

09/18/2006

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

RIGHT NUMBER: 78-4265E

NAME AND ADDRESS: BEVERLY J FORD
5604 HWY 95
NEW MEADOWS ID 83654

CHARLES L FORD
5604 HWY 95
NEW MEADOWS ID 83654

SOURCE: SPRING

TRIBUTARY: SINKS

QUANTITY: 0.100 CFS

PRIORITY DATE: 01/01/1935

POINT OF DIVERSION:

T22N R01E S16 NENE Within ADAMS County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

COMMERCIAL

1/01 12/01

0.100 CFS

PLACE OF USE: COMMERCIAL Within ADAMS County

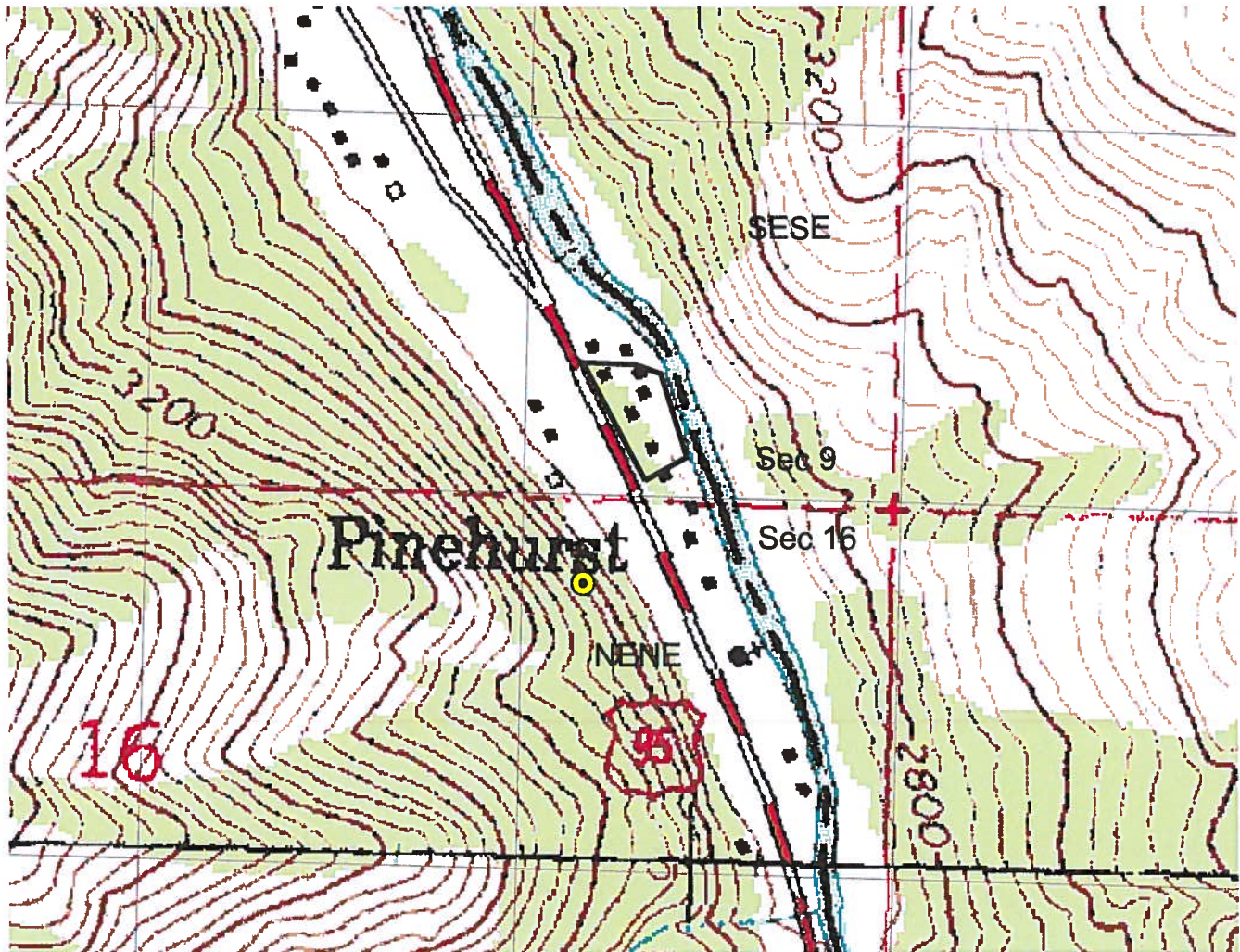
T22N R01E S09 SESE

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

78-4265E



0 500 1000 Feet



Sections 9 & 16
T22N R1E



● Point of Diversion

□ Place of Use

Map prepared on August 2, 2005
By Kenneth Knoblock
Idaho Department of Water Resources



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

September 18, 2006

Charles & Beverly Ford
5604 Hwy 95
New Meadows, ID 83654

RE: 78-4265E & 78-10360

Dear Mr. & Mrs. Ford:

We have processed your change of water right ownership form. Enclosed are copies of our recommendations, which we expect to submit in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kenneth Knoblock', written over a horizontal line.

Kenneth Knoblock
Water Resources Agent

09/18/2006

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QUANTITY: 0.100 CFS

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COMMERCIAL

PERIOD OF USE
1/01 12/01

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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

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

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

RECEIVED

SEP 12 2006

WATER RESOURCES
WESTERN REGION

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

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
78-4265E	aj	no			
78-10359	PD	no			
78-10360	aj	no			

RECEIVED
SEP 15
IDWR

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Susan & Tim Engelstad
5604 Hwy 95, New Meadows, ID 83654
4. New Owner/Claimant(s) Charles L Ford & Beverly J Ford
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 5604 Hwy 95
- City, State and ZIP Code New Meadows, ID 83654
- New Telephone Number (208) 628-3323
5. Date you acquired the property August 28, 2006

★ copy sent to State Office for Decreed Right
 78-10359

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

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

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

Charles L. Ford *Shirley J. Ford*

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

For Office Use Only

Received by <i>lg</i>	Date <i>9-12-06</i>	Fee <i>25</i>
Receipted by <i>lg</i>	Date <i>9-12-06</i>	Receipt No. <i>W034674</i>
Processed by _____	AJ Date _____	WR _____ Date _____

COPY

For Value Received, TIM R. ENGELSTAD AND L. SUSAN ENGELSTAD, husband and wife

the grantors do hereby grant, bargain, sell and convey unto
CHARLES L. FORD AND BEVERLY J. FORD, husband and wife

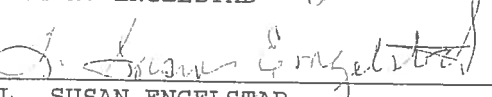
the grantees, whose current address is 5604 Highway 95, New Meadows, ID 83654

the following described premises, in Adams County, Idaho, to-wit:

SEE ATTACHED EXHIBIT 'A' MADE A PART HEREOF

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

Date: August 28, 2006


TIM R. ENGELSTAD

L. SUSAN ENGELSTAD

Instrument # 112528

COUNCIL, ADAMS, IDAHO

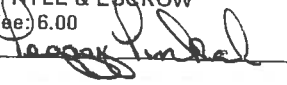
2006-08-29

01:36:59 No. of Pages: 2

Recorded for : TIMBERLINE TITLE & ESCROW

MICHAEL FISK

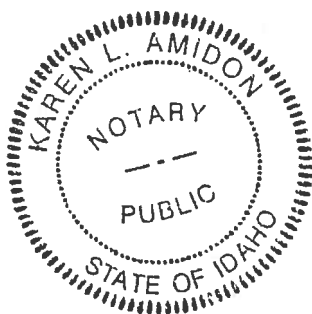
Fee: 6.00

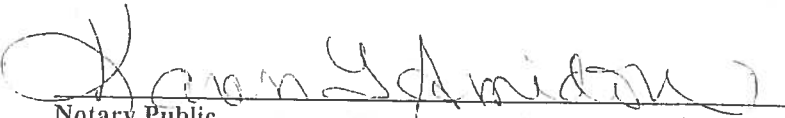
Ex-Officio Recorder Deputy 

Index to: DEED

STATE OF Idaho,
COUNTY OF Adams ^{SS}

On this 28th day of August, in the year of 2006, before me, a Notary Public in and for said State, personally appeared
TIM R. ENGELSTAD AND L. SUSAN ENGELSTAD
known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me
they executed the same.




Notary Public
Residing at: Cambridge, ID
Commission expires: 6/26/2009

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: A78-04265C
Date Received: 5/17/1988
Receipt No: M000012

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: VIRGINIA ELLIBEE 208-628-3334
Address: HC75 BOX 3700
NEW MEADOWS, ID 83654

AND/OR
Name: LEO ELLIBEE
Address: NEW MEADOWS, ID 83654

2. Date of Priority: JAN 01, 1935

3. Source: UNNAMED SPRING Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
22N	01E	16	NE	NE			ADAMS

5. Description of diverting works:
GRAVITY FLOW SYSTEM TO 18000 GALLON STORAGE TANK

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
COMMERCIAL	01/01	12/01	0.300		
DOMESTIC	01/01	12/01	0.040		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL AND DOMESTIC

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
22N	01E	16	NE		NE		COMMER	
			NE		NE		DOMEST	

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:
784266

14. Remarks:

15. Basis of Claim: STATUTE
Water Right Number:

MICROFILMED
OCT 22 1996

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 X 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): Virginia A. Ecker Date: 5/17/88

Date: _____

State of Idaho)
County of Adams) SS.

Subscribed and sworn (or affirmed) before me this 17th day

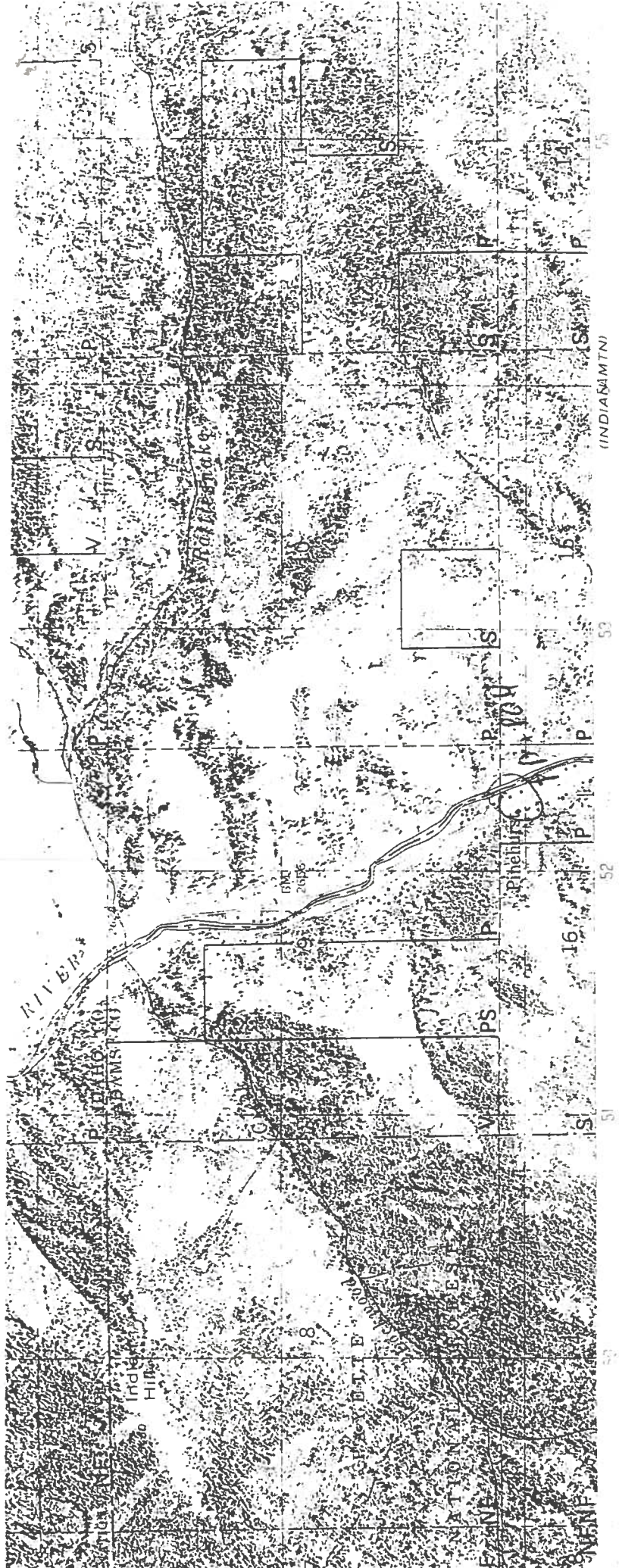
of May 19 88

Seal

Carter Fritschle
Notary Public

Residing at Engle, Id

My Commission Expires 3-21-94



Produced by the Geological Survey
in cooperation with the U.S. Forest Service

Aerial photograph prepared from 1:80,000-scale
aerial photographs taken August 9, 1975

Projection and 10,000-foot grid ticks: Idaho coordinate
system, west zone (Transverse Mercator)
600-metre Universal Transverse Mercator grid,
zone 11, 1927 North American datum

Aerial imagery transformed by scanning techniques
which may produce double or mismatched images;
these are the mean of image positions for map point

SCALE 1:24,000



- A. LAND NET (GS) - (64)
- B. LAND STATUS (BLM) - (7/86)

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U.S. GEOLOGICAL SURVEY, MENLO PARK, CALIF. 94025

MICROFILMED
OCT 22 1996

~~PHOTODUPLICATION~~
OCT 20 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: 39576

Ident. Number: A78-04265E
Date Received: 5/17/1988
Receipt No: X777777
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: TIM ENGELSTAD 208-628-3323
Address: HC 75 BOX 3704
NEW MEADOWS ID 83654
AND/OR
Name: SUSAN ENGELSTAD 208-628-3323
Address: HC 75 BOX 3704
NEW MEADOWS ID 83654

2. Date of Priority: JAN 1, 1935

3. Source: SPRING Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
22N	01E	16	NE	NE			ADAMS

5. Description of diverting works:
GRAVITY FLOW SYSTEM TO 18000 GALLON STORAGE TANK

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
COMMERCIAL	01/01	12/01	0.100		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL, MOTEL

MICROFILMED
OCT 22 1996

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
22N	01E	16	NE	NE		COMMER	

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:

A78-10359 FOR DOMESTIC USE FROM SPRING

14. Remarks:

THIS CLAIM IS A RESULT OF A CHANGE IN OWNERSHIP FOR A PORTION
OF CLAIM NO. A78-04265C, FEE PAID UNDER RECEIPT NO. M000012.
KW 5/11/1995

15. Basis of Claim: BENEFICIAL USE

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 _____



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED

MAY 31 1995

WATER RESOURCES
WESTERN REGION

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township 22N Range 1E
Section 16, 1/4 of NE 1/4 of NE 1/4, Govt. Lot _____, BM.
Lot _____, Block _____, Subdivision/Townsite _____
If you have additional legal descriptions, please attach separate sheet.

☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

☐ Water Right Number(s)
Assigned by IDWR: A78-04265C

☐ Name and Address of Former Owner/Claimant(s)(Seller): VIRGINIA OR LEO ELLIBEE
HC 75 BOX 3700
NEW MEADOWS ID 83654

☐ New Owner/Claimant (Purchaser): TIM &/ OR SUSAN ENGELSTAD

☐ New Mailing Address: HC 75 BOX 3704
NEW MEADOWS ID 83654

☐ New Telephone Number: (208) 628 - 3323

☐ Does the change in ownership result in a splitting of the water right owned/claimed? XX yes no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:
COMMERCIAL USE FOR A MOTEL, 0.10 CFS.

☐ Attach proof of ownership, describe proof attached: _____

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

☐ Signature of New Owner/Claimant(s) _____ Date _____

☒ Signature of Former Owner/Claimant(s): Virginia A. Ellibee Date 5/20/95
_____ Date _____

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 5/95By: kw

Further Action Needed: _____

Further Action Taken

Date: _____

By: _____

Final Review and Data-Entry

Date: _____

By: _____

Claim Numbers of Split, if any: _____

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

MICROFILMED

OCT 27 1995



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED

SEP 03 1991

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township 22 N Range 1 E Department of Water Resources
Section 16, NN 1/4 of NE 1/4 of NE 1/4, Govt. Lot _____, BM. _____
Lot _____, Block _____, Subdivision/Townsite _____
If you have additional legal descriptions, please attach separate sheet.

[] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

[] Water Right Number(s)
Assigned by IDWR: _____

[] Name and Address of Former
Owner/Claimant(s)(Seller): _____

Ray H. Fenn

*Prior owner of motel -
per corres. & attachment
of 4-14-93. kw*

[] New Owner/Claimant
(Purchaser): _____

Jim & Susan En. (Engelstad)

[] New Mailing Address: _____

HC 75 Box 3704
New Meadows, Idaho 83654

*per phone
con. 9/16/91
kw*

[] New Telephone Number: _____

(208) 628-3323

[] Does the change in ownership result in a splitting of the water right owned/claimed? yes X no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

[] Attach proof of
ownership, describe
proof attached: _____

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

[] Signature of New
Owner/Claimant(s): _____

Jim R Engelstad

Date 8/28/91

[] Signature of Former
Owner/Claimant(s): _____

Susan Engelstad

Date 8/28/91

Ray H. Fenn

Date 8-28-91

Date _____

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: _____ By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Numbers of Split, if any:

*A78-10359 & A78-10360 OK previous owner signature,
g KC 9/3/91 send copy of claim + letter to Mr. Fenn.*

Original to be mailed to Idaho Department of V
Copies to Former Owner and New Owner

MICROFILMED

OCT 22 1991



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

May 19, 1995

RE: Notice of Claim to a Water Right No. A78-04265E

Tim &/or Susan Engelstad
HC 75, Box 3704
New Meadows, ID 83654

Dear Mr. and Mrs. Engelstad:

Enclosed is a copy of the above referenced claim for your files. Please note that this claim covers the use of the spring for your motel.

I have requested that Mrs. Ellibee sign a change of ownership of this portion of the claim she had submitted, in order to document our files, but had enough information in the file to change this part of her claim to you. If there is a problem with the way I have split Mrs. Ellibee's claim I may be sending you additional correspondence in the near future.

I have also included a "Change in Address of Notice of Claim" form. I noticed that other claimants in your area have gotten new addresses and thought that you may have also had an address change. If so, please sign this form and return it to our office for processing.

If you have any questions in regard to this matter, please do not hesitate to contact our office.

Sincerely,

KAY WALKER
Sr. Water Resource Agent
Adjudication Bureau

KW:k
Enclosures

5-24-95
Spoke w/Mrs.
Engelstad - she
agrees with the
split made. Will
return change of
address form. KW
(Use is for
Pinehurst Resort)

MICROFILMED

OCT 22 1996



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

R. KEITH HIGGINSON
DIRECTOR

May 17, 1995

RE: Notice of Claims to Water Right Nos. A78-04265C & A78-04266

Virginia Ellibee
HC 75 Box 3700
New Meadows, ID 83654

Dear Mrs. Ellibee:

After going through all the information submitted in regard to the changes in ownership of the above referenced claims, I have entered the splits of these water right claims in our data base. Enclosed is a summary report showing how Claim 78-4265 has been split between the parties involved. Please review this and let me know if you don't agree with the information as shown on the summary. In order to document these changes in our files I would ask that you sign the enclosed "Notice of Change of Water Right Ownership" form in order to show that you did wish to change the ownership of the motel to the Engelstad's. I believe we have enough information on the other splits to document all the other changes. I am also enclosing a copy of Claim A78-04265D for your files. This claim represents your remaining portion to the use of the spring.

In regard to Claim A78-04266, I found we had erroneously changed the ownership to Robert and Mary Schulz. Enclosed is a copy of the letter that I sent to them to relay that we had erred in that change, and a copy of your remaining portion of the Little Salmon River Claim No. A78-04266A. I split this claim based on the warranty deed submitted by the Hacklers and your note stating that you retained 0.6 of an acre for your lawn around your home. The remaining 0.4 of an acre has been changed to Hacklers for the irrigation around the store and cafe.

I have enclosed a "Change in Address of Notice of Claim" form for your use. I cannot change our records unless I have a signed document in our file that says you wish us to update your mailing address. I noticed that other parties in your area have new addresses and wanted to make sure we have your most current address for our records. Please sign this form and return it to this office if you have had an address change.

MICROFILMED
OCT 22 1995

If you have any questions in regard to any of the above information, please do not hesitate to contact me. I would like to know that your claims are accurately represented in our records, and hope that I have correctly interpreted the changes in ownership that have taken place.

Sincerely,

A handwritten signature in cursive script that reads "Kay Walker". The signature is written in dark ink and is positioned above the typed name.

KAY WALKER
Sr. Water Resource Agent
Adjudication Bureau

KW:k
Enclosures

MICROFILMED
OCT 22 1998

MEMORANDUM

May 11, 1995

TO: FILES A78-04265C/04265D/04265E/04265F/04265A

FROM: KAY WALKER *KW*

RE: SPLIT OF A78-04265C

In trying to determine the ownership change questions of the 4 homes, store, cafe & motel that were claimed under 78-04265, I found we had made some errors in processing the change of ownerships that had been submitted to our office. In light of this, I contacted the people involved and gathered information to straighten the problems out. The most helpful information was submitted by Mrs. Ellibee who was one of the original claimants of the statutory claim. She submitted a history of the use of the spring and the ownership changes that had occurred. (See her letter and attachment of 4/14/93 that was faxed to me.)

After discussing all the information with my supervisor, I split Claim A78-04265C between Ms. Ellibee, Hacklers, and Engelstads. One of the major problems was that A78-04265C had previously been changed to show the Capeners as owners of the right. The Capeners had purchased the home previously owned by Murl & Verola Green who had submitted Claim A78-04265A and later deferred their filing. In order to clear up our records and not leave the Capeners high and dry we recreated A78-04265A and placed it under their ownership. I then split A78-04265C by ownerships creating 04265D, 04265E & 04265F. There is one other claim for one of the original homes which was issued No. A78-10359 for Tim and Susan Engelstad. I will put a remark in that file that identifies that it is a portion of 78-04265 if that has not already been done.

MICROFILMED
JUL 22 1995

ADJUDICATION MEMORANDUM

CLAIM NO.: A78-04265C SUBJECT: split of claim

EMPLOYEE: Kay DATE: 9-1-93

Phone con. w/ Steve Hackler

Only has water for store and cafe - (under this right)

new { Steve Hackler
ADDRESS } 5600 Hwy. 95
[New Meadow, N. 83654]

May put mobile home in, behind store, and will hook up to spring. Advised him to file an app. for permit - he will do. Sent form to him today.

Key Walker

4/14/93

Fax 208 334-2348

A-78-04265C

Dear Mr. Walker -

Attached sheet should explain
our water division.

The fact that the Ellbee
name is, or has been, on
these pieces of property is -
I assume - the reason
for the confusion. I
should have followed up
more closely.

Also I have apparently
loaned my copies to someone
& never got them back.

The Capener water should
be A78-04265A (Mud Creek)

The water for Hackles
should be a division of
A78-04265C - Ellbee are
keeping 26 acs.

Sincerely,

Virginia Ellbee

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OCT 22 1993

A-78-04265A
House # 1
MURK + VEROLA
GREEN

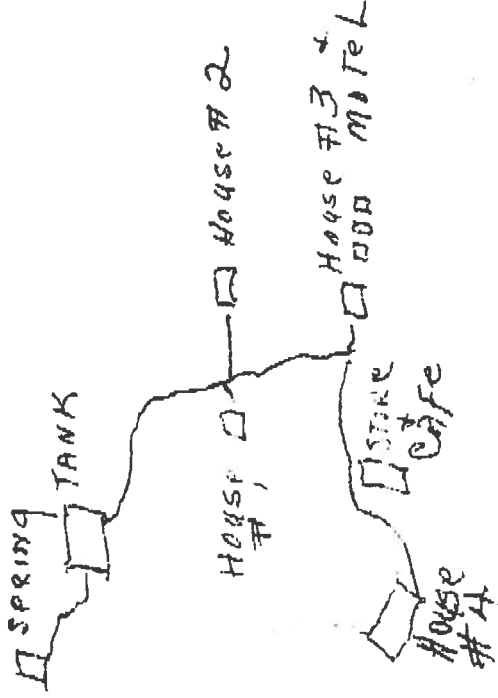
A-78-04265B
House # 2
BERNARD + FRANCES
MARION GREEN

(A78-10359)

House # 3 + Motel

Peter + Ruth Shubin

A-78-10359



A78-04265E

Store + Cafe
Harvey + Edna
Ruff Ridge

A-04625-C
House # 4
Leo + Virginia
Ellibee

1989 - SOLD
To Leo + Virginia
Ellibee
1992
SOLD TO
JAY + DELORA
CAPNER

Rep'd by
R. LEONARD
1984
464
SOLD TO ROY
FENN
1992
SOLD TO TIM
1992

Rep'd by 1985
Leo + Virginia
Ellibee
SOLD TO 1992
Stephen + Kim
HACKLER

Susan Englestadt

This is the division the original owner
made of the property and opening
Over agreement among us is the will
is for domestic use only NOT IRRIGAT.
No other divisions - no venture.
There is no
expansion or
the original
filing you should
know on 1988
A78-04266-River
Pump To IRRIGATE
STORE + Cafe +
House # 4 LAWN
A-78-10186
Filing - A-04625-C
Mnother Proper

MEMORANDUM

DATE: 08-Apr-1993 13:09

TO: FILE A78-04265C AND A78-10359

FROM: KAY WALKER *KW*

RE: OWNERSHIP OF PROPERTIES

Susan Englestad called the office in response to my letter of April 1, 1993 (the Englestad's were sent a copy). She gave me some information in regard to the ownership of the properties and also gave me her phone number in case she could answer any more questions. Her phone number is: 628-3323

Mrs. Englestad stated that they purchased the motel and one of the original homes, under Statutory Claim 78-04265, from Roy Fenn who had purchased from Peter Shubin.

She said the Ellibee's have never owned the motel. They owned the store, cafe and possibly 2 of the 4 domestic units. She also said that the Hackler's had purchased the store and cafe from the Ellibee's.

Mrs. Englestad did not know if the Capener's home was one of the original homes or not. It was there when they purchased their property one and a half years ago. It is a mobile home that looks like it has been there for awhile.

We need to make sure that the water for the motel is changed over to the Englestad's prior to any recommendations going to court for this basin.

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OCT 22 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 1, 1993

RE: Notice of Claims to Water Right Nos. A78-04265C and A78-04266

Dennis L. Albers
Attorney at Law
P.O. Box 314
Grangeville, ID 83530

Dear Mr. Albers:

We are in receipt of the Notice of Change in Ownership of Water Rights from Virginia and Leo Ellibee to Stephen and Kim Hackler. In reviewing this Notice of Change in Ownership, I find that we have several items to resolve prior to processing this change. I am, therefore, returning the Notice of Change in Ownership to you.

Statutory Claim No. 78-4265 was filed for the use of a spring in February of 1983, claiming a use of this water since January of 1935. This claim described the uses as domestic and commercial for 4 homes, 1 motel, 1 store and a cafe. Enclosed for your information is a copy of this claim. Please note that this right, being a statutory claim, was never examined by the Department to confirm the uses or amount of water claimed.

In 1988, we solicited Snake River Basin Adjudication (SRBA) claims for all existing and current water uses within Adams County. We received several claims on the use of the spring water described under Statutory Claim 78-4265. Each of these claims describes a spring system to a 18,000 gallon storage tank; point of diversion within the NENE, Sec. 16, Twp. 22N, Rge. 1E; and a January 1, 1935 priority date; which indicates they are all filing on the same system. These claims are as follows:

A78-04265A Murl & Verola Green for 1 home and 0.04 cfs. This claim was later deferred and their filing fee refunded. However, the deferral does not exclude their use of water from this spring under the 1935 priority date, they just chose not to record their use.

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April 1, 1993

A78-04265B Bernard & Frances Green for 1 home and 0.04 cfs.

A78-04265C Virginia & Leo Ellibee - they claimed the entire original amount of 0.30 cfs for domestic and commercial purposes but did not specify what the uses entailed. We later received a change in ownership from the Ellibee's to Jay and Delora Capener. This Notice of Change of Ownership form stated that there was no split of this water right so we changed ownership of the entire claim to the Capener's.

Today, in reading the Warranty Deed that accompanied that Notice of Change of Ownership, I see that the intent was to split the claim between the Ellibee's and the Capener's. I also noted that the portion to be transferred to the Capener's was for an easement for placement of a domestic water line across the Ellibee's property to the spring. If the Capeners are developing a new use from this spring, they should file a water right application for a new use under a 1993 priority date, rather than receiving a portion of the 1935 claim. The Capeners have been sent a copy of SRBA Claim No. A78-04265C which shows them as owner's of this water right.

A78-10359 Roy Fenn for 1 home and 0.04 cfs. Ownership of this claim was changed to Tim and Susan Engelstad in 1992.

In light of all of the above, I hesitate to process the Notice of Change of Ownership from Ellibee's to Hackler's until we resolve some of the questions surrounding these claims. The statutory claim was for 4 homes under the names of Shubin, Bernard Green, Merle Green, Ellibee and Ruffridge. It did not state who owned the 4 homes or the commercial uses (i.e. the motel, store and cafe). We need to make sure that the original 4 homes under Claim 78-4265 each receive a portion of the domestic water from the spring. We cannot recognize expansion of the claim when we prepare our recommendations to the Court for final decree of this right.

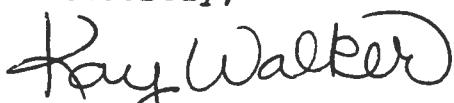
As for the Change of Ownership of SRBA Claim No. A78-04266, we need to know exactly how the one acre of land is to be split between the Ellibeas and Hacklers. Is this Notice of Claim to be split evenly between the two parties, each receiving 0.5 acres, or is there another division of the acre requested? We also need to know which point of diversion the Hackler's will be utilizing after the change. The water will be split accordingly.

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April 1, 1993

If you have any questions in regard to the above, please do not hesitate to contact our office. It may be to the Ellibee's advantage to come into the office and meet with one of us to straighten this matter out. If you would like to meet with me to discuss these claims, please contact me to set up a time. The field season will be upon us soon and I will be in and out of the office all summer.

Sincerely,



KAY WALKER
Sr. Water Resource Agent
Adjudication Bureau

KW:k

Enclosure: Copy of Statutory Claim 78-4265
Notice of Change of Ownership form

cc: Virginia & Leo Ellibee
Jay & Delora Capener
Stephen & Kim Hackler
Tim & Susan Engelstad
Murl & Verola Green
Bernard & Frances Green

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OCT 22 1996