

02/16/2006

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

RIGHT NUMBER: 78-4009

NAME AND ADDRESS: COLLEEN K CUMMINS
5365 HWY 95 N
NEW MEADOWS ID 83654

DANIEL N CUMMINS
5365 HWY 95 N
NEW MEADOWS ID 83654

SOURCE: FALL CREEK

TRIBUTARY: LITTLE SALMON RIVER

QUANTITY: 0.090 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/01/1962

POINT OF DIVERSION:

T22N R01E S27 NENWNW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	04/01 10/31	0.020 CFS
IRRIGATION	04/01 10/31	0.070 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T22N R01E S27 SWNE 2.30

STOCKWATER Within ADAMS County

T22N R01E S27 SWNE

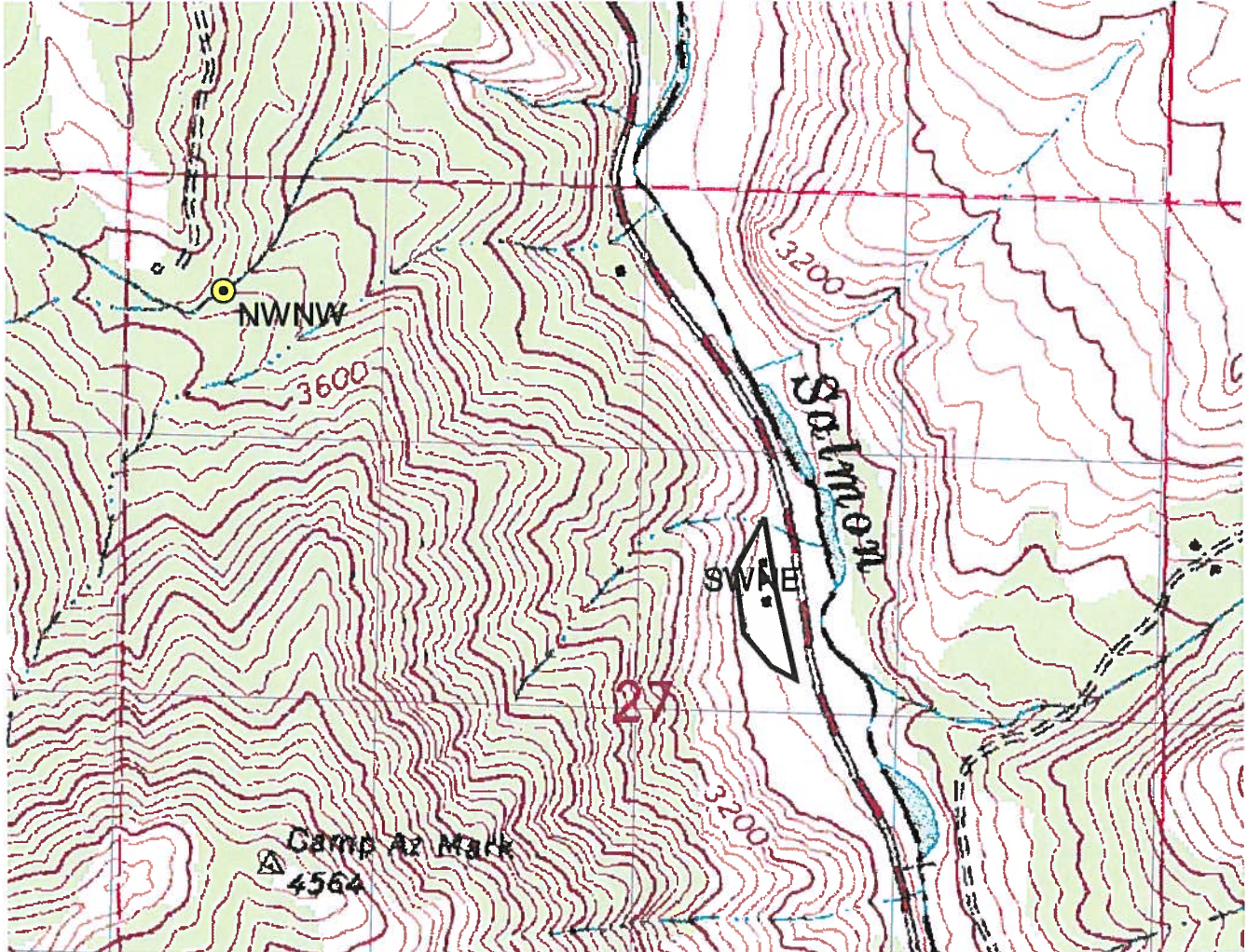
2.3 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

78-4009



0 600 1200 Feet

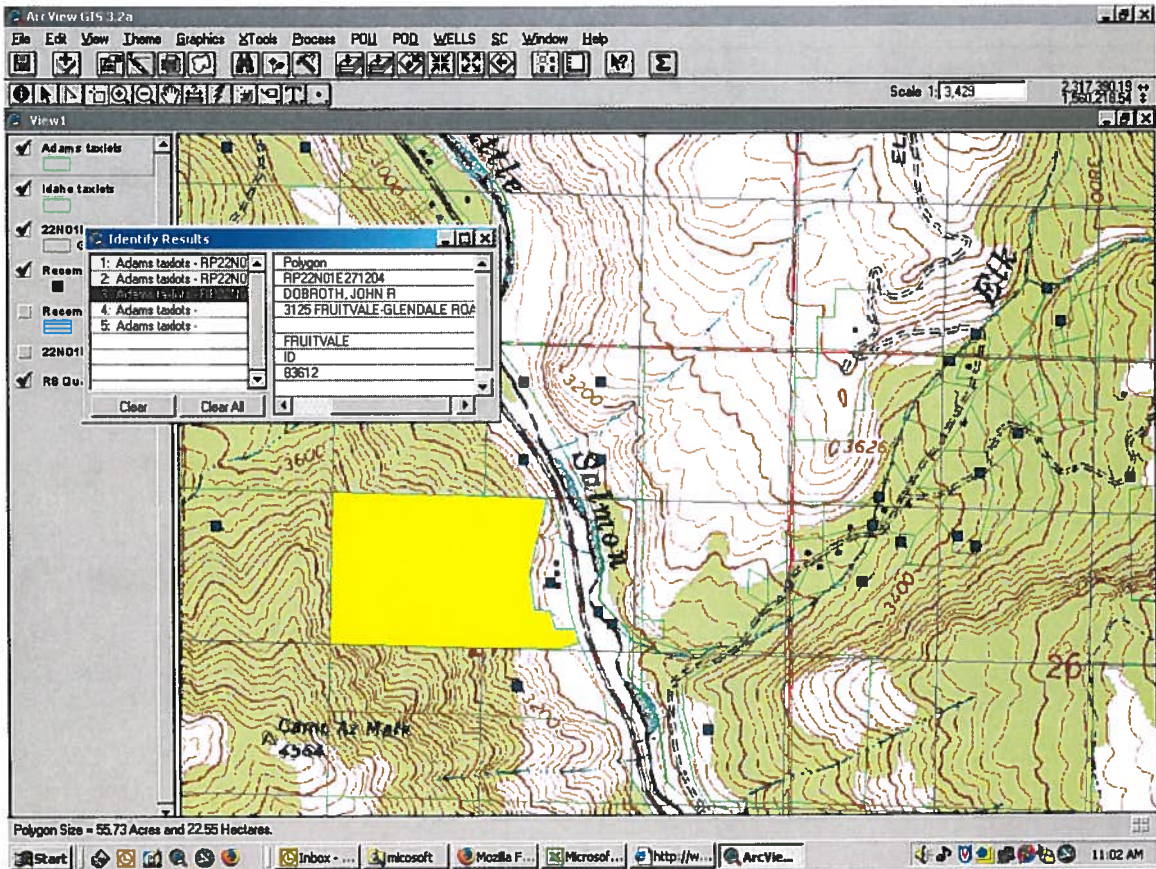
Section 27
T22N R1E



● Point of Diversion

□ Place of Use

Map prepared on February 16, 2006
By Kenneth Knoblock
Idaho Department of Water Resources



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: **A78-04009**
Date Received: 5/16/1988
Receipt No: C000669
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: DANIEL CUMMINS 208-628-3926
Address: 5555 HWY 95
NEW MEADOWS ID 83654
OR
Name: COLLEEN CUMMINS 208-628-3926
Address: 5555 HWY 95
NEW MEADOWS ID 83654
2. Date of Priority: APR 1, 1962
3. Source: FALL CREEK Trib. to: LITTLE SALMON RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
22N	01E	27	NE	NW	NW		ADAMS
5. Description of diverting works:
SMALL DIVERSION DAM W/ HEADGATE AND DITCH TO POU.
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	10/31	0.100		
STOCKWATER	04/01	10/31	0.020		
7. Total Quantity Appropriated is:
0.100 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 4.5 Acre Feet Per Annum.
9. Non-irrigation uses:
S/ 4 HEAD VARIED STOCK

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
22N	01E	27	SW	NE		IRR	2.2
Section Acres							2.2
Total Acres							2.2

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:
NONE

14. Remarks:
AC. IRR.=2.27.
OWNERSHIP CHANGE BY DB 12/17/97.

15. Basis of Claim: STATUTORY CLAIM

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

RECEIVED
SEP 16 1997

Please print or type. Attach pages with additional information. Instructions are on the back of this page.

WATER RESOURCES
 WESTERN REGION

Incomplete forms will be returned.

1. Water Right Number(s) A78-04008 A78-04009
 Adjudication Claim Number(s) also

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

- A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
- AND
- B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)
- OR
- C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant(s) Jean Schultz
5365 Hwy 95, New Meadows, ID 83654

4. New Owner/Claimant(s) Daniel Cummins or Colleen Cummins
 Name connector (Check one): ☐ AND, ☒ OR, ☐ AND/OR
 New Mailing Address 5555 Hwy 95
 City, State and ZIP Code New Meadows, ID 83654
 New Telephone Number (208) 628-3926

5. Date you acquired the property 8/15/97

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres actually irrigated _____ Number and type of stock _____

Diversion rate in CFS _____ Number of homes _____ Other uses _____
cubic feet per second

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner/Claimant(s) Daniel Cummins Date 8-15-97
Colleen Cummins Date 8-15-97

(Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)
 8. For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

ORIGINAL

WARRANTY DEED

FOR VALUE RECEIVED, JEAN W. SCHULTZ aka JEAN SCHULTZ, a single woman, the grantor, does hereby grant, sell and convey unto DANIEL CUMMINS and COLLEEN CUMMINS, husband and wife, the grantees, whose address is 5555 Highway 95, New Meadows, Idaho 83654, the following described premises, to-wit:

PARCEL 1

Township 22 North, Range 1 East, Boise Meridian, Adams County, Idaho
Section 27: A parcel in the SW 1/4 NE 1/4 described as follows: Commencing at a point on the Westerly boundary of the right-of-way of U.S. Highway 95 as now established, which point is 364 feet Northerly of U.S. Highway Survey Station No. 383-65.7 P.C., and which said Highway Survey Station is now established on the Westerly side of said Highway right-of-way by concrete highway survey station monument; Thence Northerly on and along the Westerly boundary of said U.S. Highway 95 a distance of 162 feet; Thence West 174 feet; thence Southerly 162 feet; Thence East 174 feet to the REAL POINT OF BEGINNING.

Excepting the right-of-way of U.S. Highway 95.

PARCEL 2

Township 22 North, Range 1 East, Boise Meridian, Adams County, Idaho
Section 27: A parcel in the SW 1/4 NE 1/4 described as follows: Commencing at a point on the Westerly boundary of the right-of-way of U.S. Highway 95 as now established, which point is 364 feet Northerly of U.S. Highway Survey Station No. 383-65.7 P.C., and which said Highway Survey Station is now established on the Westerly side of said Highway right-of-way by concrete highway survey station monument; Thence West 100 feet; Thence Southerly 200 feet; Thence East 100 feet; Thence Northerly, along the Westerly right-of-way boundary of said U. S. Highway 95 to the REAL POINT OF BEGINNING.

EXCEPTING the right-of-way of U.S. Highway 95.

TOGETHER with all water, water rights, ditch and ditch rights appurtenant thereto or in anywise appertaining.

PARCEL 3

Township 22 North, Range 1 East, Boise Meridian, Adams County, Idaho
Section 27: A parcel of land situated in the SW 1/4 NE 1/4 of said section more

particularly described as follows: Commencing therefore at a point on the Westerly boundary of the right-of-way of U.S. Highway 95, as now established, which is 104 feet Southerly of U. S. Highway Survey Station 389 plus 77.9 feet, 3° rt. and which Survey Station is now established on the boundary of said Highway by a concrete highway survey station monument and running Thence Northerly along the Westerly boundary of said highway right-of-way 330 feet to a point; thence Westerly at right angles to said highway right-of-way 300 feet to a point; Thence Southerly and parallel to said highway right-of-way 330 feet to a point; Thence Easterly 300 feet to the POINT AND PLACE OF BEGINNING.

TOGETHER with a perpetual right and easement to construct a water storage tank in said Southwest Quarter of the Northeast Quarter of said Section, Township and Range at a point approximately 150 feet Westerly of the West boundary line of the tract herein conveyed, and to store water therein and conduct the same down to and upon the lands hereby conveyed by pipe line. TOGETHER with water and water rights if any; and, SUBJECT to any and all other granted, reserved and/or existing easements, restrictions and rights of way.

SUBJECT TO:

1. Easements, claims of easement or encumbrances which are not shown by the public records..
2. EASEMENT, including terms and conditions thereof, granted to STATE OF IDAHO, as set forth in deed recorded June 11, 1936 in Book 14 Deeds page 492.
3. PUBLIC UTILITIES EASEMENT granted to MOUNTAIN STATES TELEPHONE AND TELEGRAPH recorded August 11, 1932 in Book 3 Misc. page 340.
4. EXCEPTING all road and highway rights-of-way and all easements for public utilities as now established.

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

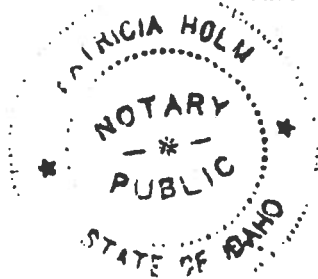
DATED this 15 day of August, 1997.

Jean W. Schultz
JEAN W. SCHULTZ aka JEAN SCHULTZ

STATE OF IDAHO)
) ss.
County of Adams)

On this 15 day of August, 1997, before me, Patricia Hohn
a Notary Public in and for said State, personally appeared JEAN W. SCHULTZ aka JEAN
SCHULTZ, known or identified to me to be the person whose name is subscribed to the within
and foregoing instrument and acknowledged to me that she executed the same.

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



Patricia Hohn
Notary Public for Idaho
Residing at: 1117 N. Adams
My Commission Expires: 11-2-99

INSTRUMENT NO. 92498
State of Idaho)
County of Adams) ss.

Filed for record at the request of
Timberline Title & Escrow
30 min. past 10 o'clock A.M.
this 22 day of Aug, 1997
MICHAEL FISK, RECORDER
by Dorothy Lindal
Deputy
Fee \$ 9.00

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: A78-04009
Date Received: 5/26/1988 5-12-88
Receipt No: C000669

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JEAN W. SCHULTZ 208-628-3786
Address: HC 75 BOX 3580
NEW MEADOWS, ID 83654

2. Date of Priority: APR 01, 1962

3. Source: FALL CREEK Trib. to: LITTLE SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
22N	01E	27	NE	NW	NW		ADAMS

5. Description of diverting works:
SMALL DIVERSION DAM W/ HEADGATE AND DITCH TO POU.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/31	0.100		
STOCKWATER	04/01	10/31	0.020		

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

8. Total consumptive use is 4.5 Acre Feet Per Annum.

9. Non-irrigation uses:
S/ 4 HEAD VARIED STOCK

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
22N	01E	27	SW	NE		IRR	2.2
Section Acres							2.2

10. Place of Use: Continued

Total Acres 2.2

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:
 NONE

14. Remarks:
 AC. IRR.=2.27.

15. Basis of Claim: STATUTORY CLAIM
 Water Right Number:

MICROFILMED
OCT 05 1992

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: 39356

Ident. Number A 78-04009

Date Received 05-12-88

Receipt Number C 000669

RECEIVED

MAY 12 1988

NOTICE OF CLAIM

TO A

WATER RIGHT

ACQUIRED UNDER STATE LAW

Department of Water Resources

Please type or print clearly

1. Name of Claimant (s) JEAN W. SCHULTZ Phone (208) 628-3786

Mailing Address HC 75 Box 3580 New Meadows Zip 83654

2. Date of Priority (Only one (1) per claim) APRIL 1, 1962

3. Source of water supply (a) FALL CREEK
which is tributary to (b) LITTLE SALMON RIVER

4. a. Location of existing point of diversion is: Township 22N Range 01E Section 27,
NE 1/4 of NW 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of ADAMS

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

SMALL DIVERSION DAM W/ HEADGATE & DITCH TO PLACE OF USE.

Flume with 2" pipe to property of use

Holding tank halfway up hill to reduce pressure of
water. Intend to build holding tank on same hill

MICROFILMED

OCT 05 1992

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 4/1 to 10/31 amount .1 or _____

For Stockwater purposes from 4.1 to 10.31 amount .82 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .1 CFS (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
22N	01E	27			2.27														2.27

Total number of acres irrigated 2.27

11. In which county (ies) are lands listed above as place of use located? Adams

12. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above. _____ or None (☒)

14. Remarks: 1 mile of dirt Ditch to flume then over
down hill to property
Stock consists of a couple of steers, chickens 25 -
rabbits, 2 horses

Last Name SCHULTZ Ident No. A78-04009

MICROFILMED
OCT 05 1992
Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number 78-4009
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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 1

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

Signature of Claimant (s) Jean W. Schultz Date May 9, 1988
Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title _____
of _____, that I have signed the foregoing
Organization
document in the space below as _____ of _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho/or _____)
County of Adams) SS.

Subscribed and sworn (or affirmed) before me this 9th day of May 19 88

SEAL

Notary Public Carter Fritschle

Residing at Eagle, Id.

My Commission Expires 3-21-94

Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, _____ will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name SCHULTZ Ident. Number 178-04009

MICROFILMED
OCT 05 1992
Copies White-State, Yellow-Claimant



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 17, 1997

Re: Notice of Claim to a Water Right No. A78-04008, A78-04009,
A78-04014

DANIEL CUMMINS
COLLEEN CUMMINS
5555 HWY 95
NEW MEADOWS ID 83654

Dear Mr. & Mrs. Cummins:

Enclosed is a copy of the above referenced claim which reflects the change in ownership of the land and appurtenant water rights covered under the original filing.

The Department will contact you in the future concerning any requirements that may be needed in order to process this claim for final court decree.

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

Sincerely,

Denise Buffington
Denise Buffington
Records Clerk
Adjudication Section
Western Region Office

DB:d

Enclosure