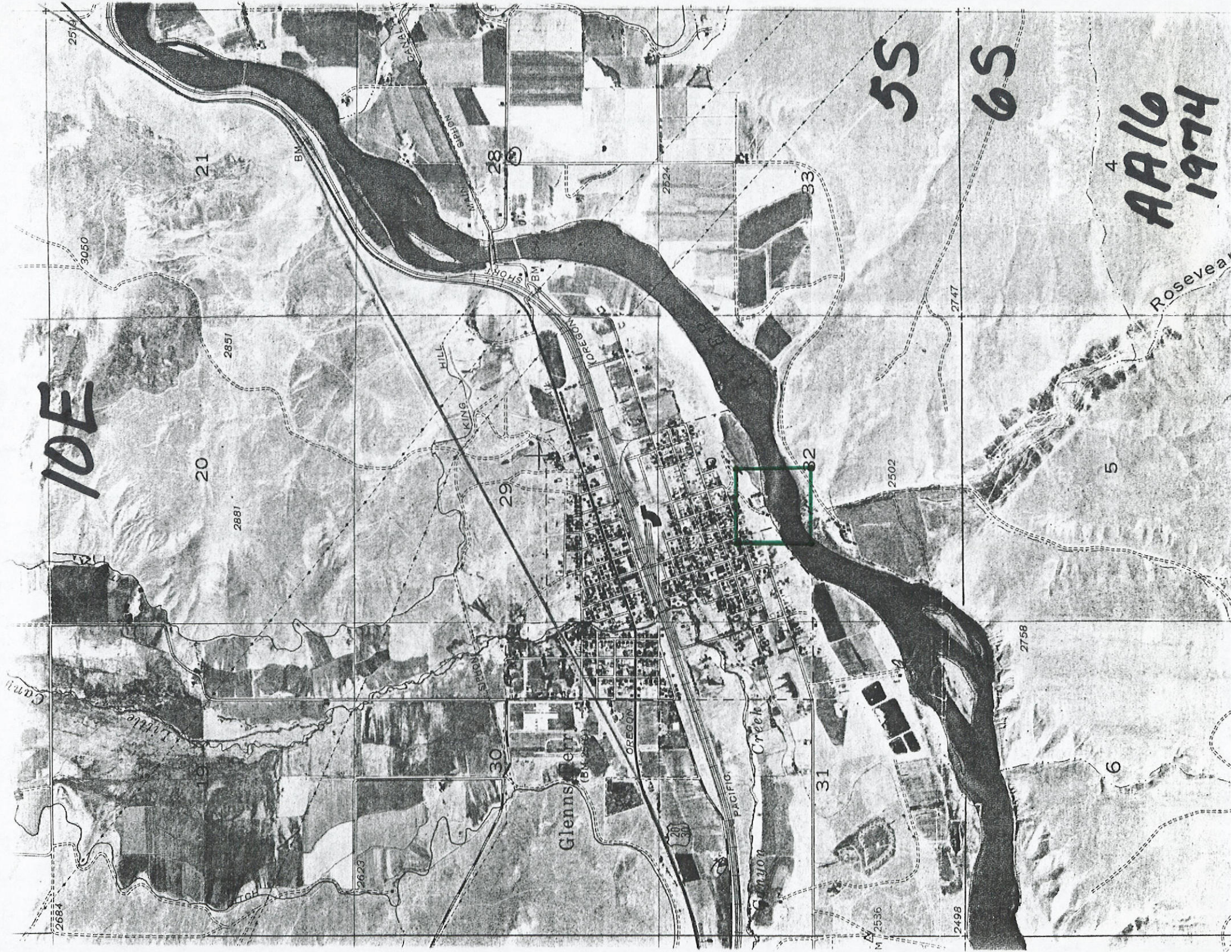


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II.

That Claimants have appropriated by means of a drilled well and put to beneficial use .06 cubic feet per second of ground water with point of diversion and place of use both on the same tract of land described in Finding No. 1.

III.

That the use of said water is for a public swimming pool with the overflow being used for irrigation of a small park a short distance below the swimming pool on the same tract of land described in Finding No. 1.

IV.

That priority of this appropriation dates from March 23, 1939.

V.

That temperature of the water as it flows from the well is approximately 100° Fahrenheit.

VI.

That said ground water at the point at which it is tapped by the Claimants well is under artesian pressure with piezometric surface above the elevation of the top of the well.

THE BOARD ALSO FINDS:

VII.

That the Respondent is in possession of a certain farm described as follows:

Lot 6, Lot 7, and SE 1/4, Section 32, T. 5 S., R. 10 E., S. 1., being on the South Side of Snake River in Elmore County, Idaho.

VIII.

That the Respondent has appropriated by means of a drilled well, in Lot 7, Section 32, T. 5 S., R. 10 E., S. 1., and put to beneficial use .02 cubic feet per second of ground water for domestic purposes on this same tract of land.

IX.

That the priority of this appropriation dates from October 23, 1935.

X.

That the water from the Respondent's well has a temperature of approximately 100° Fahrenheit as it flows from the well.

XI.

That said ground water at the point at which it is tapped by the Respondent's well is under artesian pressure with piezometric surface above the elevation of the top of the well.

THE BOARD FINDS FURTHER:

XII.

That the well of the Respondent is approximately one quarter of a mile from that of the Claimants.

XIII.

That both wells tap the same interconnected source of ground water.

XIV.

That when the well of the Respondent is permitted to flow unrestricted the well of the Claimants flows a greatly diminished and negligible amount insufficient for the purpose appropriated.

XV.

That the right of the Claimants is superior to that of the Respondent.

DECISION AND ORDER.

IT IS THE DECISION AND ORDER OF THE BOARD:

I.

That the right of the Claimants as set forth in their license No. 19756, issued by the State Reclamation Engineer on February 13, 1945, be confirmed as to priority, use, place of use, and point of diversion but that the amount be reduced to .03 cubic feet per second, the amount actually put to beneficial use.

II.

That the right of the Respondent under Water Permit No. C-27589 issued by the State Reclamation Engineer on November 7, 1958, be confirmed as to priority, place of use, and point of diversion, but be reduced to .02 cubic feet per second for domestic use only.

III.

That both the wells of the Claimants and Respondent be equipped with

27589-
NO
NEW
NUMBER

18758

control devices, as required by Idaho Code, Title 12, Chapter 10.

IV.

That the well of the Respondent be completely and permanently capped except for a stop and waste cock, such that its outflow will not exceed 0.02 cubic feet per second.

V.

That the well of the Claimants be closed and remain closed except during the periods necessary for irrigation or filling of the swimming pool.

VI.

That the control appliances be subject to approval by the State Reclamation Engineer, be a permanent installation, and subject to inspection, at any time, by the State Reclamation Engineer.

This order is subject to change by action of THE BOARD any time until October 1, 1960, after which it becomes permanent.

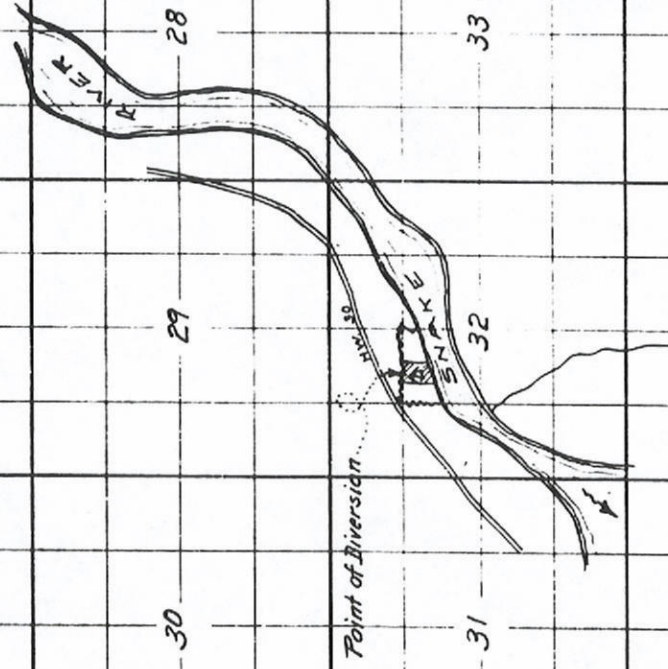
Signed at Boise, Idaho, this 21st day of April, 1960.

LOCAL IRRIGATOR WATER BOARD FOR
BLISS COUNTY

E. H. Humphrey
E. H. HUMPHREY
Deputy State Reclamation Engineer
and Chairman of the Board.

Thomas R. Howell
Thomas R. Howell

John Baptie
John Baptie



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: A61-11900
Date Received: 10/18/1989
Receipt No: C012338
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ROBERT C CUNNINGHAM 208-366-2937
Address: PO BOX 760
GLENN'S FERRY ID 83623
AND/OR
Name: ELAINE I CUNNINGHAM 208-366-2937
Address: PO BOX 760
GLENN'S FERRY ID 83623

2. Date of Priority: APR 3, 1939

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05S	10E	32	SE	NW		3	ELMORE

5. Description of diverting works:
WELL, PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		
RECREATION	01/01	12/31	0.370		

7. Total Quantity Appropriated is:
0.400 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
DOMESTIC 1 HOME, RECREATION - SWIMMING POOL 50 X 23 FEET

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	10E	32	SE	NW		DOMEST	
			SE	NW		REC	

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:

NONE

14. Remarks:

PART OF EXCHANGE AGREEMENT ATTACHED DEMONSTRATES CONVEYANCE OF PART OF THIS WATER RIGHT FROM MAGIC WEST (COMPETING CLAIMANT) TO CUNNINGHAMS. TO CLAIMANT'S KNOWLEDGE MAGIC WEST DOES NOT OWN ANY LAND IN SEC. 32 AND CERTAINLY MAKES NO DIVERSION FROM THIS WELL IN THE LOCATION THE CORPORATION HAS CLAIMED.

15. Basis of Claim: BENEFICIAL USE

Water Right Number: 18758

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 Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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: A61-02248A

Date Received: 10/03/1989

Receipt No: CO/2338

Received By: [Signature]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ROBERT C. CUNNINGHAM 208-366-2937
Address: P.O. BOX 760
GLENN'S FERRY, ID 83623

AND/OR

Name: ELAINE I. CUNNINGHAM 208-366-2937
Address: P.O. BOX 760
GLENN'S FERRY, ID 83623

2. Date of Priority: APR 03, 1939

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05S	10E	32	SE	NW		3	ELMORE

5. Description of diverting works:
WELL, PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		
RECREATION	01/01	12/31	0.370		

7. Total Quantity Appropriated is:
0.400 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 6.0 Acre Feet Per Annum.

9. Non-irrigation uses:
DOMESTIC 1 HOME, RECREATION - SWIMMING POOL 50 X 23 FEET

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	10E	32	SE	NW		DOMEST	
			SE	NW		REC	

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:
NONE

14. Remarks:

PART OF EXCHANGE AGREEMENT ATTACHED DEMONSTRATES CONVEYANCE OF PART OF THIS WATER RIGHT FROM MAGIC WEST (COMPETING CLAIMANT) TO CUNNINGHAMS. TO CLAIMANT'S KNOWLEDGE MAGIC WEST DOES NOT OWN ANY LAND IN SEC. 32 AND CERTAINLY MAKES NO DIVERSION FROM THIS WELL IN THE LOCATION THE CORPORATION HAS CLAIMED.

15. Basis of Claim: LICENSE
Water Right Number: 18758

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: 2

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Elaine Dunningham Date: 10-18-89

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 18 day
of October 19 89

[Signature]
Notary Public

Seal

Residing at Boise, ID
My Commission Expires June 10, 1994

~~MICROFILMED~~
~~AUG 11 1992~~

61-11900

EXCHANGE AGREEMENT

THIS AGREEMENT made this 2 day of ^{July}~~May~~, 1985, by and between MAGIC WEST, INC., hereinafter referred to as "Magic West", and ROBERT C. CUNNINGHAM and ELAINE I. CUNNINGHAM, husband and wife, hereinafter referred to as "Cunningham",

WITNESSETH:

WHEREAS Magic West owns property located in Elmore County, Idaho, and more particularly described as:

Those certain buildings and business situated in Glens Ferry, Elmore County, Idaho, known as CAMPLAND, the legal description of such real property being as follows:

A tract of land situated in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 32, Township 5 South, Range 10 East, Boise Meridian, Elmore County, Idaho, more particularly bounded and described as follows:

Commencing at a 2 inch pipe and brass cap marking the Northwest corner of Section 32, Township 5 South, Range 10 EBM; thence South 18°01' East 106.54 feet to a point on the center line of the old main track of the Oregon Short Line Railroad; thence North 71°59' East 996.30 feet along the said railroad centerline to a point on the center line of Commercial Street extended; thence South 18°01' East 1705.4 feet along the centerline of Commercial Street extended to a 1/2 inch x 24 inch rebar marking the intersection of Snake River Avenue; thence North 71°59' East 290.00 feet along the centerline of Snake River Avenue to a point; thence South 18°01' East 30.00 feet to a point, the said point being the REAL POINT OF BEGINNING;

Thence continuing South 18°01' East 120.00 feet to a point; thence South 71°59' West 71.00 feet to a point; thence South 18°01' East 10.00 feet to a point; thence South 20°21' East 372.6 feet to a point; thence South 18°01' East 56.32 feet to a point on the right bank of the Snake River; thence North 69°34'00" East 178.68 feet along the right bank of the Snake River to a point; thence North 80°21'55" East 179.22 feet along the right bank of the Snake River to a point; thence North 18°01' West 347.2 feet along the extended Westerly boundary of Logan Street to a point; thence North 60°00' East 175.0 feet to a point; thence North 6°00' East 40.0 feet to a point; thence South 80°13'00" West 189.40 feet to a point on the extended Westerly boundary of Logan Street, said point being South 18°01' East 130.0 feet from the Northeast corner of Lot 9,

Cunningham

461-022484

Block 74 of the South Addition to Glenns Ferry, Idaho; thence South 18°01' East 38.0 feet to a 7/8 inch steel rod; thence South 64°38'10" West 226.85 feet to a point; thence North 18°01' West 197.0 feet to a point on the Southerly boundary of the Snake River Ave.; thence South 71°59' West 75.0 feet to the POINT OF BEGINNING.

Together with a perpetual right-of-way for the use of pedestrians and vehicles running from the approximate Northeasterly corner of the above described tract in a Northeasterly direction to the city street, as now laid out; and

Together with a perpetual right-of-way over a strip of land six feet wide running from the North boundary of Lot 1, Block 74, South Addition to Glenns Ferry, Idaho, South 18°01' East a distance of 197 feet.

SAVE AND EXCEPT all water rights, including Water License No. 18758, and ditch rights appurtenant to said property and together with all geothermal rights or interests in or appurtenant to said premises;

Together with sufficient well water for domestic purposes for one house plus sufficient hot water from a well to heat one house and a swimming pool.

and,

WHEREAS Cunningham owns property located in Twin Falls County, Idaho, and more particularly described as:

Lot 5 of Nicholson Subdivision, Twin Falls County, Idaho, according to the plat thereof recorded in Volume 8 of Plats, page 22, records of the said County. EXCEPT that part more particularly described as follows:

Beginning at the most Southerly corner of said Lot 5; thence North 50°07' West along the Southwesterly boundary of said lot a distance of 5 feet; thence North 32°07' East to a point on the Northeasterly line of said lot; thence Southeasterly along said Northeasterly line to the most Easterly corner of said lot; thence South 32°07' West 190.5 feet along the line common to said lots 4 and 5 to the Point of Beginning.

and,

WHEREAS Magic West and Cunningham desire to make a tax free exchange the above described real properties including all presently existing mortgages, liens and encumbrances;

NOW, THEREFORE, IT IS HEREBY AGREED by and between the parties as follows:

1. Magic West shall transfer all right, title and interest to the real property located in Elmore County, Idaho, and more fully described as:

Those certain buildings and business situated in Glenns Ferry, Elmore County, Idaho, known as CAMPLAND, the legal description of such real property being as follows:

A tract of land situated in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 32, Township 5 South, Range 10 East, Boise Meridian, Elmore County, Idaho, more particularly bounded and described as follows:

Commencing at a 2 inch pipe and brass cap marking the Northwest corner of Section 32, Township 5 South, Range 10 EBM; thence South 18°01' East 106.54 feet to a point on the center line of the old main track of the Oregon Short Line Railroad; thence North 71°59' East 996.30 feet along the said railroad centerline to a point on the center line of Commercial Street extended; thence South 18°01' East 1705.4 feet along the centerline of Commercial Street extended to a 1/2 inch x 24 inch rebar marking the intersection of Snake River Avenue; thence North 71°59' East 290.00 feet along the centerline of Snake River Avenue to a point; thence South 18°01' East 30.00 feet to a point, the said point being the REAL POINT OF BEGINNING;

Thence continuing South 18°01' East 120.00 feet to a point; thence South 71°59' West 71.00 feet to a point; thence South 18°01' East 10.00 feet to a point; thence South 20°21' East 372.6 feet to a point; thence South 18°01' East 56.32 feet to a point on the right bank of the Snake River; thence North 69°34'00" East 178.68 feet along the right bank of the Snake River to a point; thence North 80°21'55" East 179.22 feet along the right bank of the Snake River to a point; thence North 18°01' West 347.2 feet along the extended Westerly boundary of Logan Street to a point; thence North 60°00' East 175.0 feet to a point; thence North 6°00' East 40.0 feet to a point; thence South 80°13'00" West 189.40 feet to a point on the extended Westerly boundary of Logan Street, said point being South 18°01' East 130.0 feet from the Northeast corner of Lot 9, Block 74 of the South Addition to Glenns Ferry, Idaho; thence South 18°01' East 38.0 feet to a 7/8 inch steel rod; thence South 64°38'10" West 226.85 feet to a point; thence North 18°01' West 197.0 feet to a point on the Southerly boundary of the Snake River Ave.; thence South 71°59' West 75.0 feet to the POINT OF BEGINNING.

Together with a perpetual right-of-way for the use of pedestrians and vehicles running from the approximate Northeasterly corner of the above described tract in a Northeasterly direction to the city street, as now laid out; and

Together with a perpetual right-of-way over a strip of land six feet wide running from the North boundary of Lot 1, Block 74, South Addition to Glens Ferry, Idaho, South 18°01' East a distance of 197 feet.

SAVE AND EXCEPT all water rights, including Water License No. 18758 and ditch rights appurtenant to said property and together with all geothermal rights or interests in or appurtenant to said premises;

Together with sufficient well water for domestic purposes for one house plus sufficient hot water from a well to heat one house and a swimming pool.

to Cunningham.

2. That Cunningham agrees to assume and pay the obligations of Magic West, Inc., as set forth in that certain Contract of Sale dated July 23, 1975, by and between Gregory B. Logan as Seller and Magic West, Inc., as Buyer. Cunningham agrees to hold Magic West harmless should Cunningham default in the payments due under the terms of said Contract of Sale.

3. Cunningham expressly assumes those covenants, conditions and restrictions on said Elmore County real property as shown in the title insurance policy on said property, together with the provisions of the Contract of Sale noted above in Paragraph 2.

4. Cunningham shall transfer all right, title and interest to real property located in Twin Falls County, Idaho, and more fully described as:

Lot 5 of Nicholson Subdivision, Twin Falls County, Idaho, according to the plat thereof recorded in Volume 8 of Plats, page 22, records of the said County. EXCEPT that part more particularly described as follows:

Beginning at the most Southerly corner of said Lot 5; thence North 50°07' West along the Southwesterly boundary of said lot a distance of 5 feet; thence North 32°07' East to a point on

the Northeasterly line of said lot; thence Southeasterly along said Northeasterly line to the most Easterly corner of said lot; thence South 32°07' West 190.5 feet along the line common to said lots 4 and 5 to the Point of Beginning.

to Magic West.

5. Magic West agrees to assume and pay any and all liens, mortgages, deeds of trust or other encumbrances against the above described Twin Falls County real property and agrees to hold Cunningham harmless from any and all liability from said encumbrances including, but not limited to:

Deed of Trust dated March 4, 1978, wherein Donald A. Hulme and Leota M. Hulme were Grantors; Titlefact, Inc. was Trustee and Merlin Deahl was the Beneficiary.

Deed of Trust dated July 11, 1980, wherein Robert C. Cunningham and Elaine I. Cunningham, husband and wife, were Grantors; Safeco Title Insurance Company was Trustee; and Don A. Hulme and Leota M. Hulme, husband and wife, were Beneficiaries.

6. Magic West expressly assumes any and all covenants, conditions and provisions of any encumbrances on said Twin Falls County real property including any requirements for the maintenance of fire insurance.

7. Magic West warrants that it has right, title and interest to the water rights and geothermal appurtenant to the Elmore County property, including Water License No. 61-2248 (old Water License No. 18758) with the State of Idaho. Cunningham understands and agrees that Magic West is retaining all right, title and interest to the water rights and geothermal appurtenant to the Elmore County property, including the Water License referred to above. Magic West, its successors and assigns, grant to Cunninghams all right, title and interest to the pump and well equipment on the Elmore County property. The pump and well equipment will be operated and maintained by Cunninghams at their sole cost. Magic West, its successors and assigns agree to allow

Cunninghams to utilize the well water and geothermal water to provide sufficient well water for domestic purposes for one house and up to 4,000 square feet plus sufficient geothermal well water adequate to heat one house of up to 4,000 square feet and to fill and heat the existing swimming pool or a replacement swimming pool of comparable size.

8. Magic West expressly represents that there are no other debts, liens or encumbrances against the Elmore County property other than the debt listed in Paragraph 2 of this agreement and the real property taxes.

9. Cunninghams expressly represent that there are no other debts, liens or encumbrances against the Twin Falls County property other than the debts listed in Paragraph 5 of this agreement and the real property taxes.

10. The parties to this agreement intend that the exchange of real property be a tax free exchange of real property under the provisions of the Internal Revenue Code.

11. The parties to this agreement agree to prorate the real property taxes at time of closing.

12. Magic West will direct payments due under the Deed of Trust dated July 11, 1980, noted above at Paragraph 5, to Escrow 202, Idaho State Bank, Hagerman, Idaho. Payments of \$4,002.96 due on the Promissory Note secured by said Deed of Trust shall be paid annually on or before August 1 for the years 1985 through 1989, both inclusive. The remaining unpaid principal and interest due shall be paid in full August 1, 1990. The unpaid principal is \$19,661.03.

13. Magic West will direct payments due under the Deed of Trust dated March 4, 1978, noted at Paragraph 5, to Escrow 139, Idaho State Bank, Hagerman, Idaho. Payments of \$4,861.28 on the note secured by said Deed of Trust are payable annually on or before March 1. Payments shall continue until the entire

purchase price, including interest, has been paid in full. The unpaid principal is \$37,312.05.

14. Cunningham will direct payments due under the Contract of Sale dated July 23, 1975, noted in Paragraph 2, to Escrow 1863, First Security Bank, Gooding, Idaho. Payments of \$550.51 made pursuant to the Contract of Sale are due on the 1st of each month until such time as principal and interest required by the Contract of Sale is paid in full. The unpaid principal is \$29,068.84.

15. It is specifically understood and agreed between the parties hereto that in the event either party to this agreement should default in any manner, whether by failure to make the payments specified herein or otherwise, that all attorney fees and court costs incurred in any litigation concerning such matters shall be collectible by the prevailing party, in addition to such other remedies as the prevailing party may have under the terms of this agreement, or which may be provided for by law.

16. Notices of default shall be sent to the parties at the following addresses:

Robert and Elaine Cunningham
P.O. Box 760
Glenns Ferry, Idaho 83623

Magic West, Inc.
P.O. Box 475
Rupert, Idaho 83350

17. The parties hereto hereby acknowledge that they are familiar with and agree to be governed by the provisions for declaring and remedying default contained in the Contract of Sale noted above in Paragraph 2, held in Escrow 1863 aforesaid, and the Deeds of Trust noted above in Paragraph 5 and accompanying documents held in Escrow 139 and 202, noted above.

18. If, in the event of default by either party hereto, the non-defaulting party remains liable under either the Deeds of Trust noted in Paragraph 5 or the Contract of Sale noted at

Paragraph 2, the non-defaulting party, upon thirty (30) days written notice from date of mailing or personal delivery to the defaulting party, said mailing to be by certified mail, may elect to reassume directly payments due under the said Contract of Sale or Deeds of Trust and to records the Quitclaim Deed executed by the defaulting party and held in the appropriate escrow as noted above. Any previous payments made pursuant to this Exchange Agreement by the defaulting party are liquidated damages.

19. Each party agrees to provide the other with a commitment for title insurance showing as exceptions to title only current year property taxes and the Deeds of Trust noted above in Paragraph 5 and the Contract of Sale noted above in Paragraph 2, respectively. Should the title insurance commitment reflect other exceptions to title, the party acquiring the interest in the real property may elect to take subject to the additional exception to title. Should the acquiring party not so elect, the party conveying the real property subject to the unacceptable exception to title has ten (10) days in which to remove said exception or the acquiring party may void this agreement, obtain a refund of its earnest money deposit, and collect as liquidated damages the earnest money deposit of the party unable to provide clear title.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year first above written.

MAGIC WEST, INC.

By Roger L. Jones
Roger L. Jones, President

ATTEST:

Richard Maggard
Secretary

STATE OF IDAHO
County of Twin Falls } ss.
I hereby certify that this instrument
filed for record at the office of the
County Clerk of Twin Falls, Idaho, on
this 11th day of May, 1985.
at 10:00 a.m.
in my office and duly recorded in book
..... of page
RICHARD A. PENCE
County Clerk
Deputy

Fee \$
Return to

229538

ELMORE COUNTY, IDAHO, ss

Request of

GUARANTY TITLE, INC.

Time 1:20 P.M.

Date July 9, 1985

Book of

Page

RAMONA YRAZABAL Recorder

By [Signature]

Deputy

Fee 18.00

[Signature]
Robert C. Cunningham

[Signature]
Elaine I. Cunningham

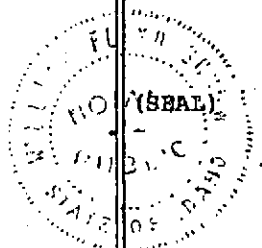
STATE OF IDAHO)

) ss.

County of Minidoka)

On this 2 day of July, 1985, before me, the undersigned, a Notary Public in and for said State, personally appeared ROGER L. JONES and Richard Morgan, President and Secretary respectively of the above-named corporation, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same on behalf of said corporation.

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



[Signature]
Notary Public
Residing at Rupert, Idaho
My Commission Expires: Life

STATE OF IDAHO)

) ss.

County of Elmore)

On this 21st day of July, 1985, before me the undersigned Notary Public in and for said State personally appeared ROBERT C. CUNNINGHAM and ELAINE I. CUNNINGHAM known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



[Signature]
Notary Public
Residing at Not. Home
My Commission Expires: Lifetime

WARRANTY DEED

FOR VALUE RECEIVED MAGIC WEST, INC., an Idaho Corporation, the Grantor, does hereby grant, bargain, sell and convey unto ROBERT C. CUNNINGHAM and ELAINE I. CUNNINGHAM, husband and wife, whose present address is P.O. Box 760, Glenns Ferry, Idaho 83623, the Grantees, the following described premises, located in Elmore County, Idaho, to-wit:

Those certain buildings and business situated in Glenns Ferry, Elmore County, Idaho, known as CAMPLAND, the legal description of such real property being as follows:

A tract of land situated in the SE $\frac{1}{4}$, Section 32, Township 5 South, Range 10 East, Boise Meridian, Elmore County, Idaho, more particularly bounded and described as follows:

Commencing at a 2 inch pipe and brass cap marking the Northwest corner of Section 32, Township 5 South, Range 10 EBM; thence South 18°01' East 106.54 feet to a point on the center line of the old main track of the Oregon Short Line Railroad; thence North 71°59' East 996.30 feet along the said railroad centerline to a point on the center line of Commercial Street extended; thence South 18°01' East 1705.4 feet along the centerline of Commercial Street extended to a 1/2 inch x 24 inch rebar marking the intersection of Snake River Avenue; thence North 71°59' East 290.00 feet along the centerline of Snake River Avenue to a point; thence South 18°01' East 30.00 feet to a point, the said point being the REAL POINT OF BEGINNING;

Thence continuing South 18°01' East 120.00 feet to a point; thence South 71°59' West 71.00 feet to a point; thence South 18°01' East 10.00 feet to a point; thence South 20°21' East 372.6 feet to a point; thence South 18°01' East 56.32 feet to a point on the right bank of the Snake River; thence North 69°34'00" East 178.68 feet along the right bank of the Snake River to a point; thence North 80°21'55" East 179.22 feet along the right bank of the Snake River to a point; thence North 18°01' West 347.2 feet along the extended Westerly boundary of Logan Street to a point; thence North 60°00' East 175.0 feet to a point; thence North 6°00' East 40.0 feet to a point; thence South 80°13'00" West 189.40 feet to a point on the extended Westerly boundary of Logan Street, said point being South 18°01' East 130.0 feet from the Northeast corner of Lot 9, Block 74 of the South Addition to Glenns Ferry, Idaho; thence South 18°01' East 38.0 feet to a 7/8 inch steel rod; thence South 64°38'10" West 226.85 feet to a point; thence North 18°01' West 197.0 feet to a point on the Southerly boundary of the Snake River Ave.; thence South 71°59' West 75.0 feet to the POINT OF BEGINNING.

Cunningham

ABX 02248A

Together with a perpetual right-of-way for the use of pedestrians and vehicles running from the approximate Northeasterly corner of the above described tract in a Northeasterly direction to the city street, as now laid out; and

Together with a perpetual right-of-way over a strip of land six feet wide running from the North boundary of Lot 1, Block 74, South Addition to Glenns Ferry, Idaho, South 18°01' East a distance of 197 feet.

SAVE AND EXCEPT all water rights, including all water rights granted by License No. 18758, and ditch rights appurtenant to said property and together with all geothermal rights or interests in or appurtenant to said premises;

Together with sufficient well water for domestic purposes for one house plus sufficient hot water from a well to heat one house and a swimming pool.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantor does hereby covenant to and with the Grantees that it is the owner in fee of said premises, that said premises are free from all encumbrances and that it will warrant and defend the same from all lawful claims whatsoever.

DATED this ____ day of May, 1985.

MAGIC WEST, INC.

By COPY: ORIGINAL SIGNED BY
Roger L. Jones, President

ATTEST:

COPY: ORIGINAL SIGNED BY

Secretary

(SEAL)

STATE OF IDAHO

County of Minidoka

)
) ss.
)

On this _____ day of May, 1985, before me, a Notary Public in and for said State, personally appeared ROGER L. JONES and _____, President and Secretary respectively of the above named corporation, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same on behalf of said corporation.

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

(SEAL)

Notary Public
Residing at Rupert, Idaho
My Commission Expires: Life



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 30, 2003

BECKY HUGHES
FIRST AMERICAN TITLE
190 N 3RD EAST
MOUNTAIN HOME ID 83623

RE: Materials documenting cause of recommendations for claims 61-2248A (disallowed) and 61-11900

Dear Ms. Hughes:

Enclosed please find copies pertaining to the above referenced claims. These include:

- Finding and Decision that reduced the quantity of license 61-2248 (old number 18758) dated April 1960.
- Exchange Agreement between Cunningham and Magic West whereby Magic West retains ownership of water right 61-2248, dated July 1985.
- Several internal memorandums that may help explain our review of the above documents.
- Copies of partial decrees for 61-10001, 61-11900, and 61-2248A. Claim 61-2248A was disallowed and is no longer a valid right.

If you have any questions about this matter, please let me know. I can be reached by mail at the above address or by phone at (208) 327-7897.

Sincerely,

Scott King
Engineer, Technical I
Adjudication Bureau

Enclosures

AJ0749NP
No. R61-11900

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 11/18/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	ROBERT C CUNNINGHAM	07/03/1985	DOMESTIC	01-01 12-31	0.04 CFS	1.20 AFA
C	ELAINE I CUNNINGHAM					
	PO BOX 760			TOTAL DIVERSION:	0.04 CFS	1.20 AFA
	GLENNS FERRY ID 83623					
	(208) 366-2937					

Water Source: GROUNDWATER

Tributary to:

Stage: BENEFICIAL USE

Point(s) of Diversion: T05S R10E S32 Lot03(SENW)

ELMORE County

Place of use Legal Description for: DOMESTIC

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
05S	10E	32	:																	:
			:																	:

POU County: ELMORE

Other Rights: NONE

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
61-10001 A02-02209E A02-10000 A61-02248A A61-04141 A61-10001 R61-04141

Other Water Rights Listing Overlapping Place(s) of Use:
A02-04006 A02-04006B A02-10000 A37-04112 A61-02248 R61-02248

Conditions of Approval:

- N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Remarks: USE DOMESTIC USE IS FOR HEATING OF HOME & SWIMMING POOL.

Dates: Exam Made Date: Verified Date: 11/18/1998 Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

AJ0749NP
No. R61-11900

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 11/18/98
PAGE: 2

=====

Comments: Date: 11/18/1998 User-ID: KWALKER Subject: COPIED FROM REMARKS
PART OF EXCHANGE AGREEMENT ATTACHED DEMONSTRATES CONVEYANCE OF
PART OF THIS WATER RIGHT FROM MAGIC WEST (COMPETING CLAIMANT) TO
CUNNINGHAMS. TO CLAIMANT'S KNOWLEDGE MAGIC WEST DOES NOT OWN ANY
LAND IN SEC. 32 AND CERTAINLY MAKES NO DIVERSION FROM THIS WELL
IN THE LOCATION THE CORPORATION HAS CLAIMED.

Date: 11/18/1998 User-ID: KWALKER Subject: RECOMMENDATION
PER EXCHANGE AGREEMENT BETWEEN MAGIC WEST AND CUNNINGHAM - MAGIC
WEST RETAINED ALL INTEREST IN LICENSE 61-02248. THEREFORE, THIS
RIGHT IS BEING RECOMMENDED AS A BENEFICIAL USE CLAIM WITH A
PRIORITY SUBSEQUENT TO THE EXCHANGE WHICH WAS SIGNED 7/2/1985.
SEE EXCHANGE AGREEMENT BELOW CLAIM IN FILE. ALSO SEE LEGAL
REVIEW OF AGREEMENT IN FILE.

Audit: 11/18/98 KWALKER

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

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11/17/98
17

PAGE: 17
PROFILE REPORT

CLAIM NUMBER: A61-02248A

B/U #
A61-11900

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	ROBERT C CUNNINGHAM	~~04/03/1939~~	DOMESTIC	01-01 12-31	0.04 CFS	1.2 AFA
C	ELAINE I CUNNINGHAM	7/3/1985	RECREATION	01-01 12-31	0.37 CFS	out 1.2 AFA

TOTAL DIVERSION:
CONSUMPTIVE USE: 0.40 CFS

Stage: LICENSE

Water Source: GROUNDWATER

Tributary to:

Point(s) of Diversion:

T05S R10E S32 Lot03(SENW)

ELMORE County

Place of use Legal Description for: DOMESTIC

NE				NW				SW				SE			
T	R	S		T	R	S		T	R	S		T	R	S	
05S 10E 32 :				D											

Place of use Legal Description for: RECREATION

NE				NW				SW				SE			
T	R	S		T	R	S		T	R	S		T	R	S	
05S 10E 32 :				R											

POU County: ELMORE

Non-Irrigation Uses: DOMESTIC - NONE, RECREATION - SWIMMING POOL 50 X 23 FEET

Other Rights: NONE

Remarks: GEN PART OF EXCHANGE AGREEMENT ATTACHED DEMONSTRATES CONVEYANCE OF PART OF THIS WATER RIGHT FROM MAGIC WEST (COMPETING CLAIMANT) TO CUNNINGHAMS. TO CLAIMANT'S KNOWLEDGE MAGIC WEST DOES NOT OWN ANY LAND IN SEC. 32 AND CERTAINLY MAKES NO DIVERSION FROM THIS WELL IN THE LOCATION THE CORPORATION HAS CLAIMED.

Dates: Exam Made Date: Verified Date: 05/20/1985 Objection Filed Date:

Misc: Water District Number: Field Inspection Flag: Presumption Flag:

N11, N13

per memo of 5/9/97 by Steve Foster Heating home &

Domestic use is for swimming pool.

Comments

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

14:06:41
11/17/98

PAGE: 1
GENERAL INFORMATION

1
CLAIM NUMBER: A61-02248A

LAST: CUNNINGHAM
ADDRESS: PO BOX 760
CITY: GLENNS FERRY
PHONE NUMBER: 208-366-2937

FIRST: ROBERT C
STATE: ID ZIP: 83623

OWNER CODE: C

LAST: CUNNINGHAM
ADDRESS: PO BOX 760
CITY: GLENNS FERRY
PHONE NUMBER: 208-366-2937

FIRST: ELAINE I
STATE: ID ZIP: 83623

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER
Y(☒) N(☐)

CLAIM REMARKS: GEN PART OF EXCHANGE AGREEMENT ATTACHED DEMONSTRATES CONVEYANCE OF
PART OF THIS WATER RIGHT FROM MAGIC WEST (COMPETING CLAIMANT) TO
CUNNINGHAMS. TO CLAIMANT'S KNOWLEDGE MAGIC WEST DOES NOT OWN ANY
LAND IN SEC. 32 AND CERTAINLY MAKES NO DIVERSION FROM THIS WELL
IN THE LOCATION THE CORPORATION HAS CLAIMED.

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FIELD EXAMINATION INFORMATION

2
CLAIM NUMBER: A61-02248A

CONTACT PERSON: _____

PHONE NUMBER: (____) ____-____

DATE OF FIELD EXAM: __/__/__

APPOINTMENT MADE: Y(____) N(____)

TIME: __:__ A(____) P(____)

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / NOTES:

- A. AJ CLAIM: # A61-02248A PRIORITY DATE: 04-03-1939 STAGE: L
- B. WR RECORD: # 61-02248 PRIORITY DATE: 04-03-1939 STAGE: L
- C. CAN THE PRIORITY DATE CLAIMED BE CONFIRMED BY A DECREE OR LICENSE?
- D. HAS THERE BEEN A LATER COURT DECREE OF THE WATER RIGHT(S) FROM THIS WATER SOURCE?
- E. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE?
(IF YES, DESCRIBE BELOW)
- F. IF THIS CLAIM IS BASED ON A PERMIT, WHERE IS THE PERMIT IN THE LICENSING PROCESS?

Y() N(☒)

Y() N(☒)

Y(☒) N(☒)

PROOF OF BENEFICIAL USE SUBMITTED

N/A() Y() N()

FIELD EXAM COMPLETED

N/A() Y() N()

FIELD EXAM SENT TO STATE OFFICE

N/A() Y() N()

LICENSE ISSUED

N/A() Y() N()

* IF THE PERMIT WILL NOT BE LICENSED PRIOR TO THE DIRECTOR'S REPORT,
USE CONDITION CODE A01 AND RECOMMEND AS PERMITTED.

- G. IF THIS CLAIM IS BASED ON BENEFICIAL USE, IS ADDITIONAL EVIDENCE
OF THE PRIORITY DATE REQUIRED?

N/A(☒) Y() N()

* FOR CLAIMS BASED ON BENEFICIAL USE, DESCRIBE THE EVIDENCE OF PRIORITY SUBMITTED,
INCLUDING THE ANALYSIS OF THE EVIDENCE.

- H. IS THE STAGE OF THE CLAIM CODED CORRECTLY?

Y() N(☒)

NOTES:

*Exchange agreement between claimants
& Magic West reserved all water rights
to seller (Magic West). Claimants
do not have any portion of license
issued under this number. Recommend
this right as a B/U claim with
priority date as of ~~May 1985~~
July 3, 1985 (see exchange agreement
beneath claim)*

RECOMMENDED PRIORITY DATE:

~~04-03-1939~~

REVIEWED BY

7/3/1985
kw

DATE

11/17/98

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP. RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
A61-02248A	05S 10E	32		SE	NW	3		ELMORE		

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX
A02-02209E	61-10001
A02-10000	R61-04141
A61-04141	
A61-10001	

WR RECORDS IN SAME 40 ACRE TRACT

02-02209B
02-07470
02-07471
61-04141

SOURCE: GROUNDWATER

TRIB:

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP. RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
61-02248	05S 10E	32		SE	NW	3		ELMORE		

OTHER WR RECORDS WITH SAME WR POD

02-02209B
02-07470
02-07471
61-04141

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX	R PREFIX
A02-02209E	61-10001
A02-10000	R61-04141
A61-04141	
A61-10001	

SOURCE: GROUNDWATER

TRIB:

C. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y(☒) N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA? N/A() Y(☒) N()

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM? Y() N(☒)

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y(☒) N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE? Y(☒) N()

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM? Y() N(☒)

I. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM _____) Y() N()

AJ FIELD EXAM (DATE OF FIELD EXAM _____) NAME OF EXAMINER _____ Y() N()

OTHER (DESCRIBE IN NOTES BELOW)

NOTES:

*Recommend as Domestic Bill
claim - no field exam required
for D & S.*

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: CHECK HERE IF RECOMMENDED AS CLAIMED (✓)

TWP. 05S	RGE. 10E	SEC. 32	1/4	1/4 SE	1/4 NW	LOT 3	POD FLAG	COUNTY ELMORE	DIVERSION NAME	DIVERSION NBR
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

SOURCE: GROUNDWATER ✓

TRIB:

REVIEWED BY:

kw

DATE:

11/17/98

SYSTEM DESCRIPTION: DESCRIBED BELOW (), SEE LICENSE FILE (), OR SEE ATTACHMENT ()

A. ROOT WATER RIGHT NUMBERS: A61-02248A
A61-02248B

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
05S	10E	32	SE	NW		CUNNINGHAM, ROBERT C	A61-02248A /	-	/		
			SE	NW		CUNNINGHAM, ROBERT C	A02-10000 /	3.0	/		
			SE	NW		CUNNINGHAM, ROBERT C	A61-10001 /	-	/		
			SE	NW		KING HILL IRRIGATION DISTRICT	A37-04112 /	1.0	37-04112 /	3.0	
			SE	NW		GRIGGS, DOROTHY R	A02-04006B /	4.0	-	/	
			SE	NW		CUNNINGHAM, ROBERT C	61-10001 /	-	/		
			SE	NW		CITY OF GLENNS FERRY	A61-04141 /	-	/		
			SE	NW		CITY OF GLENNS FERRY	A61-07228 /	61-07228 /			
05S	10E	32	SE	NW		CUNNINGHAM, ROBERT C	A61-02248A /	-	/		
			SE	NW		CUNNINGHAM, ROBERT C	A02-10000 /	3.0	-	/	
			SE	NW		CUNNINGHAM, ROBERT C	A61-10001 /	-	/		
			SE	NW		KING HILL IRRIGATION DISTRICT	A37-04112 /	1.0	37-04112 /	3.0	
			SE	NW		GRIGGS, DOROTHY R	A02-04006B /	4.0	-	/	
			SE	NW		CUNNINGHAM, ROBERT C	61-10001 /	-	/		
			SE	NW		CITY OF GLENNS FERRY	A61-04141 /	-	/		
			SE	NW		CITY OF GLENNS FERRY	A61-07228 /	61-07228 /			

*same claimants
irrigation - 3 acres*

*Dom use decreed for
same claimants.*

ADDITIONAL POU FOUND

TOTAL ACRES A61-02248A

POU COUNTY: ELMORE

C. IS WATER USAGE FOUND IN TRACTS OTHER THAN THOSE CLAIMED?

Y() N(☒)

* IF YES, ARE THESE TRACTS LISTED ABOVE (), OR ARE THEY LISTED ON AN ATTACHED SHEET ()

LIST OF ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE

CLAIM NO.	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A02-04006B	SNAKE RIVER	GRIGGS, DOROTHY R	0.750	0.041		
A02-10000	SNAKE RIVER	CUNNINGHAM, ROBERT C	0.090	0.030		
A37-04112	MALAD RIVER	KING HILL IRRIGATION DISTRICT	370.000	0.032		

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A61-02248A	DOMESTIC	CUNNINGHAM, ROBERT C	FROM 01-01 TO 12-31	0.040 CFS	
A61-02248A	RECREATION	CUNNINGHAM, ROBERT C	FROM 01-01 TO 12-31	0.370 CFS	
A61-10001	DOMESTIC	CUNNINGHAM, ROBERT C	FROM 01-01 TO 12-31	0.040 CFS	
A02-04006B	STOCKWATER	GRIGGS, DOROTHY R	FROM 01-01 TO 12-31	0.030 CFS	
61-10001	DOMESTIC	CUNNINGHAM, ROBERT C	FROM 01-01 TO 12-31	0.040 CFS	
A61-04141	MUNICIPAL	CITY OF GLENNS FERRY	FROM 01-01 TO 12-31	2.890 CFS	
A61-07228	MUNICIPAL	CITY OF GLENNS FERRY	FROM 01-01 TO 12-31	0.450 CFS	

D. ARE OTHER WATER RIGHTS USED FOR THE SAME PURPOSE?

Y() N(☒)

* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM: NONE

E. IS THE CLAIMED POU THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A() Y(☒) N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POU, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

F. CAN THE CLAIMED POU BE VERIFIED USING THE WATER RIGHT FILE AND AVAILABLE AERIAL PHOTOS?

N/A() Y(☒) N()

G. SHOULD THE CLAIMED POU BE VERIFIED BY FIELD EXAM?

Y() N(☒)

H. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THIS RIGHT?

Y() N(☒)

NOTES: _____

TOTAL ACRES: _____

N/A

REVIEWED BY:

DATE: 11/17/98

A. AJ CLAIMED USES:

PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
A61-02248A DOMESTIC	FROM 01-01 TO 12-31	0.040 CFS	
A61-02248A RECREATION	FROM 01-01 TO 12-31	0.370 CFS	
TOTAL DIVERSION RATE/VOLUME		0.400 CFS	

B. WR RECORDED USES:

PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
61-02248 IRRIGATION	FROM TO	0.400 CFS	
61-02248 RECREATION	FROM TO		
61-02248 DOMESTIC	FROM TO		
TOTAL DIVERSION RATE/VOLUME		0.400 CFS	

C. DOES THE CLAIMED PURPOSE OF USE CORRECTLY DESCRIBE THE WATER USE?

Y() N(☒)

D. IS THE CLAIMED PURPOSE OF USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A() Y(☒) N()

* IF NO, AND IF THE ACTUAL WATER USE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN PURPOSE OF USE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

E. SHOULD THE CLAIMED PURPOSE OF USE BE VERIFIED BY FIELD EXAM?

Y() N(☒)

F. DOES THE CLAIMED PERIOD OF USE CONFORM TO IDWR STANDARDS?

Y(☒) N()

G. SHOULD THE PERIOD OF USE BE RECOMMENDED TO IDWR STANDARDS?

Y() N()

* IF THE RECOMMENDED PERIOD OF USE IS DIFFERENT THAN IDWR STANDARDS, EXPLAIN IN NOTES BELOW.

H. IS THE CLAIMED DIVERSION RATE FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A() Y() N(☒)

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION RATE FOR EACH USE WAS DETERMINED.

I. SHOULD THE CLAIMED DIVERSION RATE FOR EACH USE BE VERIFIED BY FIELD EXAM?

N/A() Y() N(☒)

J. IS THE CLAIMED DIVERSION VOLUME FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A(☒) Y() N()

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION VOLUME FOR EACH USE WAS DETERMINED.

K. SHOULD THE CLAIMED DIVERSION VOLUME FOR EACH USE BE VERIFIED BY FIELD EXAM?

N/A(☒) Y() N()

NOTES:

Recommend this right as a
domestic use for swimming pool.
In-house domestic under 61-10001,
already decued.

AJ CLAIM TOTAL DIVERSION RATE: 0.400 CFS

WR ROOT RIGHT TOTAL DIVERSION RATE: 0.400 CFS

A. IS THE CLAIMED TOTAL DIVERSION RATE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y(☒) N()

B. CAN THE CLAIMED TOTAL DIVERSION RATE BE VERIFIED USING THE WATER RIGHT FILE? N/A() Y(☒) N()

* ALL CLAIMS BASED ON BENEFICIAL USE (INCLUDING POSTED NOTICES AND STATUTORY CLAIMS) REQUIRE A FLOW MEASUREMENT.

C. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THE DIVERSION RATE? Y() N(☒)

* IF AN AMOUNT SMALLER THAN THE ORIGINAL DIVERSION RATE IS CLAIMED AND A FIELD EXAM IS NOT REQUIRED, EXPLAIN IN NOTES.

D. SHOULD THE CLAIMED DIVERSION RATE BE VERIFIED BY FIELD EXAM? Y() N(☒)

E. FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

F. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES _____ x 0.02 CFS/ACRE = _____ CFS
(Taken from pou review)

1b. CALCULATIONS

IS A DIVERSION RATE PER ACRE GREATER THAN 0.02 CFS/ACRE CLAIMED? Y() N()

IF YES, IS AN ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N()

2. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = _____ AF/A

ACRES _____ x DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

3. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = _____ 6.0 AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION: SEE BELOW () OR SEE ATTACHMENT ()

NOTES:

Recommend as a domestic
claim w/ priority date subsequent
to sale of property - see exchange
agreement below claim.
In-house domestic under claim
61-10001.

WR RECORD CONDITIONS/REMARKS:

RECOMMENDATIONS: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

REC. PURPOSE OF USE	REC. PERIOD FROM TO		REC. DIV RATE CFS		REC. DIV VOL. AF/A		REC. CONS. USE	
			DATABASE	EXAMINER	DATABASE	EXAMINER	DATABASE	EXAMINER
~~DOMESTIC RECREATION~~	01-01	12-31	0.040	0.04			6.0	6.0
	01-01	12-31	0.370					
TOTAL FOR THIS RIGHT				0.04				N/A

NON-IRRIGATION USES CLAIMED: DOMESTIC ~~1-HOME, RECREATION~~ - SWIMMING POOL 50 X 23 FEET

NON-IRRIGATION USES RECOMMENDED: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

REVIEWED BY: tw

DATE: 11/18/98

FLAG: _____

STANDARD CONDITIONS (CODE):

N11, N13

STANDARD REMARKS (CODE):

use: Domestic use is for swimming pool.

EXPLANATORY CONDITIONS (CODE):

EXPLANATORY REMARKS (CODE):

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED AS CLAIMED	NEEDS REVIEW
()	()
()	()
()	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 61-02248

TOTAL DIVERSION RATE OF WR SPLITS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A61-02248A	0.400	-		61-02248	0.400
-	A61-02248B	0.400	-		-	
TOTAL CFS		0.800				0.400

*N/A - Magic West retained
entire right -*
DATABASE EXAMINER CFS

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, IS THE WRITTEN REVIEW DESCRIBED BELOW () OR SEE ATTACHMENT ()?

DATABASE FIELD
N EXAMINER
Y() N()

NOTES:

AUTHENTICATION:

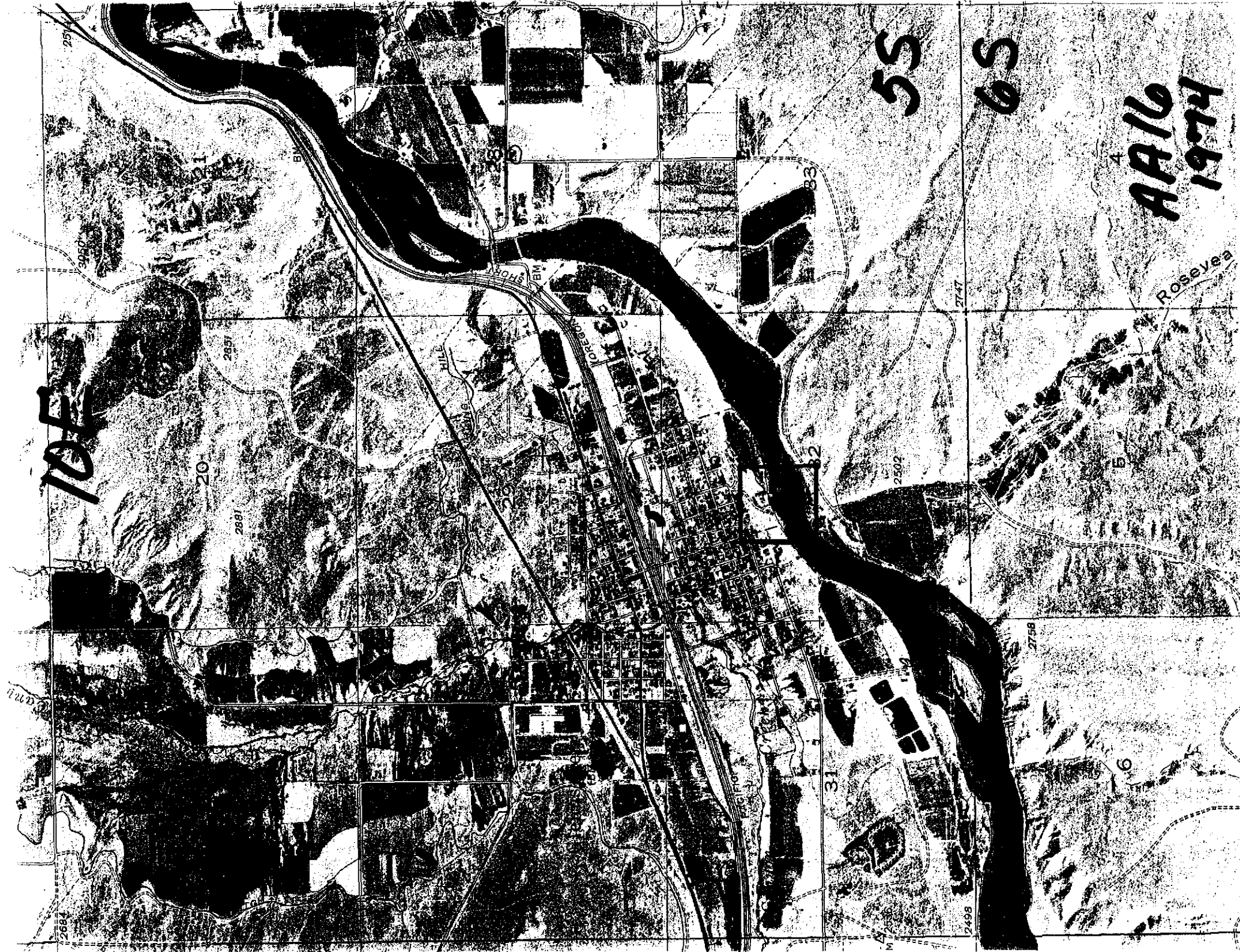
SIGNATURE:

DATE:

NAME OF FIELD EXAMINER:

TITLE:

Ray Walker *11/18/98*
Ray Walker *Sr. Agent*



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MEMO

TO: KAY
FROM: DAN *DS*
DATE: 2/14/95
RE: EXCHANGE AGREEMENT REGARDING LICENSE # 18758

This is in response to your October 31, 1994, memo regarding the exchange agreement between Magic West Inc. and Cunningham, dated July 2, 1985.

The seller expressly reserved all water rights in the exchange agreement. All the buyers (Cunningham) got was limited use of the well so they could make their own appropriation. This means they can have a beneficial use claim with a priority date subsequent to the sale (its up to them how they claim it, but that's how it can be recommended.)

MEMO

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MEMORANDUM

DATE: OCTOBER 31, 1994

TO: DAN STECKEL

FROM: KAY WALKER *KW*

RE: ATTACHED "EXCHANGE AGREEMENT"

(see below claim)
KW

Hi, Dan!! I have a question in regard to the attached exchange agreement. This agreement appears to say that Magic West has excluded any part of Water Right 18758 in the sale, but then turns around and provides "sufficient well water for domestic purposes for one house plus sufficient hot water from a well to heat one house and a swimming pool". Does this agreement mean that the Cunninghams should have a filed a beneficial use claim rather than on a portion of License 18758?

This water right is the same one that I had sent you questions on before... (the one where the local ground water board reduced the amount of water under the license to 0.08 cfs, but the Dept. had never entered the agreement into the computer records) I am also attaching a copy of my previous memo in case you need more background.

MEMORANDUM

Copy

DATE: 06-Jul-1993 08:45

TO: DAN STECKEL

FROM: KAY WALKER *Kay*

RE: WATER RIGHT 61-02248

Hi, Dan!! I have a tricky water right I'm reviewing that needs to be scrutinized by you to find out if I am looking at it correctly.

I have Claims A61-02248A and A61-02248B which have both claimed the entire licensed amount of water (0.40 cfs as shown on License 61-02248). The duplicate filings are not the problem, they just add to the puzzle.

In looking at the micro-film for 61-02248, I found a document entitled "Findings and Decisions of the Local Ground Water Board for Elmore County, Idaho", which was issued by State of Idaho, Dept. of Reclamation, signed 4-21-1960 by E. N. Humphrey. It appears to be official to me. However, this finding reduces the amount of water under this license to 0.08 cfs if I am reading it correctly. I just want you to agree or disagree, whatever you think. I have attached a copy of the "Findings..." and a copy of the license which is being scrutinized.

The respondent in this action, Claude Smith, does not appear to have a current right from his well. The right mentioned in the findings was not issued a new number when our records were renumbered with "basin" prefixes.

*7/14/93:
Per Dan Steckel - License was
reduced to 0.08 cfs by ~~agreement~~
"findings" of 4-21-1960.*

18758

Town Newell
220 Jefferson St

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

GLENN E. HALL, HUTH M. HALL
and H. G. JOHNSON,

Claimants

vs.

CLAUDE W. SMITH,

Respondent

FINDINGS AND DECISIONS OF THE
LOCAL GROUND WATER BOARD FOR
ELMORE COUNTY, IDAHO.

THE ABOVE ENTITLED MATTER came on for hearing at 10 o'clock A. M., on November 24, 1959, in the Court Room of the Elmore County Court House, in Mountain Home, Idaho, before a local GROUND WATER BOARD, consisting of ELMER H. HUMPHREY, Deputy State Reclamation Engineer, acting for GEO. M. CARTER, Chairman, THOMAS R. NEWELL and JOHN BAPTIE, established pursuant to Sections 42-237b, 42-237c, and 42-237d, Idaho Code, Perce Hall, appearing as counsel for claimants, and Claude W. Smith, respondent, appearing for himself; and the Board having heard the testimony and examined the proofs offered therein, hereby makes its findings and decisions as follows:

FINDINGS

THE BOARD FINDS, From the Testimony adduced at the Hearing and other information:

I.

That Claimants own the following tract of land in Lot 3, Section 23, T. 5 S., R. 10 E., B. M., on the North Side of Snake River, between the town of Glenns Ferry and the river in Elmore County, Idaho, described by rates and bounds as follows:

Beginning at the Northwest corner of Lot 3, Block 74, South Addition to Glenns Ferry, thence running South $72^{\circ} 59'$ West 52 feet; thence South $13^{\circ} 1'$ East to the meander line of Snake River; thence westerly along the meander line of Snake River to a point, South $13^{\circ} 1'$ East of the Northeast corner of Lot 3, Block 74, South Addition to Glenns Ferry; thence North $13^{\circ} 1'$ West to a point 120 feet South $13^{\circ} 1'$ East of the said Northeast corner of Lot 3, Block 74, South Addition to Glenns Ferry; thence South $72^{\circ} 59'$ West to a point 120 feet South $13^{\circ} 1'$ West of the Northwest corner of Lot 3, Block 74, South Addition to Glenns Ferry; thence North $13^{\circ} 1'$ East to the point of beginning, containing 2.11 acres more or less.

18758

II.

That Claimants have appropriated by means of a drilled well and put to beneficial use .05 cubic feet per second of ground water with point of diversion and place of use both on the same tract of land described in Finding No. 1.

III.

That the use of said water is for a public swimming pool with the overflow being used for irrigation of a small park a short distance below the swimming pool on the same tract of land described in Finding No. 1.

IV.

That priority of this appropriation dates from ~~January 1, 1900~~

V.

That temperature of the water as it flows from the well is approximately 100° Fahrenheit.

VI.

That said ground water at the point at which it is tapped by the Claimants well is under artesian pressure with piezometric surface above the elevation of the top of the well.

THE BOARD ALSO FINDS:

VII.

That the Respondent is in possession of a certain farm described as follows:

Lot 6, Lot 7, and SE 1/4, Section 32, T. 5 N., R. 10 E., S. 1., being on the South Side of Snake River in Elmore County, Idaho.

VIII.

That the Respondent has appropriated by means of a drilled well, in Lot 7, Section 32, T. 5 S., R. 10 E., S. 1., and put to beneficial use .02 cubic feet per second of ground water for domestic purposes on this same tract of land.

IX.

That the priority of this appropriation dates from October 20, 1900.

X.

That the water from the Respondent's well has a temperature of approximately 100° Fahrenheit as it flows from the well.

XI.

That said ground water at the point at which it is tapped by the Respondent's well is under artesian pressure with piezometric surface above the elevation of the top of the well.

THE BOARD FINDS FURTHER:

XII.

That the well of the Respondent is approximately one quarter of a mile from that of the Claimants.

XIII.

That both wells tap the same interconnected source of ground water.

XIV.

That when the well of the Respondent is permitted to flow unrestricted the well of the Claimants flows a greatly diminished and negligible amount insufficient for the purpose appropriated.

XV.

That the right of the Claimants is superior to that of the Respondent.

DECISION AND ORDER.

IT IS THE DECISION AND ORDER OF THE BOARD:

I.

That the right of the Claimants as set forth in their license No. 22756, issued by the State Reclamation Engineer on February 12, 1945, be confirmed as to priority, use, place of use, and point of diversion but that the ~~amount~~ be reduced to .08 cubic feet per second, the amount actually put to beneficial use.

II.

That the right of the Respondent under Water Permit No. (C-27509) issued by the State Reclamation Engineer on November 7, 1958, be confirmed as to priority, place of use, and point of diversion, but be reduced to .02 cubic feet per second for domestic use only.

III.

That both the wells of the Claimants and Respondent be shut out well.

18756

27589-
NO
NEW
NUMB

control devices, as required by Idaho Code, Title 12, Chapter 20.

IV.

That the well of the Respondent be completely and permanently capped except for a stop and waste cock, such that its outflow will not exceed 0.02 cubic feet per second.

V.

~~That the well of the Claimants be closed and remain closed except,~~
~~during the periods necessary for irrigation or filling of the swimming pool.~~

VI.

That the control appliances be subject to approval by the State Reclamation Engineer, be a permanent installation, and subject to inspection, at any time, by the State Reclamation Engineer.

This order is subject to change by action of THE BOARD any time until October 1, 1960, after which it becomes permanent.

Signed at Boise, Idaho, this 21st day of April, 1960.

LOCAL IRRIGATOR BOARD FOR

BLAINE COUNTY

E. H. Humphreys

E. H. HUMPHREYS
Deputy State Reclamation Engineer
and Chairman of the Board.

Thomas R. Howell

Thomas R. Howell

John Baptie

John Baptie

State of Idaho

License and Certificate of Water Right

Water License No. 18758

Amount 0.4 second foot

Water District No.

Priority April 3, 1939

THIS IS TO CERTIFY that H. W. BELNAP of Glenss Ferry, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated March 25, 1939; that Permit No. 18758 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 0.4 second feet, was issued thereunder on April 12, 1943, showing that said works were completed on the 12th day of March, 1923; and that on the 8th day of April, 1944,

PRISCILLA C. BELNAP, surviving widow of H. W. Belnep

of Glenss Ferry, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of an artesian well, tributary of, for the purpose of irrigation, domestic and bathing, under Use Permit No. 18758 of the Department of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume 7 of Licenses, at page 4240, on the 12th day of February, 1945;

The right hereby confirmed dates from April 3, 1939;

The Point of Diversion is located North 240 feet from SW corner of land described in the Lot 3 1/4, Sec. 38, Tp. 3 S., R. 10 E., B. M. Elmore County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 0.4 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
A tract of land described as follows: Beginning at the Northwest corner of Lot 3, Block 74, South Addition to Glenss Ferry, thence running South 71°59' West 50 feet; thence South 18°1' East to the meander line of Snake River, thence easterly along the meander line of Snake River to a point South 18°1' East of the Northeast corner of Lot 9, Block 74, South Addition to Glenss Ferry, thence North 18°1' West to a point 120 feet South 18°1' East of the said Northeast corner of said Lot 9 of Block 74, South Addition to Glenss Ferry, thence South 71°59' West to a point 120 feet South 18°1' East of the Northwest corner of Lot 3, Section 74, South Addition to Glenss Ferry, thence North 18°1' West of the point of beginning.					

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer of Idaho, affixed at Boise, Idaho, this 12th day of February, 1945

MARK R. KULP

Commissioner of Reclamation
State Reclamation Engineer

(SEAL)

Assigned to H. G. Johnson
see Permit record

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 18758

- This proof is for Beneficial use In Water District No. _____
1. Name of applicant: Mrs. Priscilla V. Delmap, Blaine, Idaho
 2. Source of water supply: Subterranean (artesian well)
 3. Location of point of diversion: Is in the Lot 3 (SE 1/4 NW 1/4) of Section 32
T. 5 S. R. 10 E. County of Blaine
 4. Describe works as they exist, giving dimensions and capacities of same: A Drilled well 950 feet deep (Approx.) and cased to hardpan with 4 inch casing.
A concrete swimming pool 20 feet X 50 feet X 3 to 7 feet deep.
An irrigating ditch 1 foot wide X 1 foot deep conducts overflow from the pool to irrigated area, well flows approximately .4 Second Fc .
 5. Water is used for: Irrigation, domestic and bathing Yes
 6. State whether or not water has been turned into works of diversion: _____
 7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): Lot 3, Section 32, Township 5 South, Range 10 East, T.

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? None

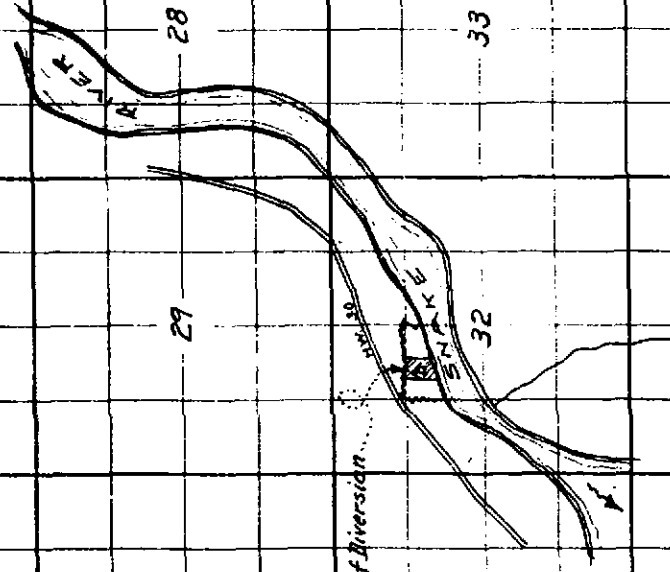
Remarks

This examination was made on the 13th day of May, 1944.

(Signed)

Priscilla Delmap
Engineer

18758



Old (D) Number - 18758 ✓

No Old Water Right Numbers found.