

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 4104 IN THE) MEMORANDUM REGARDING
NAME OF IDAHO ARROWHEAD) TITLE TO WATER RIGHTS
WATER DISTRICT) NOS. 75-00019D and 75-00021
_____)

Applicant filed an Application for Transfer of decreed water rights nos. 75-00019D and 75-00021 about April 28, 1994, seeking, primarily, a change in the nature of the use of said rights from irrigation to domestic purposes, including a point of diversion change and a season of use change, for the benefit of ten connections for homes in Smedley Estates subdivision near Salmon, Idaho. Upon publication of notice, protests were filed by Billy B. Isley, Oliver Ranch Joint Venture, and Isley Investment, Inc., City of Salmon, Robert L. Blackadar, Edgar S. Edwards and Dale C. Edwards. A hearing was then scheduled for August 16, 1994.

Water has been diverted from Chipps Creek and used by applicant to supply domestic water for the ten connections since about 1980. The application was filed to conform the records of IDWR to the existing practice. In 1993, applicant had filed a similar application, but which included right no. 75-00022. Mr. Isley and his various companies petitioned for intervention, claiming ownership interests in the three water rights. After a preliminary review of the title issues, applicant conceded that Isley may have an interest in right no. 75-00022, withdrew its application, and then filed this new one, dealing only with water rights

nos. 75-00019D and 75-00021.

At the August 16, 1994 hearing, the primary issue raised appeared to be a competing claim of ownership of the two water rights which are the subject of the proposed transfer, by Mr. Jordan P. Smith, attorney, for his clients Billy B. Isley, Oliver Ranch Joint Venture and Isley Investment, Inc.

We have spent considerable time and effort trying to thoroughly research the title issues with respect to the two water rights which are the subject of the current transfer proceeding. The instrument on which applicant originally relied for its claimed title to all three water rights, 75-00019D, 75-00021 and 75-00022, is a Warranty Deed to the Idaho Arrowhead Water District, dated August 1, 1984, signed by Dale T. Smedley and Helen B. Smedley, and recorded as Instrument No. 177513 of the records of Lemhi County, Idaho, on October 4, 1985.

The three rights were decreed by the Lemhi County District Court in 1893 and again in 1903, in the case of E.T. Andrews and W. S. Andrews, plaintiffs, v. John Martin, et al, defendants. The three rights were included among appurtenances to a ranch, sometimes referred to as the "Oliver Ranch", (actually, the full right, No. 75-00019, for 3.6cfs, and not just portion D for .30cfs, was appurtenant to the ranch), acquired by Dale T. and Helen B. Smedley, husband and wife, from Fred R. Jacobsen and Mary Lou Jacobsen, husband and wife, by Warranty Deed, dated June 26, 1978, and recorded as Instrument No. 140648 of the records of Lemhi County, Idaho, on June 28, 1978. This ranch, so acquired by Smedleys in

1978, consisted of several hundred acres, including a 40 acre parcel that will be referred to often hereafter, and which is described as:

Township 21 North, Range 21 East,
Section 1 - S½NWSW
Section 2 - S½NESE

On October 1, 1979, Smedleys applied for a transfer of a portion of right No. 75-00019 (.30cfs or 15 miners inches, which subsequently came to be numbered 75-00019D) for irrigation purposes to the 40 acre parcel described above. This application was assigned transfer No. 2355 and, after the hearing was held on the protests, was approved June 30, 1981, by A. Kenneth Dunn, Director of IDWR.

Simultaneously, on October 1, 1979, Smedleys also filed a separate application for transfer of right No. 75-00021 for irrigation purposes to the same 40 acre parcel described above. This application was assigned transfer No. 2356, and was finally approved on June 29, 1981, by L. Glenn Saxton, Chief, Operations Bureau of IDWR.

We originally reasoned that if title to the 40 acre parcel to which these two water rights were made appurtenant by virtue of the two transfers which were approved in 1981 had remained in Smedleys through the time the deed to these rights was conveyed to the Arrowhead Water District, there should be no further question regarding title to the two water rights, 75-00019D and 75-00021. However, upon a search made by Mr. Steven R. Gott, manager of the Salmon, Idaho, branch of American Land Title Company, pursuant to the request of this writer, it was discovered that two conveyances made by the Smedleys prior to the issuance and recording of the deed to the water rights (Instrument No. 177513)

affected title to some portion of the 40 acres, and hence potentially affected titled to some portion of each water right.

The two conveyances were each made by Warranty Deed, the first to David R. and Vivian C. Mellott in 1980, and the second to Van J. and Margareta J. Woodward, in 1983. Mr. Gott was able to discover no other relevant conveyances of any portion of the 40 acre parcel prior to the delivery and recording of the deed to Idaho Arrowhead Water District, No. 177513, conveying the water rights in 1984 and 1985. We will address each of the two conveyances and what has occurred since.

MELLOTT CONVEYANCE

First, by Warranty Deed, dated January 3, 1979, recorded January 17, 1979, as Instrument No. 144721, Dale T. Smedley and Helen B. Smedley had conveyed several hundred acres of the old Oliver Ranch, including a portion of the west half of the above described 40 acre parcel to Smedley Family Partnership. Nevertheless, Dale T. Smedley and Helen B. Smedley delivered a Warranty Deed, dated August 13, 1980, to David R. Mellott and Vivian C. Mellott for five acres, which encroaches on approximately one acre of the northwest corner of the 40 acre parcel about which we are concerned. Since the deed does not contain any reference to their personal capacities, perhaps the deed can be construed to be a reference to Mr. and Mrs. Smedley as general partners or one of them as a general partner of Smedley Family Partnership. In any event, nothing was mentioned in the deed about water rights which may be appurtenant to the property, so we must assume that a

proportionate share of each water right previously transferred to the 40 acre parcel remained appurtenant to this approximately one acre.

Actually, the deed, which was first recorded as Instrument No. 153983, on September 19, 1980, contained a call in the description which would have placed the five acre parcel entirely outside the boundaries of the 40 acre parcel about which we are concerned. However, the call was subsequently changed and the instrument was re-recorded on March 22, 1983, thus giving rise to this potential cloud on the title to the two water rights we are discussing.

The current record title holders of this five acres, including the approximately one acre which encroaches on the northwest corner of the 40 acre parcel, are Clarence Seher and Madge L. Seher, husband and wife. A couple named Goodman (thought for a time to have gained an interest in the 5 acre parcel), and Sehers, on April 28, 1995, gave a Quitclaim Deed to the Arrowhead Water District, quitclaiming any interest in or to any portion of water rights nos. 75-00019D and 75-00021, which Quitclaim Deed was recorded June 16, 1995, as Instrument No. 226429 of the records of Lemhi County, Idaho.

A Quitclaim Deed from the current record owner of the 5 acre parcel, including the 1 acre in the northwest corner of the larger 40 acre parcel, should be sufficient to clear any cloud on the title to the two water rights by virtue of the 1980 conveyance.

WOODWARD CONVEYANCE

On May 20, 1983, Smedley Family Partnership, by Dale T. Smedley, a general partner, conveyed a tract of land within the old Oliver Ranch, to Van J. Woodward and

Margareta J. Woodward, husband and wife, by Warranty Deed recorded as Instrument No. 167317 of the records of Lemhi County on May 25, 1983. This legal description was of an irregular shaped parcel which included perhaps as much as 14 to 16 acres on the western end of the 40 acre parcel about which we are concerned. Again, the conveyance document spoke nothing of the water rights.

Having been informed by Mr. Gott of American Land Title Company that the record holders of title to this property formerly owned by Woodwards, are now RBE Partners, a Texas general partnership, and Scott and Patricia M. Seher, husband and wife (as fee owners), and Clarence and Madge L. Seher, husband and wife (as to a life estate), and that there are no mortgages or other interests of record with respect to said property, Arrowhead Water District obtained a Quitclaim Deed from RBE Partners on March 10, 1995, which was recorded June 16, 1995, as Instrument No. 226430 of the records of Lemhi County, Idaho, and a Quitclaim Deed from Scott and Patricia M. Seher, husband and wife, as to their fee ownership, and Clarence and Madge L. Seher, husband and wife, as to their life estate, dated April 28, 1995, which was recorded June 16, 1995, as Instrument No. 226432 of the records of Lemhi County, Idaho. This Quitclaim Deed should resolve any potential cloud on the title to the two water rights raised by this conveyance which also occurred prior to the conveyance by Smedleys of the water rights to the water district.

It now appears that the successors in interest of all parties other than the Arrowhead Water District, who had any potential claim of an ownership interest in water rights Nos. 75-00019D and 75-00021 by virtue in their ownership interest of any portion of the 40 acre

parcel of real property to which each such water right was made appurtenant by approved transfers Nos. 2355 and 2356 which ownership interests arose prior to the conveyance of the water rights to Arrowhead Water District by Smedleys, have duly conveyed such legal interests to Arrowhead Water District, and that there should be no further delay in processing the pending application for transfer of said Arrowhead Water District.

We understand the protestants have raised other issues, and that a hearing will be necessary to resolve the same. We therefore request that the hearing officer reschedule the hearing on this matter as soon as possible so that the other issues may be addressed and resolved.

Respectfully submitted this 2nd day of August, 1995.



Kent W. Foster

HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof on this 2nd day of August, 1995.

DOCUMENT SERVED: MEMORANDUM REGARDING TITLE TO WATER RIGHTS NOS. 75-00019D and 75-00021

ATTORNEYS SERVED:

Mr. Glenn Saxton (mail)
IDAHO DEPARTMENT OF
WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Mr. Dennis Dunn (hand deliver)
IDAHO DEPARTMENT OF
WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

Robert L. Blackadar (mail)
801 Fairmont Street
Salmon, ID 83467

Jordan P. Smith, Esq. (mail)
807 Main Street
Salmon, ID 83467

Edgar S. Edwards
Dale C. Edwards
P.O. Box 846
Salmon, ID 83467

(mail)

Patricia A. Hauff, Mayor
City of Salmon
200 Main Street
Salmon, ID 83467

(mail)



Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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COPY

AFFIDAVIT OF STEVEN R. GOTT

STEVEN R. GOTT being first duly sworn on his oath, deposes and says:

1. Affiant is the manager and chief title examiner of the branch office of American Land Title Company located in Salmon, Idaho. As a title examiner, affiant is familiar with the real estate recordation system utilized in the State of Idaho and is responsible on behalf of American Land Title Company for examining recorded real estate documents within the county of Lemhi, Idaho, and preparing title commitments for and in connection with the issuance of title insurance policies.

2. Several months ago Mr. Kent W. Foster of Idaho Falls contacted affiant and requested that affiant review certain recorded and real estate documents relating to a 40 acre parcel of land located in Lemhi County, Idaho, and described as:

Township 21 North, Range 21 East,
Section 1 - S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 2 - S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$

Some of the relevant documents also related to water rights claimed by Arrowhead Water District. Upon review of the relevant documents affiant found the following with respect to this particular 40 acres:

- a. Fred R. Jacobsen and Mary Lou Jacobsen, husband and wife, conveyed certain real property, including the above described 40 acres, to Dale T. Smedley and Helen B. Smedley, husband and wife, by Warranty Deed, dated June 26, 1978, which was recorded as Instrument No. 140648 of the records of Lemhi County, Idaho, on June 28, 1978.
- b. On January 3, 1979, Dale T. Smedley and Helen B. Smedley, husband and wife, conveyed certain real property, including a portion of the above

described 40 acre parcel located on the western side of said parcel, to Smedley Family Partnership, by Warranty Deed, which was then recorded as Instrument No. 144721 in the records of Lemhi County, Idaho, on January 17, 1979.

c. By Warranty Deed dated August 13, 1980, which was signed by Dale T. Smedley and Helen B. Smedley, a five acre tract of land located in the SE¼ of S.2,T.21N., R.21E., was conveyed to David R. Mellott and Vivian C. Mellott, husband and wife. The legal description of said five acre tract includes approximately 1 acre of the above described 40 acre parcel in the extreme Northwest corner of said 40 acre parcel of land. Said Warranty Deed was recorded as Instrument No. 153983 of the records of Lemhi County, Idaho, on September 19, 1980. That deed contained an apparent mistake in the legal description which was later corrected and the deed was re-recorded under the same instrument number on March 22, 1983.

d. On May 20, 1983, the Smedley Family Partnership, by Dale T. Smedley, general partner, conveyed certain real property, including that portion of the above described 40 acre parcel conveyed in January of 1979 by Smedley's to the Smedley Family Partnership, to Van J. Woodward and Margareta J. Woodward, by Warranty Deed, recorded as Instrument No. 167317 of the records of Lemhi County, Idaho, on May 25, 1983.

e. By Warranty Deed, dated August 1, 1984, and recorded October 4, 1995, as Instrument No. 177513, signed by Dale T. Smedley and Helen B. Smedley, certain water rights appear to have been conveyed to the Idaho Arrowhead Water District.

3. Also, pursuant to the request of Mr. Foster, affiant determined that title to the approximately 1 acre parcel deeded in 1980 to Mellotts, is now vested in Clarence Seher and Madge L. Seher, husband and wife, of Salmon, Idaho. Affiant also determined that title to most of the real property formerly deeded to Van J. Woodward and Margareta J. Woodward, is now vested in Scott Seher and Patricia M. Seher, husband and wife, as fee owners, and Clarence Seher and Madge L. Seher, husband and wife, as to a life estate, and that title to the other portion of said real property is now vested in RBE Partners, a Texas general partnership, having its principal place of business in Longview, Texas.

4. Upon a recent review of the records of Lemhi County, Idaho, affiant found that on June 16, 1995, Quitclaim Deeds quitclaiming any interest in water rights Nos. 75-00019D and 75-00021 from John Goodman and Sherri K. Goodman, husband and wife, as well as Scott Seher and Patricia M. Seher, husband and wife and Clarence Seher and Madge L. Seher, husband and wife, as mortgagees of the Goodmans, from RBE Partners, a general partnership having its principal place of business in Longview, Texas, and from Scott Seher and Patricia M. Seher, husband and wife, as fee owners, and Clarence Seher and Madge L. Seher, husband and wife as to a life estate, all to Arrowhead Water District were respectively recorded as Instruments Nos. 226429, 226430, and 226432 of the records of Lemhi County, Idaho.

5. Copies of all of the recorded documents referred to herein are attached to this affidavit and by this reference made a part hereof.

IN WITNESS WHEREOF, affiant has hereunto set his hand and sealed the 31st day of July, 1995.

A handwritten signature in black ink, appearing to read "Steven R. Gott", is written over a horizontal line. The signature is stylized and somewhat cursive.

Steven R. Gott

STATE OF IDAHO)
)ss.
County of Lemhi)

On the 31st day of July, 1995, before me, the undersigned, a notary public in and for said State, personally appeared STEVEN R. GOTT, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

(seal)

Laurie M Santee
Notary Public for Idaho
Residing at ~~Idaho Falls~~^{Salmon}, Idaho
My Commission Expires: 6-19-2001

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This instrument was filed for record

at the request of Lemhi Title & Abstract Co.
at 2:47 o'clock P. M. June 28 1978
and duly filmed and indexed in the Deed
Records of Lemhi County, Idaho.

Eleanor Aldous

WARRANTY DEED

By Sarolta M. [Signature] Esq. Attorney
Fees \$2.00 Paid

FRED R. JACOBSEN and MARY LOUISE JACOBSEN, husband and wife, of Ogden, Weber County, Utah, Grantors, hereby CONVEY and WARRANT to DALE T. SMEDLEY and HELEN B. SMEDLEY, husband and wife, as joint tenants with full rights of survivorship, of Mountain Green, Morgan County, Utah, for the sum of Ten Dollars (\$10.00) and other valuable consideration, the following described tracts of land in Lemhi County, State of Idaho, to-wit:

The NW1/4 of the SW1/4 of Sec. 2, T. 21N., R 21E., Boise Meridian, containing 40 acres. Reserving unto the United States from the lands hereby described a right of way of public access and road purposes a parcel of land being all that portion of said property contained within a strip of 50 feet in width, the exterior of sidelines said land being extended or shortened at an angle points to intersect adjacent segments of said exterior sidelines and, except where extended at angle points, being 25 feet on each side of the following described center line. Beginning 4.4 feet S. and 51.5 feet W. of the W1/4 corner of said Section 2., T 21 N., R 21 E., thence So 67°14' E., 500 feet; thence N. 76°57' E., 137.2 feet; thence S. 88°42' E., 390.4 feet; thence S. 45°42' E., 210.0 feet; thence S. 71° 50' E., 147.8 feet; thence S. 89° 41' E., 346.9 feet to a point which is 365.5 feet S. and 1622.4 feet E. from the point of beginning. Reserving to the United States all coal, gas and oil rights subject to the provisions and limitations of the act of July 17, 1914. (58 Stat. 509).

The South Half of Section One (1); the South Half of the Southeast Quarter, the Northeast Quarter of the Southeast Quarter, and the Southeast Quarter of the Southwest Quarter, of Section Two (2), all in Township Twenty-one (21) North, Range Twenty-one (21), East of the Boise Meridian, in the County of Lemhi, State of Idaho, containing 480 acres, more or less;

Also a tract of land lying and being in the Northwest Quarter of Section 12, and the North Half of Section 11, Township 21 North, Range 21 East of the Boise Meridian, more particularly described as follows, to-wit:

Beginning at the Northeast corner of said Section 11, running thence West along the North boundary of Section 11, a distance of 3960 feet to the Northwest corner of the Northeast Quarter of the Northwest Quarter of Section 11; thence South 544.0 feet; thence East 820.0 feet; thence North 60.0 feet; thence East 100.0 feet; thence South 60.0 feet; thence East 1720.0 feet to a point on the East boundary of the Northwest Quarter of the Northeast Quarter of Section 11; thence South 1084.0 feet; thence East 3960.0 feet to a point on the East boundary of the Northwest Quarter of Section 12; thence North 1628.0 feet to the Northeast corner of the Northwest Quarter of Section 12; thence West 2640.0 feet to the point of beginning.

Containing 181-1/3 acres, more or less, in Lemhi County, State of Idaho;

Also the Southwest Quarter of the Southwest Quarter of Section 2, Township 21 North, Range 21 East of the Boise Meridian, in Lemhi County, State of Idaho, containing 40 acres, more or less.

Together with all ditches, ditch rights, water and water rights thereto belonging or used in connection therewith;

Together with all grazing rights, including Forest Service and Bureau of Land Management Grazing allotments, appurtenant to said premises or used in connection therewith;

SUBJECT, HOWEVER, to all existing rights-of-way or easements for public or private roads, telephone, telegraph or electrical transmission lines and to reservations in Federal patents and State deeds, to taxes and assessments for the year 1968 and thereafter, and to all liens and encumbrances assumed, suffered or occasioned by the Purchasers, their heirs, executors, administrators, successors or assigns.

WITNESS the hands of said Grantors this 26 day of June, 1978.

[Handwritten signature]

Mary Louise Jacobsen

STATE OF UTAH)
)SS
County of Weber)

On the 26 day of June, 1978, A.D. personally appeared before me FRED R. JACOBSEN and MARY LOUISE JACOBSEN, the signers of the within instrument, who duly acknowledged to me that they executed the same.



Fred R. Jacobsen
NOTARY PUBLIC
Residing at Ogden, Utah
My Commission Expires: _____

Recorded at Request of James C. Herndon January 1 1979

at 10 A. M. Fee Paid \$2.60 Paid Eleanor Aldous, County Recorder

by Lorachy M. Frederick Dep. Book 144721 Page FILE OF DEEDS. Ref:

Mail tax notice to _____ Address _____

WARRANTY DEED

DALE T. SMEDLEY and HELEN B. SMEDLEY, his wife, grantor^s,
of Mountain Green, County of Morgan, State of Utah, hereby
CONVEY and WARRANT to SMEDLEY FAMILY PARTNERSHIP,

of Mountain Green, County of Morgan, State of Utah, grantee
\$10.00 and other valuable considerations ----- DOLLARS,
for the sum of

the following described tract of land in _____ County,
State of Idaho:

Part of the South half of Section 1, and part of the South half of Section 2, Part of the North half of Section 11, and part of the Northwest Quarter of Section 12, Township 21 North, Range 21 West, Boise Meridian. Beginning South 1883.60 feet from the Northeast corner of the Southeast Quarter of said Section 1, and running thence South 756.40 feet to the Southeast corner of Section 1; thence West 2640.0 feet to the South Quarter corner of Section 1; thence South 1628.0 feet; thence West 3960.0 feet; thence North 1084.0 feet; thence West 1720.0 feet; thence North 60 feet; thence West 100.0 feet; thence South 60.0 feet; thence West 820.0 feet; thence North 544.0 feet; thence West 1320.0 feet to the Southwest corner of Section 2; thence North 2640.0 feet along the West line of Section 2 to the West Quarter corner of said Section 2; thence East 1320.0 feet; thence South 1320.0 feet; thence East 2640.0 feet; thence North 1320.0 feet; thence East 2129.83 feet to the Northwest corner of Smedley Estates, Phase II; thence (following a course around said Smedley Estates, Phase II) South 180.0 feet; thence South 46°33'30" West 637.77 feet; thence South 62°12'10" West 745.12 feet; thence South 62°43'17" East 932.74 feet; thence South 59°07'50" West 695.0 feet; thence South 72°40'28" West 235.0 feet; thence North 17°19'32" West 204.40 feet; thence North 72°40'28" East 26.13 feet; thence North 17°19'32" West 200.0 feet; thence South 72°40'28" West 920.0 feet; thence South 01°53'10" East 512.57 feet; thence North 38°06'50" East 610.0 feet; thence North 28°07'25" East 226.57 feet; thence along a 3031.66 foot radius curve to the right 264.56 feet (chord bears South 86°30'40" East 264.48 feet); thence along a 655.21 foot radius curve to the left (Continued on reverse side)

WITNESS, the hand s of said grantors, this 3rd day of January, A. D. 19 79

Signed in the Presence of _____
_____ Dale T. Smedley
_____ Helen B. Smedley

STATE OF UTAH, }
County of _____ } ss.

On the _____ day of _____, A. D. 19 _____
personally appeared before me _____ Dale T. Smedley and Helen B. Smedley, his wife,
the signer of the within instrument, who duly acknowledged to me that he executed the same.

Margaret [Signature]
Notary Public.

My commission expires _____ Residing in _____

200.12 feet (chord bears North 87°14'20" East 199.31 feet); thence South 41°30'40" East 180.0 feet; thence North 68°09'27" East 428.43 feet; thence North 59°07'59" East 591.12 feet; thence North 22°45'47" East 92.19 feet; thence North 79°55'30" East 176.48 feet; thence North 64°27'50" East 495.0 feet; thence North 25°10'27" East 75.65 feet; thence North 73°48'30" East 159.08 feet; thence North 62°12'19" East 233.31 feet; thence North 70°05'58" East 51.61 feet; thence North 62°12'10" East 306.85 feet; thence South 76°37'59" East 208.88 feet; thence North 83°49'31" East 50.0 feet; thence along a 137.95 foot radius curve to the right 151.86 feet (chord bears North 25°21'44" East 144.31 feet); thence North 56°57'56" East 157.86 feet; thence North 53°29'04" East 51.42 feet; thence North 48°01'00" East 120.79 feet; thence along a 267.62 foot radius curve to the right 196.07 feet to the Southwest corner of Smedley Estates Phase 1. (chord bears North 69°09'35" East 191.72 feet); thence East along the South line of said Smedley Estates Phase 1, 1125.0 feet to the Northwest corner of Smedley Estates, Phase 3, and the West line of Ann Street; thence South 800.0 feet along the West line of Ann Street; thence along a 1264.85 foot radius curve to the left 601.38 feet (chord bears South 13°36'08" West 594.93 feet); thence South 27°12'15" East 434.52 feet; thence North 84°09' East 1396.82 feet; thence East 488.0 feet; thence North 224.0 feet; thence East 430.0 feet to the point of beginning.

WHEN RECORDED, MAIL TO:

DAVID R. MELLOTT
BOISE IDAHO
MORGAN, UT. 84450

Space Above for Recorder's Use

WARRANTY DEED

DALE T. SMEDLEY AND HELEN B. SMEDLEY, grantor
of Box 2155 Salmon, County of LEMHI, State of IDAHO
hereby CONVEY and WARRANT to DAVID R. MELLOTT AND VIVIAN C. MELLOTT
, grantee
of 805 East 525 North, County of Morgan, State of Utah
for the sum of TEN DOLLARS AND OTHER VALUABLE CONSIDERATION ~~DOLLARS~~

the following described tract of land in LEMHI County, State of IDAHO to-wit:

Apart of the Southeast quarter of Section 2, Township 21 North,
Range 21 East, Boise Meridian.
Beginning at a point West 1038.59 feet along the Quarter Section Line
from the North ~~East~~ ^{North} corner of the Southeast Quarter; and running thence
West 281.41 feet, thence South 780 feet to Centerline of existing Creek,
thence Northeasterly along said Centerline to a point South 768 feet
from beginning, thence North 768 feet to the point of beginning.

Contains 5.0 Acres.

WITNESS the hand of said grantor, this 13th day of August, 1980

Signed in the presence of _____

STATE OF UTAH, }
County of Morgan } ss.

On the 13th day of August, 1980
personally appeared before me Dale T. Smedley and Helen B. Smedley

the signers of the above instrument, who duly acknowledged to me that they executed the same.

Margaret R. [Signature]
Notary Public
Syracuse, Utah

My commission expires Jan. 9, 1984 Residing in Syracuse, Utah

No. 153983

State of Idaho) ss
County of Lemhi)

This instrument was filed for
record at the request of

American Land Title
at 3:33 o'clock P.M.

September 19, 1980
and duly filed and indexed in the
file of Deeds

Records of Lemhi County, Idaho.
Eleanor Aldous

Ex-Officio Recorder
By Albert Stearns
Deputy

Fees \$4.00 pd INDEXED

Re-recorded 8-22-1983

6-24-80

WARRANTY DEED

For Value Received

SMEDLEY FAMILY PARTNERSHIP

the grantor s, do hereby grant, bargain, sell and convey unto

VAN J. WOODWARD and MARGARETA J. WOODWARD, husband and wife

whose current address is
201 Oliver Drive
Salmon, Idaho 83467

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

SEE ATTACHED EXHIBIT "A"

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

and that t he y will warrant and defend the same from all lawful claims whatsoever.

Dated: May 20, 1983

Smedley Family partnership
Dale T. Smedley

STATE OF ^{Utah} IDAHO, COUNTY OF *Denise*
On this 23rd day of May, 1983,
before me, a notary public in and for said State, personally
appeared Dale T. Smedley

known to me to be the General Partner
of the Smedley Family Partnership.

~~XXXXXX~~ subscribed to the within instrument, and acknowledged to
me that he Dale T. Smedley executed the same

Margaret Rhodes
Notary Public

Residing at Syracuse, Utah

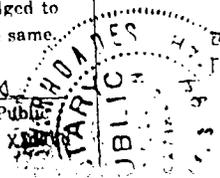
STATE OF IDAHO) ss. NO. **167317**
COUNTY OF LEMHI)

This instrument was filed for record at the request of
American Land Title Co.
at 2:58 P. M. May 25 1983
and duly filed and indexed in the

DEED Records of Lemhi County,
Idaho.

Alberta Wiederrick
Ex-Officio Recorder

By *Beverly A. Langhin* Deputy
Fee: 2.00 - pd



Contract by the AMERICAN LAND TITLE CO.

EXHIBIT "A"

A part of the SW $\frac{1}{4}$ of Section 1 and a part of the SE $\frac{1}{4}$ of Section 2, Township 21 N., Range 21 E., Boise Meridian, Lemhi County, Idaho more particularly described as follows to-wit:

Beginning at a point 4,470.17 feet West along the quarter section line from the Northeast corner of the Southeast quarter of said Section 1 to a point 30 feet North of the Northwest corner of Lot 2, Block 2, Smedley Estates Subdivision Phase II and the POINT OF BEGINNING:

Thence West 835 feet more or less to the Northwest corner of the Southwest quarter of Section 1;

Thence South 300 feet;

Thence West 300 feet;

Thence North 300 feet to a point 300 feet West of the Northeast corner of the Southeast quarter of Section 2;

Thence West along the quarter section line 738.59 feet;

Thence South 768 feet to the center line of Pollard Creek;

Thence Southwesterly along center line of said creek 290 feet more or less to a point 780 feet South of the Northwest corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 2;

Thence South along the West line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 2 56 feet more or less to the SW corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 2;

Thence Southeasterly 158 feet more or less to the Northwest corner of Lot 24, Block 2, Smedley Estates Subdivision Phase II;

Thence N. 59° 07' 50" E., 220 feet to the Northwest corner of Lot 22;

Thence N. 62° 43' 17" E., 932.74 feet to the Northwest corner of Lot 14;

Thence N. 62° 12' 10" E., 745.12 feet to the Northwest corner of Lot 7;

Thence N. 46° 35' 30" E., 634.77 feet to the Northwest corner of Lot 3, Block 2, Smedley Estates Subdivision Phase II;

Thence North 180 feet to the POINT OF BEGINNING. . .

(Optional)					
Recorded	<input type="checkbox"/>	Platted	<input type="checkbox"/>	Key Punched	<input type="checkbox"/>
Microfilmed	<input type="checkbox"/>	Deed Card	<input type="checkbox"/>	Master File	<input type="checkbox"/>
Indexed	<input type="checkbox"/>	Compared	<input type="checkbox"/>	Abstracted	<input type="checkbox"/>
				To Treasurer	<input type="checkbox"/>

(DO NOT WRITE ABOVE THIS LINE)

WARRANTY DEED

Dale T. Smedley and Helen B. Smedley
of Mountain Green County of Morgan
hereby CONVEYS, GRANTS and WARRANTS TO

GRANTOR(S)
State of Idaho Utah

THE IDAHO ARROWHEAD WATER DISTRICT

GRANTEE(S)

whose current address is 105 Arrowhead Drive, Salmon, Idaho 83467
for the sum of

Dollars (\$)

the following ~~described tract(s) of land~~ water rights. County, State of Idaho:
1. 15 inches of water Smedley purchased from John (Buck) Reddington (part of 30 inches
Ostrander right) as contained in Jesse Creek Water decree No. 1 dated Sept. 30, 1893
with priority date of 1868.

2. 5 inches of water Sophronia Pollard right as contained in Jesse Creek. Water
decree No. 1 dated Sept. 30, 1893, with a priority date of 1883.

3. 100 inches of water Sophronia Pollard right contained in Jesse Creek. Water
decree No. 1 dated Sept. 30, 1893, with a priority date of 5-1, 1889.

4. The right to store and use irrigation water in the Smedley open reservoir in
S W 1/4 of S E 1/4 of Section 2 adjoining the upper South West part of Smedley Estates
Sub-division, Phase II. This water is to be used for a secondary (irrigation) water
system to be administered by The Idaho Arrowhead Water District.

5. The right to store and use Culinary water in (4) 100,000 gallon cement water
storage tanks, (2) of which are located in Phase II, Smedley Estates Sub-Division,
NW 1/4 of SW 1/4 Section 1 and (2) which are located on the high bench area NW 1/4 of NE 1/4
Section II of Smedley Ranch. This water is to be used for culinary water system
administered by The Idaho Arrowhead Water District.

6. Idaho Arrowhead Water District agrees to the continued use of water in excess of
it's needs by the Ranch as in the past until water is required by The Idaho Arrowhead
Water District.

~~LOCATION OF ABOVE DESCRIBED PROPERTY~~

WITNESS the hand of said Grantors this

House No.

Street

day of

A.D. 19

(NOTARY SEAL)

State of ~~Idaho~~ Utah
County of Davis

} ss. On the 1st day of Aug. A.D. 1984

personally appeared before me Dale T. Smedley and Helen B. Smedley,

the signer(s) of the within instrument, who duly acknowledged to me that they
executed the same.

[Signature]
(NOTARY PUBLIC)

Residing at: Syracuse, Utah

My Commission expires: Jan. 9, 1988

No. **177513**

WARRANTY DEED

-10-

Dated _____, 19__

STATE OF IDAHO

County of Lemhi } ss.

I hereby certify that this instrument was
filed for record at request of
Eugene Jones

at 15 minutes past 4
o'clock Oct. M., this 4 day
of Oct., A.D. 19 33

in my office, and duly recorded in Book
of DEEDS at page
Alberta Wiederrick
Ex-Officio Recorder.

By: _____ Deputy.

Fees \$ 4.00

Eugene Jones
180 E. 2230 N. Apt. 4.
PROVO, Ut. 84604

QUITCLAIM DEED

THIS INDENTURE is made this 28 day of April, 1995, by and between JOHN GOODMAN, and SHERRI K. GOODMAN, husband and wife, and SCOTT SEHER and PATRICIA M. SEHER, husband and wife, and CLARENCE SEHER and MADGE L. SEHER, husband and wife, mortgagees of the Goodmans, hereafter referred to as "FIRST PARTY", and ARROWHEAD WATER DISTRICT, a water district organized and existing under and by virtue of the provisions of Chapter 32, Title 42, Idaho Code, having its principal place of business at Salmon, Lemhi County, Idaho, the mailing address of which is c/o of F. LeRoy Demond, President, 1500 Fulton, Salmon, Idaho 83467, hereafter referred to as "SECOND PARTY".

WITNESSETH

That First Party, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) lawful money of the United States of America and other good and valuable consideration paid to First Party by Second Party, the receipt whereof is hereby acknowledged by First Party, does by these presents remise, release and forever QUITCLAIM unto Second Party, its assigns and successors in interest, all of First Party's right, title and interest in or to the following described rights to the use of the public waters of the State of Idaho:

IDAHO DEPARTEMT
OF WATER RESOURCES
IDENTIFICATION NUMBER

AMOUNT

PRIORITY

SOURCE

75-00019D

.30cfs

01/01/1868

Jesse Creek,

a tributary to Salmon River

75-00021

.10cfs

05/01/1883

Pollard Creek,

a tributary to Jesse Creek

TO HAVE AND TO HOLD, said water rights, unto said Second Party and its assigns and successors in interest forever.

IN WITNESS WHEREOF, said First Party has hereunto set its hand the day and year first above written.

Notary Public
for the State of Idaho
My Comm. Expires 226429
This instrument was filed for record in the records of the
of Arrowhead Water District
on 11-25 at 6-16 19 95
and duly filed and indexed by the records of Lemhi
County

Alberta Wiedentich
Deputy
Sherril M. Martin Deputy

1500 Fulton 907 F. LeRoy Demond
Salmon ID 83467

John Goodman
John Goodman

Sherri K. Goodman
SHERRI K. Goodman

Scott Seher
Scott Seher

Patricia M. Seher
Patricia M. Seher

Clarence Seher
Clarence Seher

Madge L. Seher
Madge L. Seher

STATE OF IDAHO)
County of Lemhi)ss.

On the 6th day of June, 1995, before me, the undersigned, a notary public in and for said State, personally appeared JOHN GOODMAN and SHERRI K. GOODMAN, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

[Signature]
Notary Public for Idaho
Residing at Salmon
My Commission Expires: 12-14-1997



STATE OF _____)
)ss.
County of _____)

On the ___ day of April, 1995, before me, the undersigned, a notary public in and for said State, personally appeared SCOTT SEHER and PATRICIA M. SEHER, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

*Scott Seher
Patricia M. Seher*

(seal)

Notary Public for _____
Residing at _____
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of Seminole)

On the 5th day of ~~April~~ ^{May} 1995, before me, the undersigned, a notary public in and for said State, personally appeared CLARENCE SEHER and MADGE L. SEHER, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



James P. Holt

Notary Public for Idaho
Residing at Seminole, Idaho
My Commission Expires: 12-14-1997

GAWPDATA\KWF\7557\AWD30302 GCD SJW

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of California

County of Contra Costa

On April 28, 1995 before me, Kathryn C. Mara-Notary

DATE

NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Scott Seher and Patricia M. Seher

NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Kathryn C. Mara
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER

TITLE(S)

- PARTNER(S)
- LIMITED
- ATTORNEY-IN-FACT
- GENERAL
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

Quitclaim Deed
TITLE OR TYPE OF DOCUMENT

3 pgs.
NUMBER OF PAGES

April 28, 1995
DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

QUITCLAIM DEED

THIS INDENTURE is made this 10 day of March, 1995, by and between RBE PARTNERS, a Texas general partnership, having its principal place of business in Longview, Texas, hereafter referred to as "FIRST PARTY" and ARROWHEAD WATER DISTRICT, a water district organized and existing under and by virtue of the provisions of Chapter 32, Title 42, Idaho Code, having its principal place of business at Salmon, Lemhi County, Idaho, the mailing address of which is c/o of F. LeRoy Demond, President, 1500 Fulton, Salmon, Idaho 83467, hereafter referred to as "SECOND PARTY".

WITNESSETH

That First Party, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) lawful money of the United States of America and other good and valuable consideration paid to First Party by Second Party, the receipt whereof is hereby acknowledged by First Party, does by these presents remise, release and forever QUITCLAIM unto Second Party, its assigns and successors in interest, all of First Party's right, title and interest in or to the following described rights to the use of the public waters of the State of Idaho:

IDAHO DEPARTEMT
OF WATER RESOURCES
IDENTIFICATON NUMBER

AMOUNT

PRIORITY

SOURCE

75-00019D

.30cfs

01/01/1868

Jesse Creek,

a tributary to Salmon River

75-00021

.10cfs

05/01/1883

Pollard Creek,

a tributary to Jesse Creek

TO HAVE AND TO HOLD, said water rights, unto said Second Party and its assigns and successors in interest forever.

IN WITNESS WHEREOF, said First Party has hereunto set its hand the day and year first above written.

226430

This instrument was filed for record at the office of
of Idaho Arrowhead Water Dist
at 11:46 o'clock Am 6-16 10 95
and duly filed and indexed in the records of Lemhi
County

Alberta W. Demond
Ex-Officio Recorder

Jerry J. Morton Deputy
6-16-95

RBE Partners, a Texas general partnership. by

Beverly Robbins

Beverly Robbins, Managing General Partner

STATE OF TEXAS)
)ss.
County of Dallas)

On the 10 day of March, 1995, before me the undersigned, a notary public in and for said State, personally appeared BEVERLY ROBBINS, known or identified to me to be the managing general partner of the partnership of RBE Partners and the partner who subscribed said partnership name to the foregoing instrument, and acknowledged to me that she executed the same in said partnership name.

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



(seal)

Katherine Spinks
Notary Public for Texas
Residing at 1544 Cedar Hill Dallas 75208
My commission expires: 6.9.97

G:\WP\DATA\KWF\7557\AWD0002 QCD SW

QUITCLAIM DEED

THIS INDENTURE is made this 28 day of April, 1995, by and between SCOTT SEHER and PATRICIA M. SEHER, husband and wife, as fee owners, and CLARENCE SEHER, and MADGE L. SEHER, husband and wife, as to a life estate, hereafter referred to as "FIRST PARTY" and ARROWHEAD WATER DISTRICT, a water district organized and existing under and by virtue of the provisions of Chapter 32, Title 42, Idaho Code, having its principal place of business at Salmon, Lemhi County, Idaho, the mailing address of which is c/o of F. LeRoy Demond, President, 1500 Fulton, Salmon, Idaho 83467, hereafter referred to as "SECOND PARTY".

WITNESSETH

That First Party, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) lawful money of the United States of America and other good and valuable consideration paid to First Party by Second Party, the receipt whereof is hereby acknowledged by First Party, does by these presents remise, release and forever QUITCLAIM unto Second Party, its assigns and successors in interest, all of First Party's right, title and interest in or to the following described rights to the use of the public waters of the State of Idaho:

IDAHO DEPARTMENT
OF WATER RESOURCES
IDENTIFICATION NUMBER

AMOUNT

PRIORITY

SOURCE

75-00019D

.30cfs

01/01/1868

Jesse Creek,

a tributary to Salmon River

75-00021

.10cfs

05/01/1883

Pollard Creek,

a tributary to Jesse Creek

TO HAVE AND TO HOLD, said water rights, unto said Second Party and its assigns and successors in interest forever.

IN WITNESS WHEREOF, said First Party has hereunto set its hand the day and year first above written.

State of Idaho)
County of Lemhi) 226432

This instrument was filed for record of the office of
Idaho Arrowhead Water Dist.

at 11:48 o'clock A.M. 6-16-95

and duly filed and indexed in the records of County

Number

Scott Seher
Scott Seher

Patricia M. Seher
Patricia M. Seher

Clarence Seher
Clarence Seher

Madge L. Seher
Madge L. Seher

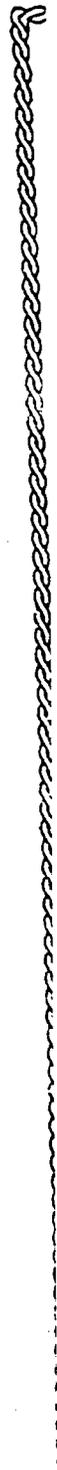
STATE OF 9)
)ss.
County of _____)

On the ___ day of April, 1995, before me, the undersigned, a notary public in and for said State, personally appeared SCOTT SEHER and PATRICIA M. SEHER, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

Notary Public for _____
Residing at _____
My Commission Expires: _____

(seal)



E OF IDAHO)
)ss.
y of Idaho)

On the 5th day of ~~April~~ ^{May}, 1995, before me, the undersigned, a notary public in and for state, personally appeared CLARENCE SEHER and MADGE L. SEHER, husband and known or identified to me to be the persons whose names are subscribed to the within ment and acknowledged to me that they executed the same.

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

Notary Public for Idaho
Residing at Salmon Idaho
My Commission Expires: 12-14-1997

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of California

County of Contra Costa

On April 28, 1995 before me, Kathryn C. Mara-Notary

DATE

NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Scott Seher + Patricia M. Seher

NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Kathryn C. Mara
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER
- _____ TITLE(S)
- PARTNER(S) LIMITED
- GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

Quitclaim Deed
TITLE OR TYPE OF DOCUMENT

3 pgs.
NUMBER OF PAGES

April 28, 1995
DATE OF DOCUMENT

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

SIGNER(S) OTHER THAN NAMED ABOVE