acres   | 16 acres |
| 13 0113 | C. Crowshaw     | 20 acres  | 40 acres |
| 13 0114 | Edwin Smith     | 9 acres   | None     |

|         |                                                                                                                                                                 |                                         |          |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|----------|
| 2       |                                                                                                                                                                 |                                         |          |
| 13 0115 | A. M. Boyce                                                                                                                                                     | 10 acres                                | 9 acres  |
| 13 0116 | Joseph B. Kendall                                                                                                                                               | 19 acres                                | 15 acres |
| 13 0117 | Joseph Y. Boyce                                                                                                                                                 | 11 acres                                | None     |
| 13 0118 | John F. Harris                                                                                                                                                  | None                                    | 7 acres  |
| 13 0119 | A. H. Clements                                                                                                                                                  | 20 acres                                | 15 acres |
| 13 0120 | W. H. Homer                                                                                                                                                     | 40 acres                                | 80 acres |
| 13 0121 | Fred Walker                                                                                                                                                     | 4 acres                                 | None     |
| 13 0122 | Willie Andrews                                                                                                                                                  | 10 acres                                | 6 acres  |
| 13 0123 | W. F. Fisher                                                                                                                                                    | 65 acres                                | 20 acres |
| 13 0124 | Millenium Fisher                                                                                                                                                | 25 acres from Barzee Creek, a tributary |          |
|         | of Oxford Creek.                                                                                                                                                |                                         |          |
|         |                                                                                                                                                                 | 513                                     |          |
| 13 0125 | Estate of Thomas F. Fisher and George C. Fisher 24 acres, 20 being from Round Grove Springs, a tributary of Oxford Creek, and 4 acres from Oxford Creek proper. |                                         |          |

And the Court now by this decree fixes and declares the interests of the aforesaid parties to be as above stated, and the Court further adjudges and decrees that each acre mentioned above be held and considered as one share, or entitled to one share of the said waters.

And that in addition to the said acreage above provided for the respective owners of the town lots in the town of Oxford, in Bingham County, Idaho, are hereby declared to be entitled to the waters of Oxford Creek to the amount of two shares for each full town lot, said lots consisting of one acre each. That is to say, all the town lots specified on the town plat of the town of Oxford are hereby declared to be entitled as aforesaid, excepting Lots one, four, five, seven, and eight in Block Twelve, and Lot eight in block Thirteen, and that the interests of each party to this suit is declared to be entitled to a separate and not a joint use.

That the acreage found herein as belonging to the respective parties to this suit, including the acreage of plowed land, the acreage of meadow and the double acreage of town lots be all computed in the distribution of water to June first in each year, and thereafter in each year the said waters be distributed and used upon the basis of the acreage, found herein as belonging to the respective parties of this suit for plowed land and town lots only. The town lots being counted at double acreage.

It is further adjudged and decreed that in the distribution of the water aforesaid, each party prepare at his own expense under the supervision of the water master suitable boxes and gates for the proper distribution to him of the waters herein awarded to him and that the findings and decree herein be held to declare the rights of the parties as they existed at the beginning of this suit and as they exist now except so far as in the meantime any of them may have conveyed their rights. That the defendants John Loyd, S. L. Co: Henry Denny, S. R. Homer, Benjamin Cowshaw, Agrippa Cooper, Lorin Andrews, John Hall, Mary E. Fisher, and Hyrum Andrews, be forever enjoined from claiming in any way the right to use or using the waters of said Oxford Creek, by reason of any right that they may now have or claim to have. And it is further ordered and decreed that all rights herein declared date from May 1st, 1865. It is further ordered and decreed that the costs of this suit now taxed by the Court at \$171.30 be paid by the respective parties to this suit as follows, and execution is awarded therefor.

A. W. Eaton, \$1.90; Jas. N. Grant \$5.45; Hels George-son \$5.10; H. O. Harkness \$21.75; Jas. Boyle \$9.85 B. S. Dudley \$16.15 T. F. Scott \$4.45; Preston Thomas \$1.90; N. R. Lewis \$4.10; W. D. Hendricks \$4.45; C. Crowshaw \$10.20; Edwin Smith \$1.90p A. M. Boyce \$3.25; Joseph B. Kendall \$5.80; Joseph Y.. Boyce \$1.90; John F. Harris

\$1.60; A. N. Clements \$5.95; W. H. Homer \$24.85; George C. Fisher  
 \$4.10; W. E. Fisher \$1.70; Fred Walker \$.70p Milo Andrews \$2.75  
 W. F. Fisher \$21.25; Millenium Fisher \$4.25; John Baker \$80; W. E.  
 Grooch \$2.05; August Duddenhaunon \$.35; John Boyce \$.35 Geo. C. Pratt  
 \$.70; George C. Parkinson \$.70; H. M. Bennett \$.35 L. J. Petty \$.70

July 30, 1898.

CASE BRODERICK,

District Judge.

STATE OF IDAHO, )  
 County of Bingham ) ss.

I HEREBY CERTIFY That the foregoing is a full, true and  
 correct copy of the original Decree as the same appears of record  
 in Book "O" at page 188, records of the County and State aforesaid.

IN WITNESS WHEREOF, I have hereunto set my hand and  
 affixed my official seal at Blackfoot, Idaho, this  
 20th day of March, A. D. 1905.

GEO. F. GAGON,

Clerk.

By *H. B. Curtis*  
 Deputy

RECEIVED

JAN 11 1985

156416

Department of Water Resources  
Eastern District Office

QUITCLAIM DEED

Recorded at the request of  
*(Signature)*

JUL 17 1981

RECORDED & INDEXED  
By *(Signature)*  
HARRIS COUNTY, TEXAS

For value received LAT-LOW ENGINEERING AND DEVELOPMENT, INC., a Utah Corporation, do hereby convey, release, remise and forever quit claim unto ROY GRANT PETERSON and BEVERLY LAVERIA PETERSON, husband and wife, as joint tenants with full rights of survivorship whose current address is South Jordan, Utah, the following described premises, to-wit:

Described on Exhibit "A" attached hereto.

together with their appurtenances.

DATED this 13<sup>th</sup> day of July, 1981

LAT-LOW ENGINEERING AND DEVELOPMENT

By: *(Signature)*

PRESIDENT

STATE OF UTAH )  
                  ) ss.  
County of Salt Lake)

On this 13<sup>th</sup> day of July, 1981 before me, a notary public in and for the State, personally appeared *(Signature)* President of Lat-Low Engineering and Development, Inc., known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that he executed the same on behalf of the said corporation.

*(Signature)*  
NOTARY PUBLIC  
Residing at

My Comm. Expires:

EXHIBIT A

PARCEL A:

Township 14 South, Range 38 East of the Boise Meridian, Franklin County, Idaho

Section 4:  $W\frac{1}{2}SW\frac{1}{2}SW\frac{1}{2}$ , EXCEPTING THEREFROM: a strip of land 75.0 feet wide, being 35.0 feet on the Easterly side and 40.0 feet on the Westerly side of the following described center line of highway as surveyed and shown on the official plat of State Highway No. 35-Project No. S-1739 (4) Highway Survey on file in the office of the Department of Highways of the State of Idaho and lying over and across the  $SW\frac{1}{2}SW\frac{1}{2}$  of Section 4.

Beginning at Station 461+38.9 of the said Highway Survey, which station is a point on tangent approximately 540.0 feet East from the Southwest corner of Section 4; thence running North  $1^{\circ}47'$  West 164.1 feet to Station 463+03.0 of said survey, which station is a point of circular curvature; thence 1173.0 feet with a  $0^{\circ}45'$  curve left, said curve having a central angle of  $11^{\circ}30'$  to Station 474+76, which station is a point on circular curve approximately 1320.0 feet South and 407.0 feet East from the West Quarter corner of Section 4.

ALSO EXCEPTING THEREFROM a 50-foot right of way across the  $W\frac{1}{2}SW\frac{1}{2}SW\frac{1}{2}$  of Section 4.

Section 5:  $E\frac{1}{2}SE\frac{1}{2}SE\frac{1}{2}$ , EXCEPTING THEREFROM a 50-foot right of way across the  $E\frac{1}{2}SE\frac{1}{2}SE\frac{1}{2}$  of Section 5.

PARCEL B:

Part 1

Township 14 South, Range 38 East of the Boise Meridian, Franklin County, Idaho

Section 4:  $SE\frac{1}{2}SW\frac{1}{2}$ ;  $E\frac{1}{2}SW\frac{1}{2}SW\frac{1}{2}$ ; and LOT FIVE (5). EXCEPTING THEREFROM a 50-foot right of way across the  $SW\frac{1}{2}SW\frac{1}{2}$  of Section 4.

Section 5:  $SW\frac{1}{2}SE\frac{1}{2}$ ;  $W\frac{1}{2}SE\frac{1}{2}SE\frac{1}{2}$ ;  $SE\frac{1}{2}SW\frac{1}{2}$ . EXCEPTING THEREFROM a 50-foot right of way across the  $S\frac{1}{2}SE\frac{1}{2}$  of Section 5.

Part 2

Township 14 South, Range 38 East of the Boise Meridian, Franklin County, Idaho

Section 3: LOTS SIX (6) and SEVEN (7);  $SE\frac{1}{2}SW\frac{1}{2}$ ;  $NW\frac{1}{2}SE\frac{1}{2}$ .

Section 4: LOT SIX (6).

Section 8:  $E\frac{1}{2}NE\frac{1}{2}$ .

Section 9: LOTS ONE (1), TWO (2), and THREE (3);  $SW\frac{1}{2}NE\frac{1}{2}$ ;  $NW\frac{1}{2}$ . EXCEPTING THEREFROM that portion of the  $NW\frac{1}{2}$  of Section 9 deeded to State of Idaho for highway purposes under Warranty Deed recorded March 2, 1955, in Book 49 of Deeds, page 165, records of Franklin County, Idaho.

Section 10: LOTS ONE (1), SIX (6), SEVEN (7), EIGHT (8), NINE (9) and TEN (10);  $NW\frac{1}{2}SW\frac{1}{2}$ .

Section 11: LOT TWO (2).

The following land leases located in Township 14 South, Range 38 East of the Boise Meridian, Franklin County, Idaho, which will be conveyed by Assignment:

U.S. BLM Lease -  $SW\frac{1}{2}NE\frac{1}{2}$ , Section 10, and 52 acres in  $SW\frac{1}{2}$  of Section 3.

Idaho State leases -  $N\frac{1}{2}N\frac{1}{2}$ , Section 10.

Including a right to withdraw 2.00 second feet of water for irrigation purposes from a spring located at:  $SE\frac{1}{2}NW\frac{1}{2}$  (Lot 5), Section 6, T. 14 S., Range 38 East of the Boise Meridian, Franklin County, Idaho, as evidenced by Permit #13 7157.

Including a right to withdraw 5.48 second feet of water for irrigation purposes from a point of diversion located at  $SW\frac{1}{2}NW\frac{1}{2}$  of Section 9, Township 14 South, Range 38 East of the Boise Meridian, Franklin County, Idaho, as evidenced by Permit #13 7156.

Including a private right to the entire flow of BUDLEY SPRINGS evidenced by filing May 20, 1881.

WARRANTY DEED

For Value Received ALFRED H. ROSENHAN and ALBERTA W. ROSENHAN, husband and wife; and CORT A. ROSENHAN and BLANCHE J. ROSENHAN, husband and wife,

the grantors do hereby grant, bargain, sell and convey unto  
JESS B. ELGAN and NANCY LEE ELGAN, husband and wife,  
whose current address is Clifton, Idaho 83228

the grantees, the following described premises, in Franklin County Idaho, to wit:

Township 14 South, Range 38 East of the Boise Meridian  
Section 4: W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
Section 5: E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ .

Containing 110 acres, the northern fifty feet thereof.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: February 22, 1977

Alfred H. Rosenhan Alberta W. Rosenhan  
Cort A. Rosenhan Blanche J. Rosenhan

STATE OF IDAHO COUNTY OF SALT LAKE  
On this 22nd day of Feb., 1977,  
before me, a notary public in and for said State, personally appeared

ALFRED H. ROSENHAN and  
ALBERTA W. ROSENHAN, husband and  
wife; and CORT A. ROSENHAN and  
BLANCHE J. ROSENHAN, husband & wife,  
known to me to be the persons whose names are  
subscribed to the within instrument, and acknowledged to  
me that they executed the same.

Michael D. Kunz  
Notary Public  
Residing at 5000 N. 1st St., Boise, Idaho  
Certs. Exp. 12-31-77

142310

Recorded at the request of  
American Land Title

Y. L. MAR 28 1977 - P.M.

MICHAEL D. KUNZ, RECORDER  
By John E. Smith Deputy  
FRANKLIN COUNTY, IDAHO

RECORDED  
INDEXED

Printed by the AMERICAN LAND TITLE CO., Boise, Idaho

156414

## WARRANTY DEED

For Value Received ANDREW G. HUNT and RUTH A. HUNT, husband and wife,

the grantors, do hereby grant, bargain, sell and convey unto  
JESS B. ELGAN and NANCY LEE ELGAN, husband and wife,  
Clifton, Idaho 83228

the grantee, the following described premises, in Franklin County Idaho, to wit:

The East half of the Northeast Quarter of Section 8, the Northwest Quarter, the Southwest Quarter of Northeast Quarter and Lots numbered one, two, three of Section 9, all in Township 14 South, Range 38 East of the Boise Meridian. Lots numbered one, six, seven, eight, nine, and ten and the Northwest Quarter of Southwest Quarter of Section 10, Township 14 South, Range 38 East of the Boise Meridian. Also lots numbered two of Section 11, Township 14 South, Range 38 East of the Boise Meridian.

The South half of the Northwest Quarter of Southeast Quarter and South half of Northeast Quarter of Southeast Quarter of Section 5, the North half of the Southwest Quarter of Section 4, and the North half of the 139 and 60/100 acres embraced in the North half of the Southeast Quarter and Lot 6 of Section 4, all in Township 14 South, Range 38 East of the Boise Meridian. Lots 6 of Section 4 and lots 6 and 7 and the Southeast Quarter of the Southwest Quarter and the Northwest Quarter of the Southeast Quarter of Section 3, all in Township 14 South, Range 38 East of the Boise Meridian. Containing 1045.81 acres.

100 shares Oxford Canal and Irrigation Company.  
47 shares Oxford Canal and Irrigation Company.

Private right - entire flow of Dudley Springs evidenced by filing 5-20-1381.  
147 shares of Oxford Creek evidenced by Decree of 8-18-1881.  
All sprinkler lines including main line and laterals. Also, 2 electric pumps and motors used thereon.  
Also, culinary water right and culinary water system and all other springs and water rights used thereon.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: October 7, 1975

STATE OF IDAHO, COUNTY OF FRANKLIN  
On this 7th day of October, 1975,  
before me, a notary public in and for said State, personally  
appeared

ANDREW G. HUNT and RUTH A. HUNT,  
husband and wife,

known to me to be the persons whose names are  
subscribed to the within instrument, and acknowledged to  
me that they executed the same

Reading at: \_\_\_\_\_  
Comm. Expires: 1/15/77  
Notary Public  
Idaho

STATE OF IDAHO, COUNTY OF FRANKLIN  
I hereby certify that this instrument was filed for record at  
the request of \_\_\_\_\_  
at \_\_\_\_\_ minutes past \_\_\_\_\_ o'clock p.m.  
this \_\_\_\_\_ day of \_\_\_\_\_  
1975, in my office, and duly recorded in Book \_\_\_\_\_  
of Deeds at page \_\_\_\_\_

By \_\_\_\_\_  
Ex-Officio Recorder  
Deputy  
Fees \$ \_\_\_\_\_  
Exp. to: \_\_\_\_\_

INSTRUMENT NO.

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Authorized Agent

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minutes, L. M.

as on page

by K. W. G.

Notary Public

My Comm. Expires January 4, 1982

Notary Public

My Comm. Expires January 4, 1982

Notary Public

My Comm. Expires January 4, 1982

152398

ALTC 4-1372

## WARRANTY DEED

### For Value Received

CORP. A. ROSENHAN & BLANCHE J. ROSENHAN, his wife; and  
ALFRED H. ROSENHAN & ALBERTA W. ROSENHAN, his wife,  
the grantors, do hereby grant, bargain, sell and convey unto

JESS B. ELGAN

whose current address is

Clifton, Idaho

the grantee, the following described premises, in Franklin County Idaho, to wit:

Township 14 South, Range 38 East of the Boise Meridian:

Section 4: SE $\frac{1}{4}$  SW $\frac{1}{4}$ ; E $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ ; and Lot 5 (S).

Section 5: SW $\frac{1}{4}$  SW $\frac{1}{4}$ ; NE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$

Including 50 shares of Oxford Ditch water in Franklin County, Idaho  
(Said 50 shares includes 30 plow shares and 20 meadow shares)

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee,  
his heirs and assigns forever. And the said Grantors do hereby covenant to and  
with the said Grantee, that they are the owners in fee simple of said premises; that they are free  
from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: March 5, 1980

CORP. A. ROSENHAN

BLANCHE J. ROSENHAN

ALFRED H. ROSENHAN

ALBERTA W. ROSENHAN

STATE OF IDAHO, COUNTY OF Salt Lake  
On this 5th day of March, 1980,  
before me, a notary public in and for said State, personally  
appeared

ALBERTA W. ROSENHAN

ALFRED H. ROSENHAN

CORP. A. ROSENHAN

BLANCHE J. ROSENHAN

known to me to be the persons whose names  
are subscribed to the foregoing instrument, and acknowledged to  
me that they executed the same.

Notary Public

My Comm. Expires January 4, 1982

Notary Public

My Comm. Expires January 4, 1982

Notary Public

My Comm. Expires January 4, 1982

Notary Public

My Comm. Expires January 4, 1982

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Notary Public

My Comm. Expires January 4, 1982

Notary Public

My Comm. Expires January 4, 1982

Notary Public

My Comm. Expires January 4, 1982

Notary Public

Recorded at the request of

Winters & Sons, Inc.

MAR 6 1980

MICHAEL D. KUNTZ, RECORDER

By \_\_\_\_\_, Deputy

FRANKLIN COUNTY, IDAHO

Printed by the AMERICAN LAND TITLE CO., P.O. Box 100, Boise, Idaho

RECEIVED

JUN 28 1985

Department of Water Resources  
Eastern District Office

## REAL ESTATE SALE CONTRACT

THIS AGREEMENT, Made this 10th day of September in the year A. D., 1979  
by and between JESS B. ELGAN and NANCY L. ELGAN, his wife, at Clifton  
of the County of Franklin, State  
of Idaho, hereinafter called Seller and LAT-LOW ENGINEERING & DEVELOPMENT, INC  
XXXXXXX a Utah Corporation, State of Utah hereinafter called  
Buyer; Salt Lake City

WITNESSETH: Seller agrees to sell to the Buyer, on the performance of the agreements of the Buyer as hereinafter mentioned and convey, or cause to be conveyed by the legal owner or owners thereof, by good and sufficient Warranty Deed, free of liens and incumbrances, excepting those of record, and any that may have attached by reason of any act or deed of Buyer, and excepting any lien to which this agreement is expressly made subject, the following described real estate situated in the county of and State of Idaho, to-wit:

See Exhibit A attached hereto

Buyer agrees to buy said described premises and pay Seller therefor, the sum of Five hundred fifty-two thousand six hundred and no/100-----DOLLARS, payable in lawful money of the United States, and in manner as follows, to-wit: (\$150,000.00) on delivery of this contract, the receipt whereof is hereby acknowledged, and the balance of Four hundred two thousand six hundred and no/100-----Dollars in two (2) installments, with interest thereon from April 30, 1979 at the rate of Nine (9%) per cent per annum, payable XX and as follows, to-wit:

\$201,300.00 plus interest in the amount of \$39,748.03 on/or before April 27, 1980; and \$201,300.00 plus interest in the amount of \$18,117.00 on/or before April 27, 1981 which is payment in full of all amounts due and owing on this contract.

1. Time and the punctuality of payment are of the essence and a material part of this contract, and in the event of a failure to comply with the terms hereof by Buyer, the Seller shall be released from all obligations in law or in equity to convey said property. In the event the Buyer shall fail to comply with the terms and conditions of this contract, the Seller shall give notice thereof to the Buyer of such default, by certified mail to Buyer advising Buyer in what respects he has failed to comply with the terms and conditions of this agreement. In the event the Buyer fails to comply with the terms of this agreement so specified within ----- days after receipt of such notice by certified mail from Seller, then and in that event all payments previously made under the terms and conditions of this contract by Buyer shall be considered as rentals and damages and retained by Seller, to the extent permitted by law, and Seller may take immediate possession of said property and shall resume full title, ownership and control of said premises. It is further understood and agreed that in the event the Buyer fails to comply with the terms hereof within ----- days after receipt of such notice, as herein provided then and in such event, the Seller may at his election declare the entire remaining unpaid balance of this contract due and payable forthwith, and recover said balance from Buyer, if necessary by legal proceedings. This remedy shall be considered an optional remedy and not as a waiver of any right or remedy that the Seller would otherwise have at law or in equity to enforce the performance of this agreement, or to recover damages for breach thereof.

2. It is expressly agreed that if Buyer shall promptly make the payments herein stipulated and shall pay all accrued interest as the same becomes due, and shall also pay all taxes and assessments levied and assessed against said property, the Seller, on receiving the sums due under the terms of this contract, will execute and deliver, or cause to be executed and delivered by the legal owner or owners thereof to the Buyer, or his assigns, a Warranty Deed conveying the above described property and will also deliver a policy of title insurance, insuring Buyer in the full purchase price thereof, in accordance with this agreement, to be procured by the Seller at his expense, which policy shall be delivered to the Buyer on recordation of a warranty deed conveying said property to Buyer.

3. Seller shall pay all real and personal property taxes and assessments levied against said premises up to date of September, 1979, and Buyer shall pay all real and personal property taxes and assessments levied against said premises from and after September, 1979.

4. Possession of the above described property to be given to Buyer on September, 1979

5. It is understood that all payments shall be due and the delivery of all papers shall take place at the offices of GREAT BASIN TITLE, INC. 2060 E. 3300 So. Salt Lake City, Utah 84109

6. Buyer agrees to keep the property in as good condition as it now is, except usual wear, and not to remove or destroy or waste in any way said property.

7. Any notice required by this agreement shall be addressed as follows:

Seller:  
Buyer: LAT-LOW ENGINEERING & DEVELOPMENT INC., & GREAT BASIN TITLE, INC.  
2060 E. 3300 So., Salt Lake City, Utah 84109

8. It is expressly agreed between the parties hereto that there are no verbal promises, or implied promises, agreements, stipulations, representations, or warranties, or any character, excepting those set forth in writing in this contract and Seller shall not be liable for any statements, promises, or agreements made by any Agent or Agents, not stated in writing in this contract.

9. No assignment of this contract shall be valid or binding unless same is in writing and has been approved by Seller.

10. Buyer shall, during the life of this contract, keep the improvements on said premises insured against loss by fire in the full insurable amount thereof, in a reliable fire insurance company, and shall pay the premiums on said policy as the same become due, with a loss payable clause affixed thereto in favor of the parties hereto as their respective interests may appear.

11. Buyer and Seller each agree that should they default in any of the covenants and agreements contained herein, to pay all costs and expenses that may arise from enforcing this agreement, either by suit or otherwise, including a reasonable attorney's fee.

12. Check one: ☒ Buyers are given the privilege of prepaying any payment due under said contract at any time, without penalty.  
☒ Buyers are not given the privilege of prepaying any payment due under said contract at any time.

13. Check one: ☐ All payments shall be credited first to the interest then due, and the balance to the principal.  
☒ Interest shall be paid in addition to principal payments.

14. It is agreed that the stipulations aforesaid are to apply to and bind the heirs, executors, administrators, successors and assigns of the respective parties hereto.

15. It is further agreed as follows:

- a. Seller shall convey property to buyer by Warranty Deed as per release schedule entitled Exhibit C attached hereto and hereby made a part of this contract.
- b. Seller retains the ownership and right to the 1979 crops produced on the subject property with the exception of one hundred (100) tons of hay which will be left to the buyer as it may direct.
- c. Seller specifically excludes from this contract any and all shares of water in OXFORD DITCH now owned by seller or subsequently obtained.
- d. Seller grants buyer a first right of refusal on the purchase of OXFORD DITCH water shares. Seller further grants buyer a first right of refusal to purchase real property now subject to an option to purchase in favor of a Mr. Matthews in the event that the said Mr. Matthews should fail to exercise the above option.

IN WITNESS WHEREOF the said parties to this agreement have hereunto signed their names, the day and year first above written.

[Signature]  
[Signature]  
[Signature]

STATE OF IDAHO,

County of \_\_\_\_\_

ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 19\_\_\_\_  
before me, the undersigned, a notary public in and for State of Idaho, personally appeared \_\_\_\_\_

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they 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.

Residing at \_\_\_\_\_

My commission expires \_\_\_\_\_, 19\_\_\_\_

EXHIBIT A

JESS B. ELGAN PROPERTY DESCRIPTIONS

Parcel A:

Township 14 South, Range 38 East, of the Boise Meridian, Franklin County, Idaho

Section 4:  $W\frac{1}{2}SW\frac{1}{2}SW\frac{1}{2}$ , EXCEPTING THEREFROM; a strip of land 75.0 feet wide, being 35.0 feet on the Easterly side and 40.0 feet on the Westerly side of the following described center line of highway as surveyed and shown on the official plat of State Highway No. 35 - Project No. S-1739 (4) Highway Survey on file in the office of the Department of Highways of the State of Idaho and lying over and across the  $SW\frac{1}{2}SW\frac{1}{2}$  of Section 4. Beginning at Station 461+38.9 of the said Highway Survey, which station is a point on tangent approximately 540.0 feet East from the Southwest corner of Section 4; thence running North  $10^{\circ}47'$  West 164.1 feet to Station 463+03.0 of said survey, which station is a point of circular curvature; thence 1173.0 feet with a  $0^{\circ}45'$  curve left, said curve having a central angle of  $11^{\circ}30'$  to Station 474+76, which station is a point on circular curve approximately 1320.0 feet South and 407.0 feet East from the West Quarter corner of Section 4. ALSO EXCEPTING THEREFROM a 50-foot right of way across the  $W\frac{1}{2}SW\frac{1}{2}SW\frac{1}{2}$  of Section 4.

Section 5:  $E\frac{1}{2}SE\frac{1}{2}SE\frac{1}{2}$ , EXCEPTING THEREFROM a 50-foot right of way across the  $E\frac{1}{2}SE\frac{1}{2}SE\frac{1}{2}$  of Section 5.

Including the following culinary water, which by Idaho law accompanies the subject property and thus will not be shown on any document conveying this property:

The culinary well located in  $W\frac{1}{2}SW\frac{1}{2}SW\frac{1}{2}$  of Section 4, Township 14 South, Range 38 East, of the Boise Meridian, Franklin County, Idaho. (NOTE: This is the well located behind the house located on the above described property.)

Parcel B:

Part 1 \*

Township 14 South, Range 38 East of the Boise Meridian, Franklin County, Idaho

Section 3: LOTS SIX (6) and SEVEN (7);  $SE\frac{1}{2}SW\frac{1}{2}$ ;  $NW\frac{1}{2}SE\frac{1}{2}$ .

Section 4:  $E\frac{1}{2}SW\frac{1}{2}SW\frac{1}{2}$ ;  $SE\frac{1}{2}SW\frac{1}{2}$ ; and LOTS FIVE (5) and SIX (6). EXCEPTING THEREFROM a 50-foot right of way across the  $SW\frac{1}{2}SW\frac{1}{2}$  of Section 4.

Section 5:  $SE\frac{1}{2}SW\frac{1}{2}$ ;  $SW\frac{1}{2}SE\frac{1}{2}$ ;  $W\frac{1}{2}SE\frac{1}{2}SE\frac{1}{2}$ . EXCEPTING THEREFROM a 50-foot right of way across the  $S\frac{1}{2}SE\frac{1}{2}$  of Section 5.

Section 8:  $E\frac{1}{2}NE\frac{1}{2}$ .

\*NOTE: Parcel B, Part 1 describes property which is the subject of a purchase and sale agreement, a copy of which is attached hereto and hereby made a part of this agreement.

EXHIBIT A - Continued, page 2

Section 9: LOTS ONE (1), TWO (2), and THREE (3); SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ . EXCEPTING THEREFROM that portion of the NW $\frac{1}{4}$  of Section 9 deeded to State of Idaho for highway purposes under Warranty Deed recorded March 7, 1955, in Book 49 of Deeds, page 165, records of Franklin County, State of Idaho.

Section 10: LOTS ONE (1), SIX (6), SEVEN (7), EIGHT (8), NINE (9) and TEN (10); NW $\frac{1}{4}$ SW $\frac{1}{4}$ .

Section 11: LOT TWO (2).

Part 2

Township 14 South, Range 38 East of the Boise Meridian, Franklin County, Idaho

Section 4: SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; E $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; and LOT FIVE (5).

Section 5: SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; W $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; SE $\frac{1}{4}$ SW $\frac{1}{4}$ . EXCEPTING THEREFROM a 50-foot right of way across the S $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 5.

The following land leases located in Township 14 South, Range 38 East, Boise Meridian, Franklin County, Idaho, which will be conveyed by assignment:

U.S. BLM lease - SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 10 and 53 acres in SW $\frac{1}{4}$ , Section 3.

Idaho State leases - N $\frac{1}{4}$ N $\frac{1}{4}$ , Section 10.

Including a right to withdraw 2.00 second feet of water for irrigation purposes from a spring located at: SE $\frac{1}{4}$ NW $\frac{1}{4}$  (Lot 5), Section 6, T 14 S, R 38 E, Boise Meridian, Franklin County, Idaho, as evidenced by Permit #13-7157, a copy of which is attached hereto..

Including a right to withdraw 5.48 second feet of water for irrigation purposes from a point of diversion located at SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 9, T 14 S, R 38 E, Boise Meridian, Franklin County, Idaho, as evidenced by Permit #13-7156, a copy of which is attached hereto. (NOTE: A well presently drawing 2.00 second-feet of water has been constructed on this property, but Elgan's right to the use of the water from this well is subject to the terms of the Bill of Sale for water to D. Marcel Beckstead. A copy of the Bill of Sale is attached hereto and is hereby made a part of this agreement. For this right, D. Marcel Beckstead paid half of the amount needed to construct the well and main irrigation line.)

Including a private right to the entire flow of DUDLEY SPRINGS evidenced by filing May 20, 1881.

NOTE: WATER RIGHTS GRANTED BY PERMIT MUST BE SHOWN TO HAVE BEEN APPLIED TO BENEFICIAL USE WITHIN FIVE (5) YEARS OF THE DATE SHOWN ON THE PERMIT OR THE RIGHT MAY BE LOST. (Review copies of the permits as attached hereto.)

EXHIBIT C

1. Upon payment of \$300,000.00 to GREAT BASIN TITLE, INC. on behalf of JESS B. ELGAN and NANCY LEE ELGAN (hereinafter "Elgan"), the Lat-Low land entitled Parcel A (which includes a house and 40 acres, more or less) shall be conveyed to Lat-Low from Elgan and from Lat-Low to Peterson. Lat-Low shall simultaneously assign its right to the Lat-Low property under a Real Estate Sale Contract with Elgan to Peterson. (However, Lat-Low shall retain the primary responsibility and liability to make payments under the contract.) In addition, Lat-Low shall also place the following documents in escrow with GREAT BASIN TITLE, INC. with instructions to release said documents to Peterson in the event of default under this agreement by Lat-Low:

1. Assignment of Lease (property currently owned in fee by Rosenhan, see Exhibit B)
2. Quit Claim Deed to Peterson for government land in NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 10, T 14 S, R 38 E, Boise Meridian.
3. Assignment of Purchase & Sale Agreement (Rosenhan to Elgan and from Elgan to Lat-Low)
4. Assignment of government leases in N $\frac{1}{2}$ N $\frac{1}{2}$  and SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 10, T14 S, R 38 E; and SW $\frac{1}{4}$  Section 3, T 14 S, R 38 E; Boise Meridian.

2. Lat-Low shall pay to GREAT BASIN TITLE, INC. on behalf of Elgan, the sum of \$80,000.00 plus accrued interest at the rate of 9% per annum from April 27, 1979 on/or before February 1, 1980; and a further sum of \$121,300.00 plus accrued interest at the rate of 9% per annum from April 27, 1979 on/or before <sup>MARCH</sup> April 27, 1980. Upon the payment of this latter sum, the parcel of Lat-Low property entitled Parcel B, Part 2 shall be conveyed by Elgan to Lat-Low and from Lat-Low to Peterson (Special Warranty Deed).

*250,000  
KPA-SEP-79  
2-7300*

3. Upon payment by Lat-Low of \$201,300.00 plus accrued interest at the rate of 9% per annum from April 27, 1979 on/or before <sup>MARCH</sup> April 27, 1981, to GREAT BASIN TITLE, INC. on behalf of Elgan, the parcel of Lat-Low property entitled Parcel B, Part 1 shall be conveyed by Special Warranty Deed or assignment of lease, as appropriate, to Lat-Low and from Lat-Low in a similar fashion to Peterson.

# WARRANTY DEED

RECEIVED

For Value Received

JESS B. ELGAN and NANCY LEE ELGAN,  
husband and wife,

JAN 16 1985

the grantors do hereby grant, bargain, sell and convey unto

Department of Water Resources  
Eastern District Office

LAT-LOW ENGINEERING AND DEVELOPMENT, INC.

whose current address is P. O. Box 31126, Salt Lake City, Utah 84121

the grantee, the following described premises, in Franklin County Idaho, to wit:

Township 14 South, Range 38 East of the Boise Meridian

Section 4: N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ , EXCEPTING THEREFROM; a strip of land 75.0 feet wide, being 35.0 feet on the Easterly side and 40.0 feet on the Westerly side of the following described center line of highway as surveyed and shown on the official plat of State Highway No. 35-Project No. 8-1739 (4) Highway Survey on file in the office of the Department of Highways of the State of Idaho and lying over and across the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 4. Beginning at Station 461+34.9 of the said Highway Survey, which station is a point on tangent approximately 546.0 feet East from the Southwest corner of Section 4; thence running North 19°47' West 164.1 feet to Station 463+03.0 of said survey; which station is a point of circular curvature; thence 1173.0 feet with a 0°45' curve left, said curve having a central angle of 11°30' to Station 474+76, which station is a point on circular curve approximately 1120.0 feet South and 407.0 feet East from the West Quarter corner of Section 4.

ALSO EXCEPTING THEREFROM a 50-foot right of way across the N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 4.

Section 5: E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , EXCEPTING THEREFROM a 50-foot right of way across the E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 5.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they, the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: September 18, 1979

STATE OF IDAHO, COUNTY OF FRANKLIN  
On this 18th day of September 1979,  
before me, a notary public in and for said State, personally  
appeared JESS B. ELGAN and  
NANCY LEE ELGAN, husband  
and wife,

known to me to be the persons whose names are  
subscribed to the within instrument, and acknowledged to  
me that they executed the same.

Witness my hand and seal this 18th day of September 1979.  
Notary Public  
Residing at Pocatello, Idaho  
Commission Expires Lifetime

150873

Recorded at the request of  
American Land Title

SEP 18 1979 3:45 pm

MICHAEL D. KOTZ, Notary  
By [Signature] Deputy  
FRANKLIN COUNTY, IDAHO

162770

# QUITCLAIM DEED

For Value Received JESS B. ELGAN and NANCY LEE ELGAN,  
husband and wife,

do hereby convey, release, remise and forever quit claim unto  
CLAIRE H. HATCH and SHARON A. HATCH,  
husband and wife,

whose current address is

the following described premises, to-wit:

130 PLOW LAND SHARES of OXFORD CREEK WATER, same shares  
as Decreed to NELS GEORGESON, JAMES BOYLE and B. S.  
DUDLEY by DECREE, dated July 30, 1888 and recorded  
March 13, 1903, in Book 13 of Miscellaneous, page 76,  
records of Franklin County, Idaho.

together with their appurtenances.

Dated: May 5, 1983

*Jess B Elgan*  
*Nancy Lee Elgan*

STATE OF IDAHO, COUNTY OF FRANKLIN  
On this 5th day of May, 1983,  
before me, a notary public in and for said State, personally  
appeared

JESS B. ELGAN and NANCY LEE ELGAN,  
husband and wife

known to me to be the persons whose names are  
subscribed to be within instrument, and acknowledged to  
me that they executed the same.

*William E. Castle*

Notary Public  
, Idaho

Residing at Preston  
Comm. Expires Lifetime

Recorded at the request of

*William E. Castle*

MAY 6 1983 p.m.

MICHAEL D. KUNZ, RECORDER

By *Michael D. Kunz* Deputy  
FRANKLIN COUNTY, IDAHO

Furnished by the AMERICAN LAND TITLE CO., Pocatello, Idaho

182771

# QUITCLAIM DEED

For Value Received D. MARCEL BECKSTEAD and SUE M. BECKSTEAD,  
husband and wife,

do hereby convey, release, remise and forever quit claim unto  
CLAIRE H. HATCH and SHARON A. HATCH,  
husband and wife,

whose current address is Oxford, Idaho 83265

the following described premises, to-wit:

20 PLOW LAND SHARES and 12 MEADOW SHARES of OXFORD  
CREEK WATER, same shares as Decreed to JAMES N. GRANT  
by DECREE dated July 30, 1888, and recorded March 13,  
1903 in Book 13 of Miscellaneous, page 76, records  
of Franklin County, Idaho.

together with their appurtenances.

Dated: April 18, 1983

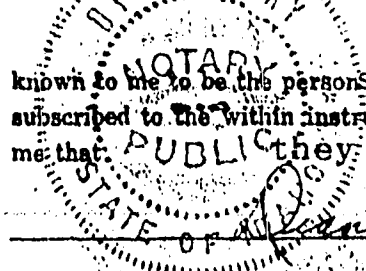
*D. Marcel Beckstead*

*Sue M. Beckstead*

STATE OF IDAHO, COUNTY OF FRANKLIN  
On this 18th day of April, 1983,  
before me, a notary public in and for said State, personally  
appeared

D. MARCEL BECKSTEAD and  
SUE M. BECKSTEAD, husband and wife,

known to me to be the persons whose names are  
subscribed to the within instrument, and acknowledged to  
me that they executed the same.



Residing at  
Comm. Expires

*D. J. Kay*  
Notary Public  
Swan Lake, Idaho  
Lifetime

Recorded at the request of

*William E. Castleton*

11:10 a.m. MAY 6 1983 p.m.

MICHAEL D. KUNZ, RECORDER

*Judy A. Kunz*  
Deputy  
FRANKLIN COUNTY, IDAHO

Furnished by the AMERICAN LAND TITLE CO., Pocatello, Idaho

THIS AGREEMENT, Made and entered this 20th day of April, 1981, by and between HENRY A. HATCH, conveying his sole and separate property, hereinafter called "SELLER" and CLAIRE HENRY HATCH and SHARON HATCH, Husband and Wife, hereinafter called "BUYER".

WITNESSETH:

1. PROPERTY

SELLER agrees to sell to BUYER, and BUYER agrees to buy from SELLER, on the terms and conditions herein specified, the Real Property described in Exhibit "A" attached hereto; hereinafter referred to as "Premises". Together with all and singular the tenements hereditaments and appurtenances thereunto belonging or in any wise appertaining.

2. PURCHASE PRICE AND TERMS OF PAYMENT.

BUYER shall pay SELLER for said property a  
Purchase Price of . . . . . \$ 75,000.00

The purchase price shall be paid as follows:

The balance of \$ 75,000.00 principal plus accruing interest on the unpaid balance at six (6) percent per annum from April 5, 1981, until paid shall be payable to Escrow Holder as hereinafter provided as follows:

Semi-monthly payments at \$150.00 with the first payment on July, 5, 1981, and a like amount due on July 20, 1981, with like amounts due on the 5th and 20th of each month for the remainder of 1981. These payments in 1981 shall be interest only, and an additional interest payment of \$1,450.00 shall be made on December 1, 1981 in order that the interest shall be current as of December 21, 1981, on which date the amortization of principal and interest specified below shall begin.

Semi-monthly amortized installments of \$241.48 with the first payment due on January 5, 1982, and a like amount due on the 5th and 20th day of each month thereafter until the entire principal and accrued interest is paid in full. The said amortized installment payment to include principal and interest . . . . . \$ 75,000.00

TOTAL . . . . . \$ 75,000.00

EXHIBIT "A"

Situated in Franklin County, State of Idaho

The Southwest Quarter of the Northwest Quarter, the Northwest Quarter of the Southwest Quarter and the South Half of the Southwest Quarter of Section 29; the Southeast Quarter of the Northeast Quarter, the West Half of the Northeast Quarter and the North Half of the Southeast Quarter of Section 30; in Township 13 South, Range 38 east of the Boise Meridian in Idaho, containing 360 acres of land, more or less, according to the official plat of the survey thereof returned to the General Land Office by the Surveyor General.

ASSIGNMENT OF CONTRACT

FOR VALUE RECEIVED, the undersigned, HENRY HATCH, does hereby convey, assign, sell, transfer and set over unto HENRY A. HATCH, EARL C. HATCH, MILTON C. HATCH and DUANE C. HATCH as Trustees of the HENRY A. HATCH TRUST all his right, title and interest in and to the written and attached Real Estate Purchase and Sale Agreement (Exhibit "A") dated April 20, 1981, with HENRY A. HATCH, conveying his sole and separate property, as Seller and CLAIRE HENRY HATCH and SHARON HATCH, Husband and Wife, hereunder as Buyers, and in and to the real property described therein, and upon full compliance of covenants by assignee with the terms of said Agreement he authorizes and directs that conveyance be made to such assignee.

Situated in Franklin County, State of Idaho

The Southwest Quarter of the Northwest Quarter, the Northwest Quarter of the Southwest Quarter and the South Half of the Southwest Quarter of Section 29; the Southeast Quarter of the Northeast Quarter, the West Half of the Northeast Quarter and the North Half of the Southeast Quarter of Section 30; in Township 13 South, Range 38 east of the Boise Meridian in Idaho, containing 360 acres of land, more or less, according to the official plat of the survey thereof returned to the General Land Office by the Surveyor General.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20th day of April, 1981.

Henry A. Hatch  
HENRY A. HATCH

STATE OF IDAHO            )  
                                  )  
County of Franklin        )

On this 20th day of April, 1981, before me, the undersigned, a Notary Public in and for said state, personally appeared HENRY A. HATCH, known 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 seal the day and year in this certificate first above written.

Lowell D. Castleton  
NOTARY PUBLIC for State of Idaho  
Residing at Preston, Idaho

Recorded in Book 3  
①

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF IDAHO,  
IN AND FOR BINGHAM COUNTY.

A. W. Eaton, et al., )

-vs-

W. F. Fisher, et al. )

D E C R E E

The Court having filed its findings and decision this 30th day of July, 1888, now on motion of H. M. Bennett and Smith and Smith, attorneys for plaintiffs, it is Ordered Adjudged and Decreed herein as follows:

That the title of the plaintiffs and defendants be forever quieted as against each other and as against the other parties to this suit as follows: That is to say, so that the following named plaintiffs and defendants shall have the right to use of the waters of Oxford Creek in Bingham County, Idaho, in the following proportions measured one share to one acre.

| Name.           | Plow Land | Meadow.  |
|-----------------|-----------|----------|
| A. W. Eaton     | 8 acres   | None     |
| Jas. N. Grant   | 20 acres  | 12 acres |
| Nels Georgeson  | 30 acres  | None     |
| H. O. Harkness  | 70 acres  | 45 acres |
| Jas. Boyle      | 35 acres  | 17 acres |
| B. S. Dudley    | 65 acres  | 30 acres |
| Thomas F. Scott | 22 acres  | None     |
| Preston Thomas  | None      | 5 acres  |
| N. R. Lewis     | 15 acres  | 3 acres  |
| W. D. Hendricks | 5 acres   | 16 acres |
| C. Crowshaw     | 20 acres  | 40 acres |
| Edwin Smith     | 9 acres   | None     |

#875 FEB 16 1984

NO 2046

# AFFIDAVIT OF PUBLICATION

RECEIVED

MAR 2 1984

STATE OF IDAHO, }  
County of Franklin } ss.

Department of Water Resources  
Eastern District Office

## NOTICE OF PROPOSED CHANGE OF WATER RIGHT

No. 13-0104-0105-0107-0108

Notice is hereby given that Claire Hatch, Clifton, Ida., has applied to the Dept. of Water Resources for a change in the point of diversion and place of use of the waters of Oxford Creek tributary to Oxford Slough. The rights sought to be changed are evidenced by the decree in case of A. W. Eaton et al vs. W. F. Fisher dated in 7-30-1888 in Third Judicial District Court, Bingham County, with a priority date of 7-30-1888 and recorded as follows:

13-0104 to James N. Grant

AMOUNT: 32 Shares

13-0105 to Nels Georgenson

AMOUNT: 30 Shares

13-0107 to Jas Boyle

AMOUNT: 35 Shares

13-0108 to B. S. Dudley

AMOUNT: 65 Shares

The point of diversion and place of use are not specified in the decree.

### TO BE CHANGED AS FOLLOWS

162 shares of water will be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 30, NW $\frac{1}{4}$ NW $\frac{1}{4}$  Sec 32, T. 13S, R. 38E, B.M. Franklin County and used to irrigate 162 acres within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 30, T. 13S, R. 38E, B.M.

Any protests against the above proposed change of water right must be filed with the Dept. of Water Resources 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83401, on or before February 20, 1984.

A. KENNETH DUNN  
Director

Published in the Preston Citizen on 2-2 & 2-9-84.

Legal No. 2046 -42L- Published February 2, 9, 1984.

J. WALTER ROSS  
being duly sworn,

deposes and says:

That he is the Co-Publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once

a week for 2 consecutive weeks in the regular and entire issue of said paper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

Feb. 2, 1984, and ending  
with the issue of Feb. 9, 1984.

Fee \$2625

Subscribed and sworn to before me this 29th day  
of Feb., 1984.

Kenneth O. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 1986

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER  
OF WATER RIGHT NOS. 13-0104/0105/0107/0108  
IN THE NAME OF CLAIRE HATCH

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on the 8th day of May, 1986, a true and correct  
copy of the foregoing MEMORANDUM DECISION AND ORDER APPROVING TRANSFER was mailed  
postage prepaid to:

Claire Hatch  
Rt. 1, Box 109  
Clifton, ID 83278



RITA I. FLECK  
Secretary/Records Manager  
Idaho Department of Water Resources

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

IN THE MATTER OF APPLICATION FOR TRANSFER  
OF WATER RIGHT NOS. 13-0104/0105/0107/0108

CLAIRE HATCH,

Applicant,

JAMES BOYCE,

Protestant.

SOURCE: Oxford Creek

COUNTY: Bingham

MEMORANDUM DECISION AND ORDER APPROVING TRANSFER

On June 9, 1983, Claire Hatch, Clifton, Idaho applied to the Department of Water Resources to change the point of diversion and place of use for water rights decreed on July 30, 1888 in the case of A. W. Eaton, et al -vs- W. F. Fisher in Third Judicial District Court, Bingham County.

Notice of the proposed change was advertised in the Preston Citizen on February 2 and 9, 1984. On February 13, 1984, James Boyce of Oxford, Idaho filed a protest against approval of the changes proposed. On March 5, 1984, the protestant requested that his protest be withdrawn.

The Director of the Department has reviewed the application, the attachments, and the appropriate records of the Department of Water Resources and based upon his understanding of the law, the Director makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Background

1. Through an action initiated by A. W. Eaton and others, the court of the Third Judicial District partially adjudicated the water rights of Oxford Creek on July 30, 1888. The court found that all rights on Oxford Creek should

date from May 1865 and that each of the 23 right holders subject to this action would have an identifiable share in whatever water flowed in Oxford Creek. The court identified three types of land; plowed land, meadow land and town lots, on which the water was used. The water rights appurtenant to meadow land were found to be only valid until June 1st of each year while the plowed land and town lots, on the other hand, could be irrigated for the full irrigation season.

The legal descriptions of points of diversion and places of use were not included in the decree.

2. Idaho courts have held that an adjudication has been completed only when the court has determined all of the elements that comprise a water right. That is, point of diversion, place of use, quantity, priority, period of use, source, nature of use, and duty of water.

3. In the instant case, the court determined only the priority date leaving the remaining elements of a water right undefined.

4. Because the court did not completely define each water right, it is impossible to follow the chain of ownership of any one right. Based upon the information available, the water users on Oxford Creek agree that Jess Elgan owned the water rights identified by 13-0104, 13-0105, 13-0107, and 13-0108 and that this interest has been legally conveyed to Claire Hatch of Clifton, Idaho.

5. The water of Oxford Creek is distributed by the watermaster of Water District 13-R. The water rights of Oxford Creek have historically been delivered to the plowed land, meadow land and town lots in rotation on the basis of "water shares" held as a percentage of a total number of shares on a stream. The owner of shares receives the water for one hour for each share.

6. For the purpose of delivering water, Water District 13-R has traditionally split Oxford Creek into two streams locally known as the north stream and south stream. In addition to Oxford Creek, the south stream also

acquires water from several drainages intercepted along its course. The combined flows from all these sources is distributed to the share holders diverting from the south stream. One of the drainages tributary to the south stream is known locally as Carlson Canyon.

7. Jess Elgan received water from Oxford Creek at the lower end of the south stream below its confluence with Carlson Canyon. Claire Hatch proposes to divert the water at two points at the upper end of the south stream in the NE1/4NE1/4, Sec. 30, Twp. 13S, Rge. 38E and directly from Carlson Canyon in the NW1/4NW1/4, Sec. 32, Twp. 13S, Rge. 38E.

#### CONCLUSIONS OF LAW

1. The court action in the case of A. W. Eaton, et al -vs- W. F. Fisher, et al dated July 30, 1888 did not adjudicate completely the water rights of Oxford Creek but did establish a common priority date of May 1, 1865 under which water rotations have directly taken place.

2. The priority date of July 30, 1888 shown on the application for transfer is the date of the court action rather than the priority date found by the court and is obviously in error. As a practical matter, where all of the water rights on Oxford Creek bear the same priority date, the actual date of priority becomes immaterial. However, to be consistent with the findings of the court the priority of the rights claimed by Claire Hatch should remain May 1, 1865.

3. Based upon the evidence available to the Department of Water Resources, Claire Hatch of Clifton, Idaho has the following water rights:

13-0104 MEADOW LAND

Priority date: May 1, 1865

Point of diversion: NE1/4NW1/4, Sec. 30, NW1/4NW1/4, Sec. 32, Twp. 13S Rge. 38E, Franklin County

Quantity: 0.24 cfs

Period of use: April 1 to June 1

Nature of use: irrigation

Source: Oxford Creek

Place of use: 12 acres within the NW1/4NE1/4, Sec. 30, Twp. 13S Rge.

38E; and

PLOW LAND

Priority date: May 1, 1865

Point of diversion: NE1/4NW1/4, Sec. 30, NW1/4NW1/4, Sec. 32, Twp.

13S Rge. 38E, Franklin County

Quantity: 0.40 cfs

Period of use: April 1 to November 1

Nature of use: irrigation

Place of use: (land described in Right No. 13-0108)

13-0105 Priority date: May 1, 1865

Point of diversion: (same as described in Right No. 13-0104)

Quantity: 0.60 cfs

Period of use: April 1 to November 1

Nature of use: irrigation

Source: Oxford Creek

Place of use: (land described in Right No. 13-0108)

13-0107 Priority date: May 1, 1865

Point of diversion: (same as described in Right No. 13-0104)

Quantity: 0.70 cfs

Period of use: April 1 to November 1

Nature of use: irrigation

Source: Oxford Creek  
Place of use: (land described in Right No. 13-0108)  
13-0108 Priority date: May 1, 1865  
Point of diversion: (same as described in Right No. 13-0104)  
Quantity: 1.30 cfs  
Period of use: April 1 to November 1  
Nature of use: irrigation  
Source: Oxford Creek  
Place of use: A total of 150 acres within the SW1/4NW1/4 (23 acres), NW1/4SW1/4 (22 acres), SW1/4SW1/4 (13 acres), SE1/4SW1/4 (29 acres) Sec. 29; SW1/4NE1/4 (6 acres); SE1/4NE1/4 (29 acres), NE1/4SE1/4 (28 acres), Sec. 30, Twp. 13S, Rge. 38E

4. Carlson Canyon is a tributary of Oxford Creek used in the delivery of decreed water to share holders in Water District 13-R who receive their rights through the south stream.

#### ORDER

IT IS HEREBY ORDERED and Application for Transfer of Water Right Nos. 13-0104/0105/0107/0108 is APPROVED subject to the following conditions:

1. The duty of water and the combination of all rights shall not exceed 498 acre-feet per year.
2. Unless and until modified by a court of proper jurisdiction, water rights 13-0104, 13-0105, 13-0107 and 13-0108 shall be recorded as determined by the Director in his review of the subject application for transfer.
3. Adequate headgates and measuring devices shall be installed and maintained as part of the diverting works at all points of diversion for these rights.
4. Delivery of these rights shall be under the control of the water-

master of Oxford Creek, Water District No. 13-R and delivery of these rights shall be on the same basis of rotation with the other rights of Oxford Creek as has been done in the past.

Dated this 7<sup>th</sup> day of May, 1986.

*L. Glen Saxton*  
L. GLEN SAXTON  
Chief, Operations Bureau

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 13-0104/0105/0107/0108

Notice is hereby given that Claire Hatch, Clifton, Idaho, has applied to the Dept. of Water Resources for a change in the point of diversion and place of use of the waters of Oxford Creek tributary to Oxford Slough. The rights sought to be changed are evidenced by the decree in case of A.W. Eaton et al vs. W.F. Fisher dated in 7/30/1888 in Third Judicial District Court, Bingham County; with a priority date of 7/30/1888 and recorded as follows:

13-0104 to James N. Grant

AMOUNT: 32 Shares

13-0105 to Nels Georgenson

AMOUNT: 30 Shares

13-0107 to Jas. Boyle

AMOUNT: 35 Shares

13-0108 to B.S. Dudley

AMOUNT: 65 Shares

The point of diversion and place of use are not specified in the decree.

TO BE CHANGED AS FOLLOWS

162 shares of water will be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 30, NW $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 32, T. 13S, R. 38E, B.M. Franklin County and used to irrigate 162 acres within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$  Sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 30, T. 13S, R. 38E, B.M.

Any protests against the above proposed change of water right must be filed with the Dept. of Water Resources 150 Shoup Ave. Suite 15, Idaho Falls, Idaho 83401, on or before February 20, 1984.

A. KENNETH DUNN

Director

Published in the Preston Citizen on 2/2 & 2/9/84.

*Proofed by  
Phone  
BP 11/30/84*

February 7, 1984

RE: Application for Transfer No. 13-0104/0105/0107/0108  
CLAIRE HATCH

Seth Coburn, Watermaster  
Water District No. 13-R  
Oxford Rt.  
Clifton, ID 83228

Dear Mr. Coburn:

Please find enclosed a copy of the above referenced application and watermaster recommendation form. Please review the application and complete the form, returning it to this office on or before February 20, 1984.

Thank you for your cooperation in this matter.

Sincerely,

BARBARA L. POWERS  
Secretary

bp

Enclosure



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
EASTERN REGION

John V. Evans  
Governor

A. Kenneth Dunn  
Director

150 Shoup — Suite 15  
Idaho Falls, Idaho 83402  
(208) 525-7161

January 18, 1984

Clair Hatch  
Rt. 1, Box 109  
Clifton, ID 83278

Dear Mr. Hatch:

I am still reviewing your application for transfer for Oxford Creek water. However, I will not be able to complete the process without some evidence of possessory interest.

I will need a warranty deed showing you as owner of the acreage in Section 29 and 30 and some recorded evidence that you are indeed the owner of the 162 shares of Oxford Creek water defined in the application.

If we cannot obtain these documents, approval of the transfer application may be in doubt.

Sincerely,

HAROLD W. JONES  
Sr. Resource Agent

HWJ:bp

February 22, 1984

RE: Application for Transfer No. 13-0104/etc. CLAIRE HATCH

James D. Boyce  
Oxford Rt. #1, Box 125  
Clifton, ID 83228

Dear Mr. Boyce:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle 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 an enlargement in the use of the original right?
3. Will the proposed use under this transfer conflict with the local public interest?

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.

Very truly yours,

RONALD D. CARLSON  
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

February 22, 1984

RE: Application for Transfer No. 13-0104/etc.

Claire Hatch  
Rt. #1, Box 109  
Clifton, ID 83278

Dear Mr. Hatch:

Enclosed please find a copy of the protest filed against the above referenced application. 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 an enlargement in the use of the original right?
3. Will the proposed use under this transfer conflict with the local public interest?

You will be notified at a later date as to the time and place set for conference and/or hearing. Legal counsel is not mandatory at an proceeding before the Department, although you may desire to employ an attorney in your behalf.

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

Very truly yours,

RONALD D. CARLSON  
Eastern Regional Supervisor

RDC:cw

Enclosure

cc: IDWR - State Office

February 22, 1984

RE: Application for Transfer No. 13-0104 HATEH

Preston Citizen  
Box 472  
Preston, ID 83263

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on February 2 and 9, 1984.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

COLLEEN WRAY  
Adm. Secretary

February 22, 1984

RE: Application for Transfer No. 13-0104/etc. ELAIR HATCH

Seth Coburn, Watermaster  
Water District No. 13-R  
Oxford Route  
Clifton, ID 83228

Dear Mr. Coburn:

Our files indicate we have not received your watermaster comments on the above captioned application for transfer, which was forwarded to you on February 7, 1984. Therefore, enclosed please find a copy of the application and another watermaster recommendation form.

Section 42-222 of the Idaho Code states that watermaster recommendations must be submitted to the Department before proceeding with final administrative action. Since advertising of the application is completed, I urge you to give this matter immediate attention.

Your cooperation is appreciated.

Respectfully submitted,

ERNEST CARLSEN  
Assistant Regional Supervisor

EC:cw

Enclosures

RECEIVED

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 13-0104 etc.

MAR 5 1964

Department of Water Resources  
Eastern District Office

RECOMMENDATION OF WATERMASTER

I, SETH COBURN, watermaster of \_\_\_\_\_,  
of Water District No. 13-R, County of FRANKLIN, State of Idaho,  
whose address is Oxford Route Clifton, Idaho 83228  
have read the attached copy of the application for transfer of water right for \_\_\_\_\_  
Clair Hatch, and to the best of my knowledge believe the  
(name)  
application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend  
that the Director of the Department of Water Resources approve the transfer subject to  
the following conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OR

B. I do not endorse approval of the above numbered Application for Transfer as re-  
quested for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated at Oxford, Idaho, this 26 day of FEBRUARY 19 84.

Seth Coburn  
(signature)

Please use reverse side if needed.

March 19, 1984

RE: Application for Transfer No. 13-0104/etc. CLAIRE HATCH

James D. Boyce  
Oxford Route #1, Box 125  
Clifton, ID 83228

Dear Mr. Boyce:

This is to acknowledge receipt of your withdrawal of protest against approval of the above referenced application. The Department will take no further action in setting a hearing in this matter.

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

Very truly yours,

ERNEST CARLSEN  
Assistant Regional Supervisor

EC:cw

March 19, 1984

RE: Application for Transfer No. 13-0104/etc.

Claire Hatch  
Rt. #1, Box 109  
Clifton, ID 83278

Dear Mr. Hatch:

This is to advise you that James D. Boyce has withdrawn his protest against approval of the above referenced application. The Department will take no further action in setting a hearing in this matter.

Very truly yours,

ERNEST CARLSEN  
Assistant Regional Supervisor

EC:cw

April 19, 1984

Claire Hatch  
Rt. #1, Box 109  
Clifton, ID 83278

Dear Mr. Hatch:

The Department will continue processing of your application for transfer of a water right now that the protests have been withdrawn.

The evidence of ownership submitted for the water right were Quit Claim deeds from Jess Elgan and D. Marcel Beckstead.

These Quit Claims are acceptable as long as additional evidence of ownership is submitted to show that at the time of conveyance of the water Jess Elgan and D. Marcel Beckstead were the owners of the water right.

Processing will continue when the necessary evidence of ownership is received.

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

Sincerely,

STEVE McCORMICK  
Sr. Resource Analyst

SM:jk

M E M O

FROM: Ernie *EMC*  
TO: File #13-0104/etc. Transfer  
DATE: May 19, 1984

In an effort to obtain background information on the use of these rights prior to their purchase by Mr. Hatch, I called James Boyce, secretary of the Water District.

Based on our discussion it is apparent that this application represents a change in the place of use and point of diversion. The original place of use was owned at one time by Jess Elgan & Marcel Beckstead. Mr. Elgan subsequently sold the property where the water was being used to a Roy Peterson. But Mr. Peterson has not been using the Oxford Creek water. He has been irrigating the land from a different source although ownership of the Oxford water has been a point of contention between the two parties. The water quit claimed by Mr. Beckstead was historically used on his property but because of alterations to the delivery system could no longer be delivered. So Mr. Beckstead sold it.

Mr. Boyce stated that Jess Elgan did continue to pay the assessments on the water he has quit claimed even after selling the property to Mr. Peterson. Mr. Boyce was not aware of any existing water rights that would be adversely effected by the transfer.

In summary the lands these rights are being removed from will continue to be irrigated from different sources developed in the last 5 years. The new place of use contains the same number of acres for plowed shares as listed in the decree. There is no evidence of an expansion in use, or injury to existing rights. If the question of ownership, by Mr. Elgan subsequent to Mr. Petersons purchase, can be resolved, then the application should be recommended for approval.

M E M O

TO: File  
FROM: Ernie *EMC*  
DATE: May 19, 1984

To follow up on the Department's letter of April 19, 1984, I called the Hatch residence and spoke with Mrs. Hatch. She was aware of the letter and indicated Mr. Elgan had been asked to supply the needed documents. They will contact Mr. Elgan again.

Based on the information available Mr. Elgan needs to provide verification that he retained the water rights when Roy Peterson purchased the land where the water had historically been used.

January 24, 1985

Claire Hatch  
Route 1 Box 109  
Clifton, ID 83278

RE: Application for Transfer, Right #13-0104/0105/0107/0108.

Dear Mr. Hatch:

The Department has researched the water rights under the referenced application.

The original place of use for these rights was once owned by Jess Elgan and Marcel Beckstead. The water was used on Mr. Elgan's half of the property and this half of the property was later sold to Lat-Low Engineering. Lat-Low Engineering then sold the property to Roy Peterson.

The warranty deeds from Mr. Elgan to Lat-Low Engineering and Lat-Low Engineering to Roy Peterson show no evidence that the water rights were withheld at the time of the sale.

There may be other documents which withhold the water rights but these have not been submitted to show the title of the water rights have been retained by Jess Elgan.

Further action cannot be taken on the application until proof of ownership is submitted.

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

Sincerely,

STEVE McCORMICK  
Water Resource Engineer

SM/cz

cc: Jess Elgan, Dayton, ID 83232

RECEIVED

FEB 21 1985

Department of Water Resources  
Eastern District Office

Department of Water Resources  
150 Shoup - Suite 15  
Idaho Falls, Idaho 83402

February 19, 1985

Re: Application for transfer, Right # 13-0104/0105/0107/0108

Dear Sir:

In reference to your letter dated 24 January 1985, on the above subject application I submit to you the following observations.

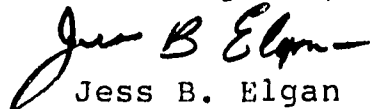
1. The water right was once owned by Jess Elgan, Marcel Beckstead and Cort Rosenhan. The water was used on land owned by Jess Elgan and was later sold to Clair Hatch. The water was not used on land owned by Beckstead or Rosenhan, or land sold to Lat-Low engineering, because there was not a ditch to take it to this land, nor enough water to run that far.

2. The warranty deed from Lat Low engineering to Roy Peterson does not include any shares in the Oxford ditch. The deeds from Andrew Hunt, Marcel Beckstead, and Cort Rosenhan show a transfer of Oxford ditch water to Jess Elgan. You might as well say Roy Peterson owns the Brooklyn Bridge because his deed shows no evidence that this right was withheld. A deed grants rights, not withholds rights.

3. In any case Lat Low engineering cannot grant to Peterson any more rights than they purchased in their sales contract, of which notice was filed in the Franklin County Court House. For your information I quote paragraph 14.c: "Seller specifically excludes from this contract any and all shares in OXFORD DITCH now owned by seller".

4. It seems to me you would be interested in establishing where the water from the Oxford Ditch belongs and put an end to the continually moving of water as has been done by the past two water master without approval or your knowledge.

Best Regards,

  
Jess B. Elgan

ANALYSIS OF APPLICATION TO TRANSFER  
WATER RIGHTS 13-0104/0105/0107/0108

In decreeing the water from Oxford Creek the court found all the rights to have the same priority, and then allocated the water on a basis of shares rather than specifying a specific amount to each user. The number of plow shares designated to each user was based on one share per acre of irrigated land, except for city lots which received two shares per acre. The decree fails to quantify the amount of water represented by a share.

Mr. Hatch has proposed to transfer 162 shares. Since there is insufficient information in the decree for quantifying the water represented by those shares, two major considerations in recommending the administrative action are: How the water master of Water District 13-R delivers water to users in the district, and will he be able to regulate Mr. Hatch's diversion should the transfer be approved.

To answer this question, I contacted James Boyce, secretary of the water district. In describing how water is delivered by the watermaster, Mr. Boyce stated the following items:

1. Water from Oxford Creek has historically been distributed on the basis of one share entitles the right holder to divert the entire stream for one hour.
2. Oxford Creek is split into two streams. they are commonly referred to as the North Stream and South Stream.
3. All the decreed rights are diverted through individual diversions from one of these streams or a tributary. There is no organized canal.
4. Jess Flyan diverted his shares at a point on the lower end of the South Stream.
5. There are two points of diversion proposed for use by Claire Hatch. One is at the upper end of the South Stream the other is on tributary to the South Stream known locally as Carlson Canyon.
6. As a tributary to the South Stream, all of the water from Carlson Canyon, has historically been used in the delivery of water to share holders along the South Stream.
7. The number of shares held by water users who divert water from the South Stream, or its tributaries, will not change as a result of the proposed transfer.

In conclusion, Mr. Boyce was certain the watermaster could adequately regulate delivery of water to Mr. Hatch based on the transfer and because the number of shares to be recognized on the South Stream and its tributaries didn't change, other users would not be adversely affected by the change.

Clair Hatch Transfer  
Page 2  
March 21, 1986

In considering the question of expansion, the application indicated Mr. Hatch has complied with the intent of the decree by limiting the place of use to one acre per decreed share. Furthermore, the application provides a description for the points of diversion and place of use. This is a definite improvement since this information is absent from the rest of the decreed rights.

I would recommend approval of this application. It does not appear to represent an expansion, and delivery of the rights can continue without adversely affecting other right holders in the water district. Though the elements of a water right may not be adequately described by today's standards, there is sufficient information to allow delivery of the rights in the unique manner traditionally used by the water district.

Ernest Carlson

Sept 23, 1985



# STATE OF IDAHO DEPARTMENT OF WATER RESOURCES TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: HWJ

1. Right number 13-0104, 0105, 0107 Applicant Clear Hatch  
0108
2. Type of right: ☒ Decree ☐ License ☐ Claim
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. *Phone request made June, last time Nov 1, 1983.*
  - 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) \_\_\_\_\_
  - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No  
If yes, what district? 13-R

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\* See memo decision
4. By RDC Date 10/22/85 OCT 29 1985  
Department of Water Resources Department of Water Resources

\* All uses within Watermaster Districts require special conditions.

May 8, 1986

Claire Hatch  
Rt. 1 Box 109  
Clifton, ID 82278

Dear Mr. Hatch:

Re: Application for Transfer No. 2990 of Water Right  
Nos. 13-0104/0105/0107/0108

Enclosed is a copy of the approved Application for Transfer No. 2990 of Water Right Nos. 13-0104/0105/0107/0108 along with a copy of the Memorandum Decision and Order. Be sure to note the condition of approval requiring headgates and measuring devices at all points of diversion.

Any person who does not agree with the decision of the department may request a rehearing before the director within twenty (20) days or may appeal directly to the district court within thirty (30) days of the date the decision is mailed.

Sincerely,

L. GLEN SAXTON  
Chief, Operations Bureau

LGS:rf

Enclosures