

04/01/2004

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

RIGHT NUMBER: 23-11313

NAME AND ADDRESS: KELLY CANYON WINTER PARK LLC
ATTN DAVE STODDARD
PO BOX 51330
IDAHO FALLS ID 83405

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.130 CFS
14.800 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE FOR IRRIGATION OF 0.06 CFS. COMBINED RIGHT
NOS.: 23-4040, 23-11312, 23-11313.

PRIORITY DATE: 05/01/1959

POINT OF DIVERSION:

T04N R41E S28 SWNESE Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/15 10/31	0.060 CFS 10.50 AFY
COMMERCIAL	01/01 12/31	0.130 CFS 4.30 AFY

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T04N R41E S28 NESW 3.0

COMMERCIAL Within BONNEVILLE County

T04N R41E S28 NESW

3 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 3.0 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 23-4040, 23-11312,
23-11313.

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: Beneficial Use

COMMERCIAL USE IS FOR LODGE, HYDRANTS AND SNOW-MAKING.

\$100⁰⁰

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 23-11313
Date Received: 4/1/2004
Receipt No:
Received By: *EΦ29674*
ASR 4/1/04

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

1. Name of Claimant(s)

KELLY CANYON WINTER PARK LLC Phone: (208) 523-0862
ATTN DAVE STODDARD
PO BOX 51330
IDAHO FALLS ID USA 83405

2. Date of Priority: 05/01/1959

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	41E	28	SW NE SE	BONNEVILLE	

5. Description of diverting works:

WELL; 60 GPM. TO LODGE , HYDRANTS AND IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	05/15	10/31	0.06	
COMMERCIAL	01/01	12/31	0.13	

7. Total Quantity Appropriated is:
0.13 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
04N	41E	28	NE SW	IRRIGATION	3
			NE SW	COMMERCIAL	
				Section Acres	3
				Total Acres	3

11. Place of use in counties: BONNEVILLE

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

13. Other Water Rights Used:

14. Remarks:

COMMERCIAL USE IS; SNOW-MAKING, RESTROOMS, KITCHEN.

POD GPS TAG #AO012446

15. Basis of Claim:

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am Partner and Treasurer of Kelly Canyon Winter Park, LLC that I have signed the foregoing

document in the space below as Partner and Treasurer of Kelly Canyon Winter Park, LLC and that the statements contained in the foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

Partner and Treasurer Kelly Canyon Winter Park, LLC
Title and Organization

4/1/04
Date

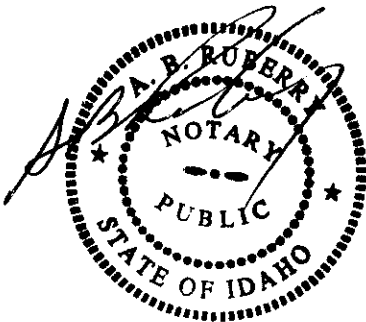
State of Idaho)
County of BONNEVILLE) SS.

Subscribed and sworn (or affirmed) before me this 1ST of April 2004

[Signature]
Notary Public

Residing at PO BOX 1000 KANSAS

My commission Expires 9/23/09



04/15/2003

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 23-11313

Kear Canyon Winter Park, LLC
Attn Dave Stoddard
PO Box 51330
Boondalus Rd 83405

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE:

4/1/04

SIGNATURE:

J. David Stoddard

Please print your name:

J. David Stoddard

IDWR Regional Office,

ACKNOWLEDGEMENT OF WATER RIGHTS

THIS DOCUMENT will acknowledge that Kelly Canyon Winter Park, L.L.C. by virtue of interests granted to its predecessors in interest has a water right to remove and use water in and from that certain spring and that certain well and that certain unnamed stream located on the real property more particularly described as follows:

Tract 1:

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

Section 28: SW $\frac{1}{4}$ SE $\frac{1}{4}$
S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$

EXCEPTING THEREFROM: A piece of land in the SE $\frac{1}{4}$ of said Section 28, described as follows:

Starting at the intersection of the Kelly Canyon Ski Hill, Inc. property and the South right of way line of the Forest Service Road, which point lies North $37^{\circ}44'$ West 2,173.4 feet from the Southeast Corner of Section 28, said Township and Range, running thence South $83^{\circ}0'$ West along the right of way of said Forest Service Road a distance of 600 feet; thence South $0^{\circ}13'$ East 300 feet; thence North $83^{\circ}0'$ East 600 feet to the West property line of the Kelly Canyon Ski Hill, Inc., property, running thence North $0^{\circ}13'$ East 300 feet along said boundary to the POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM: Kelly Canyon Road right of way.

Tract 2:

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

Section 28: E $\frac{1}{2}$ SE $\frac{1}{4}$

EXCEPTING THEREFROM: Kelly Canyon Road Right of way.

ACKNOWLEDGEMENT OF WATER RIGHTS

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Section 28: E $\frac{1}{2}$ SE $\frac{1}{4}$
EXCEPTING THEREFROM: Kelly Canyon Road Right of way.

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

EXCEPTING THEREFROM: Kelly Canyon Road right of way.

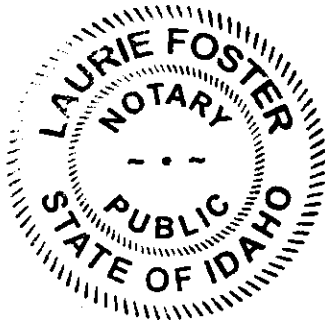
The Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) of Section Twenty-Eight (28), Township Four (4) North, Range Forty-One (41) East of the Boise Meridian, in Jefferson County, Idaho.

STATE OF IDAHO)
) ss.
County of Bonneville)

E. Bud Johnson, being first duly sworn on oath, deposes and says:
That he is an individual residing in Bonneville County; that he has read the foregoing
ACKNOWLEDGEMENT OF WATER RIGHTS and knows the contents thereof and that
he verily believes the same to be true.

E. Bud Johnson
E. Bud Johnson

SUBSCRIBED AND SWORN to before me this 3rd day of ^{March}~~February~~, 2004.



Laurie Foster
Notary Public for Idaho
Residing at: Rigby, Idaho
My Commission Expires: 5/11/09

PERPETUAL EASEMENT AGREEMENT

THIS PERPETUAL EASEMENT AGREEMENT, MADE THIS 7TH DAY OF NOVEMBER, 1959, BY AND BETWEEN C. WARREN BLAKELY AND BEATRICE D. BLAKELY, HUSBAND AND WIFE, AND LAWRENCE BLAKELY AND ZELLA MAE BLAKELY, HUSBAND AND WIFE, HEREINAFTER REFERRED TO AS THE PARTIES OF THE FIRST PARTY, AND KELLEY CANYON SKI HILL, INCORPORATED, AN IDAHO CORPORATION, AUTHORIZED TO DO BUSINESS IN THAT STATE, WITH ITS PRINCIPAL PLACE OF BUSINESS AT RIRIE, JEFFERSON COUNTY, IDAHO, HEREINAFTER REFERRED TO AS THE PARTY OF THE SECOND PARTY, WITNESSETH:

WHEREAS, THE PARTIES OF THE FIRST PARTY ARE THE OWNERS OF CERTAIN LANDS SITUATE IN THE COUNTY OF JEFFERSON, STATE OF IDAHO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE $\frac{1}{4}$ NE $\frac{1}{4}$) OF SECTION TWENTY-EIGHT (28), TOWNSHIP FOUR (4) NORTH, RANGE FORTY-ONE (41) EAST OF THE BOISE MERIDIAN, IN JEFFERSON COUNTY, IDAHO,

ON WHICH THERE IS A SPRING WHICH ARISES WHOLLY UPON THE PREMISES HEREINABOVE DESCRIBED AND ENDING WHOLLY UPON THE PREMISES HEREINABOVE DESCRIBED, AS WELL AS OTHER ADJOINING LANDS; AND

WHEREAS, THE PARTY OF THE SECOND PARTY IS THE OWNER OF CERTAIN LANDS SITUATE IN THE COUNTY OF JEFFERSON, STATE OF IDAHO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

THE EAST HALF OF THE SOUTHEAST QUARTER (E $\frac{1}{2}$ SE $\frac{1}{4}$) OF SECTION TWENTY-EIGHT (28), TOWNSHIP FOUR (4) NORTH, RANGE FORTY-ONE (41) EAST OF THE BOISE MERIDIAN, IN JEFFERSON COUNTY, IDAHO,

ON WHICH THERE IS CERTAIN TIMBER AND GRAZING; AND

WHEREAS, THE PARTY OF THE SECOND PARTY DESIRES TO OBTAIN A PERPETUAL EASEMENT FOR A WATER PIPE, NOT TO EXCEED TWO (2) INCHES IN DIAMETER, EXTENDING FROM THE SPRING LOCATED ON FIRST PARTIES' LAND DESCRIBED ABOVE, AND EXTENDING OVER THE LANDS OF SAID PARTIES OF THE FIRST PARTY TO THE LANDS HEREINABOVE DESCRIBED OWNED BY THE PARTY OF THE SECOND PARTY, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS OVER THE LANDS OF FIRST PARTIES IN ORDER TO KEEP SAID PIPE IN GOOD CONDITION AND REPAIR; AND

WHEREAS, THE SAID PARTY OF THE SECOND PARTY DESIRES TO OBTAIN

Exhibit No.	4
Date:	12/11/02
	N. Brown
T&T REPORTING	

A RIGHT TO THE USE OF CERTAIN WATERS IN SAID SPRING LOCATED ON FIRST PARTIES' LAND UNDER THE TERMS AND CONDITIONS HEREINAFTER SET FORTH; AND

WHEREAS, THE PARTY OF THE SECOND PART INTENDS BY THIS AGREEMENT TO GRANT, BARGAIN AND SELL UNTO THE PARTIES OF THE FIRST PART, ALL OF THE TIMBER ON THE REAL PROPERTY HEREINAFOVE DESCRIBED, OWNED BY PARTY OF THE SECOND PART, WHICH IS SUITABLE FOR THE USE OF FIRST PARTIES, THEIR HEIRS, ADMINISTRATORS, EXECUTORS AND ASSIGNS, FOR RANCH AND FARM PURPOSES, TOGETHER WITH THE RIGHT OF FIRST PARTIES, THEIR AGENTS AND EMPLOYEES, TO HAVE THE RIGHT OF INGRESS, EGRESS AND REGRESS FROM, ON, OVER AND ACROSS SAID LANDS OF SECOND PARTY, FOR THE PURPOSE OF CUTTING AND REMOVING SAID TIMBER FROM SAID PREMISES, PROVIDED, HOWEVER, THAT NO TIMBER SHALL BE CUT BY THE PARTIES OF THE FIRST PARTY WHICH WILL INTERFERE WITH EITHER THE LANDSCAPING OR OPERATION OF THE SKI RUN ON HILL IN THE DISCRETION OF THE PARTY OF THE SECOND PART;

WHEREAS, THE PARTY OF THE SECOND PART INTENDS TO GRANT TO THE PARTIES OF THE FIRST PART UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT, A PERPETUAL EASEMENT TO THE RIGHT TO AND FOR ALL PASTURAGE AND GRAZING UPON THE PREMISES OWNED BY THE PARTY OF THE SECOND PARTY, AS HEREINBEFORE DESCRIBED.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL COVENANTS AND AGREEMENTS TO BE PERFORMED BY THE PARTIES HERETO, ONE UNTO THE OTHER, IT IS AGREED AS FOLLOWS:

1. THE PARTIES OF THE FIRST PART RESERVE UNTO THEMSELVES FOR STOCK WATERING PURPOSES, THE WATERS OF THE SPRINGS LOCATED ON THE FOLLOWING DESCRIBED PROPERTY IN JEFFERSON COUNTY, IDAHO, TO-WIT:

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER
(SE¹/₄NE¹/₄) OF SECTION 28, TOWNSHIP 4 NORTH, RANGE
41 EAST OF THE BOISE MERIDIAN, IN JEFFERSON COUNTY,
IDAHO.

AND GRANT, BARGAIN AND SELL UNTO THE SAID PARTY OF THE SECOND PART, ITS SUCCESSORS AND ASSIGNS, AN EASEMENT AND RIGHT, USE AND PRIVILEGE TO DRAW AND USE FROM SAID SPRINGS SUCH SURPLUS OR EXCESS WATER FOR COMMERCIAL PURPOSES AS ARE NOT REQUIRED BY THE PARTIES OF THE FIRST PART FOR THE WATERING OF THEIR LIVESTOCK, AND THE SAID PARTIES

-3-

OF THE FIRST PART DO HEREBY GRANT AND CONVEY UNTO THE SAID PARTY OF THE SECOND PART A PERMANENT EASEMENT FOR A WATER PIPE NOT TO EXCEED TWO INCHES IN DIAMETER, EXTENDING FROM THE SPRING LOCATED ON SAID LANDS OF THE FIRST PARTIES, HEREINAFOVE DESCRIBED, AND EXTENDING OVER SAID LANDS TO THE LANDS OF THE PARTY OF THE SECOND PART, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS AND REGRESS OVER SAID LANDS OF FIRST PARTIES IN ORDER TO KEEP AND MAINTAIN SAID PIPE LINE IN GOOD CONDITION AND REPAIR. THE PARTY OF THE SECOND PART EXPRESSLY AGREES THAT ITS SAID PIPE LINE, EXTENDING FROM SAID SPRING OVER THE LANDS OF THE SAID PARTIES OF THE FIRST PART, SHALL BE INSTALLED IN SUCH A MANNER AS NOT TO INTERFERE WITH THE FLOW OF THE WATERS OF SAID SPRINGS, OR TO INTERFERE WITH THE FLOW OF THE WATERS FROM SAID SPRINGS TO THE DIVERSION INSTALLATIONS LOCATED IN SAID SPRINGS BY THE SAID PARTIES OF THE FIRST PART FOR THE WATERING OF ITS LIVESTOCK, AND SAID PIPE LINE SHALL BE INSTALLED BY SAID PARTY OF THE SECOND PART IN GOOD, WORKMANLIKE MANNER.

2. THE PARTY OF THE SECOND PART HEREBY GRANTS, BARGAINS AND SELLS UNTO THE PARTIES OF THE FIRST PART, THEIR HEIRS AND ASSIGNS, A PERPETUAL EASEMENT TO CUT AND REMOVE ALL OF THE TIMBER LOCATED ON THE FOLLOWING DESCRIBED REAL PROPERTY OWNED BY THE PARTY OF THE SECOND PART, TO-WIT:

THE EAST HALF OF THE SOUTHEAST QUARTER (E½SE¼)
OF SECTION 28, TOWNSHIP 4 NORTH, RANGE 41 EAST
OF THE BOISE MERIDIAN, IN JEFFERSON COUNTY, IDAHO,

WHICH IS SUITABLE FOR PASTURE AND FARM PURPOSES, TOGETHER WITH THE RIGHT OF THE FIRST PARTIES, THEIR AGENT AND EMPLOYEES, OF INGRESS, EGRESS AND REGRESS FROM, ON, OVER AND ACROSS THE SAID LANDS OF SECOND PARTY FOR THE PURPOSE OF CUTTING AND REMOVING SAID TIMBER FROM SAID PREMISES; PROVIDED, HOWEVER, THAT NO TIMBER SHALL BE CUT BY THE PARTIES OF THE FIRST PARTY WHICH WILL INTERFERE WITH EITHER THE LANDSCAPING OR OPERATION OF THE SKI RUN OR HILL IN THE DISCRETION OF THE PARTY OF THE SECOND PART. THE PARTY OF THE SECOND PART HEREBY FURTHER GRANTS, BARGAINS AND SELLS UNTO THE PARTIES OF THE FIRST PARTY,

THEIR HEIRS AND ASSIGNS, A PERPETUAL EASEMENT TO AND FOR THE RIGHT
TO ALL PASTURAGE AND GRAZING UPON THE ABOVE DESCRIBED PREMISES
OWNED BY THE PARTY OF THE SECOND PARTY.

3. THESE EASEMENTS SHALL CONSTITUTE APPURTENANCES TO THE
LANDS AND BURDENS RUNNING WITH THE LANDS, AND SHALL BE PERPETUAL
AND FOREVER.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE HERETO SET THEIR
HANDS THE DAY AND YEAR FIRST ABOVE WRITTEN.

C. Warren Blake

Patricia M. Blake

Frances M. Blake

Jesse M. Blake
PARTIES OF THE FIRST PARTY

(SEAL)

ATTEST:

Frances M. Blake
SECRETARY

KELLEY CANYON SKI HILL,
INCORPORATED

By E. B. [Signature]
PRESIDENT

PARTY OF THE SECOND PARTY

STATE OF IDAHO

COUNTY OF JEFFERSON

ss.

ON THIS 20TH DAY OF DECEMBER, 1959, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED C. WARREN BLAKELY AND BEATRICE D. BLAKELY, HUSBAND AND WIFE, AND LAWRENCE BLAKELY AND ZELLA MAE BLAKELY, HUSBAND AND WIFE, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING 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 IN AND FOR THE STATE
OF IDAHO, RESIDING AT RIGBY, IDAHO
MY COMMISSION EXPIRES 3-26-62

(SEAL)

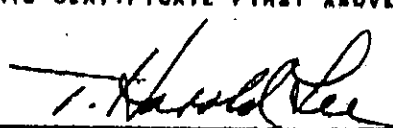
STATE OF IDAHO

COUNTY OF JEFFERSON

ss.

ON THIS 9TH DAY OF DECEMBER, 1959, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED E. BUD JOHNSON AND LAWRENCE BLAKELY, KNOWN TO ME TO BE THE PRESIDENT AND SECRETARY-TREASURER, RESPECTIVELY, OF THE CORPORATION THAT EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION 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 IN AND FOR THE STATE
OF IDAHO, RESIDING AT RIGBY, IDAHO
MY COMMISSION EXPIRES 3-26-62

Log for claim 23-04040

Spatial Dynamics LTD

6/6/01

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
04n41e	28	NESE	3	5	
Totals:			3	5	

23-11312 (Late claim)
Kelly Canyon Spring WATER IS COLLECTED FROM SPRING INTO CONCRETE BOX, THEN piped down MOUNTAIN TO A 20,000 GALLON UNDER GROUND TANK. THEN FROM THE TANK DOWN TO IRRIGATED AREA AS SHOWN ON MAP. (SPRING SINKS.)
 Tag # A0012434.

NESE Sec. 28 4N 41E
WELL IS LOCATED EAST OF SKI LODGE WITH A CONCRETE PIT. NEXT TO IT. FOR A PUMP

AND PRESSURE TANK. PUMP IS MADE BY C.T.U. PUMPS SN# L0243476 60 gpm. WATER

out OF WELL IS USED FOR CULINARY USE. (Sinks & Hydrants.)
 19 TOILETS + URINALS 14 SINKS 2 HYDRANTS.

THE WELL IS ALSO USED TO MAKE ARTIFICIAL SNOW FROM Dec. 1 TO MAR. MOTOR IS MADE BY BALDOR INDUSTRIAL MOTORS 3 HP SN# F0210292287

Tag # A0012446

NOT PART OF THERE ARE WATER TANKS TO  SPATIAL DYNAMICS
 Kelly Canyon WATER CATTLE NEAR HEAD OF SPRING
 Winston Park HAS 1/2" STEEL PIPE FROM CONCRETE BOX TO TANKS.

8-23-03

4:30 pm MLO



Department of Water Resources

Eastern Region

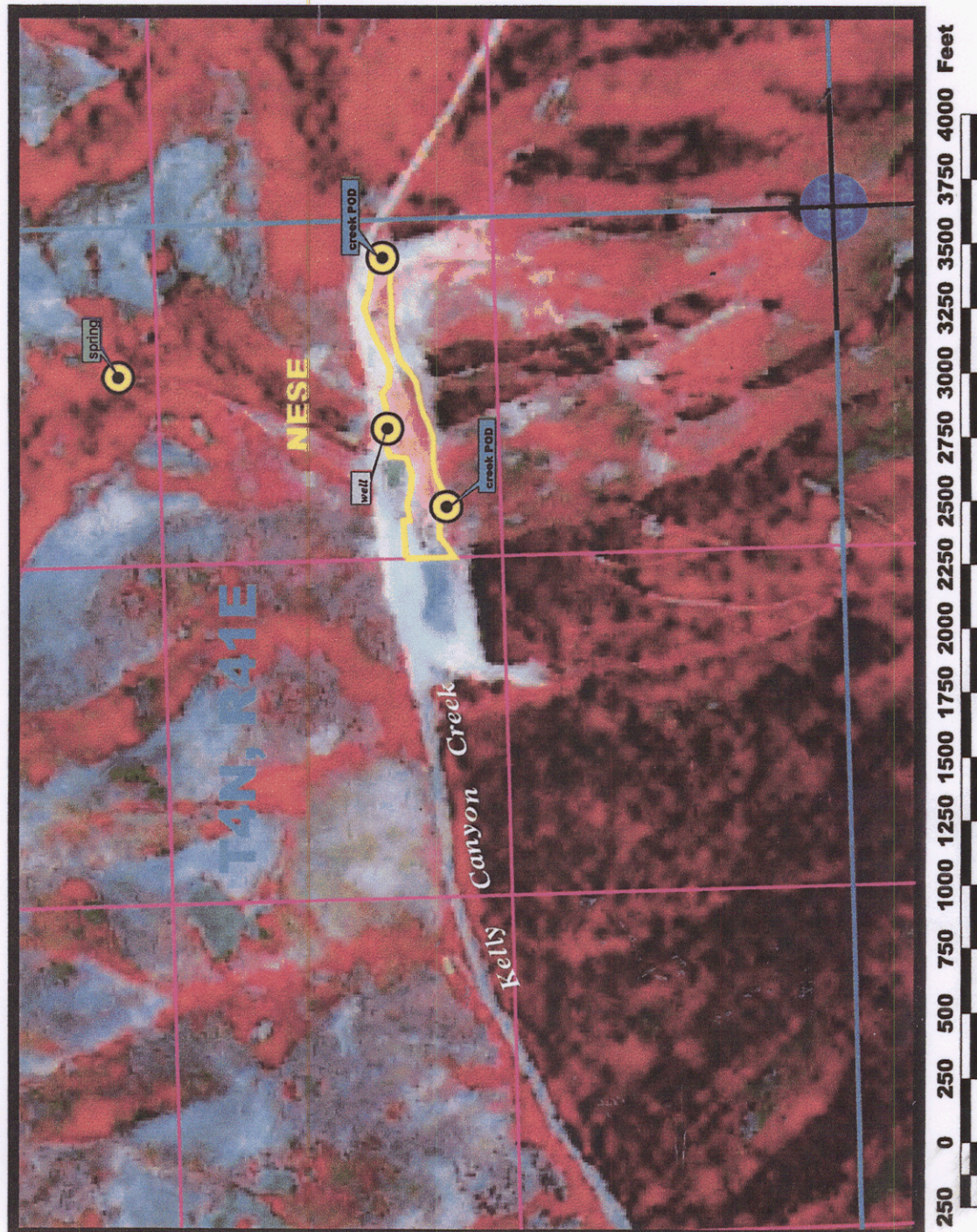


Water Right(s):

23-04040 (crk),

23-11312 (spg),

23-11313 (well)

**Place of Use: (part of)**

T4N, R41E

Sec. 28 NESE

Point(s) of Diversion:

T4N, R41E Sec. 28

SENESE, SWNESE (creek)

SWNESE (well), SESENE (spg)

LEGEND



Point of Diversion



Place of Use



Section



Quarter-Quarter



**GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: A. Ruberry
Date: March 2004**

T4N, R41E

NESE

Kelly
Canyon
Creek

spring

creek POD

well

creek POD

28 27

33 34

