

RECEIVED

JAN 31 2006

Department of Water Resources
Adjudication Bureau

01/05/2006

NOTICE OF ERROR
REPLY

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: March 3, 2006

Water right number: 77-4169H

LELAND J KELLY
PO BOX 462
FRUITLAND ID 83619
Telephone Number: (208)452-3468

JERLEEN L KELLY
PO BOX 462
FRUITLAND ID 83619
Telephone Number: (208)452-3468

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

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

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

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

DATE: 01-22-2006

SIGNATURE:

Leland J. Kelly Jr

Please print your name:

Leland J. Kelly JR

IDWR State Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, (208) 287-4800

SCANNED

JAN 31 2006

03/29/2005

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

RIGHT NUMBER: 77-4169H

NAME AND ADDRESS: LELAND J KELLY
PO BOX 462
FRUITLAND ID 83619

JERLEEN L KELLY
PO BOX 462
FRUITLAND ID 83619

SOURCE: PONY CREEK TRIBUTARY: SOUTH FORK SALMON RIVER

QUANTITY: 0.040 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/01/1879

POINT OF DIVERSION:

T21N R07E S2 NWSW Within VALLEY County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	1/01 12/31	0.040 CFS

PLACE OF USE: DOMESTIC Within VALLEY County

T21N R07E S02 Lot 2 NWNE

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.

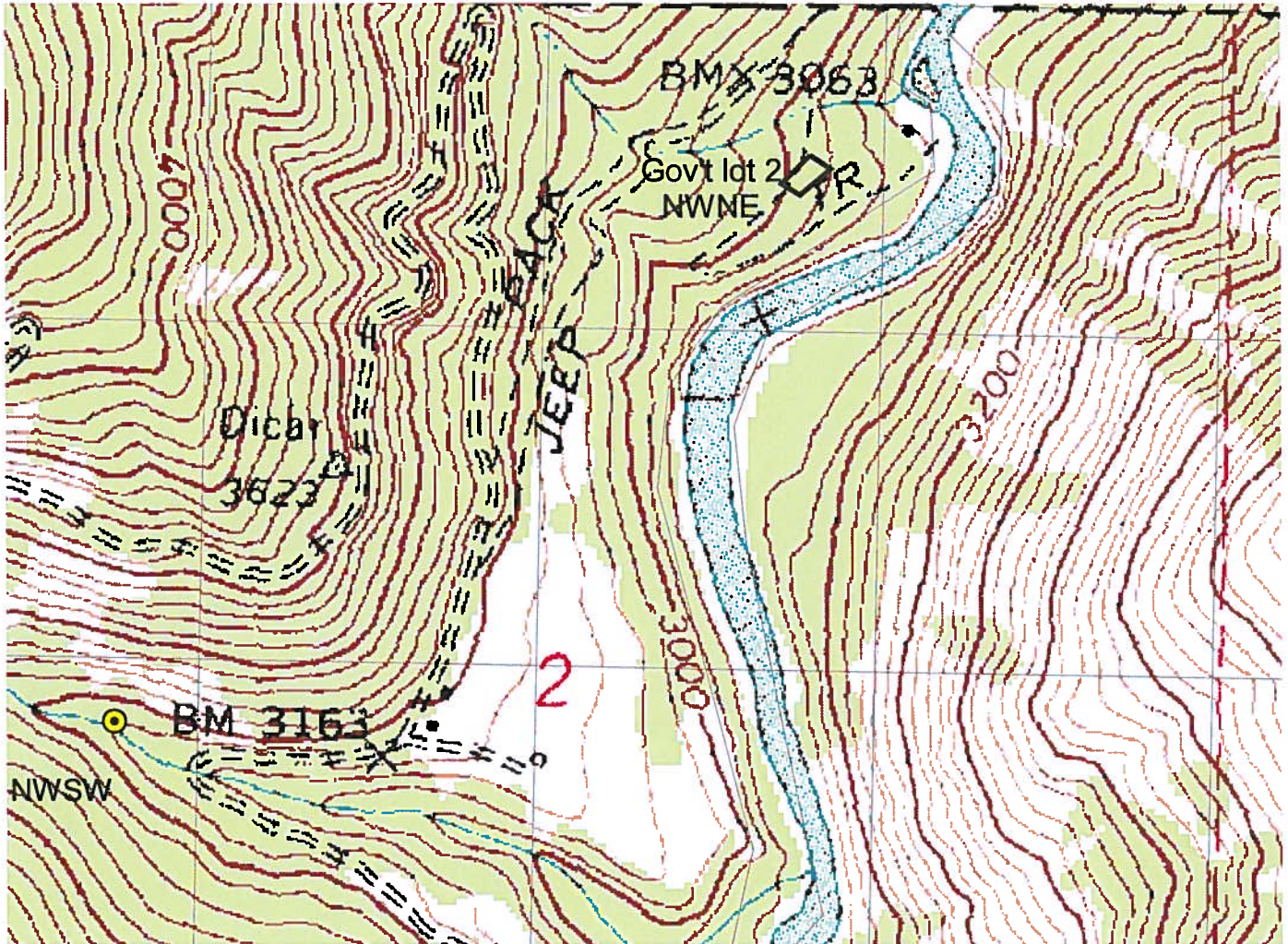
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

PARCEL NO. RP 21N 07E 02 0935A

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

77-4169H



0 600 1200 Feet

Section 2
T21N R7E



● Point of Diversion

□ Place of Use

Map prepared on March 29, 2005
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: **A77-04169H**
Date Received: 11/21/1988
Receipt No: W001488
Received By: _____

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

1. Name: LELAND J KELLY 208-452-3468
Address: PO BOX 462
FRUITLAND ID 83619
OR
Name: JERLEEN L KELLY 208-452-3468
Address: PO BOX 462
FRUITLAND ID 83619
2. Date of Priority: JAN 1, 1879
3. Source: PONY CREEK Trib. to: SOUTH FORK SALMON RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
21N	07E	2	NW	SW			VALLEY
5. Description of diverting works:
HEADGATE AND 3' BY 2' DITCH
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		
7. Total Quantity Appropriated is:
0.040 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
DOMESTIC USE AT ONE HOME

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
21N	07E	2	NW	NE	2	DOMEST	

11. Place of use in counties: VALLEY

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

13. Other Water Rights Used:
NONE

14. Remarks:

THIS IS PART OF THE ORIGINAL RIGHT. IT IS THOUGHT THAT PART D WAS
FILED AT M.O. IN MC CALL DURING WEEK OF 11/14/88 BY M. STEWART.
PART H IS LOT 46, BLOCK 1 OF TRAILS END SUBDIVISION.
OWNERSHIP CHANGED BY KW 10/29/97.

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 _____

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP - 8 1997

WATER RESOURCES
WESTERN REGION

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s).: A 77-04169-H
Adjudication Claim No(s).: _____

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 attached to your deed or on file with the county.)
OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant Teressa Carr
Caldwell Id. 83524

4. New Owner/Claimant(s) Leland J or Terleen L Kelly
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
New Mailing Address P.O. Box 462
City, State and ZIP Code Fruitland, Id 83619
New Telephone Number (208) 452-3468

5. Date you acquired the property 4-28-95

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 you irrigate _____ Number and type of stock _____
 Diversion rate in CFS _____ Number of homes _____ Other uses _____
 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 or Claimant(s) Leland J Kelly Jr
Terleen L Kelly
(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

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

REVENUE STAMPS

WARRANTY DEED

For Value Received *Teresa Lynn Carr, a single woman*

the grantor, do hereby grant, bargain, sell and convey unto *PO Box 462*
Leland J. Kelly and Jeanne L. Kelly Fairland, Id. 83619
the grantees, the following described premises, to-wit:

Lot 46, Block 1 (One) of the Trails End Subdivision
South Fork of The Salmon River

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee,
heirs and assigns forever. And the said Grantor do hereby covenant to and
with the said Grantee, that he the owner in fee simple of said premises; that said
premises are free from all incumbrances

and that he will warrant and defend the same from all lawful claims whatsoever.
Dated:

Teresa Lynn Carr 4/28/95

STATE OF IDAHO, COUNTY OF *Valley*
On this *28* day of *April*, 19*95*,
before me, a notary public for said State, personally
appeared

Teresa Lynn Carr
known to me to be the person whose name
subscribed to the foregoing instrument, and acknowledged to
me that she executed the same.

John M. Nantz
Residing at *Carested* Notary Public
Comm. Expires *96*, Idaho

REQUESTED BY *Teresa*
RECORDED *Carr*
'95 APR 28 PM 1 00

BY: *John M. Nantz*
FEE: *3.00*
VALLEY COUNTY RECORDER

INSTRUMENT No. *210728*

RECEIVED

SEP - 8 1987

Attn Gerleen Kelly

WATER RESOURCES
WESTERN REGION

7-17795783

This Blank Furnished By Central Idaho Title, Inc.

WARRANTY DEED

For Value Received

SYLVIA MC CLAIN, a single woman

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

TERESA LYNN CARR, a single woman,
Rt. #2 Box 31 CULDESAC, Idaho 83524

Hereinafter called the Grantee, the following described premises situated in Valley County, Idaho, to-wit:

Lot 46, of TRAILS END SUBDIVISION, as recorded in Valley
County, Idaho,
With the stipulation that said lot #46 never be sold,
given or inherited by Boyd Carr

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: Feb. 8, 1984

Sylvia McClain

Instrument No.

STATE OF IDAHO, COUNTY OF VALLEY
On this 8th day of Feb. 1984
before me, a notary public in and for said State, personally appeared
Sylvia Mc Clain

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged
to me that she executed the same.

Jerry W. Anderson
Notary Public
Residing at McCall Idaho

STATE OF IDAHO, COUNTY OF VALLEY, *ad*
I hereby certify that this instrument was filed for record
at the request of *Central Idaho*
at 19 minutes past 3 o'clock *pm*,
this 13 day of Feb.
1984, in my office, and duly recorded in Book *Dist 4*
of Deeds at page

JW Crotcher
Ex-Officio Recorder
By *L. Jensen* COMPARED Deputy ☐
Fees \$ 2.00 INDEXED - CHUBBY ☒
Mail to: ☒ INDEXED - UNDERLY ☒

133984

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: A77-04169H
Date Received: 11/21/1988
Receipt No: W001488
Received By: SC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: FRANK CARR 208-843-2859
Address: RT. 2
BOX 31
CULDESAC, ID 83524
AND/OR
Name: JULIE SCHWANE
Address: CULDESAC, ID 83524
2. Date of Priority: JAN 01, 1879
3. Source: PONY CREEK Trib. to: SOUTH FORK SALMON RIVER
4. Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------|-------|---------|--------|--------|-----|-----|--------|
| 21N | 07E | 2 | NW | SW | | | VALLEY |
5. Description of diverting works:
HEADGATE AND 3' BY 2' DITCH
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S. | (or) | A.F.A. |
|----------|-------|-------|--------|------|--------|
| DOMESTIC | 01/01 | 12/31 | 0.040 | | |
7. Total Quantity Appropriated is:
0.040 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
DOMESTIC USE AT ONE HOME

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
21N	07E	2	NW NE	2	DOMEST	

11. Place of use in counties: VALLEY

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

13. Other Water Rights Used:
NONE

14. Remarks:

THIS IS PART OF THE ORIGINAL RIGHT. IT IS THOUGHT THAT PART D WAS
FILED AT M.O. IN MC CALL DURING WEEK OF 11/14/88 BY M. STEWART.
PART H IS LOT 46, BLOCK 1 OF TRAILS END SUBDIVISION.

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

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): Julie Schwane Date: 11/21/88

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 21st day
of November 19 88.

Nancy M. Lindgren
Notary Public

Seal

Residing at Boise
My Commission Expires 1-19-1994

PLAYETTES

642

ON A L E F O R E S T

21N

RG 75

5.11.2

South Fork
Guard Station
M 13027

AM 13027

Pilot Peak

A77-04167 H

MICROFILMED

OCT 05 1992



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

October 30, 1997

RE: Notice of Claim to Water Right No. A77-04169H

Leland J. or Jerleen L. Kelly
P.O. Box 462
Fruitland, ID 83619

Dear Mr. and Mrs. Kelly:

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

The Department will contact you concerning any other requirements that may be needed in order to process this claim for final court decree. If you have any questions in regard to this matter, please feel free to contact this office.

Sincerely,

KAY WALKER
Sr. Water Resource Agent
Adjudication Bureau

Enclosure

MEMORANDUM

October 29, 1997

TO: FILE A77-04169H

FROM: KAY WALKER *KW*

RE: OWNERSHIP

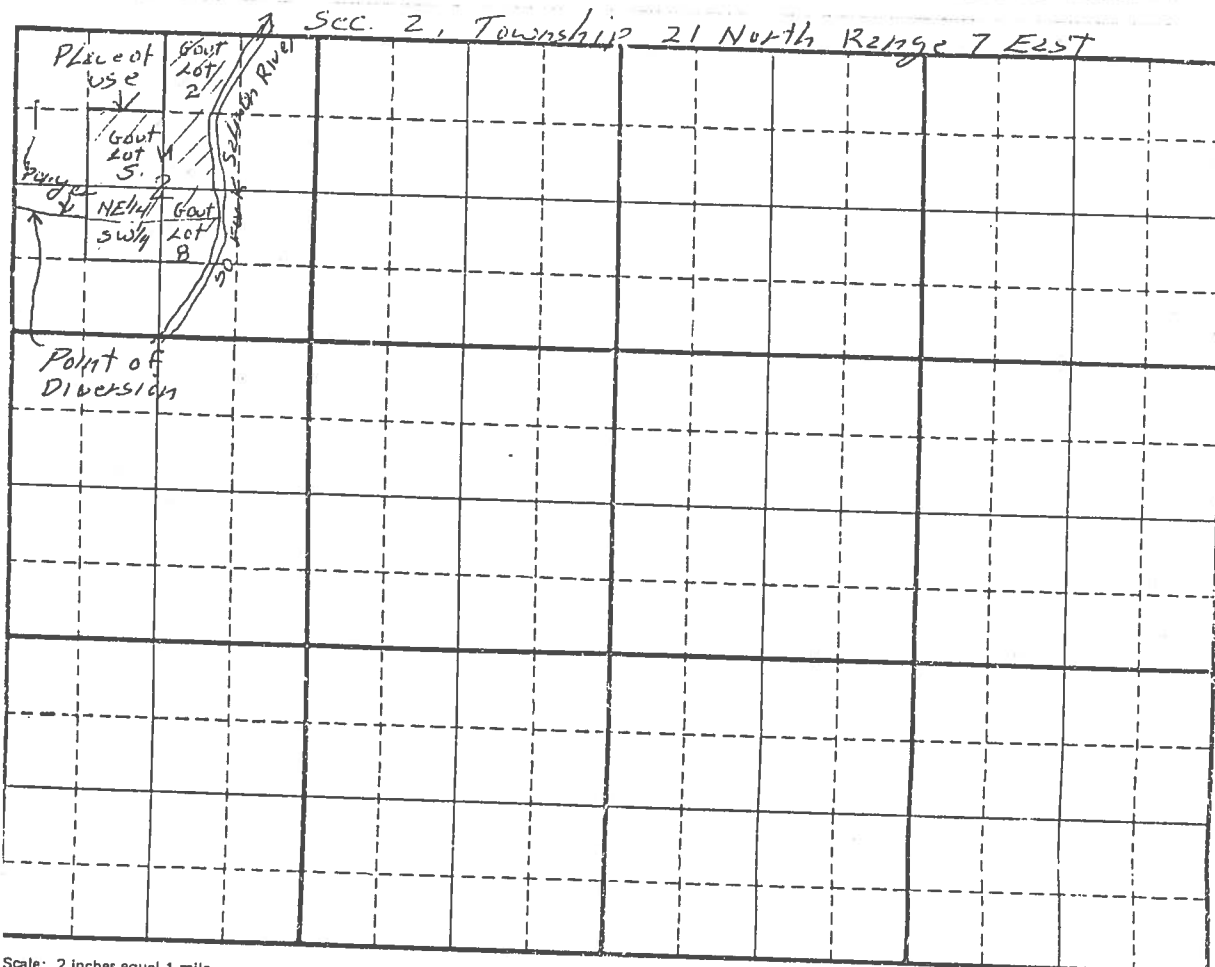
Jerleen Kelly came into the office on September 8, 1997 to discuss change of ownership on the above referenced claim. Mrs. Kelly has researched the ownership of this claim at Valley County and found that Frank Carr is not mentioned in any of the deeds for this property.

Teresa Lynn Carr received this property direct from Sylvia McClain in the deed dated February 8, 1984. Per Mrs. Kelly, Sylvia McClain is Teresa Lynn Carr's grandmother. Sylvia McClain is the original water right claimant as shown on copy of Claim 77-04169 attached.

The Kelly's purchased this property from Teresa Lynn Carr (who apparently is Frank Carr and Julie Schwane's daughter) as shown on the deed of April 28, 1995.

Since we have deeds from the original claimant, Sylvia McClain, deeding this property to Teresa Lynn Carr who sold the property to the Kelly's, I will process the change in ownership without further research.

(8) Remarks



Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Valley) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 2 day of March, 1983.

Sylvia McClain
(Claimant)

Sharon M. Koske
Notary Public
Residing at McCabe, Id.

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by mm Date 3-3-83 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by JP Date 3-9-83 claimant by: _____
\$30.00 fee received by JP Date 3/4/84 27828
Published in The Star News
Dates 3/31 & 4/7/83

CON. ERSATION MEMORANDUM

DATE 10/22/97

FILE 77-07364

NAME OF PARTY Jervleen Kelly

EMPLOYEE JL

A77-04169 H

RE: Validity of Rights/Claims, Status etc.

77-07364

Wordsworth & status of new appl. for new
source for existing O/I on L. 43, Trails End Sub.

Region is working on IDEG-IDWR conditions of
approval re Bull Trout plan.

A77-04169 H (Recently Filed Change of ownership) -
Pony Cr., originally S. McLaw:

for L. 46 across road from L. 43 being requested
in 77-07364.

Said has used Pony Cr. water on L. 46 in
past for camping & for temp trailer as was
building L. 43 cab. BEEN visiting their lots last 20 yrs
wants look up to existing ditch system for
77-04169 now used by several parties uphill
from Kelly's lots.

Said not problem to tap into ditch system to
get water supplied to L. 46 - but wants to
be sure is OK per WR/AJ point of view.

Discussed forfeiture etc issues - will be possible in
a proceeding such as JRS or transfer appl. but
cannot be determined without such an action.

Jim or
Jervleen
Kelly
↓
Home
208-452-3468
work
342-1561
(BUISE)

(no home on lot 46)
etc. (trans. discussion 11/11/97)

CONVERSATION MEMORANDUM

DATE 10/22/97

FILE _____

NAME OF PARTY Jim KellyEMPLOYEE 82

- P52 -

RE: Continued MORE discussion of A77-04169H:

dept. cannot state whether or not this claim - and whole series of -4169 claims - is valid or not. Appears doubtful that many domestic splits A through P so far) will be recognized ~~under~~ under what was essentially an invig. right.

Kellys might consider filing a new appl to serve proposed home on L. 46 so can obtain a bldg. permit from local government.

Orig - 77-07364

cc - A77-04169H