

08/09/2005

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

RIGHT NUMBER: 78-4265F

NAME AND ADDRESS: STEPHEN L HACKLER
5600 HWY 95
NEW MEADOWS ID 83654

KIM R OKAMURO HACKLER
5600 HWY 95
NEW MEADOWS ID 83654

SOURCE: SPRING

TRIBUTARY: SINKS

QUANTITY: 0.110 CFS

PRIORITY DATE: 01/01/1935

POINT OF DIVERSION:

T22N R01E S16 NENE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
COMMERCIAL	01/01 12/01	0.090 CFS
IRRIGATION	03/01 11/15	0.020 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T22N R01E S09 SESE

COMMERCIAL Within ADAMS County

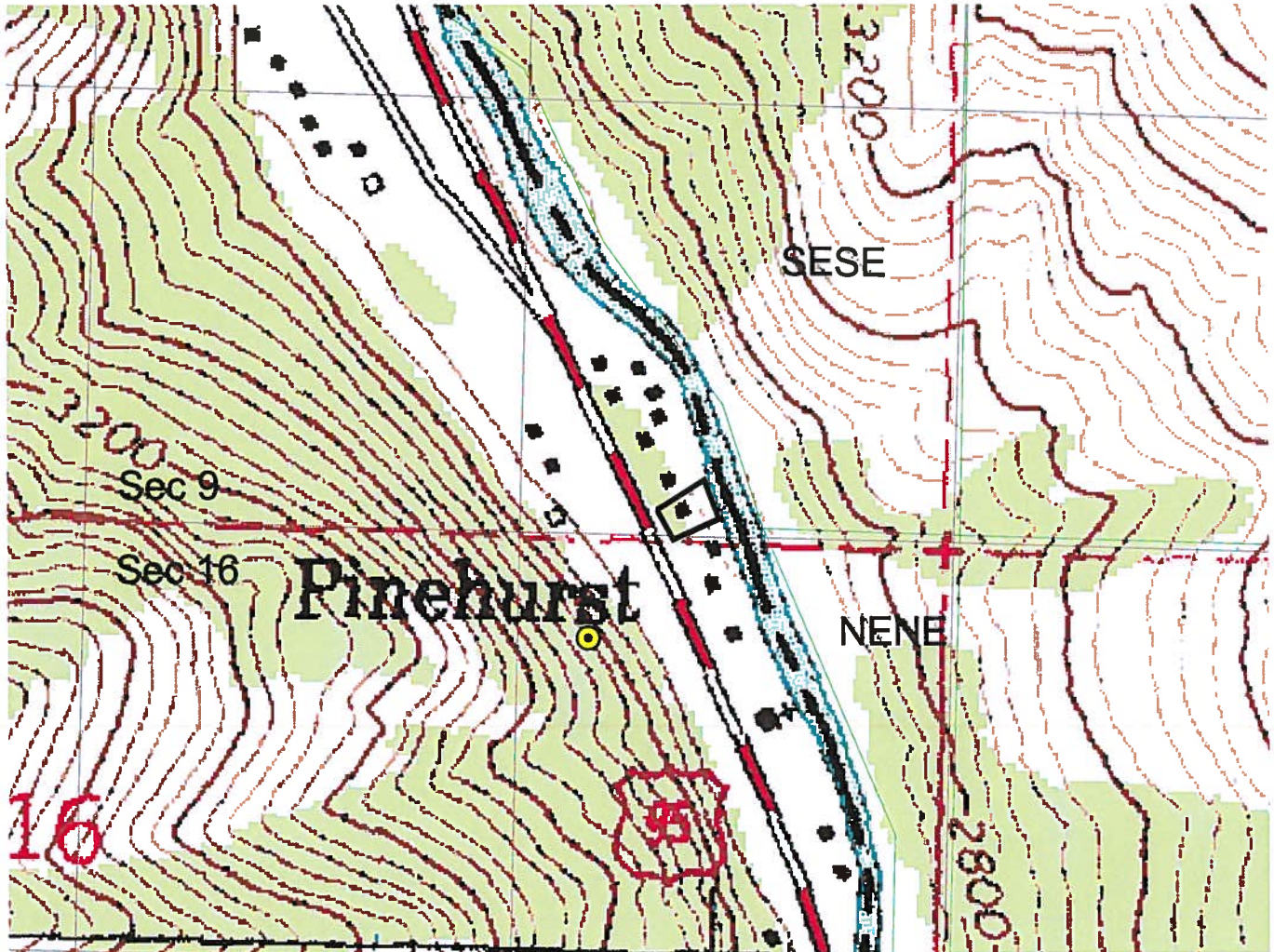
T22N R01E S09 SESE

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

78-4265F



0 400 800 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

Kitchen sink
1 gal in 38 seconds $\frac{1}{38} \times 2 \times 60 = 3.2$ gal per min.

Ice Makers
600 LBS/DAY 45 gal per 110# $\frac{270 \text{ gal}}{264} = 1.02$ gpm

Dish washer 5 gpm

Toilets $\frac{3 \text{ gal}}{40 \text{ sec}} \times 2 \times 60$ 9 gpm

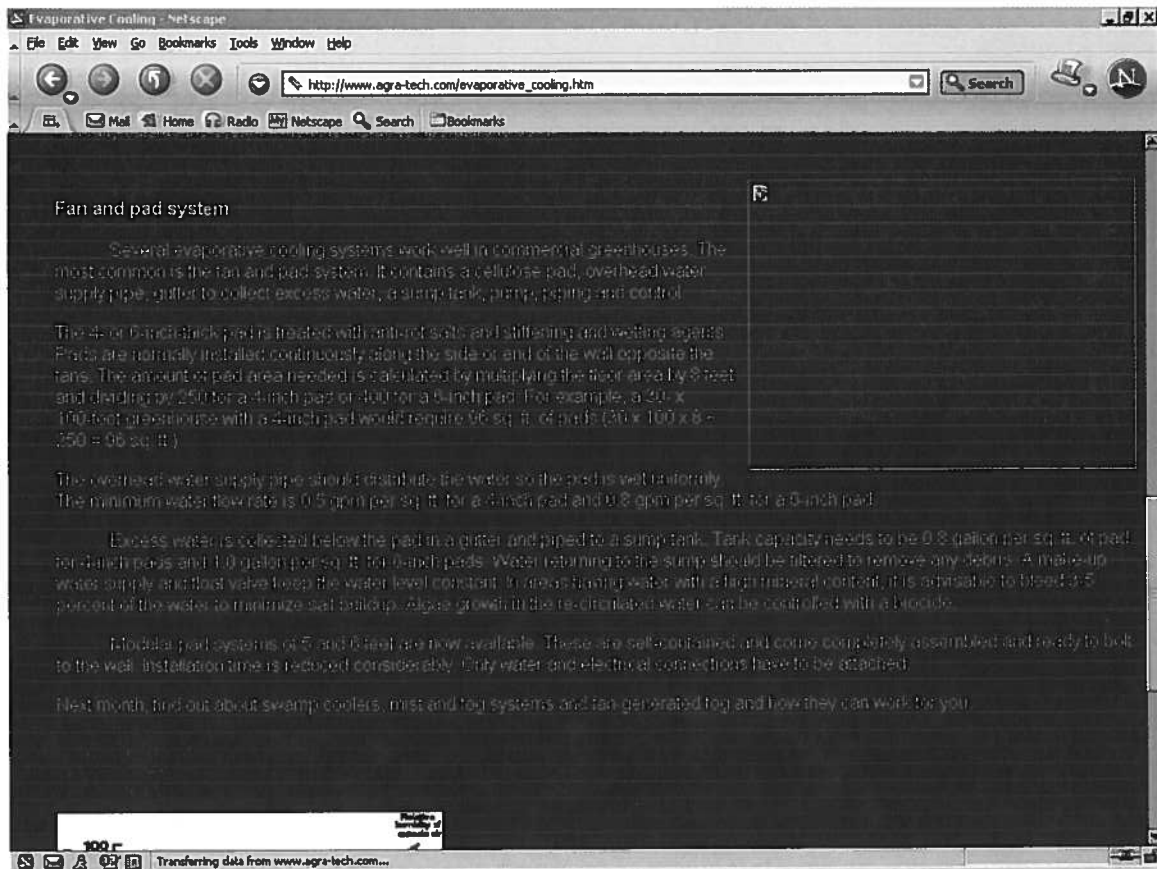
Wash sinks $\frac{1 \text{ gal}}{8} \times 2 \times 60$ 15 gpm

Swamp coolers 1 gpm

Coffee maker 8 cups in 4 min 0.25 gpm

33.65 / 448.0
.07 cfs
.02

Living quarters
0.02
0.11 cfs



CASE STUDY

By installing a foot-actuated faucet, one food service facility reduced its monthly water usage by 3,700 gallons. This translated to annual savings of nearly \$700.

the hose head to supply water only when needed. There are water-efficient spray valves offered that supply from 1.6-2.65 gpm at 80psi. These types of sprayers are designed to meet the demands of food service operations.

Ice Making Machines

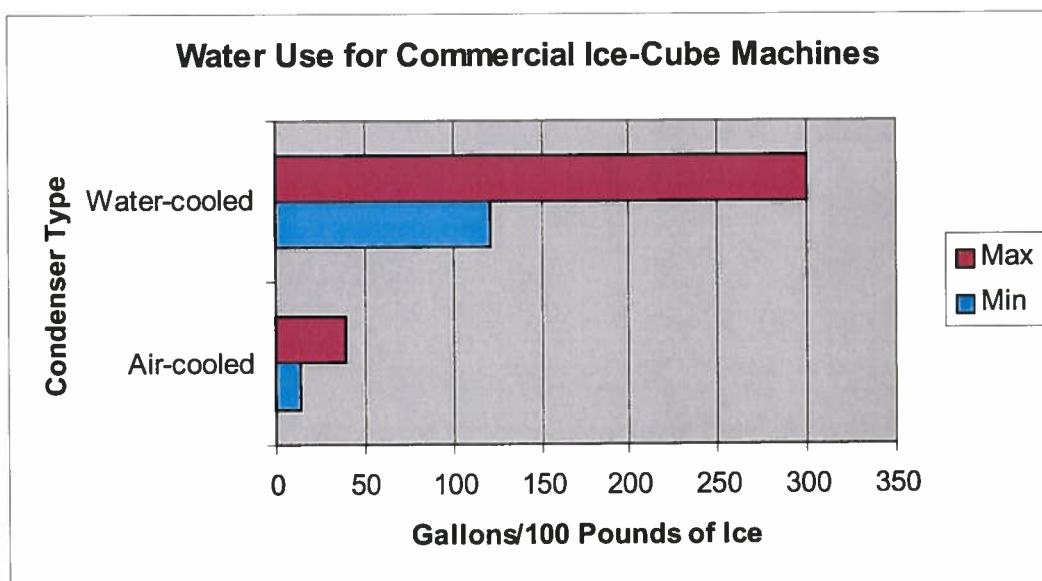
Ice machines have many commercial uses, from restaurants to lodges, and can use significant amounts of water depending on the type of machine and the desired type of ice. Ice machines are composed of the following components: a condensing unit used for cooling, an evaporator surface for ice formation, an

ice harvester, an ice storage container, and, in some models, a dispenser. The type of condenser an ice machine uses will have the largest effect on water use. Two types of condensers are available: air-cooled and water-cooled. Water-cooled machines use 10 times as much water as air-cooled machines and water rarely is recirculated. (See Figure 2.) In comparing water- and air-cooled compressors, the compressor horsepower at design conditions is invariably higher with air-cooled machining. However, operating costs frequently compare favorably during a full year. The desired quality and visual clarity of ice also will influence water consumption. Ice quality, machine cleaning, and water efficiency all need to be balanced for optimum operation.

Garbage Disposals

Studies show that garbage disposals can waste a significant amount of water. It is recommended that their use be minimized or eliminated from kitchen operations. Many facilities use strainers or traps that employ a mesh screen to collect food waste for proper waste treatment. Another option is to install strainers in sinks, leaving the food matter in the sink for disposal in trash receptacles or composting units. ♠

FIGURE 2



Water-cooled machines use 10 times as much water as air-cooled machines, and water rarely is recirculated.

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: **A78-04265F**
Date Received: 5/17/1988
Receipt No: X777777
Received By: _____

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

1. Name: STEPHEN L HACKLER 208-628-3354
Address: 5600 HWY 95
NEW MEADOWS ID 83654
AND
Name: KIM R OKAMURO HACKLER 208-628-3354
Address: 5600 HWY 95
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 of	Lot	County
22N	01E	16	NE	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	0.200		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL, STORE AND CAFE

MICROFILMED
66

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:

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 5/11/95

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: _____

MICROFILMED
OCT 22 1996

RECEIVED

JUN 06 1995

WATER RESOURCES
WESTERN REGION

CHANGE IN ADDRESS OF NOTICE OF CLAIM

[] Water Right Number (s): A78-04265F
A78-04266B

[] Old Mailing Address: HC 75 Box 3702
New Meadows ID 83654

[] New Mailing Address: 5600 Hwy 95
New Meadows ID 83654

New Telephone Number: (208) 628-3354

☒ Signature of Claimant: STEPHEN ALLEN

Date: 6-3-95

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: 6-22-95

By: kw

MICROFILMED

OCT 22 1996

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: **A78-04265F**
Date Received: 5/17/1988
Receipt No: X777777
Received By: _____

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

1. Name: STEPHEN L HACKLER 208-628-3989
Address: HC 75 BOX 3702
NEW MEADOWS ID 83654
AND
Name: KIM R OKAMURO HACKLER 208-628-3989
Address: HC 75 BOX 3702
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 of	Lot	County
22N	01E	16	NE	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	0.200		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL, STORE AND CAFE

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:

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 5/11/95

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: _____

MICROFILMED
OCT 22 1996

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 _____

MICROFILMED
OCT 22 1996



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

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

RECEIVED
NOV 16 1992

Department of Water Resource
Western Regional Office

DATE OF CLOSING: July 28, 1992

LEGAL DESCRIPTION OF PROPERTY: Township 22 North Range 1 East B.M.
and partially in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ in Section 16. See attached legal
description described in Exhibit "A."
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) A78-04266 and A78-04265C
Assigned by IDWR:
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): Virginia A. Ellibee and Leo L. Ellibee, formerly husband and wife of HC75 Box 3700, New Meadow, ID 83654
- ☐ New Owner/Claimant (Purchaser): STEPHEN L. HACKLER and KIM R. OKAMURO HACKLER
HC75 Box 3702, New Meadows, ID 83654
- ☐ New Mailing Address: _____
- ☐ New Telephone Number: (628) 628 - 3989
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:
See Exhibit "A"

- ☐ Attach proof of ownership, describe proof attached: See copy of Deed from Ellibeas to Hacklers
(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): Stephen Hackler Date 7/28/92
Kim R. Okamuro-Hackler Date 7/28/92
- ☐ Signature of Former Owner/Claimant(s): Virginia A. Ellibee Date 7/28/92
Leo L. Ellibee Date 7/28/92

(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:

MICROFILMED
OCT 22 1996
COPY

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

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	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	

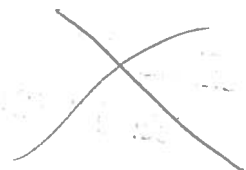
11. Place of use in counties: ADAMS

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:



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. Eason* Date: 5/17/88

Date: _____

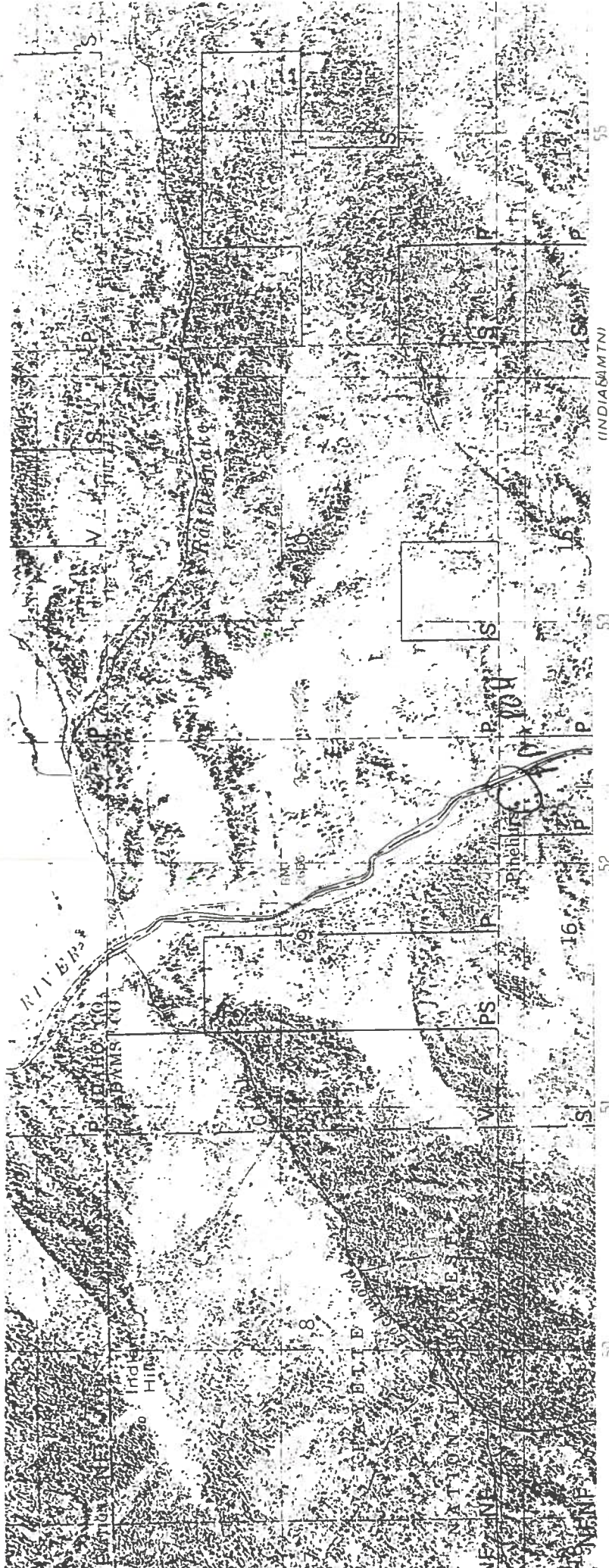
State of Idaho)
County of Adams) SS.

Subscribed and sworn (or affirmed) before me this 17th day
of May 19 88 *Carter Fritchler*
Notary Public
Seal

Residing at *Engle, Id*
My Commission Expires 3-21-94

MICROFILMED

~~007 00 100~~



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

orthophotograph 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)
6300-metre Universal Transverse Mercator grid,
zone 11. 1927 North American datum

Photomicrofilm transformed by scanning techniques
which may produce double or mismatched images;
use 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

EXHIBIT "A"

A tract of land situated partially in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 22 North, Range 1 East of the Boise Meridian, and partially in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, Township 22 North, Range 1 East of the Boise Meridian, more particularly described as follows: BEGINNING at a point on the Easterly boundary of U.S. Highway 95, which point is 39 feet in a Southeasterly direction along said Eastern boundary of said Highway 95 from a point on the South line of Section 9, Township 22 North, Range 1 East of the Boise Meridian which lies 896 feet West of the Southeast Corner of said Section 9; thence along the Eastern boundary of said Highway in a Northwesterly direction a distance of 100 feet; thence North 57° East 164 feet to the West bank of the Little Salmon River; thence in a Southeasterly direction along the West bank of the Little Salmon River a distance of 100 feet; thence South 57° West to the POINT OF BEGINNING, all being in Adams County, State of Idaho.

TOGETHER WITH, a joint right across an existing access easement on the South side of the property being sold hereunder to the Grantees, which provides access to the property herein sold across the Grantors' property lying immediately south of the said store property hereunder sold. That easement right shall be described specifically as follows:

For ingress and egress from the above-described tract, which easement is located immediately southeast of the above-described tract, and is more particularly described as follows:

Beginning at the Southwest Corner of the above-described tract being sold herein; thence in a Southeasterly direction along the Eastern boundary of Highway 95, a distance of 16 feet; thence North 57° East, a distance of 50 feet; thence in a Northwesterly direction and parallel to the East boundary of Highway 95, a distance of 16 feet; thence South 57° West, a distance of 50 feet, to the Point of Beginning.

Said access easement shall be used by the Grantees as hereunder conveyed, and jointly by the Grantors on property they own south of the store property herein conveyed.

Said property is also benefitted and there is thus transferred to the Grantees a joint right to use the existing domestic water system providing service to the Pinehurst Store, which is the property being conveyed hereunder to the Grantees. It is intended that this grant shall transfer a joint right to use the community water system, with a water tank being located on other property belonging to the Grantors, Ellibeas, known as Adams County Tax No. . And, additionally, to any extent possible, the Grantors transfer joint rights in the water pipeline across said Tax No. onto the Bernie Green property, then across Highway 95 into the former motel property, being the Pinehurst Motel, then onto property hereunder sold. The use in said system shall be joint with the other existing users of the water system. Furthermore, there shall be a partial conveyance of the domestic water rights created in Department of Water Resources Identification No. A78-04265C, and a partial transfer of the water rights shown in Department of Water Resources Identification No. A78-04266 relating to irrigation water from the Little Salmon River.

EXHIBIT "A" (Continued)

Water Right A78-04265C, as currently recorded, provided domestic water from a tank site located on Adams County Tax Nos. 20, 22, and 161, in Section 16, Township 22 North, Range 1 East, Boise Meridian, Adams County, Idaho. That domestic water then traveled from that tank site to other persons, and provided domestic water to a store and cafe, known as the Pinehurst store, and a private home lying to the south thereof, which is the Ellibee home. By this transfer, the Ellibeas are selling the store and cafe building in the legal description, above described, and to share the domestic production as needed for the store and cafe to the Hacklers with the Ellibeas retaining domestic use for their home.

Water Right A78-04266. This water right is to be divided so that the store property, above described, going to the Hacklers, will have irrigation from the Little Salmon River, and the Ellibeas will have irrigation water for their homesite, lying south of the store property from the Little Salmon River, both having a separate point of diversion by pump in the river itself for such irrigation as was allowed.

MICROFILMED

WARRANTY DEED

THIS INDENTURE, made on this 28 day of July, 1992, by and between VIRGINIA A. ELLIBEE, a single woman, of HC75 Box 3700, New Meadows, Idaho 83654, joined by her former husband, LEO L. ELLIBEE, a single man, of HC75 Box 3700, New Meadows, Idaho 83654, hereinafter referred to as the Grantors, and STEPHEN L. HACKLER and KIM R. OKAMURO HACKLER, husband and wife, of HC75 Box 3702, New Meadows, Idaho 83654, hereinafter referred to as the Grantees.

WITNESSETH:

That, the said Grantors, for and in consideration of the sum of Ten Dollars (\$10), lawful money of the United States of America, and other good and valuable considerations to them in hand paid by the said Grantees, the receipt whereof is hereby acknowledged, having granted, bargained, sold, and by these presents do grant, bargain, sell, convey and confirm unto the said Grantees, their heirs and assigns forever, all the following described real property situate in the County of Adams, State of Idaho, to wit:

A tract of land situated partially in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 22 North, Range 1 East of the Boise Meridian, and partially in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, Township 22 North, Range 1 East of the Boise Meridian, more particularly described as follows:
BEGINNING at a point on the Easterly boundary of U.S. Highway 95, which point is 39 feet in a Southeasterly direction along said Eastern boundary of said Highway 95 from a point on the South line of Section 9, Township 22 North, Range 1 East of the Boise Meridian which lies 896 feet West of the Southeast Corner of said Section 9; thence along the Eastern boundary of said Highway in a Northwesterly direction a distance of 100 feet; thence North 57° East 164 feet to the West bank of the Little Salmon River; thence in a Southeasterly direction along the West bank of the Little Salmon River a distance of 100 feet; thence South 57° West to the POINT OF BEGINNING, all being in Adams County, State of Idaho.

TOGETHER WITH, a joint right across an existing access easement on the South side of the property being sold hereunder to the Grantees, which provides access to the property herein sold across the Grantors' property lying immediately south of the said store property hereunder sold. That easement right shall be described specifically as follows:

For ingress and egress from the above-described tract, which easement is located immediately southeast of the above-described tract, and is more particularly described as follows:

Beginning at the Southwest Corner of the above-described tract being sold herein;

thence in a Southeasterly direction along the Eastern boundary of Highway 95, a distance of 16 feet;

thence North 57° East, a distance of 50 feet;

thence in a Northwesterly direction and parallel to the East boundary of Highway 95, a distance of 16 feet;

thence South 57° West, a distance of 50 feet, to the Point of Beginning.

Said access easement shall be used by the Grantees as hereunder conveyed, and jointly by the Grantors on property they own south of the store property herein conveyed.

Said property is also benefitted and there is thus transferred to the Grantees a joint right to use the existing domestic water system providing service to the Pinehurst Store, which is the property being conveyed hereunder to the Grantees. It is intended that this grant shall transfer a joint right to use the community water system, with a water tank being located on other property belonging to the Grantors, Ellibeas, known as Adams County Tax No. 161. And, additionally, to any extent possible, the Grantors transfer joint rights in the water pipeline across said Tax No. 161 onto the Bernie Green property, then across Highway 95 into the former motel property, being the Pinehurst Motel, then onto property hereunder sold. The use in said system shall be joint with the other existing users of the water system. Furthermore, there shall be a partial conveyance of the domestic water rights created in Department of Water Resources Identification No. A78-04265C, and a partial transfer of the water rights shown in Department of Water Resources Identification No. A78-04266 relating to irrigation water from the Little Salmon River.

AND, EXCEPTING AND RESERVING, unto the Grantors, and easement for the placement of a domestic water line over and across the above-described premises, with the right of ingress and egress across the above-described premises to construct, install and maintain a domestic water line from a present source of domestic water located on the Northerly side of the above-described premises, with the easement traveling over and across said premises to land now owned by the Grantors, located immediately South of the above-described and conveyed premises.

FURTHERMORE, the Grantors reserve the right to use a jointly placed TV cable in the ground adjacent to the water line for present use by the Grantors on property being reserved by the Grantors, with the Grantors having the right to use that television cable which connects the Grantors' reserved property to a translator system, and the right to use any above ground television service connecting the existing translator system to the property reserved by the Grantors. This use of television cable and above ground television service shall continue so long as the general Pinehurst Area is served by the existing translator system, and the Grantors' property is necessarily served by that system across the property herein conveyed to the Grantees.

TOGETHER WITH, all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining,

the reversion and reversions, the remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property as well in law as in equity of the said Grantors.

TO HAVE AND TO HOLD, all and singular, the above mentioned and described premises, together with the appurtenances unto the said Grantees, their heirs and assigns forever.

And the said Grantors, for themselves, their heirs, executors and administrators, do covenant, grant, bargain and agree to and with the said Grantees, their heirs and assigns, that at the time of the ensealing and delivery of these presents they were well seized of the premises above conveyed as of good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, and have good right, full power and lawful authority to grant, bargain, sell and convey the same in the manner and form aforesaid, and that the same are free and clear from all and former grants, bargains, liens, taxes, assessments and encumbrances of whatever kind or nature whatsoever, EXCEPT:

- (a) General taxes and assessments for the year 1992, which are a lien, but not yet due or payable;
- (b) An Easement for the purpose of public utilities and rights incidental thereto as set forth in a document granted to Idaho Power Company (no representation is made as to the present ownership of said easement), recorded August 7, 1961, as Instrument No. 41212 in Book 6M of Misc. page 8, records of Adams County, Idaho;
- (c) An Easement and right of way for the purpose of public highway and rights incidental thereto as set forth in a document granted to the State of Idaho (no representation is made as to the present ownership of said easement and right of way), recorded June 11, 1936, as Instrument No. 22099 in Book 14 of Deeds at page 488, records of Adams County, Idaho;
- (d) An Easement and right of way for the purpose of public highway and rights incidental thereto as set forth in a document granted to the State of Idaho (no representation is made as to the present ownership of said easement and right of way), recorded February 3, 1937, as Instrument No. 22612, in Book 15 of Deeds at page 24, records of Adams County, Idaho;
- (e) An Easement for the purpose of public highway and rights incidental thereto as set forth in a document granted to the State of Idaho (no representation is made as to the present ownership of said easement), recorded September 5, 1961, as

Instrument No. 41302 in Book 6M of Misc., page 27, records of Adams County, Idaho;

(f) An Easement for domestic water line and television line as set forth in a certain Substitution Agreement, recorded September 24, 1981, as Instrument No. 62974 in Book 11M of Misc., at page 12, records of Adams County, Idaho (the Easement referred to in Instrument No. 62974 describes the same reservation that is set forth previously in this Deed);

(g) Any rights, interest or easements in favor of the public which exist or are claimed to exist over any part of said land covered by the Little Salmon River;

(h) The Right of Way of U.S. Highway 95 as now established;

And that the above bargained premises, in the quiet and peaceable possession of the said Grantees, their heirs and assigns, against all and every person or persons lawfully claiming or to claim whole or any part thereof, the said Grantors will and shall WARRANT AND FOREVER DEFEND.

That, this deed is given by Grantors to Grantees, not on account of any default in any security agreements or arrangements which pertain to the real property hereinabove written and described, but is given for full consideration paid by Grantees to Grantors.

IN WITNESS WHEREOF, the said Grantors have hereunto set their hands and seals the day and year first above written.


VIRGINIA A. ELLIBEE


LEO L. ELLIBEE

STATE OF IDAHO)

ss

County of Adams)

On this 28 day of July, 1992, before me, a Notary Public, in and for said County and State, personally appeared VIRGINIA A. ELLIBEE, a single person, known to me to be the person whose name is subscribed to the within instrument, and she acknowledged to me that she freely executed the same.

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

(NOTARY SEAL)

[Signature]
Notary Public for the State of Idaho,
Residing at Shelburne, therein.
My Commission expires 12-25-98

4



STATE OF IDAHO)

ss

County of Adams)

On this 28 day of July, 1992, before me, a Notary Public, in and for said County and State, personally appeared LEO L. ELLIBEE, a single person, known to me to be the person whose name is subscribed to the within instrument, and he acknowledged to me that he freely executed the same.

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

(NOTARY SEAL)

[Signature]
Notary Public for the State of Idaho,
Residing at Shelburne, therein.
My Commission expires 12-25-98.

INSTRUMENT NO. 82451

State of Idaho) ss.

County of Adams)

Filed for record at the request of
Timberline Title & Escrow

05 min. past 4 o'clock P.M.
this 3 day of August, 19 92

MICHAEL FISK, RECORDER

by Sarah J. Wilson Deputy
[Signature]

Fee \$15.00

WARRANTY DEED



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 Claims to Water Rights

Stephen Hackler
5600 Hwy. 95
New Meadows, ID 83654

Dear Mr. Hackler:

Pursuant to our telephone conversations last week, I have sorted out the ownership questions I had in regard to the spring that you use. I want to apologize again for the delay in getting these claims straightened out.

Enclosed is a copy of Claim A78-04265F which covers your use of the spring for your store and cafe. Also enclosed is a listing of all the claims we have in our records that claim use of a spring located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 16, Twp. 22N, Rge. 1E.

I have also included Claim No. A78-04266B which is your portion of the claim Ellibees had submitted for use of the Little Salmon River. Please note that this claim was submitted under a domestic use for irrigation of 1 acre. When we prepare our recommendations for A78-04266A (Ellibee) and A78-04266B we will be limited to recommending the combination of these two claims to 1/2 acre total since the use was submitted under a domestic filing. As I had mentioned on the phone, we had changed the ownership of this claim to Robert and Mary Schulz. Upon reviewing your warranty deed it was apparent that we had erred in doing that ownership change and I sent a letter to Mr. and Mrs. Schulz to explain the situation. I have enclosed a copy of that letter for your information.

Since we must have the claimant's signature to correct mailing addresses, I have partially completed a "Change in Address of Notice of Claim" form, to change your address on Claims A78-04265F and A78-04266B. Please sign this form where indicated and return it to our office.

Enclosed you will find copies of Claim Nos. A78-04061, A78-04062, and A78-04063. (These are the claims for the property you purchased from the Bartons.)

MICROFILMED

OCT 22 1995

I have also attached copies of all the original statutory claims to the Snake River Basin Adjudication (SRBA) claims pursuant to your request. I hope all this information helps resolve your questions in regard to your water rights. If we can be of any further assistance to you, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Kay Walker".

KAY WALKER
Sr. Water Resource Agent
Adjudication Bureau

KW:k
Enclosures

MICROFILMED
OCT 22 1996

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
OCT 22 1996

ADJUDICATION MEMORANDUM

CLAIM NO.: A78-04265C

SUBJECT:

split of claim

EMPLOYEE:

Ray

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 Mexico, H. 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.

MICROFILMED
OCT 22 1996

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 Elliker
name is, or has been, on
three 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 (Muel. Green.)

The water for Hackler
should be a division of
A78-04265C - Elliker are
keeping 2.6 acs.

Sincerely,

Virginia Elliker

A-78-04265A

House #1

MURK + VEROLA GREEN

A-78-04265B

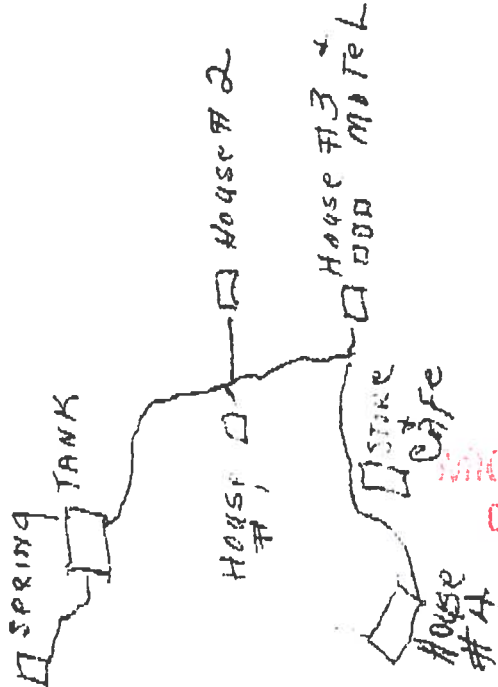
House #2

BERNARD + FRANCES MARIAN GREEN

1989 - SOLD
To Leo + Virginia
Ellibee

1992
SOLD TO
JAY + DELONA
CAPNER

same
above



MICROFILMED
OCT 22 1996

House #3 + Motel

Peter + Ruth Shubin

A-78-10359

Rep'd by
R. LEONARD 1984

SOLD TO ROY FENN 1984

SOLD TO TIM 1992
+ SUSAN ENGLESTADT

This is the division the original owner made of the property and opening

Our agreement among us is the well is for domestic use only NOT IRRIGAT.

No other divisions - no water.

There is no expansion on the original spring. You should know. You on 1988

A78-04266-RIVER
PUMP TO IRRIGATE
STORE + CAFE -
HOUSE #4 LAMIN

A-78-10186
+ LING - A.WEL.
ANOTHER PROPER

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

Store + Cafe
HARVEY + EDNA
Ruffridge

Rep'd by 1985
Leo + Virginia
Ellibee

SOLD TO 1992
STEPHEN + KIM
HACKLER

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.

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

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.

MICROFILMED
OCT 22 1996

Page 2
Dennis L. Albers
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.

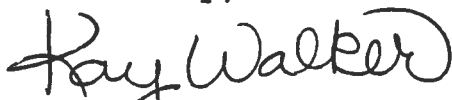
As for the Change of Ownership of SRBA Claim No. A78-04266, we need to know exactly how the one acre of land is to be split between the Ellibeas and Hacklers. Is this Notice of Claim to be split evenly between the two parties, each receiving 0.5 acres, or is there another division of the acre requested?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

NOT RECORDED
OCT 22 1993

Page 3
Dennis L. Albers
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

MICROFILMED
OCT 22 1996

Dennis L. Albers

ATTORNEY AT LAW

P.O. BOX 314

GRANGEVILLE, IDAHO 83530

KAMIAH OFFICE
PHONE (208) 935-2161

GRANGEVILLE OFFICE
401 W. NORTH
PHONE (208) 983-2310
FAX (208) 983-1401

November 12, 1992

Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

RECEIVED
NOV 16 1992

Department of Water Resources
Western Regional Office

Gentlemen:

Enclosed is a New Property Owner Notice of Change of Water Right Ownership between Hackler and Ellibee. Please file, and conform the copy sent to you and return the copy to me.

Thank you.

Sincerely,


DENNIS L. ALBERS

DLA:ge

Enc.

MICROFILMED
OCT 22 1996