

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-31418
Date Received: 5/17/1990
Receipt No:
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s): JOHN ROORDA
14040 WILLIS RD
CALDWELL ID USA 83607

Phone: (208)454-5142

LARRY ROORDA
14040 WILLIS RD
CALDWELL ID USA 83607

Phone: (208)454-5142

2. Date of Priority: 03/28/1974

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06N	04W	34	SE NW	PAYETTE	

5. Description of diverting works:

WELL AND PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	2.2	495

7. Total Quantity Appropriated is:
2.2 C.F.S. and/or 495 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
06N	04W	34	SE	NW	IRRIGATION	12.5
			NE	NW	IRRIGATION	14.5
			NW	SE	IRRIGATION	23
			SE	SE	IRRIGATION	18
			NE	SE	IRRIGATION	18
			SW	NE	IRRIGATION	24
Section Acres						110
Total Acres						110

11. Place of use in counties: PAYETTE

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

This claim is the result of a split due to change in ownership for a portion of 63-7354. DB 2/20/2002

15. Basis of Claim: License

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

Stock + Irrigat.
RECEIVED

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

AUG 28 2001

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

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
	63-7354				

RECEIVED

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

AUG 29 2001

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

3. Name and Address of Former Owner/Claimant(s)

Combs Farms, Inc.

4. New Owner/Claimant(s)

James R. Ronder, John Ronder
 Name Connector (Check one) ☒ and, ☐ or, ☐ and/or

New Mailing Address

14040 Willis Road

City, State and ZIP Code

Caldwell, Idaho 83605

New Telephone Number

208 454-5142

5. Date you acquired the property

July 13, 2001

RECEIVED

AUG 15 2001

WATER RESOURCES
 WESTERN REGION

6.

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

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

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

7.

Signature of New Owner(s) or Claimant(s)
(include title if applicable)

John Ronda
Larry Ronda

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

For Office Use Only

Received by _____	Date _____	Fee <u> D </u> _____
Received by _____	Date _____	Receipt No. _____
Processed by _____	AI Date _____	WR _____ Date _____

AL03-31418

02/12/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-7354

WATER RIGHT NUMBER: 63-7354

Owner Type
Original Owner
Name and Address
ARTHUR L WILSON
4900 OASIS RD
CALDWELL, ID 83605
Current Owner
JOSEPH W ROBERTS
15032 HOLLOW RD
CALDWELL, ID 83605
(208)459-2022

Priority Date: 03/28/1974
Basis: License
Status: Active

Source
GROUND WATER
Tributary

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	2.260 CFS	508.50 AF
	<u>Total Diversion:</u>	2.260 CFS	508.50 AF
		2.2	495

Location of Point(s) of Diversion

GROUND WATER
PAYETTE County
SE1/4NW1/4
Sec. 34, Twp 06N, Rge 04W, B.M.

Place of Use
IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06N	04W	34	3.0	24.0	14.5	12.5	18.0	23.0	18.0	113.0									

Total Acres: 113

110 TOTAL

Conditions of Approval:

Remarks:

- General CLAIM AMENDED BY LICENSE APPROVED 11/27/1991.

ROORDA
SPLIT

$$\begin{aligned} \text{CFS} \\ (110)(0.02) &= 2.2 \text{ CFS} \\ \text{AF} \\ (110)(4.5) &= 495 \text{ AF} \end{aligned}$$

John + Larry
ROORDA
(DAIRY) SPLIT
PRO RATE CFS 2.26/113 ACRES = 0.02/ACRE
PRO RATE VOLUME = 508.5/113 ACRES = 4.5 AF/AC

NOT AS
CONTRACT
DEED
BEM
LAND

LEFT IN
ROBERTS
NAME
FOR SPLIT,
SRBA WILL
CORRECT
IN DEED
RECORDS.

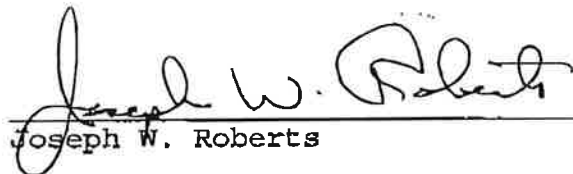
WARRANTY DEED

Grantor, JOSEPH W. ROBERTS and RHODONNA ROBERTS, husband and wife, Grantors, do hereby grant, bargain, sell and convey unto COMBE FARMS, INC., a corporation duly organized and existing under the laws of the State of Idaho, and having its principal office in Idaho at 6030 Moon Valley Road, Eagle, Idaho, in the County of Ada, Grantee, the following described property located in Payette County, more particularly described as follows, to-wit:

See Exhibit A attached hereto and made a part hereof.

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee, its successors and assigns forever. Grantor does hereby covenant to and with said Grantee that they are the owners in fee simple of said premises; that said premises are free from all encumbrances, subject to easements of record or in use and that they will warrant and defend the same from all lawful claims whatsoever.

DATED This 2th day of November, 1994.


Joseph W. Roberts


Rhodonna Roberts

COPY

294824

TRUSTEE DEED

FOR VALUE RECEIVED in the amount of one hundred ninety thousand dollars (\$190,000.00), RONALD D. SCHOEN, as duly appointed, qualified and acting Standing Chapter 12 Trustee in Bankruptcy Case No. 00-00801, in the United States Bankruptcy Court for the District of Idaho, wherein COMBE FARMS, INC. appears as Debtor, Grantor therein, does hereby grant, bargain, sell and convey unto JOHN AND LARRY ROORDA, dba ROORDA DAIRY, a partnership, the Grantees, all right, title and interest to said Estate, an undivided 100% (percent) interest in the following described property located in the County of Payette, State of Idaho:

REAL PROPERTY FOR \$178,000.00

Approximately 213 acres known as Wilson/Roberts place:

Land in Twp. 6 N., R. 4W., B.M., Payette County, Idaho:

In Sec. 34: SW1/4NE1/4; E1/2NW1/4; SE1/4SE1/4; and the N1/2SE1/4:

EXCEPTING a tract of land situated in the NE1/4SE1/4 described as follows:

Beginning at a point 60 feet West of the Southeast corner of said NE1/4SE1/4;

thence continue West along the South line thereof 330 feet;

thence North and parallel with the East line thereof 660 feet;

thence East and parallel with the South line thereof 330 feet;

thence South and parallel with the East line thereof 660 feet to the point of beginning.

AND FURTHER EXCEPTING a tract of land situated in the SE1/4SE1/4 described as follows:

Beginning at the Southeast corner of said Sec. 34;

thence S. 89°54'03" W. 316.24 feet along the South line of said SE1/4SE1/4 to the point of beginning;

thence continue S. 89°54'03" W. 1000.72 feet to the Southwest corner of said SE1/4SE1/4;

thence N. 0°04'57" W. 1323.65 feet along the West line of said SE1/4SE1/4 to the Northwest corner of said SE1/4SE1/4;

thence N. 89°56'40" E. 33.77 feet along the North line of said SE1/4SE1/4;

thence S. 33°07'15" E. 523.44 feet;

thence S. 66°25'58" E. 246.81 feet;

thence S. 35°11'31" E. 327 feet;

thence S. 27°23'10" E. 582.98 feet to the point of beginning.

Plus all water rights, water wells and pumps currently associated with and located on the property.

294824

STATE OF IDAHO

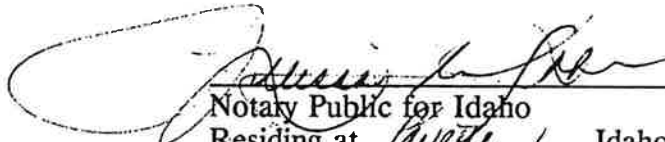
County of Payette

)
) ss
)

On the 13th day of July, 2001, before me, the undersigned, a Notary Public in and for subject State, personally appeared RONALD D. SCHOEN, known to me to be the person whose name is subscribed to the foregoing Trustee Deed, and acknowledged to me that he executed the same as the Trustee of the Estate of COMBE FARMS, INC. and that he executed the same as the Grantor.

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




Notary Public for Idaho
Residing at Payette, Idaho
My Commission Expires 09/03/05

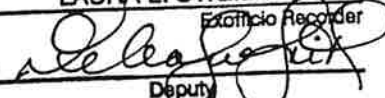
294824

STATE OF IDAHO } ss
County of Payette

I hereby certify that this Instrument
was filed for record at the request of
FIRST AMERICAN TITLE CO.

Time 4:55 PM
Date July 13, 2001
Instrument # 294824 Deeds

LAURA L. STIGILE

By 
Deputy

Fee \$12.00

PERSONAL PROPERTY

- (a) 1998 5-Tower Zimmatic Pivot for \$4,000.00.
- (b) 1982 4-Tower Zimmatic Pivot for \$3,000.00.
- (c) For \$5,000.00, 986' Lateral Irrigation System, including all attachments and components as the currently exist.

THE SALE OF THIS PROPERTY IS SUBJECT TO:

- (1) Rights or claims of parties in possession not shown by the public records.
- (2) Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey or inspection of the premises including, but not limited to, insufficient or impaired access or matters contradictory to any survey plat shown by the public records.
- (3) Easements, or claims of easements, not shown by the public records.
- (4) (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
- (5) Levies and assessments of the Black Canyon Irrigation District, and the rights, powers and easements of said district as by law provided.
- (6) Right of way for pipeling purposes in favor of Intermountain Gas Company, as reserved in Patent dated October 13, 1970, recorded November 25, 1970, Instrument No. 140804, Deed Records of Payette County, Idaho.
- (7) An easement for the purpose shown below and rights incidental thereto as set forth in a document:

Granted to: County of Payette, a Municipal Corporation.
 Purpose: Road right of way.
 Recorded: October 10, 1974.
 Instrument/File No. 156206 of Official Records.
 Affects: The East 60 feet of the SE1/4 of Sec. 34, Twp 6 N., R. 4W., B.M.

- (8) An easement for the purpose shown below and rights incidental thereto as set forth in a document:

Granted to: Idaho Power Company, a Corporation.
 Purpose: Utilities.
 Recorded: August 30, 1982.
 Instrument/File No. 195466 of Official Records.

294824

THE SALE OF THIS PROPERTY IS SUBJECT TO (cont'd):

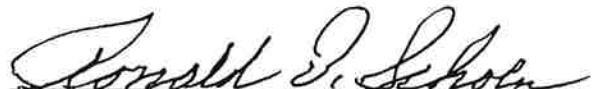
- (9) Rights of the public in and to the County Road right of way along the South boundary of the subject lands.
- (10) An easement for the purpose shown below and rights incidental thereto as set forth in a document:

Granted to: Idaho Power Company, a Corporation.
Purpose: Utilities.
Recorded: January 17, 1992.
Instrument/File No. 237391 of Official Records.

- (11) Right of way for roads, ditches, canals and laterals to matters of record.
- (12) Taxes, including any assessments collected therewith, for the year 2001 which are a lien not yet payable.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the Grantees, their heirs and assigns forever. And Grantor does hereby covenant to and with the Grantees that the property is free from all encumbrances except as set forth hereinabove.

DATED This 13th day of July, 2001.


Ronald D. Schoen, Trustee

Idaho Dept. of Water Resources
Place of Use Comparison Report

Type	WR #	Owner	Source	TRS	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	Total
App	63 12090	W ALLEN SCHMID, JAMES E SCHMID, W JOE SCHMID, ILO E SCHMID,	GROUND WATER	06N04W34											X						0
App	63 12090	W ALLEN SCHMID, JAMES E SCHMID, W JOE SCHMID, ILO E SCHMID,	GROUND WATER	06N04W34										X							0
App	63 12090	W ALLEN SCHMID, JAMES E SCHMID, W JOE SCHMID, ILO E SCHMID,	GROUND WATER	06N04W34							33	33									66
Claim	63 7354	JOSEPH W ROBERTS,	GROUND WATER	06N04W34		3	24		14.5			12.5					18	23		18	113
Right	63 7354	JOSEPH W ROBERTS,	GROUND WATER	06N04W34		3	24		14.5			12.5					18	23		18	113

AMENDED BY LICENSE

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-7354
Date Received: 5/17/1990
Receipt No: W012389
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

JOSEPH W ROBERTS Phone: (208)459-2022
15032 HOLLOW RD
CALDWELL ID USA 83605

2. Date of Priority: 03/28/1974

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06N	04W	34	SE NW	PAYETTE	

5. Description of diverting works:

WELL AND PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	2.26	508.5

7. Total Quantity Appropriated is:
2.26 C.F.S. and/or 508.5 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
06N	04W	34	SE	SE		IRRIGATION	18
			NE	SE		IRRIGATION	18
			SW	NE		IRRIGATION	24
			SE	NW		IRRIGATION	12.5
			NE	NW		IRRIGATION	14.5
			NW	SE		IRRIGATION	23
			NW	NE		IRRIGATION	3
Section Acres							113
Total Acres							113

11. Place of use in counties: PAYETTE

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

CLAIM AMENDED BY LICENSE APPROVED 11/27/1991.

15. Basis of Claim: License

RECEIVED
JAN 07 2008
WATER RESOURCES
WESTERN REGION

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

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

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

Water Right No(s).	Adjudication Claim No(s).	Split(s)	Water Right No(s).	Adjudication Claim No(s).	Split(s)
Ag 63-7867	63-7867				
Ag 63-31418	63-31418				

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

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

3. Name and Address of Former Owner/Claimant(s)	Roorda Dairy, LLC 14040 Willis Road, Caldwell, Idaho 83607
4. New Owner/Claimant(s)	Basin and Range Resource Company, LLC Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
New Mailing Address	3480 G.S. Richards Blvd., #101
City, State and ZIP Code	Carson City, NV 89703
New Telephone Number	(775) 885-5000

5. Date you acquired the property

December 17, 2007

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

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

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

7. Signature(s) of New Owner(s) or Claimant(s) *Dorothy Timian Palmer*
 Dorothy Timian-Palmer (title if applicable)
 President, Vidler Water Company, Inc., Managing Member,
 Basin and Range Resource Company, LLC
DOROTHY TIMIAN PALMER, President
 (title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by *SPW*
 Received by _____
 Processed by *SPW* AJ

Date *1/7/08*
 Date _____
 Date *1-17-08*

Receipt Amt. *N/A* *X*
 Receipt No. _____
 WR _____ Date _____

X No Fees received.

0350091



0022688

Order No.: C0720702

WARRANTY DEED

FOR VALUE RECEIVED as part of an IRC Section 1031 Tax Deferred Exchange

ROORDA DAIRY, LLC, AN IDAHO LIMITED LIABILITY COMPANY

the Grantor, does hereby grant, bargain sell and convey unto

BASIN AND RANGE RESOURCE COMPANY, LLC, A NEVADA LIMITED
LIABILITY COMPANY

whose current address is 3480 G.S. RICHARDS BLVD, STE 101, CARSON CITY, NV 89703

the Grantee, the following described premises, in ^{Payette}~~Canyon~~ County, Idaho, TO WIT:

SEE ATTACHED LEGAL DESCRIPTION

TOGETHER WITH ALL WATER AND WATER RIGHTS, DITCHES AND DITCH
RIGHTS USED THEREON OR APPURTENANT THERETO.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee; and subject to all existing patent reservations, easements, right(s) of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable, and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

Dated: DECEMBER 17, 2007

ROORDA DAIRY, LLC

BY: John Roorda
JOHN ROORDA, MEMBER

BY: Larry Roorda
LARRY ROORDA, MEMBER

Instrument # 350091

PAYETTE COUNTY
2007-12-17 04:42:16 No. of Pages: 2
Recorded for: AMERITITLE
BETTY J DRESSEN
Ex-Officio Recorder Deputy
Index to: WARRANTY DEED

Handwritten signature: Betty J. Dessen
Fee: 6.00
Deeds

State of IDAHO
County of CANYON

On this 17 day of DECEMBER, in the year 2007, before me, the undersigned, personally appeared JOHN ROORDA AND LARRY ROORDA known or identified to me to be the managers or members of the Limited Liability Company that executed the instrument or the person(s) who execute the instrument on behalf of said Limited Liability Company, and acknowledged to me that such Limited Liability Company, executed the same.

Barbara Ehle
Barbara Ehle

Commission Expires: 06/12/09
Residing at: Middleton ID

BARBARA EHLE
NOTARY PUBLIC
STATE OF IDAHO

0350091
EXHIBIT A

PARCEL I

Land in Township 6 North, Range 4 West, Boise Meridian, Payette County, Idaho:
In Section 28: S $\frac{1}{2}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ NW $\frac{1}{4}$; E $\frac{1}{2}$ SW $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$; and SW $\frac{1}{4}$ SE $\frac{1}{4}$.

PARCEL II

Land in Township 6 North, Range 4 West, Boise Meridian, Payette County, Idaho:

In Section 34: SW $\frac{1}{4}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ SE $\frac{1}{4}$; and N $\frac{1}{2}$ SE $\frac{1}{4}$;

EXCEPTING a tract of land situated in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, described as follows:

Beginning at a point 60 feet West of the Southeast corner of said NE $\frac{1}{4}$ SE $\frac{1}{4}$;

thence continue West along the South line thereof 330 feet;

thence North and parallel with the East line thereof 660 feet;

thence East and parallel with the South line thereof 330 feet;

thence South and parallel with the East line thereof 660 feet to the Point of Beginning;

AND FURTHER EXCEPTING a tract of land situated in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, described as follows:

Beginning at the Southeast corner of said Section 34;

thence S 89°54'03" W, 316.24 feet along the South line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ to the Point of Beginning;

thence continue S 89°54'03" W, 1000.72 feet to the Southwest corner of said SE $\frac{1}{4}$ SE $\frac{1}{4}$;

thence N 0°00'57" W, 1323.65 feet along the West line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ to the Northwest corner of said SE $\frac{1}{4}$ SE $\frac{1}{4}$;

thence N 89°56'40" E, 33.77 feet along the North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$;

thence S 33°07'15" E, 523.44 feet;

thence S 66°25'58" E, 246.81 feet;

thence S 35°11'31" E, 327.00 feet;

thence S 27°23'10" E, 582.98 feet to the Point of Beginning.

PARCEL III

Land in Township 6 North, Range 4 West, Boise Meridian, Payette County, Idaho:

In Section 34: E $\frac{1}{2}$ NW $\frac{1}{4}$.

PARCEL IV

A 60.00 foot wide ingress-egress and utility easement situated in a portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27, Township 6 North, Range 4 West, and a portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 6 North, Range 4 West, Boise Meridian, Payette County, Idaho, lying 30.00 feet each side of the following described centerline:

Commencing at the Northeast corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34;

thence along the East boundary of said NW $\frac{1}{4}$ NW $\frac{1}{4}$, S 00°43'16" W, 8.94 feet to a point on a curve, said point being the Point of Beginning, the Northerly boundary of said easement beginning on the South boundary of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 27, the Southerly boundary of said easement beginning on the East boundary of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34;

thence along a curve to the left, having an arc length of 15.97 feet, a radius of 200.00 feet, through a central angle of 04°34'26" and having a chord bearing of N 55°06'22" W, 15.96 feet to a point on the South boundary of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 27;

thence continuing along a curve to the left, having an arc length of 110.96 feet, a radius of 200.00 feet, through a central angle of 31°47'18" and having a chord bearing of N 73°17'14" W, 109.54 feet to a point which lies 30.00 feet North of the South boundary of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 27;

thence parallel with said South boundary, N 89°10'53" W, 1174.04 feet to a point which lies 30.00 feet East of the West boundary of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 27;

thence parallel with said West boundary, N 00°40'02" E, 1350.71 feet to a point which lies 60.00 feet North of the South boundary of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 27, said point being the Point of Terminus.

Basin and Range Resource Company, LLC

Dana L. Hofstetter, ISB No. 3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, ID 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

	)	Subcase Nos. 63-7867 and 63-31418
In Re SRBA	)	
	)	NOTICE OF APPEARANCE
Case No. 39576	)	
	)	
_____	)	

Dana L. Hofstetter of Hofstetter Law Office, LLC enters an appearance as attorney of record for Basin and Range Resource Company, LLC, in the above-referenced subcases, and requests that copies of all documents be served upon Ms. Hofstetter at the address above.

DATED this 7th day of January, 2008.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31418

NAME AND ADDRESS: ROORDA DAIRY LLC
14040 WILLIS RD
CALDWELL ID 83607

~~JOHN ROORDA~~
~~LARRY ROORDA~~
~~14040 WILLIS RD~~
~~CALDWELL ID 83607~~

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 2.200 CFS
495.000 AFY

PRIORITY DATE: 03/28/1974

POINT OF DIVERSION:

T06N R04W S34 SENW Within PAYETTE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	2.200 CFS 495.00 AFY

The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in PAYETTE County

T06N R04W S34	SWNE	24.00	T06N R04W S34	NENW	14.50
T06N R04W S34	SENE	12.50	T06N R04W S34	NESE	18.00
T06N R04W S34	NWSE	23.00	T06N R04W S34	SESE	18.00

110 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right is a split from former right 63-7354.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

December 13, 2007

ROORDA DAIRY LLC
14040 WILLIS RD
CALDWELL ID 83607

Re: Water Right No. 63-31418

Dear Sirs:

Enclosed is a copy of the above referenced water right, which reflects the change in ownership of the land and appurtenant water rights, covered under the original filing. Also enclosed is a copy of the Notice of Completed Administrative Proceedings, which has been sent to the Snake River Basin Court as notification of the change.

In addition we are returning your check for \$25.00 that was submitted for the ownership change fee. This fee is not required at this time, since this water right is still pending in the Snake River Basin Court.

If you have any questions concerning the enclosed water right, please feel free to contact this office.

Sincerely,

Lori Harris
Technical Records Specialist 2
Adjudication Section
Western Region Office

LH:l
Enclosures

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

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

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

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
63-31418					
63-7867					

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

3. Name and Address of Former Owner/Claimant(s) John Roorda
Larry Roorda

4. New Owner/Claimant(s) Roorda Dairy, LLC
Name Connector (Check one) ☐ and, ☐ or, ☐ and/or

New Mailing Address 14040 Willis Rd

City, State and ZIP Code Caldwell, ID 83607

New Telephone Number (208) 454-1742 Email: _____

5. Date you acquired the property

July/Aug 2001

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

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

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

7.

Signature(s) of New Owner(s) or Claimant(s)

John Roodamember

(title if applicable)

(title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by [Signature]Date 12-10-07Receipt Amt. N/AReceived by [Signature]Date 12-11-07

Receipt No. _____

Processed by [Signature] AJDate 12-11-07

WR _____

Date _____

Order No. 0022688

**COMMITMENT FOR TITLE INSURANCE
SCHEDULE A**

1. Effective Date: October 25, 2007 at 8:00 A.M.

2. Policy or Policies to be issued:

LiabilityPremiumALTA STANDARD OWNER'S POLICY (10/17/92)
Proposed Insured: BASIN AND RANGE RESOURCE COMPANY, LLC

3. The estate or interest in the land described or referred to in this Commitment and covered herein is Fee Simple and is at the effective date hereof vested in:

ROORDA DAIRY, LLC, an Idaho limited liability company

4. The land referred to in this Commitment is situated in the County of Payette, State of Idaho, and is described as follows:

See attached Exhibit A.

This Commitment may be subject to a cancellation fee pursuant to Department of Insurance rules.

Countersigned

Sch. A - ALTA Commitment - Rocky Mountain
Form 1004-275 (Rev. 5/93)

Valid only if Schedule B and Cover are attached

Order No. 0022688

EXHIBIT A

PARCEL I

Land in Township 6 North, Range 4 West, Boise Meridian, Payette County, Idaho:
In Section 28: S $\frac{1}{2}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ NW $\frac{1}{4}$; E $\frac{1}{2}$ SW $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$; and SW $\frac{1}{4}$ SE $\frac{1}{4}$.

PARCEL II

Land in Township 6 North, Range 4 West, Boise Meridian, Payette County, Idaho:
In Section 34: SW $\frac{1}{4}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ SE $\frac{1}{4}$; and N $\frac{1}{2}$ SE $\frac{1}{4}$;

EXCEPTING a tract of land situated in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, described as follows:

Beginning at a point 60 feet West of the Southeast corner of said NE $\frac{1}{4}$ SE $\frac{1}{4}$; | 8.

thence continue West along the South line thereof 330 feet; 100

thence North and parallel with the East line thereof 660 feet; 201

thence East and parallel with the South line thereof 330 feet; 100

thence South and parallel with the East line thereof 660 feet to the Point of Beginning; 201

AND FURTHER EXCEPTING a tract of land situated in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, described as follows:

Beginning at the Southeast corner of said Section 34;

thence S 89°54'03" W, 316.24 feet along the South line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ to the Point of Beginning;

thence continue S 89°54'03" W, 1000.72 feet to the Southwest corner of said SE $\frac{1}{4}$ SE $\frac{1}{4}$;

thence N 0°004'57" W, 1323.65 feet along the West line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ to the Northwest corner of said SE $\frac{1}{4}$ SE $\frac{1}{4}$;

thence N 89°56'40" E, 33.77 feet along the North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$;

thence S 33°07'15" E, 523.44 feet;

thence S 66°25'58" E, 246.81 feet;

thence S 35°11'31" E, 327.00 feet;

thence S 27°23'10" E, 582.98 feet to the Point of Beginning.

PARCEL III

Land in Township 6 North, Range 4 West, Boise Meridian, Payette County, Idaho:
In Section 34: E $\frac{1}{2}$ NW $\frac{1}{4}$.

Countersigned

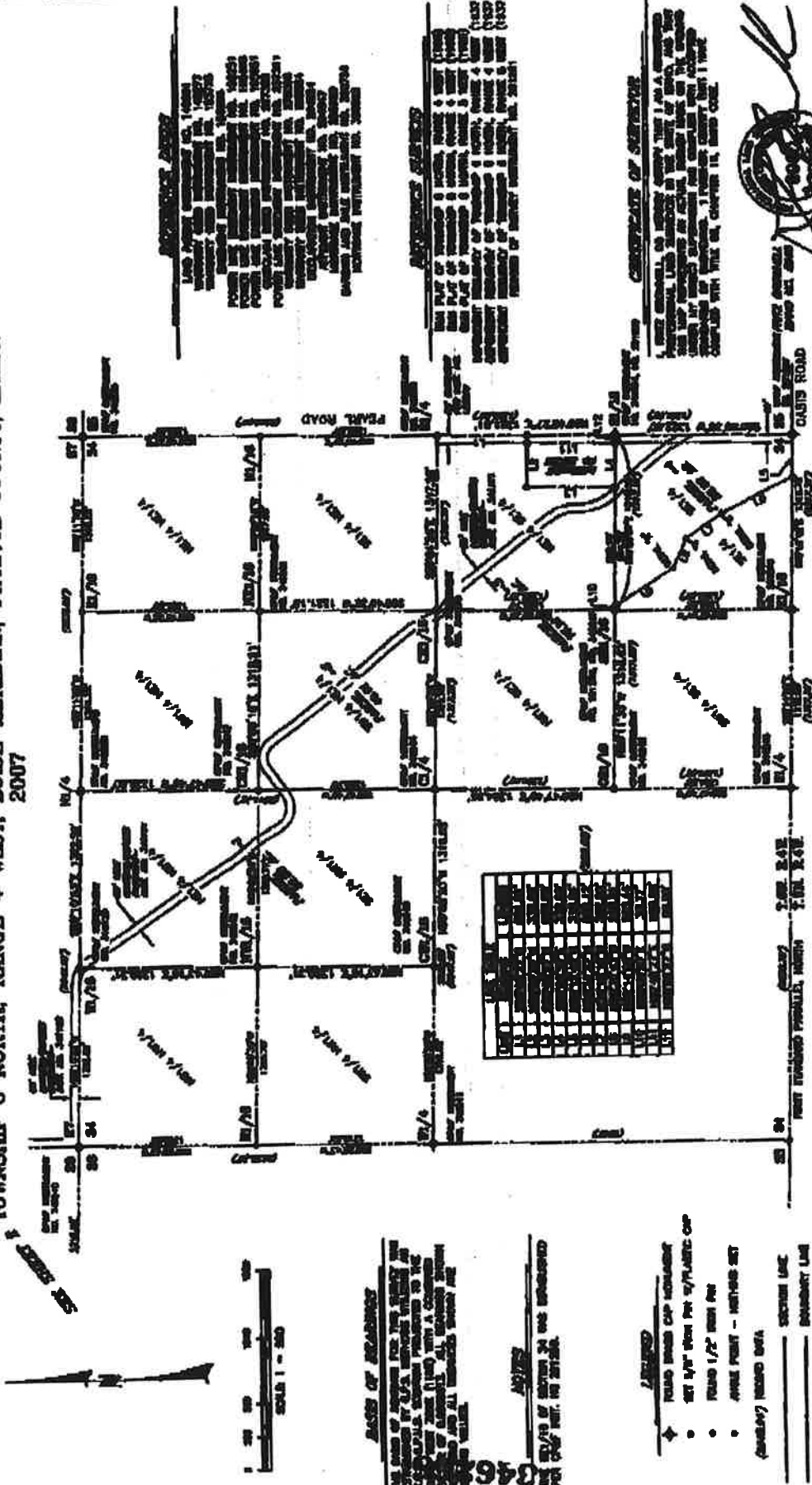
Sch. A - ALTA Commitment - Rocky Mountain
Form 1004-275 (Rev. 5/08)

Valid only if Schedule B and Cover are attached

Book 9 Page 39
192
346265

RECORD OF SURVEY

A PARCEL OF LAND SITUATED IN THE E1/2 OF THE NW1/4, THE SW1/4 OF THE NE1/4, THE NE1/2 OF THE SE1/4 AND A PORTION OF THE SE1/4 OF SECTION 34, TOWNSHIP 6 NORTH, RANGE 4 WEST, BOISE MERIDIAN, PAYETTE COUNTY, IDAHO. 2007



NOTES

THE LAND OF RECORD FOR THE E1/2 OF THE NW1/4, THE SW1/4 OF THE NE1/4, THE NE1/2 OF THE SE1/4 AND A PORTION OF THE SE1/4 OF SECTION 34, TOWNSHIP 6 NORTH, RANGE 4 WEST, BOISE MERIDIAN, PAYETTE COUNTY, IDAHO, WAS SURVEYED BY THE BOISE MERIDIAN, PAYETTE COUNTY, IDAHO, SURVEY NO. 346265, DATED 12/06/2007.

- FOUND BRASS CAP MONUMENT
- SET 1/4" IRON PIN 1/4" PLASTIC CAP
- FOUND 1/2" IRON PIN
- IRON POST - METAL SET

(SUNDAY) REAR DATA
SECTION LINE
BOUNDARY LINE
EASEMENT LINE
POWER LINE EASEMENT

Instrument # 346265
PAYETTE COUNTY
2007-01-06
Recorded for: TOWN OF BOISE
CITY OF BOISE
Bo-Office Recorder
Bo-Office Recorder
Bo-Office Recorder



FOR: SCOTT & SPANZ
TOWN OF BOISE
CITY OF BOISE

SURVEY INDEX NO. 346265-001

SHEET NO. 1 OF 2



Doc 9 Airc 3P 346265 3472

RECORD OF SURVEY

A PARCEL OF LAND SITUATED IN THE SE1/4 OF THE NW1/4, THE S1/2 OF THE NE1/4, THE E1/2 OF THE SW1/4, THE N1/2 OF THE SE1/4 AND THE SW1/4 OF THE SE1/4 OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 4 WEST, BOISE MERIDIAN, PAYETTE COUNTY, IDAHO.



FOR : SCYTHIA F. SPENCER

2012-2013 STUDENT LEADERSHIP

SURVEY INDEX NO. 94-20-02-20-002

LAB & TEST SERVICES
1-800-854-4444 • 800-854-4444 • 800-854-4444

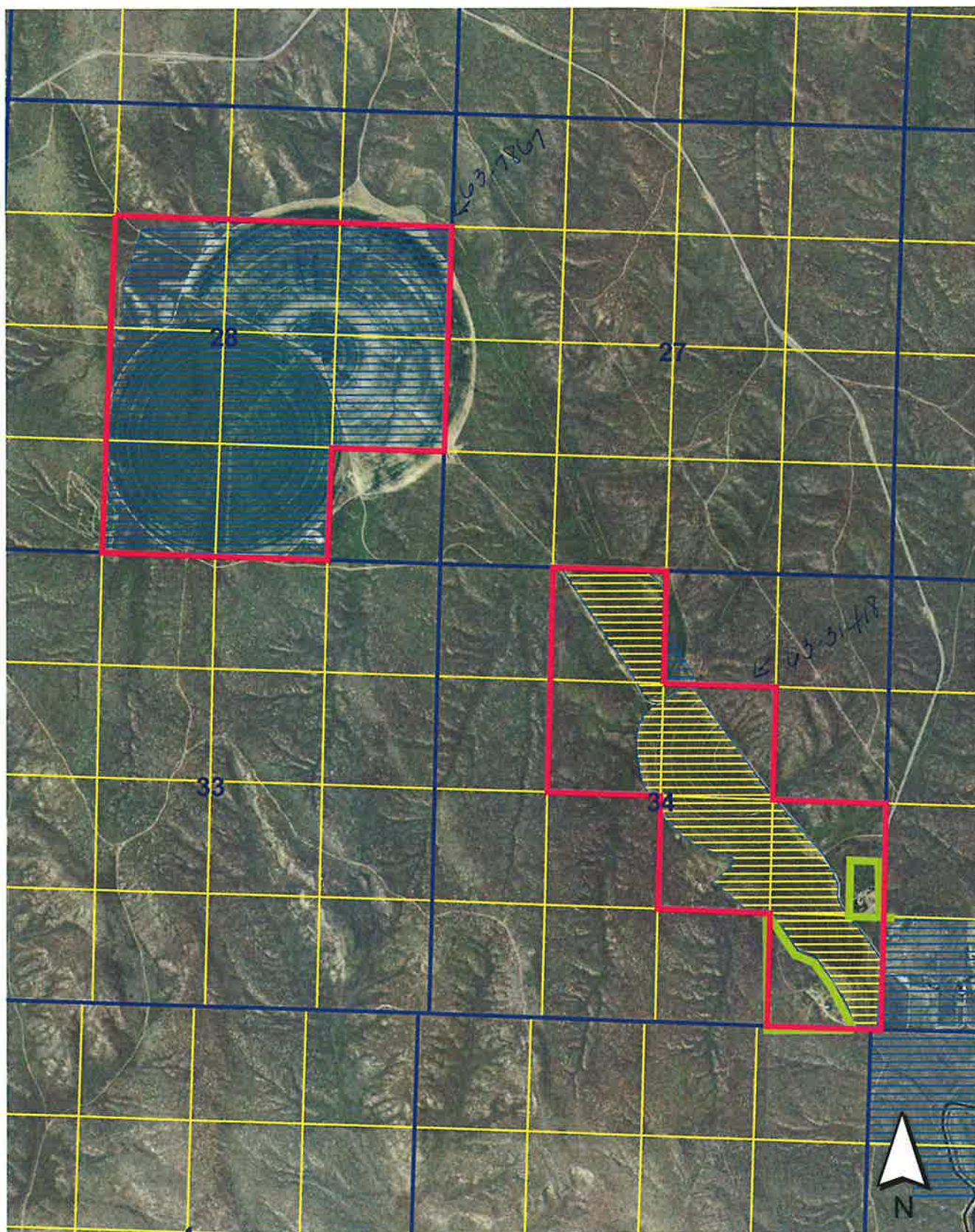
Ownership Change 63-31418

Roorda Dairy LLC

Pink = metes and bounds

Lt. Green = exceptions

Yellow = WR 63-31418



06/26/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31418

NAME AND ADDRESS: JOHN ROORDA
14040 WILLIS RD
CALDWELL ID 83607

LARRY ROORDA
14040 WILLIS RD
CALDWELL ID 83607

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 2.200 CFS
495.000 AFY

PRIORITY DATE: 03/28/1974

POINT OF DIVERSION:

T06N R04W S34 SENW Within PAYETTE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

2.200 CFS
495.00 AFY

The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION Within PAYETTE County

T06N R04W S34	SWNE	24.00	T06N R04W S34	NENW	14.50
T06N R04W S34	SENE	12.50	T06N R04W S34	NESE	18.00
T06N R04W S34	NWSE	23.00	T06N R04W S34	SESE	18.00

110 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right is a split from former right 63-7354.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31418 V1

WATER RIGHT NUMBER: 63-31418 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	ARTHUR L WILSON 4900 OASIS RD CALDWELL, ID 83605
Original Owner	JOSEPH W ROBERTS 15032 HOLLOW RD CALDWELL, ID 83605
Current Owner	JOHN ROORDA 14040 WILLIS RD CALDWELL, ID 83607 (208)454-5142
Current Owner	LARRY ROORDA 14040 WILLIS RD CALDWELL, ID 83607 (208)454-5142

Priority Date: 03/28/1974

Basis: License

Status: Active

SourceTributary

GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	2.200 CFS	495.00 AF
	<u>Total Diversion:</u>	2.200 CFS	495.00 AF

Location of Point(s) of Diversion

GROUND WATER	SE1/4NW1/4	Sec. 34, Twp 06N, Rge 04W, B.M.
PAYETTE County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	04W	34			24.0		14.5			12.5					18.0	23.0		18.0	110.0

Total Acres: 110

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31418 V1

Summary	4/23/2006 5:29:02 PM	scurtis	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture?
General	6/26/2006 10:41:49 AM	segbert	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POU	6/26/2006 10:42:57 AM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (No) 14. Is a POU remark and/or condition required?
Use	6/26/2006 10:43:35 AM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (No) 13. Is a Purpose of Use remark and/or condition required?
Quantity	6/26/2006 10:44:35 AM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (Yes) 8. Does the parent right have an annual diversion volume limit? (Yes) 10. Is a irrigation a purpose of use? (No) 12. Is a Quantity remark or condition required? Description for Question 10 - as licensed

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-31418

WATER RIGHT NUMBER: 63-31418

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	ARTHUR L WILSON 4900 OASIS RD CALDWELL, ID 83605
Original Owner	JOSEPH W ROBERTS 15032 HOLLOW RD CALDWELL, ID 83605
Current Owner	JOHN ROORDA 14040 WILLIS RD CALDWELL, ID 83607 (208)454-5142
Current Owner	LARRY ROORDA 14040 WILLIS RD CALDWELL, ID 83607 (208)454-5142

Priority Date: 03/28/1974 ✓

Basis: License ✓

Status: Active ✓

Source

GROUND WATER ✓

TributaryBeneficial Use ✓

IRRIGATION

From To

03/15 to 11/15 ✓

3-1

Diversion Rate

2.200 CFS ✓

Annual Volume

495.00 AF ✓

Total Diversion:

2.200 CFS

495.00 AF

Location of Point(s) of Diversion

GROUND WATER

SE1/4NW1/4

Sec. 34, Twp 06N, Rge 04W, B.M.

PAYETTE County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals		
06N	04W	34	24.0 ✓	14.5 ✓	12.5 ✓	18.0 ✓	23.0 ✓	18.0 ✓	110.0

Total Acres: 110

Conditions of Approval:

1. This claim is the result of a split due to change in ownership for a portion of 63-7354. DB 2/20/2002

Dates and Other Information:

Claim Received Date: 5/17/1990

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal: S

Owner Name Connector: OR

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

Mitigation Plan: False

Combined Use Limits:

Receipt Details for ID W012389

Status	Adjustment Type	Version
	Adjusted Receipt	1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
5/17/1990 11:05:08 AM	5/17/1990	Western	\$201.00	Check
Payer	WILSON, ARTHUR			

Account Information:

Check #	Account #	Credit Card Name	Authorization #
471			
Card Expiration Date	Credit Card Transaction #		

Comment ADJUDICATION CLAIM FEE**Fee Detail:**

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$201.00	ADJUDICATION CLAIM FEE	410162	9337	0	0	6490

Refund(s):

Amount	Payee	Date	Document Number
--------	-------	------	-----------------

Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
63	7354		\$201.00	Claim

[Print Report](#)

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-07354

Priority: March 28, 1974

Maximum Diversion Rate: 2.26 CFS
Maximum Diversion Volume: 508.5 AF

This is to certify, that JOSEPH W ROBERTS

15032 HOLLOW RD

CALDWELL ID 83605

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 29, 1970; and has submitted Proof of Beneficial Use on July 7, 1980. An examination indicates that the works have a diversion capacity of 2,300 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	2.26 CFS	508.5 AF

LOCATION OF POINT(S) OF DIVERSION:

SENEW, Sec. 34, Township 06N, Range 04W
PAYETTE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
06N	04W	34	NWNE 3	SWNE 24	NENE 14.5	
			SENE 12.5	NESE 18	NWSE 23	
			SESE 18			113

Total number of acres irrigated: 113

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount that can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.

DEC 11 1991

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-07354

This license is issued pursuant to the provisions of Section 42-219, Idaho Code,
Witness the seal and signature of the Director, affixed at Boise, this 27TH
day of NOVEMBER, 1991.

Acting for


R. Keith Higginson, Director

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
FEB 19 1991

A. GENERAL INFORMATION

1. Owner: JOE ROBERTS Permit No. 63-7354
Current Address: 15032 HOLLOW RD. CALDWELL, ID 83605 Phone No. 459-2022
2. Accompanied by: SAME EXAM. DATE: 7-26-90
Address: _____ Phone No. _____
Relationship to Permit Holder: OWNER (NOW PURCHASING PROPERTY) * See remarks
3. Source: GROUNDWATER tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE ☐ Copies Attached
2. Other water rights with same point of diversion: NONE ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached

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Scale: 1" = _____

2. ☐ Copy of U.S.G.S. Quadrangle Attached ☐ Aerial Photo Attached
Showing location(s) of point(s) of diversion and (required for irrigation of 10 acres or more).
place(s) of use (required).
☐ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater).

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

THE SYSTEM IS A WELL DELIVERING WATER TO HAND LINES THROUGH A 6" BURIED MAINLINE & 4" BURIED BRANCH LINES. 3" HAND LINES ARE USED TO IRRIGATE THE P/U.

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	US ELECTRICAL	75	R-6327-03-309 R2117067 C		
				LYNNE BOWLER	44727
BOOSTER	ALLIS-CHALMERS	50	51-411-522-662		
				MONARA, CH	0546P3

*Code to correspond with No. on map and aerial photo

END

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SE	NW	34	6N	4W	CANYON	AERIAL PHOTO

6. **Place(s) of Use:**

Indicate Method of Determination AERIAL PHOTO

Twp.	Rge.	Sec.	NE¼				NW¼				SW¼				SE¼				Totals	
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼		
6N	4W	34		3 ⁺	24				145				125				18	23	18	✓113

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Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements:

NO MEASUREMENT MADE SEE ATTACHMENT FOR
IRRIGATION RIGHT FROM A GROUND WATER SOURCE.
CALCULATIONS.

E. FLOW CALCULATIONS

☒ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3); Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 113 \times 4.5 = 508.5$

$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \text{SEE ATTACHMENT}$

$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

DEC 11 1991

H. REMARKS AND OVERLAP REVIEW ANALYSIS

NO OVERLAP FOUND (ISALATED ACRES)

PERMIT IS FOR IRRIGATION OF 240A @ 4.8 CFS

FEES PAID FOR:

3.0 CFS MAX

FOUND IRRIGATION OF 113A

2.3 CFS (THEORETICAL)

calculated

2.26 CFS allowable

lowest theoretical rate exceeds allowable rate, so recommend allowable rate. System capacity exceeds volume requirement

* ownership note: permit holder of record (Mikesell) foreclosed on by original owner (Wilson) who is selling to Joe Roberts. I find no assignment back to Wilson, or to Roberts. Refer to permit processing memo #10?
permits (vested rights considered real property)

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<u>IRRIGATION</u>	<u>3-1</u>	<u>11-15</u>	<u>N/A 2.26</u>	<u>508.5</u>
Totals:			<u>→ 2.26</u>	<u>→ 508.5</u>

2. Recommended Amendments

☐ Change P.D. as reflected above

☐ Add P.D. as reflected above

☐ None

☒ Change P.U. as reflected above

☐ Add P.U. as reflected above

☐ Other

J. AUTHENTICATION

Field Examiner's Name

KELLY K. CHRISTENSEN

Signature

Kelly K. Christensen

Certification Date

10-22-90

Field Report Preparation Date

10-22-90



K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

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Department of Water Resources

WELL INSPECTION FORM

If well is associated with water right, provide WR# 63-7354

Otherwise provide legal description and a sketch map and/or address so that the well can be located easily.

1. Legal Description: TWP____, Rge____, Sec.____, ____1/4____1/4
or Lot____.
2. Owner: JOE ROBERTS
Address____, City____, St____
3. Casing $\geq$ 12 inches above ground: Yes____ No____
4. Access Port: Yes ☒ No____ Static Water Level: 190
Pressure Gauge: Yes____ No ☒ Casing Diameter: -
Flowing: Yes____ No ☒ Temperature: _____
5. Are there any obvious construction problems that may be a
source for contamination or waste of water: Yes ☒ No____

If answer to Item 5 is Yes, describe in remarks and attach photo.

Remarks: THE PUMP CASE DID NOT COVER
THE CASING OPENING. I NOTIFIED ROB-W. HETNEY
(IDWR) ABOUT THE PROBLEM

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1937 FLIGHT

PICTURE # 1 & 2
LOCATION

PICTURE # 3 & 4
LOCATION

6" LINE (BURIED)

4" LINE

6" LINE

G/2

Not to Scale

11 1991

Permit No. 63-7354

IRRIGATION RIGHT FROM A GROUND WATER SOURCE

A theoretical calculation is necessary to determine if a measurement is required for irrigation from a groundwater source.

=====

1. Using the found acres (or an estimate by the permit holder) calculate the acre-foot per annum limit. This is the volume that the system must be able to theoretically produce to exclude a rate of flow measurement.
2. Next, given the pump hp and the estimated dynamic water level, calculate the theoretical rate of flow that the system can produce.
3. Using the rate found in step 2 and the days in the permitted irrigation season, calculate the theoretical AFA that the system could produce. This volume is then compared to the first AFA calculation. If the theoretical volume (step 3) is greater than the irrigation requirement volume (step 1) then no measurement is necessary. If it is less, then you must make a diversion rate measurement during the field examination.

Phone call.

$$1. \quad \frac{150}{\text{Found Acres}} * \frac{4.5}{\text{Irr. Req.}} = \frac{675}{\text{AFA}} \quad \text{both rates exceed allowable}$$

$$2. \quad \frac{(125) \text{ HP} * 8.8 * (.7) \text{ EFF}}{(190) \text{ Dyn Level} + (2.3 * [60] \text{ PSI})} = \frac{2.3 \text{ CFS} (2.6 \text{ cfs})}{\text{Theor. Div. Rate}}$$

3. old field report, incomplete, from 1980 States bows set at this depth.

$$\frac{(2.6) 2.3}{\text{Theoretical Div. Rate}} * \frac{229}{\text{Days in season}} * 1.9835 = \frac{1066}{\text{AFA}} \quad (1180)$$

Note: for electrical motors
EFF = 0.70
for diesel motors
EFF = 0.60

Data Requires Verification ☐
Measurement Required -- ☐
Measurement Not Required ☒

Calculation data sources:

Found acres = 113 - from field report
HP = same
Dyn Level = 190
PSI = using 60 for irrigation system

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PERMIT 63-7354

PICTURE # 1

This picture shows the well and the mainline running to the booster pump. The picture is looking southwest.



PICTURE # 2

This picture shows the booster pump, the mainline going underground and one of the handlines operating. This photo is looking south.

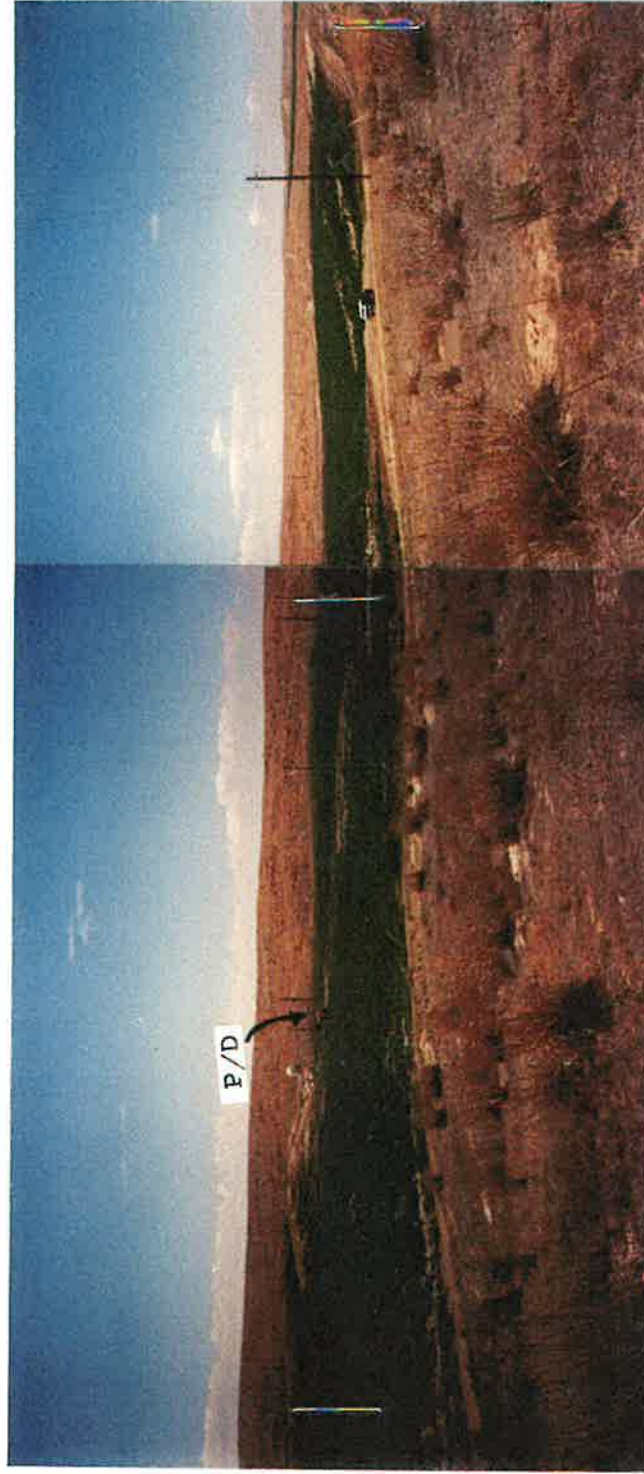


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PERMIT 63-7354

PICTURE # 3

This picture set shows the P/D and the field that runs north. The thin green line near the horizon on the right side of this set is not a part of the P/U. The left side is looking west and the right side is looking northwest.



PERMIT 63-7354

PICTURE # 4

This picture was taken from the same general spot as picture set # 3 but it is looking south. This perspective shows the long narrow aspect of the P/U.



PICTURE # 5

This picture is looking northwest and shows the main field to the left and a portion of the small 8.3 acre field to the right. See the aerial photo for the field identifications.



FILED
1991

USE TYPEWRITER OR
BALL POINT PEN

State of Idaho
Department of Reclamation

WELL DRILLER'S REPORT

State law requires that this report be filed with the State Engineer
within 30 days after completion of the well.

1. WELL OWNER

Name _____

Address _____

Owner's Permit No. 637004

7. WATER LEVEL

Static water level _____

Water table (static) _____

Flowing? ☐ Yes ☒ No G.P.M. _____

Temperature _____ Quality _____

Artesian character: pressure _____

Controlled by ☐ Valve ☐ Cap ☐ Plug

2. NATURE OF WORK

☒ New Well ☐ Deepened ☒ Replacement

☐ Abandoned (describe method of abandoning) _____

8. WELL TEST DATA

☐ Pump ☒ Bail ☐ Other _____

Discharge G.P.M. _____ Draw Down _____ Hours Pumped _____

3. PROPOSED USE

☐ Domestic ☒ Irrigation ☐ Test

☐ Municipal ☐ Industrial ☐ Stock

4. METHOD DRILLED

☐ Cable ☒ Rotary ☐ Dug ☐ Other REVERSE

5. WELL CONSTRUCTION

Diameter of hole 29 inches Total depth 311 feet

Casing schedule: ☒ Steel ☐ Concrete

Thickness	Diameter	From	To
<u>1/2</u> inches	<u>29</u> inches	<u>0</u> feet	<u>150</u> feet
<u>3/4</u> inches	<u>29</u> inches	<u>150</u> feet	<u>311</u> feet
_____ inches	_____ inches	_____ feet	_____ feet
_____ inches	_____ inches	_____ feet	_____ feet

Was a packer or seal used? ☐ Yes ☒ No

Perforated? ☐ Yes ☒ No

How perforated? ☐ Factory ☐ Knife ☐ Torch

Size of perforation _____ inches by _____ inches

Number	From	To
<u>100</u> perforations	<u>150</u> feet	<u>150</u> feet
<u>200</u> perforations	<u>200</u> feet	<u>311</u> feet
_____ perforations	_____ feet	_____ feet

Well screen installed? ☐ Yes ☒ No

Manufacturer's name _____

Type _____ Model No. _____

Diameter _____ Slot size _____ Set from _____ feet to _____ feet

Diameter _____ Slot size _____ Set from _____ feet to _____ feet

Gravel packed? ☒ Yes ☐ No Size of gravel 3/4 inch

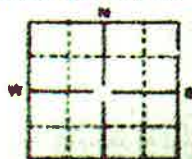
Placed from 0 feet to 311 feet

Surface seal? ☒ Yes ☐ No To what depth 18 feet

Material used in seal ☒ Cement grout ☐ Pudding clay

6. LOCATION OF WELL

Sketch map location must agree with written location.



County _____

10.

Work started March 9 finished March 17/66

11. DRILLER'S CERTIFICATION

This well was drilled under my supervision and this report is true to the best of my knowledge.

COPIES DESTROYED AND PURCHASED

John Thomas Peterson



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 20, 2002

JOHN ROORDA
LARRY ROORDA
14040 WILLIS RD
CALDWELL ID 83607

Re: Original Notice of Claim to a Water Right No. 63-07354

Renumbered Notice of Claim to a Water Right No. 63-31418

Dear Claimants:

We have received and processed a Change of Ownership for a portion of the original Claim to a Water Right Number as referenced above. This Change of Ownership required a split of the original claim resulting in renumbering this claim, using a new water right number to represent each split. The new Notice of Claim to a Water Right number for your portion is referenced above and a copy is enclosed.

Your portion of this claim has a specified point of diversion, nature of use and place of use. If you plan on changing the nature of use, place of use, or point of diversion under this right, including adding a new point of diversion, then an Application for Transfer on your portion of this right is required. Please contact this office for further information on the Application for Transfer form. If you do not plan on changing any items on your claim, then no further action is required at this time. You will be notified of any future action taken on this claim. Also enclosed is a copy of the original claim for your reference.

Please feel free to contact this office if you have any questions concerning your claim or this letter.

Sincerely,

Denise Buffington
Office Specialist 1
Adjudication Section
Western Region

DB: db

Enclosure

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31418

NAME AND ADDRESS: BASIN AND RANGE RESOURCE COMPANY LLC
3480 G S RICHARDS BLVD #101
CARSON CITY NV 89703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 2.40 CFS ~~2.34~~
540.00 AFY ~~526.5~~

~~This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.~~

PRIORITY DATE: 03/28/1974

POINT OF DIVERSION:

T06N R04W S34 SENW Within PAYETTE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	<u>2.40 CFS</u> ~~2.34~~ <u>540.00 AFY</u> ~~526.50~~

The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in PAYETTE County

T06N R04W S34	SWNE	24.00	T06N R04W S34	NENW	<u>15.80</u>	~~14.50~~	
T06N R04W S34	SENE	12.50	T06N R04W S34	NESE	<u>25.30</u>	~~25.00~~	
T06N R04W S34	NWSE	<u>23.60</u>	~~23.00~~	T06N R04W S34	SESE	<u>18.80</u>	~~18.00~~

120 ACRES TOTAL ~~117 TOTAL ACRES~~

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

~~This right is subject to all prior water rights and may be forfeited by five years of non-use.~~

~~The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.~~

This right is a split from former right 63-7354.

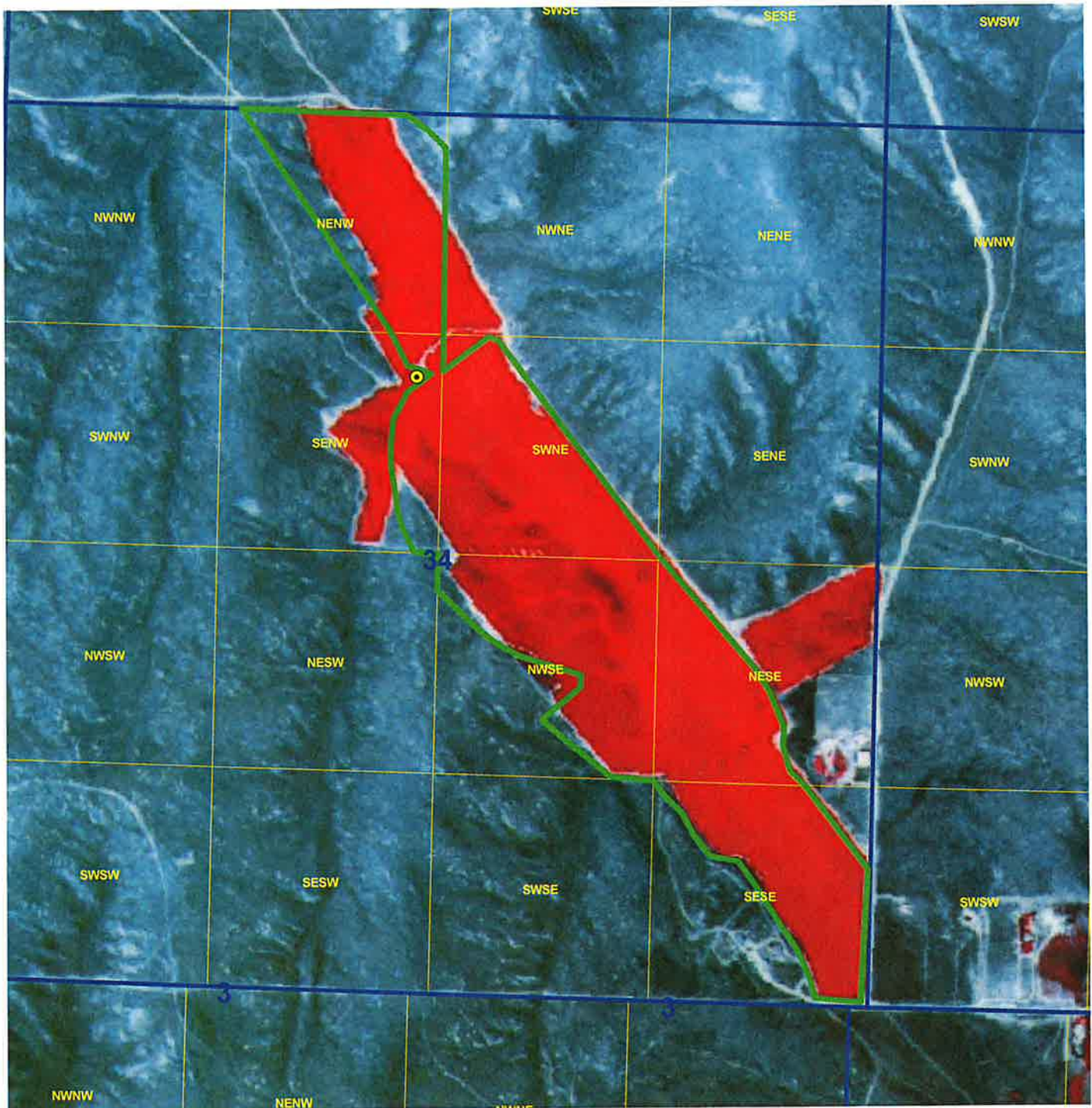
~~Modifications to or variance from this license must be made with the limits of Section 42-222, Idaho Code, or the applicable Idaho law.~~



Idaho Department of Water Resources

63-31418

T06N R04W S34



- ⊙ Point of Diversion
- ▭ Place of Use
- ▭ Sections
- ▭ Quarter Quarter

Total irrigated
acres = 110.0



600 0 600 Feet

IDWR
Prepared by: Sandy Egbert
Date: June 26, 2006
1987 NAAP Photography

IDWR will hold off on filing NCAP for the amended license issued 11-8-08 until Dana confer w/BLM on the 3 acres of BLM land - wants to transfer them.
Shurte, Jan

From: Spencer, Nick
Sent: Tuesday, April 28, 2009 9:09 AM
To: Shurte, Jan
Cc: Williams, Ray
Subject: RE: Basin Range & Resource (63-7354, 31417 & 31418)

Status Conf. for 7-7-09

Hi Jan. Since Sandy has pretty much moved onto other things I suspect you have inherited these even though you don't know it yet. Anyway, I slept on it overnight, and have come up with a solution to propose to Dana Hofstetter and the BLM: we [by which I mean probably you] do an NCAP on the amended license, recommending all but the three overlap acres to Basin Range and Resource, and the three overlap acres to BLM. BLM cuts a side deal with Dana that she can transfer the BLM right onto other Basin Range and Resource acres (assuming Basin has some acres without a water right) and then BLM conveys the three acre right to Basin. The BLM has done this before. What do you think?

From: Shurte, Jan
Sent: Tuesday, April 28, 2009 9:02 AM
To: Spencer, Nick
Subject: RE: Basin Range & Resource (63-7354, 31417 & 31418)

Sorry Ray & Nick – I saw Basin Range & Resource and did not look at the numbers, so I assumed it was the ones I had received from Vicky in our transition. Actually, 63-7354(parent), 63-31417 & 63-31418 are Sandy Egbert's and I have not yet got these. I guess someone was working with her on them. Forget about the transfer stuff and everything I said prior to this because it is on a big bunch of Basin Range & Resource ones. Let me know if I need to help.

Jan

From: Spencer, Nick
Sent: Monday, April 27, 2009 5:08 PM
To: Williams, Ray; Shurte, Jan
Subject: RE: Basin Range & Resource (63-7354, 31417 & 31418)

I am not following what you guys are saying about a transfer. I don't see anything about any transfers in the legal files. The problem here is three acres of BLM ground that was not claimed in the SRBA, but was recommended because it was included in the license. When the water right changed ownership, we determined that the deed could not convey to the new owner (Roorda?) the three acres on BLM ground, so we split the right, putting the bulk of it in the name of the new owner and leaving the three acres in the name of the old owner (Roberts). The BLM subsequently objected to the recommendation of the three acres to the old owner, and entered into an SF-5 whereby the old owner withdrew his nonexistent claim to the three acres. Then along came Dana on behalf of Basin Range and Resource, the successor in interest, I think, to Roorda and Roberts both. Dana wants to get the three acres in Basin Range and Resource's name so that she can transfer that piece of the right someplace else. Anyway, Ted discovered that the three acres had never been claimed in the SRBA, and in essence directed IDWR to file an Amended Director's report deleting any unclaimed acres. Therefore we filed ADRs disallowing the splits, and re-recommended the right under the original license number, but deleting from the licensed POU the three acres of BLM ground that had not been claimed. Dana didn't like that, and objected.

In the meantime, Dana contended that when the license was issued it failed to include in the POU about eight irrigated acres. (This is a different piece than the three acres on BLM ground.) To get it back into the license she filed a petition with IDWR seeking correction of the license. Spackman basically agreed with her that the field examiner had overlooked the parcel in question, so he issued an amended license adding in seven of the eight acres in question and increasing diversion rate and volume accordingly. He also included in the POU of the amended license the three BLM acres! And, noting that ownership of the license was being determined in the SRBA, he left the whole thing in the name of the old owner, Roberts! So... what do we do now? Do we have Basin Range and Resource file a new change of ownership? Do we split the right between Basin Range and Resource and Roberts based on the prior change of ownership, leaving the three acres in Roberts' name even though he apparently never claimed them? I have no idea. It gives me a headache. Fortunately the BLM has stayed a party, so maybe David Negri will have some ideas. Any ideas either of you have would be much appreciated. If there are additional complexities involving transfers that I am not aware of, by all means let me know what those are all about! Thanks. NBS

Shurte, Jan

From: Spencer, Nick
Sent: Thursday, June 04, 2009 5:28 PM
To: Williams, Ray; Shurte, Jan
Subject: FW: 63-07354 and 63-31417 (Basin Range and Resource)

Fred raises a valid point. While we are bound by the corrected license, which put back into the POU descriptions the two irrigated acres on BLM ground, are we not also bound by the SF-5 IDWR signed, which could be construed as a concurrence to the former owner's relinquishment of any claim to the two acres? Have we filed a new NCAP with the court since Gary Spackman issued the corrected license? If not, does either of you see any reason why we could not simply delete the two BLM acres from the POU in the NCAP on the basis that the SF-5 we signed requires us to do so? Dana would squawk, since she wants those two acres so she can transfer them someplace else, but to do anything about it she would have to file an objection to the NCAP. The U.S. could then file a response to her objection, and that would frame the issue for SM Booth to decide the fate of the two acres. What do you think? NBS

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

From: Fredric_Price@blm.gov [mailto:Fredric_Price@blm.gov]
Sent: Thursday, June 04, 2009 4:11 PM
To: Spencer, Nick
Cc: david.negri@usdoj.gov
Subject: Fw: 63-07354 and 63-31417 (Basin Range and Resource)

Nick,

RE: 63-07354, 63-31417, Basin & Range Resources

I just realized that IDWR has two separate bureaus (administrative & adjudication). Basin & Range's administrative petition didn't request that BLM land be put back onto the license. It only asked IDWR to consider whether 8.0 acres on private land were mistakenly left off the original license. There is no reason for me to assume that a future NCAP would put the BLM POU back into the mix, as the original parties disposed of the BLM POU by SF-5. The SF-5 is binding on the parties and IDWR.

Fred

"Spencer, Nick"
<Nick.Spencer@idwr.idaho.gov>

05/19/2009 05:08 PM

<Fredric_Price@blm.gov>

<david.negri@usdoj.gov>

To

cc

Subject

63-7354 and 63-31417 (Basin Range and Resource)

Hi Fred. I have been pondering the points you raised in your recent voicemail to me. I really think you ought to discuss them with David. I am not aware of any instances in the past where a third party has filed a petition with allocations to change a transfer (or was the administrative proceeding in this case a license? I don't remember), but that doesn't mean it hasn't happened. I think there likely is a question about whether the U.S. would have standing to seek relief that way, but I suppose you could argue that the U.S. does because it is being injured by the place of use description in the transfer/license including federal ground. I think a question that might arise is why did the U.S. not file a protest in the first place? One thing I am pretty confident of is that if you filed a petition with IDWR Dana would vigorously oppose it because it is pretty clear she wants those acres in the transfer/license so she can move them to some other ground owned by her client. That being the case, I wonder if the simplest solution might not be simply to enter into an agreement to split the rights, put the portion on federal ground into the United States' name, and then let Dana file a transfer to move that portion off of federal ground. You guys have done that on a number of prior occasions; why not in this case too? But, in any event, since I am not your lawyer I cannot give you legal advice. David clearly understands things from the federal perspective much better than I do, and he is the guy in the best position for you to talk this through with. NBS

Shurte, Jan

From: Shurte, Jan
Sent: Friday, June 26, 2009 10:35 AM
To: Spencer, Nick; Williams, Ray
Subject: RE: 63-07354 and 63-31417 (Basin Range and Resource)

Ok, will do. Jan

From: Spencer, Nick
Sent: Friday, June 26, 2009 10:04 AM
To: Williams, Ray; Shurte, Jan
Subject: RE: 63-07354 and 63-31417 (Basin Range and Resource)

Yes, before we take this course of action I want to give the SM and the parties advance notice of what we're planning on doing and why. Therefore I intend to give them a verbal update at the July 7 status conference. NBS

From: Williams, Ray
Sent: Friday, June 26, 2009 9:30 AM
To: Shurte, Jan
Cc: Spencer, Nick
Subject: RE: 63-07354 and 63-31417 (Basin Range and Resource)

Hi, Jan -

I was looking at Nick's notes from the last status conference. The notes indicate that IDWR will hold off from issuing an NCAP until after the next status conference (coming up on July 7). If Lori hasn't sent off the NCAP yet, maybe we better hold off on it until we get the "go ahead" from Nick.

Thanks!

Ray

From: Shurte, Jan
Sent: Tuesday, June 23, 2009 8:55 AM
To: Williams, Ray; Spencer, Nick
Subject: RE: 63-07354 and 63-31417 (Basin Range and Resource)

I don't know if I ever responded to this but these files have been on my desk and I finally dug through them to remember why. I agree with Ray, I'm going to have Lori do an NCAP and take out the 3 acres, then Dana can object to our NCAP or whatever it is and the US can do whatever they do and the SRBA Court can decide if we have seceded from the other half of the Department or not and through us in jail. We are lonely adjudication folks out here and we make our own rules. Right! (By the way, watch out for me today). Jan

From: Williams, Ray
Sent: Thursday, June 04, 2009 7:02 PM
To: Spencer, Nick; Shurte, Jan
Subject: RE: 63-07354 and 63-31417 (Basin Range and Resource)

I think Fred does make a good point. I would think that IDWR is bound by the SF5, and it seems like this would be a good way to at least whittle it down. I will check to see if an NCAP has been filed (I think Jan is out). As you said, it would frame the issue for SM Booth if Dana objects to the NCAP and the BLM responds. The parties can fight it out over the two acres - there wouldn't be a lot for us to do.

6/26/2009

From: Spencer, Nick
Sent: Thu 6/4/2009 5:27 PM
To: Williams, Ray; Shurte, Jan
Subject: FW: 63-07354 and 63-31417 (Basin Range and Resource)

Fred raises a valid point. While we are bound by the corrected license, which put back into the POU descriptions the two irrigated acres on BLM ground, are we not also bound by the SF-5 IDWR signed, which could be construed as a concurrence to the former owner's relinquishment of any claim to the two acres? Have we filed a new NCAP with the court since Gary Spackman issued the corrected license? If not, does either of you see any reason why we could not simply delete the two BLM acres from the POU in the NCAP on the basis that the SF-5 we signed requires us to do so? Dana would squawk, since she wants those two acres so she can transfer them someplace else, but to do anything about it she would have to file an objection to the NCAP. The U.S. could then file a response to her objection, and that would frame the issue for SM Booth to decide the fate of the two acres. What do you think? NBS

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

From: Fredric_Price@blm.gov [mailto:Fredric_Price@blm.gov]
Sent: Thursday, June 04, 2009 4:11 PM
To: Spencer, Nick
Cc: david.negri@usdoj.gov
Subject: Fw: 63-07354 and 63-31417 (Basin Range and Resource)

Nick,

RE: 63-07354, 63-31417, Basin & Range Resources

I just realized that IDWR has two separate bureaus (administrative & adjudication). Basin & Range's administrative petition didn't request that BLM land be put back onto the license. It only asked IDWR to consider whether 8.0 acres on private land were mistakenly left off the original license. There is no reason for me to assume that a future NCAP would put the BLM POU back into the mix, as the original parties disposed of the BLM POU by SF-5. The SF-5 is binding on the parties and IDWR.

Fred

"Spencer, Nick"
<Nick.Spencer@idwr.idaho.gov>
To
<Fredric_Price@blm.gov>
05/19/2009 05:08 PM cc
<david.negri@usdoj.gov>
Subject
63-7354 and 63-31417 (Basin Range
and Resource)

Hi Fred. I have been pondering the points you raised in your recent voicemail to me. I really think you ought to discuss them with David. I am not aware of any instances in the past where a third party has filed a petition with allocations to change a transfer (or was the administrative proceeding in this case a license? I don't remember), but that doesn't mean it hasn't happened. I think there likely is a question about whether the U.S. would have standing to seek relief that way, but I suppose you could argue that the U.S. does

6/26/2009

because it is being injured by the place of use description in the transfer/license including federal ground. I think a question that might arise is why did the U.S. not file a protest in the first place? One thing I am pretty confident of is that if you filed a petition with IDWR Dana would vigorously oppose it because it is pretty clear she wants those acres in the transfer/license so she can move them to some other ground owned by her client. That being the case, I wonder if the simplest solution might not be simply to enter into an agreement to split the rights, put the portion on federal ground into the United States' name, and then let Dana file a transfer to move that portion off of federal ground. You guys have done that on a number of prior occasions; why not in this case too? But, in any event, since I am not your lawyer I cannot give you legal advice. David clearly understands things from the federal perspective much better than I do, and he is the guy in the best position for you to talk this through with. NBS

6/26/2009

Shurte, Jan

From: Spencer, Nick
Sent: Thursday, June 04, 2009 5:28 PM
To: Williams, Ray; Shurte, Jan
Subject: FW: 63-07354 and 63-31417 (Basin Range and Resource)

Fred raises a valid point. While we are bound by the corrected license, which put back into the POU descriptions the two irrigated acres on BLM ground, are we not also bound by the SF-5 IDWR signed, which could be construed as a concurrence to the former owner's relinquishment of any claim to the two acres? Have we filed a new NCAP with the court since Gary Spackman issued the corrected license? If not, does either of you see any reason why we could not simply delete the two BLM acres from the POU in the NCAP on the basis that the SF-5 we signed requires us to do so? Dana would squawk, since she wants those two acres so she can transfer them someplace else, but to do anything about it she would have to file an objection to the NCAP. The U.S. could then file a response to her objection, and that would frame the issue for SM Booth to decide the fate of the two acres. What do you think? NBS

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Subject: Fw: 63-07354 and 63-31417 (Basin Range and Resource)

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Fred

"Spencer, Nick"
<Nick.Spencer@idwr.idaho.gov>

05/19/2009 05:08 PM

<Fredric_Price@blm.gov>

<david.negri@usdoj.gov>

To

cc

Subject

63-7354 and 63-31417 (Basin Range and Resource)

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*Int Draft to Gori
on 3/9/10*

5F5

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-31418

NAME AND ADDRESS: BASIN AND RANGE RESOURCE COMPANY LLC
3480 G S RICHARDS BLVD #101
CARSON CITY NV 89703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: ~~2.340 CFS~~ → *2.4*
~~526.500 AFY~~ *540*

~~This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.~~

PRIORITY DATE: 03/28/1974

POINT OF DIVERSION:

T06N R04W S34 SENW Within PAYETTE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

2.4
~~2.340 CFS~~

~~526.50 AFY~~ *540*

The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in PAYETTE County

T06N R04W S34	SWNE	24.00 ✓	T06N R04W S34	NENW	~~14.50~~ <i>15.8</i>
T06N R04W S34	SENE	12.50 ✓	T06N R04W S34	NESE	~~25.00~~ <i>25.3</i>
T06N R04W S34	NWSE	~~23.00~~ <i>23.6</i>	T06N R04W S34	SESE	~~18.00~~ <i>18.8</i>

~~117~~ ACRES TOTAL *120*

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

~~This right is subject to all prior water rights and may be forfeited by five years of non-use.~~

delete

The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.

This right is a split from former right 63-7354.

Modifications to or variance from this license must be made with the limits of Section 42-222, Idaho Code, or the applicable Idaho law.

NBS NOTES REGARDING BASIN RANGE AND RESOURCE SUBCASES (63-31417 AND 63-31418) ARISING FROM 11-10-09 TELEPHONE STATUS CONFERENCE

Dana wants IDWR to find three additional acres, not on BLM ground, within the POU of the licensed right, to recommend as an accomplished transfer. IDWR would do this by using current GIS technology on the 1987 aerial photograph to see if it could find small areas of irrigated ground missed by the earlier licensure field exam, which used a less technologically precise methodology to determine the number of acres in the POU. IDWR has used GIS technology thousands of times in determining acreage to recommend in the SRBA. (That is, it uses 21st century technology to make a determination of what the place of use was in 1987.)

Additionally, the preliminary order amending the license, issued on Nov. 5, 2008, does have language indicating that its issuance does not preclude further review in the SRBA.

PROBLEMS WITH DOING THIS:

Dana wants us to use the accomplished transfer statute to recognize the three additional acres in the POU. However, for the accomplished transfer statute to be applicable, the change had to occur prior to commencement of the SRBA (Nov. 19, 1987). Here this could not be possible because the licensure field exam took place in 1990. Therefore any acres that were “moved” per accomplished transfer would have been picked up by the license examiner and reflected in the license that was issued in 1991. Moreover, the question of how many acres were in the POU was revisited and redetermined in the amended license issued on Nov. 5, 2008. Therefore how could IDWR ignore that determination? Even if IDWR could use the accomplished transfer statute to revisit the license and the amended license issued on Nov. 5, 2008, the language allowing this in the order amending the license limits this revisitation to events that occurred after the original license was issued in 1991. The language in question reads: *In the ongoing SRBA, issuance of this order and the amended license should not preclude the opportunity to review the right with respect to events in the years since 1991 and to determine the elements of the right accordingly.*

OTHER PROBLEMS TO ADDRESS IN THESE SUBCASES

By including three acres on BLM ground the license was in error from the very beginning since irrespective of whether the license purported to recognize the acres it could not legally have done so since the license holder could not have established a water right in trespass on federal ground. Therefore there always were three too many acres included in the POU of the license, and, unfortunately, this error was not corrected in the amended license issued on Nov. 5, 2008. Therefore the three acres Dana wants recognized through the accomplished transfer statute should not have been included in the first place, and, technically, a water right to irrigate them does not exist—so they could not be transferred in any event.

However, is this a case where advanced technology ought to be used to bring the licensed number of acres into synch with what can be justified on the ground—that is, by using GIS to find additional slivers of irrigated ground, and increasing the POU by three acres is not IDWR correcting the error (three acres of POU erroneously listed on federal ground) while recognizing the binding effect of the license per the Fish Facility Volume case (i.e. keeping the number of acres and thereby the quantity, in synch with that the license and amended license say on their face)? By doing this, would IDWR not be trying to correct the legal description of the POU in order to honor and uphold the overall POU and quantity determination contained in the Nov. 5, 2008 license? Would not IDWR in effect be using modern technology to rectify discrepancies in the license and amended license that were based not on the limits of the technology of the time, but rather were grounded in IDWR's lack of knowledge that three irrigated acres were on land not owned by the permit holder?

If IDWR takes this approach, does that put sideboards on the “slippery slope” concerns that if IDWR applies technological advances to change licenses it has to change all licenses on request every time there is another technological advance? The argument to make counter to that concern is that in the present case IDWR is using the advanced technology not to “change” a license per se but to confirm the license's quantity and acreage totals by correcting an error that existed from the time the license was originally issued. In other words IDWR is correcting an error rather than simply updating the license based on more precise data.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

Phone: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

July 30, 2009

GARY SPACKMAN
Interim Director

BASIN AND RANGE RESOURCE COMPANY LLC
3480 G S RICHARDS BLVD #101
CARSON CITY NV 89703

Re: Water Right No. 63-7354

Renumbered to Water Right No. 63-31418

Dear Sir or Madam:

Enclosed is a copy of the Notice of Completed Administrative Procedure and pertinent water right(s) recently sent to the Snake River Basin Adjudication Court in Twin Falls. These documents are now required to be filed by the Department in order to notify the Court of any changes to your water right(s).

Please contact this office if you have any questions concerning this notification.

Sincerely,

A handwritten signature in cursive script that reads "Lori Harris".

Lori Harris
Technical Records Specialist 2
Adjudication Section
Western Region Office

JS:lh
Enclosures

cc: Dana Hofstetter

State of Idaho
Department of Water Resources

Amended

Water Right License

Amended

WATER RIGHT NO. 63-07354

Priority: March 28, 1974

Maximum Diversion Rate: 2.40 CFS
Maximum Diversion Volume: 540.0 AF

It is hereby certified that JOSEPH W ROBERTS
2724 S GOSHEN WAY
BOISE ID 83709-8506 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated July 29, 1970; and has
submitted Proof of Beneficial Use on July 7, 1980. An examination indicates that the works have a
diversion capacity of 2.60 cfs of water from:

SOURCE

GROUND WATER

and a water right has been established as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/15 to 11/15

DIVERSION RATE

2.40 CFS

ANNUAL
DIVERSION VOLUME
540.0 AF

LOCATION OF POINT(S) OF DIVERSION:GROUND WATER SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 34, Twp 06N, Rge 04W, B.M. PAYETTE County**PLACE OF USE:** IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	04W	34																	
			3.0	24.0			14.5				12.5				25.0	23.0		18.0	120.0

Total Acres: 120

CONDITIONS OF APPROVAL

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made with the limits of Section 42-222, Idaho Code, or the applicable Idaho law.

Amended

State of Idaho
Department of Water Resources
Water Right License

Amended

WATER RIGHT NO. 63-07354

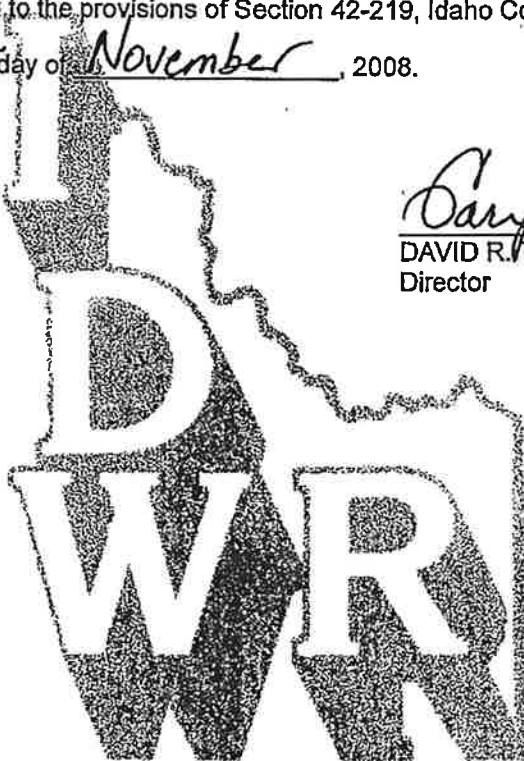
CONDITIONS OF APPROVAL CONTINUED

5. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.

Signed and sealed this 5th day of November, 2008.


DAVID R. TUTHILL, JR.
Director



BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF WATER RIGHT)
LICENSE NO. 63-7354)
_____)

**PRELIMINARY ORDER
CORRECTING LICENSE**

This matter having come before the Department of Water Resources (Department) as a result of the filing of a petition to correct a water right license, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On December 27, 1991, the Department issued Water Right License 63-7354 (license) to Joseph W. Roberts (right holder) for the diversion of 2.26 cfs from ground water for the irrigation of 113 acres in Section 34, Township 6 North, Range 4 West, B.M.
2. The license was based on Permit 63-7354, which was issued by the Department on September 23, 1970, and reinstated on February 14, 1990. Permit 63-7354 authorized the establishment of a water right for up to 4.80 cfs from ground water for the irrigation of up to 240 acres.
3. The licensed elements of Water Right 63-7354 were based on a Beneficial Use Field Report prepared by a Department field examiner in 1990.
4. The capacity of the right holder's diversion and distribution system, as reported on the license, was 2.30 cfs. The license was limited to 2.26 cfs in accordance with Idaho Code § 42-202(6), which limits irrigation water rights to 1.0 cfs per 50 acres of land, which equates to 0.02 cfs per acre, unless it is demonstrated to the Department that more is necessary for proper irrigation. The license was also limited to a total annual diversion volume of 508.5 acre-feet, or 4.5 acre-feet per acre, pursuant to standard irrigation requirements recognized by the Department.
5. The Snake River Basin Adjudication (SRBA) is a lawsuit commenced in 1987 for the purpose of confirming the elements of water rights in existence at that time in the Snake River Basin geographic area of Idaho. Right 63-7354 was claimed in the SRBA, and the Department has recommended that the SRBA court decree Water Right 63-7354 in the name of Basin and Range Resource Company, LLC.

6. On August 20, 2008, Basin and Range Resource Company, LLC, through its attorney Dana L. Hofstetter of Boise, submitted the following items to the Department:

- A. A petition to correct License 63-7354 (petition) to show a place of use of 123.8 acres and "associated water right quantities."
- B. A Motion for Summary Decision and Memorandum in Support (motion) in the Matter of License No. 63-7354.
- C. An affidavit from consulting engineer Steve Hannula (affidavit) explaining the basis for the petition and the motion.

For brevity, the petition, motion, and affidavit collectively are called "the filings" in the rest of this document.

7. The filings assert that the license should be corrected because, "it appears that the license examiner completely overlooked an 8.3 acre irrigated field identified on the license examination plat and mistakenly calculated the size of other fields."

8. The Department's current practice when defining places of use for irrigation water rights is to round to the nearest two significant digits. An area of fewer than ten acres would be rounded to the nearest tenth of an acre; an area of ten acres or more would be rounded to the nearest whole acre.

9. The licensed place of use included 18 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 6 North, Range 4 West, B.M.

10. The field examiner's map depicts approximately 25 acres, rounded to the nearest whole acre, irrigated in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 6 North, Range 4 West, B.M.

11. The field examiner did not have a computer-based Geographic Information System (GIS) available for interpretation of the aerial photography used to confirm the number of acres irrigated in accordance with Permit 63-7354.

12. The discrepancy between the irrigated area outlined on the field examiner's map in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 6 North, Range 4 West, B.M., and the number of acres licensed for that 40-acre tract is seven acres, rounded to the nearest whole acre, not eight acres.

13. The place of use changes sought by the petitioner in the remaining 40-acre tracts listed in the place of use on the license would result in increases of less than an acre in every tract except the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 34, Township 6 North, Range 4 West, B.M., where an increase of 1.3 acres from 14.5 acres to 15.8 acres is sought.

14. The filings also assert that the licensed diversion rate and volume should be increased to match the requested increase in irrigated acreage. The field examiner estimated the capacity of the diversion and distribution system used by the right holder for irrigation purposes at 2.3 cfs if the pumping lift is 190 feet and 2.60 cfs if the pumping lift is 160 feet. The affidavit from consulting engineer Steve Hannula includes an attached pump installation report showing that the pump was set at 160 feet.

15. Section 42-219, *Idaho Code*, includes the following directive to the Department:

Upon receipt by the department of water resources of all the evidence in relation to such final proof, it shall be the duty of the department to carefully examine the same, and if the department is satisfied that the law has been fully complied with and that the water is being used at the place claimed and for the purpose for which it was originally intended, the department shall issue to such user or users a license confirming such use.

ANALYSIS

The 1987 NAPP aerial photography shows that by the time the Department's field examiner prepared his report confirming beneficial use, the right holder irrigated 25 acres of land in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 6 North, Range 4 West, B.M., including the eight-acre field identified in the filings. The omission of a whole field is clearly an error akin to a clerical error, and it should be corrected.

The other place of use adjustments described and requested in the filings are variations caused by the application of different technologies and methods for interpreting aerial photography to quantify irrigated acres. The Department does not require an expensive survey to determine the number of acres irrigated in connection with a permit to appropriate water. Instead, the Department interprets aerial photography to determine the number of acres irrigated. When the field examiner verified the place of use for Permit 63-7354, he did not have a computer-based Geographic Information System (GIS) available to assist with the interpretation of aerial photography. Consequently, his method for determining the number of irrigated acres in each 40-acre tract was different than modern methods. It does not follow that the field examiner's interpretations were wrong. Except for the omitted field, the field examiner's place of use determination is consistent with interpretation methods employed at the time the field report was prepared. Other than the omitted field, the Department's place of use determination for the license was not in error.

CONCLUSIONS OF LAW

1. The Motion for Summary Decision and Memorandum in Support submitted among the filings serves the same purpose as the Petition to Correct License and will be treated as an addendum to the petition.

2. Under Section 42-219, *Idaho Code*, the Department has a statutory obligation to issue a water right license that accurately portrays the extent of beneficial use of water developed in accordance with the permit.

3. Water Right License 63-7354 omitted the irrigation of seven acres established by the right holder in connection with the permit.

4. The Department should correct the place of use description on the license to authorize the irrigation of 25 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 6 North, Range 4 West, B.M., for a total authorized place of use of 120 acres.

5. The capacity of the diversion and distribution developed in accordance with Permit 63-7354 was 2.6 cfs.

6. The Department should correct the licensed diversion rate for irrigation purposes to 2.40 cfs, or 0.02 cfs per acre.

7. The Department should correct the licensed annual diversion volume to 540.0 AF, or 4.5 AF per acre.

8. The Department did not err in its determination of the irrigated acreage in the other 40-acre tracts comprising the licensed place of use.

9. Ownership of the right is being determined in the SRBA process and should not be changed on the license at this time.

ORDER

IT IS HEREBY ORDERED that the place of use for Water Right License 63-7354 is **CORRECTED** to show 25 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 6 North, Range 4 West, B.M., for a total authorized place of use of 120 acres.

IT IS FURTHER HEREBY ORDERED that the diversion capacity for Water Right License 63-7354 is 2.60 cfs, the maximum diversion rate is 2.40 cfs, and the maximum diversion volume is 540.0 AF.

IT IS FURTHER HEREBY ORDERED that the Department shall issue an Amended Water Right License on this date in conjunction with this order.

IT IS FURTHER HEREBY ORDERED that this order corrects the license to what it should have been when it was issued in 1991. In the ongoing SRBA, issuance of this order and the amended license should not preclude the opportunity to review the right with respect to events in the years since 1991 and to determine the elements of the right accordingly.

Dated this 5th day of November, 2008.

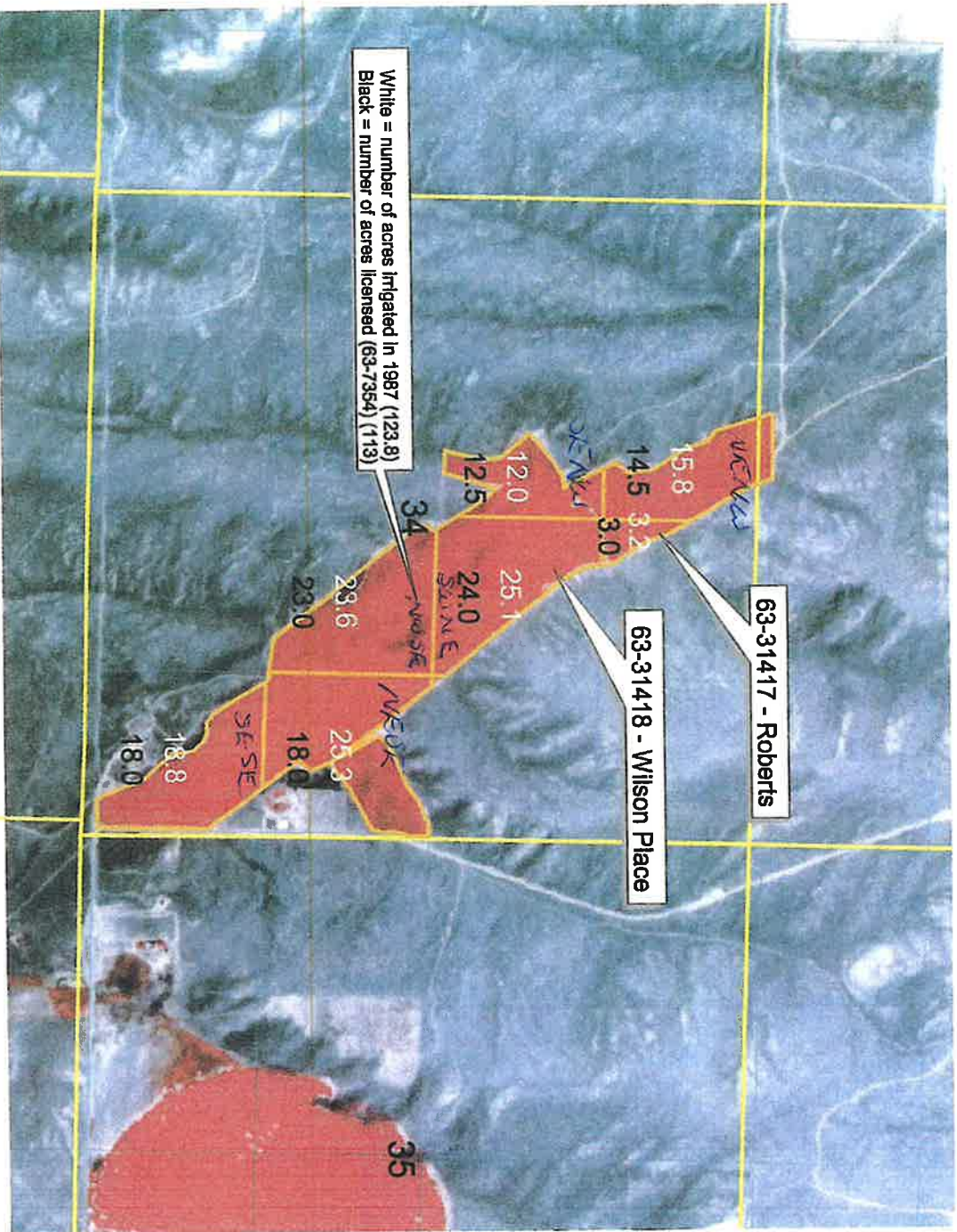


GARY SLACKMAN

Administrator, Water Management Division

Exhibit B Irrigation Patterns in 1987
(Basin and Range Resources Company LLC - Wilson Place)
(T6N, R4W, Section 34 Payette County)

Correct
Shapel



 63-31418 Licensed
 Sections
 QA



Prepared by: ERO Resources
 3314 Grace St
 Boise, ID 83703
 (208) 373-7983
 NAPP 1987 Adjudication Photo

63-7354 Recommend w/
3 additional acers.

63-311418 - Resallow &
Recommend as 63-7354

63-311417 - Same thing.

SFS's. Peter Nick talks
w/ David Negri.

Mtg. w/ Sandra Gisteller 4/20/09

Read