

RECEIVED APR 4 1997

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WATER RESOURCES  
WESTERN REGION

RECEIVED

APR 04 1997

Department of Water Resources  
Southern Region

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,  
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A61-02248B  
Date Received: 10/ 3/1989  
Receipt No: S009570  
Received By: SW

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: MAGIC WEST INC  
Address: PO BOX 475  
RUPERT ID 83350 208-436-3126

2. Date of Priority: APR 3, 1939

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------|-------|---------|--------|--------|-----|-----|--------|
| 10S      | 15E   | 29      |        | SW     | SE  |     | ELMORE |

5. Description of diverting works:  
WELL, PUMP

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S | (or)  | A.F.A. |
|------------|-------|-------|-------|-------|--------|
| INDUSTRIAL | 01/01 | 12/31 |       | 0.400 |        |

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:  
INDUSTRIAL, POTATO PROCESSING

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use    | Acres |
|----------|-------|---------|--------|-----|-----|--------|-------|
| 10S      | 15E   | 29      | SW     | SE  |     | INDUST |       |

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:  
A61-07189

14. Remarks:

ORIGINALLY WAS LICENSED FOR CAMPLAND RV CENTER, NOW ONLY USED  
FOR POTATO PROCESSING.

AMENDED: 3/31/97 SCC.

15. Basis of Claim: LICENSE

Water Right Number: 18758

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do \_\_\_\_\_ do not \_\_\_\_\_ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: \_\_\_\_\_

**For Organizations:**

I do solemnly swear or affirm that I am President of  
Magic West, Inc. Title

Organization, that I have signed the foregoing  
document in the space below as President of

Magic West, Inc. Title  
Organization and that the statements contained in the  
foregoing document are true and correct.

*Gage L. Jones*  
Signature of Authorized Agent

President; Magic West, Inc.  
Title and Organization

April 3, 1997

Date

State of Idaho )  
County of Minidoka ) SS.

Subscribed and sworn (or affirmed) before me this 3rd day  
of April 19 97

Blaine Alphin  
Notary Public

Seal

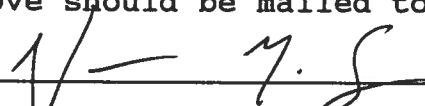
Residing at Burley, Idaho

My Commission Expires 6/14/99

17. Notice of Appearance:

Notice is hereby given that I, NORMAN M SEMANKO will be  
Print Name

acting as attorney at law on behalf of the claimant signing above, and that  
all notices required by law to be mailed by the director to the claimant  
signing above should be mailed to me at the address listed below.

Signature 

Address P. O. BOX 1906 TWIN FALLS ID 83303-1906

Date APRIL 4, 1997



State of Idaho  
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000  
Phone: (208) 327-7900 FAX: (208) 327-7866



CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

August 10, 1992

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

Re: Snake River Basin Adjudication (SRBA)  
Elmore County - Claim No. A61-02248B  
Identification Number Change

Dear Claimant,

The Identification Number of your Notice of Claim to a Water Right has been changed from A61-02248 to A61-02248b. The suffix "B" has been added to the number in order to distinguish your claim from other claims that may claim a portion of the same original water right. This change does not affect your claim in any other way.

Enclosed is a computer-generated copy of your claim with the new Identification Number. Refer to this record number in any future inquiries or correspondence.

Sincerely,

Roxanne McCarthy  
Sr. Water Resource Agent  
Adjudication Bureau

RM:sf:west  
Enclosure:  
Claim No. A61-02248B

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,  
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A61-02248B  
Date Received: 10/ 3/1989  
Receipt No: S009570  
Received By: \_\_\_\_\_

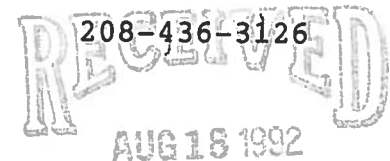
COPY FOR  
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

COPY FOR  
YOUR FILES

1. Name: MAGIC WEST INC  
Address: PO BOX 475  
RUPERT ID

83350



2. Date of Priority: APR 3, 1939

3. Source: GROUNDWATER

Trib. to:

Department of Water Resources  
Western Regional Office

4. Point of Diversion:

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

5. Description of diverting works:  
WELL, PUMP

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 04/01 | 11/01 | 0.400  |      |        |

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

A.F.A.

8. Total consumptive use is 60.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 of | Lot | Use | Acres |
|----------|-------|---------|--------|--------|-----|-----|-------|
| 05S      | 10E   | 32      | SE     | NW     |     | IRR | 20.0  |

Section Acres 20.0

Total Acres 20.0

A61-02248B

Page 1

Date: 07/22/92

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:  
NONE

14. Remarks:  
ORIGINALLY WAS LICENSED FOR CAMPLAND RV CENTER, NOW ONLY USED  
FOR IRRIGATION.

15. Basis of Claim: LICENSE

Water Right Number: 18758

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.

**RECEIVED**  
OCT 06 1989

CIVIL CASE NUMBER: 39576

*Renumbered to: A61-02248B*

Ident. Number: ~~A61-02248~~

Date Received: 9/29/1989

Receipt No: 5009570

Received By: lw

Department of Water Resources  
Western Regional Office

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

1. Name: MAGIC WEST, INC  
Address: P.O. BOX 475  
RUPERT, ID

83350

<sup>208-436-3126</sup>  
**RECEIVED**

2. Date of Priority: APR 03, 1939

OCT 3 1989

3. Source: GROUNDWATER

Trib. to:

Department of Water Resources  
Southern Region Office

4. Point of Diversion:

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

5. Description of diverting works:  
WELL, PUMP

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 04/01 | 11/01 | 0.400  |      |        |

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

A.F.A.

8. Total consumptive use is 60.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use | Acres |
|----------|-------|---------|--------|-----|-----|-----|-------|
| 05S      | 10E   | 32      | SE     | NW  |     | IRR | 20.0  |

Section Acres 20.0

Total Acres 20.0

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:  
NONE

14. Remarks:  
ORIGINALLY WAS LICENSED FOR CAMPLAND RV CENTER, NOW ONLY USED  
FOR IRRIGATION.

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

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do \_\_\_\_\_ do not \_\_\_\_\_ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: \_\_\_\_\_

**For Organizations:**

I do solemnly swear or affirm that I am President of  
Title  
Magie West, Inc., that I have signed the foregoing  
Organization  
document in the space below as President of  
Title  
Magie West, Inc. and that the statements contained in the  
Organization  
foregoing document are true and correct.

Robert L. Jordan  
Signature of Authorized Agent

President, Magie West, Inc.  
Title and Organization

October 2, 1989  
Date

State of Idaho )  
County of Minidoka ) SS.

Subscribed and sworn (or affirmed) before me this 2 day  
of October 19 89

Wm. Shaw  
Notary Public

Seal

Residing at Reupert, Idaho  
My Commission Expires Feb. 18, 1994



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

April 21, 1997

Robert K. Hall  
Route 1, Box 103  
Glenns Ferry, ID 83623

COPY

Re: Letter requesting critical ground water area  
for the larger Glenns Ferry area

Dear Mr. Hall:

Because of the prehearing conference held on April 2, 1997, I have been asked to respond to your letter requesting designation of the King Hill to Mountain Home area as a critical ground water area.

Idaho Code § 42-233a states that the director can designate a ground water basin as a critical ground water area if there is insufficient "ground water to provide a reasonably safe supply for irrigation of cultivated lands, or other uses in the basin at the then current rates of withdrawal or rates of withdrawal projected by consideration of valid and outstanding applications and permits. . . ." Following designation of a critical ground water area, the director is required to hold a public hearing. The statute implies that, at the hearing, evidence regarding the insufficiency of ground water must be presented.

At the prehearing conference on May 2, 1997, I dispensed some information in possession of the Department of Water Resources. The protestants presented information about water shortages in their wells, and we agreed that the applicant, the protestants, and the applicant's consultant, should meet and determine the criteria for studying the ground water in the Glenns Ferry area for purposes of analyzing the Magic West application. This information would be essential in determining whether a critical ground water area should be formed.

As part of the discussion, Magic West indicated that it would be filing additional adjudication claims. Adjudication claim no. A61-02248B was filed by Magic West, Inc. on April 7, 1997, claiming year round use of 0.40 cfs for industrial purposes. The claim states that the license was originally issued for Campland R.V. Center.

IDWR will withhold further action on the request for a critical ground water area. After a hearing and a decision regarding the Magic West application for permit, the department will once again review your request for creation of a critical ground water area.

Robert K. Hall  
April 21, 1997  
Page 2

The department will hold all other applications for permit within the geographical area until the data gathering and a hearing for the Magic West application is completed.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman". The signature is written in dark ink and is positioned above the printed name.

Gary Spackman  
Western Region  
Department of Water Resources

GS/dde

cc: Magic West mailing list.



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

**PHILIP E. BATT**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

April 17, 1997

Edward T. Potacek  
P.O. Box 537  
Glenns Ferry, ID 83623

Re: Your letter dated April 8, 1997

Dear Mr. Potacek:

I received your letter dated April 8, 1997. I am sorry you concluded after the prehearing conference on April 7 that the Department of Water Resources is not concerned about whether you have domestic water.

From the information in the files, and from your statements at the prehearing conference, I understand you claim a water right with a priority of 1947. You stated that your well is approximately 1500 feet deep, and that 103° Fahrenheit water flowed from the well at one time. You also stated that your well is used primarily for stock water purposes at the site where the well is located.

The Department of Water Resources feels strongly that it has an obligation to protect prior appropriators from injury caused by later-in-time water users. Actions by the department, however, must be supported by both the facts and the law. I am not disputing your allegations that your well is being affected by water withdrawals from Magic West's well. It seems to me, however, that a short period of time for data gathering and analysis is justified.

To the extent your attorney wants public information from the department, we will provide it cheerfully and promptly.

Edward T. Potacek  
April 17, 1997  
Page 2

If you write to me in the future, would you please carbon copy all of the other parties as required by the department's rules of procedure? Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman". The signature is written in dark ink and is positioned below the word "Sincerely,".

Gary Spackman  
Western Regional Manager  
Department of Water Resources

GS/dde

cc: Magic West mailing list.

**MEMORANDUM**

To: Norm Young  
From: Gary Spackman *Gary*  
Date: March 12, 1997

Re: Glenns Ferry Groundwater Concerns

Attached is a copy of a letter written by Robert Hall of Glenns Ferry to Karl Dreher asking that the area surrounding King Hill, Glenns Ferry, and Hammett be designated as a critical ground water area. Also attached is a letter I wrote to Robert Hall about complaints regarding one of the larger ground water users in the area, Magic West, Inc. Finally, I've attached a copy of some hydrographs prepared by Shane Bendixson.

Robert Hall is a prolific letter writer. He also protests every application for permit that proposes diversion of water in the Glenns Ferry area. He has asked that studies be conducted to determine the extent of the water supply in the Glenns Ferry area.

I had hoped that all of his concerns could be discussed at the prehearing conference, tentatively scheduled for April 2, 1997. If you want me to draft a response to his letter to Karl, I will.

Robert K. Hall  
Rt 1 Box 103  
Glenns Ferry, Idaho 83623  
208-366-2528 FAX 208-366-7461

Dept. of Water Resources  
Karl J. Dreher, Director  
2735 Airport Way  
Boise, Idaho 83705

11 March 1997

RECEIVED

MAR 17 1997

Department of Water Resources

RECEIVED

MAR 14 1997

WATER RESOURCES  
WESTERN REGION

Mr. Dreher,

I request you declare the geographical area from King Hill to the eastern boundary of the Mountain Home ground water area to include King Hill, Glenns Ferry, Hammett and surrounding areas a critical ground water aquifer. Please protect this valuable resource from being overused until the actual capabilities of the aquifer can be determined.

The city of Glenns Ferry does not have adequate ground water for their city needs and have drilled dry holes. The hot water aquifer beneath Glenns Ferry is lowering rapidly and appears to be greatly overdrawn. Good quality domestic water is very difficult to find in the King Hill area. There are dry holes and very low production wells in much of the area north and south of the river at Glenns Ferry. Most of the wells in the Hammett area are small production wells and there is a water quality problem with many of them. No available published information I can find by any government agency does recommend the Hammett area to have a large aquifer that will support irrigation wells and not cause harm to domestic wells.

I ask that you take this immediate emergency action to protect the potable water domestic wells of this area. This action will protect the Public Interest and conserve water resources.

*Robert K. Hall*

Robert K. Hall

cc: R.M. Humphreys, D. Flock, C. Davis, J. Heath, E. Potucek, R. Solosabal, J. Kevan, E. Eichholz, F. Mackey, Mayor-Glenns Ferry

Robert K. Hall  
Rt 1 Box 103  
Glenns Ferry, Idaho 83623  
208-366-2528 FAX 208-366-7461

11 March 1997

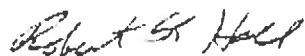
Dept. of Water Resources  
Karl J. Dreher, Director  
2735 Airport Way  
Boise, Idaho 83705

Mr. Dreher,

I request you declare the geographical area from King Hill to the eastern boundary of the Mountain Home ground water area to include King Hill, Glenns Ferry, Hammett and surrounding areas a critical ground water aquifer. Please protect this valuable resource from being overused until the actual capabilities of the aquifer can be determined.

The city of Glenns Ferry does not have adequate ground water for their city needs and have drilled dry holes. The hot water aquifer beneath Glenns Ferry is lowering rapidly and appears to be greatly overdrawn. Good quality domestic water is very difficult to find in the King Hill area. There are dry holes and very low production wells in much of the area north and south of the river at Glenns Ferry. Most of the wells in the Hammett area are small production wells and there is a water quality problem with many of them. No available published information I can find by any government agency does recommend the Hammett area to have a large aquifer that will support irrigation wells and not cause harm to domestic wells.

I ask that you take this immediate emergency action to protect the potable water domestic wells of this area. This action will protect the Public Interest and conserve water resources.



Robert K. Hall

cc: R.M. Humphreys, D. Flock, C. Davis, J. Heath, E. Potucek, R. Solosabal, J. Kevan, E. Eichholz, F. Mackey, Mayor-Glenns Ferry



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

March 10, 1997

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Robert K. Hall  
Rt. 1 Box 103  
Glenns Ferry ID 83623

Bill Schow  
Magic West, Inc.  
PO Box 475  
Rupert, ID 83350

Re: Application for Permit No. 61-07724 and License No.  
61-07189

Dear Parties:

I am writing this letter in response to a letter written to me by Robert K. Hall, dated February 26, 1997. Hall's letter refers to water right no. 61-07189 and alleges interference with his water rights by Magic West. His allegations of interference and injury relate to the pending application for permit no. 61-07724.

The department needs to address the concerns raised by Mr. Hall. Some of those concerns can be addressed in a conference or hearing conducted by the department. Magic West bears the burden of proving that its proposed use of water pursuant to application no. 61-07724 will not injure other water users, is in the local public interest, and is consistent with conservation of the waters of the state of Idaho. Magic West must also demonstrate that there is sufficient water for the purpose sought.

In addition, license no. 61-07189 required installation of a measuring device approved by the department and maintenance of the measuring device to ensure that it is in proper working order at all times. The condition implies that Magic West should be reading and recording its measurements of water. The license did not, however, expressly require measurement and reporting of the diversion of water.

On July 2, 1996, Steve Lester wrote a letter to Robert Hall and John Solosabal. A copy of the letter was also sent to Magic West. In the letter, Steve Lester requested that Magic West provide information about installation of a measuring device. Mr. Lester represents to me that he has conversed with Magic West and

Magic West informed him that a measuring device had not yet been installed, but it would be installed shortly. Magic West has not confirmed that the measuring device is installed and operating.

Past correspondence from the protestants has requested a study of the groundwater resources in the Glenns Ferry area to determine the limit and sufficiency of water in the area. There has been some discussion about a study conducted by a graduate student, but I am unaware of any ongoing studies at the present time. I have asked hydrologists in our department to at least gather existing data and compile it in an easy-to-read format.

I propose to conduct a pre-hearing conference to discuss the protest to application for permit no. 61-07724, and also to discuss other allegations raised by Mr. Hall in his letter. I propose that we conduct a conference on April 2, 1997, hopefully in Glenns Ferry. If I do not hear from you within a week, I will send out a notice of conference with the time and place identified.

Magic West should come to the pre-hearing conference prepared to show that it has installed and is maintaining a measuring device acceptable to the Department of Water Resources. It should also be ready to discuss allegations of diversion of water outside of the period of use authorized by license no. 61-07189 and also allegations of production of power with its geothermal, artesian well which is not authorized by license no. 61-07189. Finally, both parties should come prepared to discuss ways to gather meaningful data that will be helpful in determining whether application no. 61-07724 should be approved or rejected, and whether water right no. 61-07189 should be further regulated to protect earlier-in-time water rights.

Respectfully,



GARY SPACKMAN

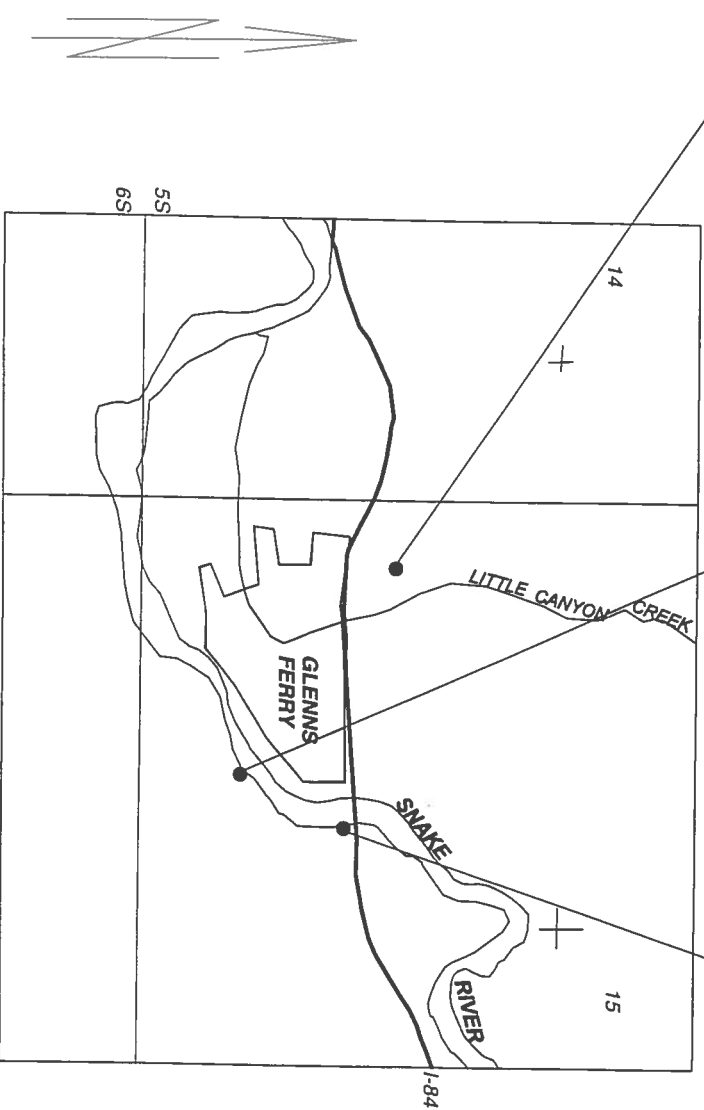
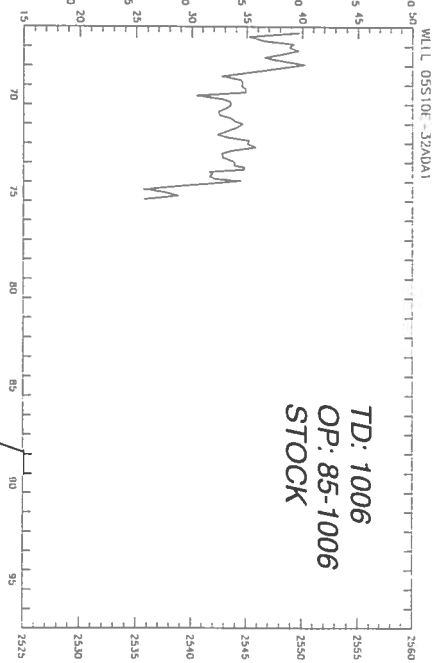
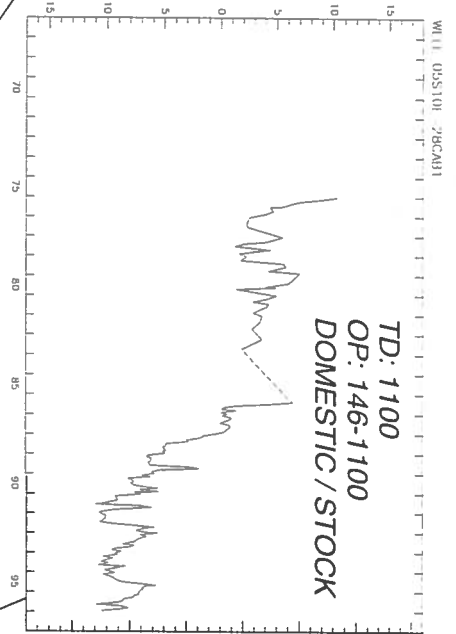
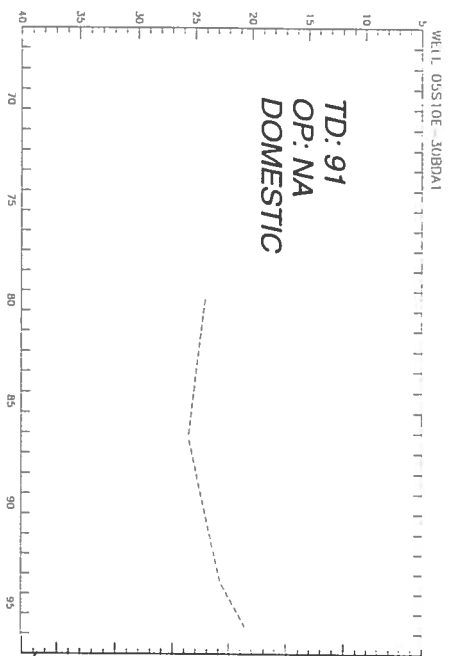
GS/st

CC: Edward Potucek  
Elizabeth Eichholz  
Jim Kevan  
Jerry Heath  
Fred Mackey  
John Solosabal  
Mayor, City of Glenns Ferry

BCC: Steve Lester

# GROUND WATER HYDROGRAPHS

**LEGEND**  
 TD: TOTAL DEPTH  
 OP: INTERVAL IN WHICH WELL IS  
 PERFORATED OR OPEN TO  
 THE AQUIFER.  
 WATER USE  
 LEFT SIDE: DEPTH TO WATER  
 RIGHT SIDE: WATER ELEVATION  
 BASE: YEAR  
 ALL MEASUREMENTS IN FEET



9E 10E

Kay's copy

RECEIVED  
JAN 06 1999  
WATER RESOURCES  
WESTERN REGION

January 5, 1998

Memo:

To: Gary Spackman

From: Shane Bendixsen & Helen Harrington

Subject: Ground Water in the Glenns Ferry Area.

Attached are three sets of ground water hydrographs for the Glenns Ferry area. Attachment A presents historic hydrographs near Glenns Ferry. Wells #1, #2 and #3 are completed in the deep geothermal system. Well #4 is much shallower and probably representative of a cold water system. These wells were and are monitored by the USGS with the exception of well #3. It was discontinued by the USGS in 1976 and was re-measured by the IDWR in December 1998. Note how all show decreasing water levels and none show any climatic effects (i.e. the wet period from 1980 to 1987, and the drought from 1987 to 1992). Wells #1 and #2 show spikes in the latter 1980's, however, these unexplained spikes do not effect the overall historic trends.

Attachment B presents hydrographs for three of the same wells (#1, #2, & #4) and two additional wells (#5 & #6) that IDWR has been monitoring since the spring of 1997. Note the hydrographs for wells #2, #5, and #6 show very similar trends since spring '97. Well #5 was completed in 1996 for the City of Glenns Ferry. It has been argued that the reason some local residents are losing head values in their wells is not that the aquifer is being de-watered, but that the wells are caving in (i.e., the wells were drilled in the 1930's and 1940's with only a four inch diameter hole and only cased for the first 100 to 200 feet). If this were true, these wells should not be showing such similar trends.

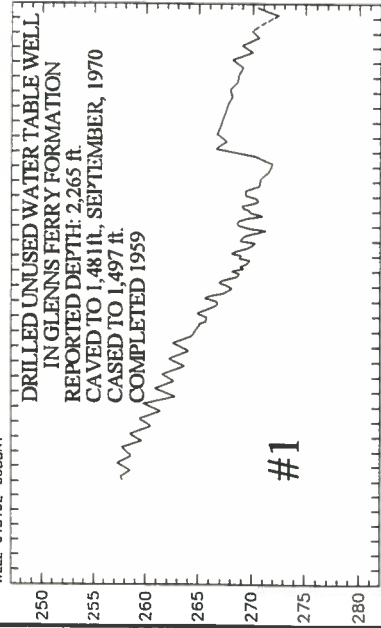
Attachment C presents three wells previously presented and located near Glenns Ferry and four others on a more regional scale. Wells #8, #9, and #10 are deep geothermal wells, while #7 has been recorded as a water table well representative of the cold water system. Brockway has suggested that possibly the entire regional geothermal system may be declining and that activity in Glenns Ferry is not related. Even though there are only a few measurements for the four regional wells, nothing suggests any type of decline since 1980.

While none of this is totally conclusive, several observations can be made. The deep geothermal system in and around Glenns Ferry is declining. The regional geothermal system appears to be stable. Head values near Glenns Ferry do not seem to be decreasing due to the wells caving in.

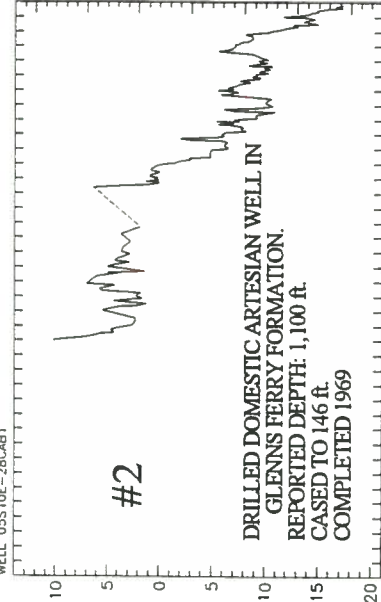
We will continue to monitor water levels in the Glenns Ferry area.

cc. Wayne Haas, Norm Young, & Hal Anderson

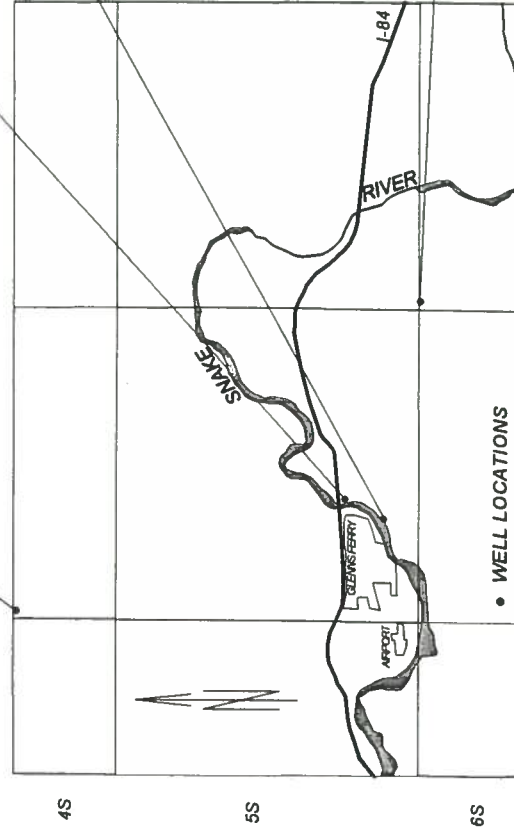
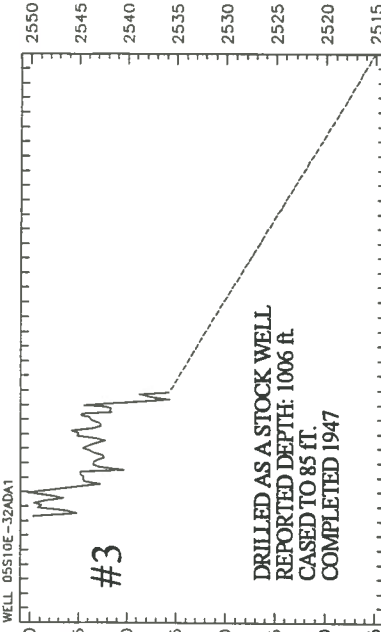
WELL 04S10E-308BA1



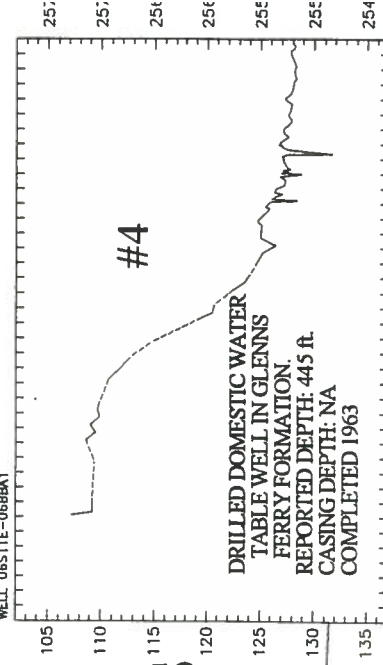
WELL 05S10E-28CAB1



WELL 05S10E-32DA1



WELL 06S11E-06BBA1



## LEGEND

BASE: YEAR

LEFT SIDE: DEPTH TO WATER

RIGHT SIDE: WATER ELEVATION

ALL MEASUREMENTS IN FEET

CURRENT TO FALL, 1998

DASHED LINE INDICATES

MORE THAN ONE YEAR

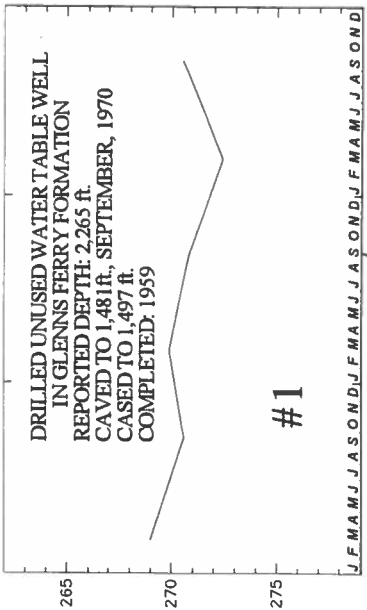
BETWEEN MEASUREMENTS

NA: NOT AVAILABLE

## GLENN'S FERRY AREA

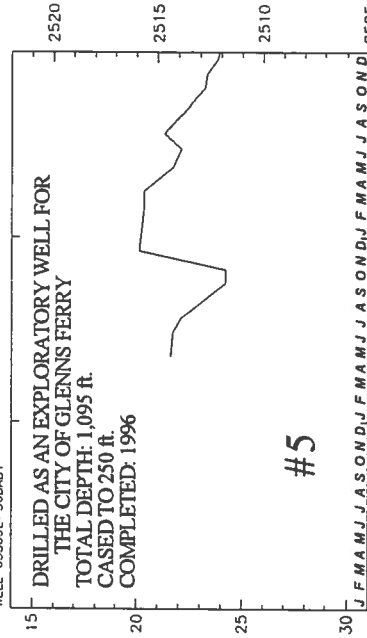
## GROUND WATER HYDROGRAPHS HISTORIC

WELL 04S10E-30BBA1



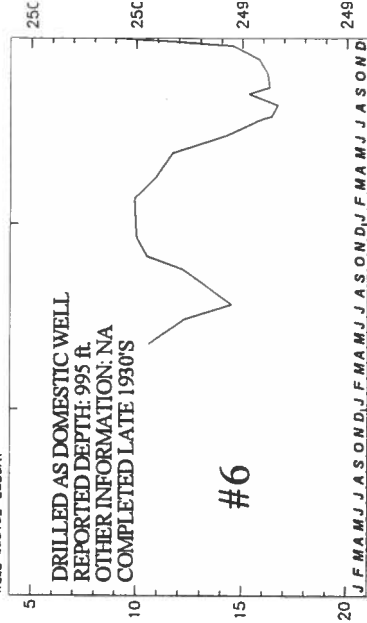
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WELL 05S09E-36DAB1



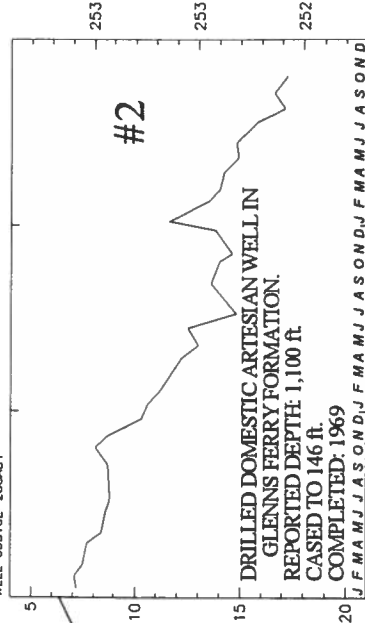
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WELL 05S10E-28BDA1



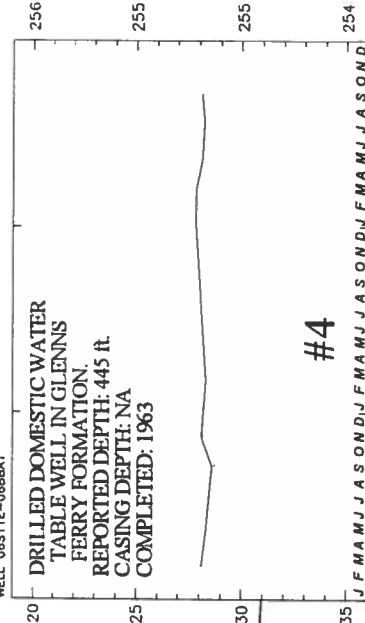
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WELL 05S10E-28CAB1



#2

WELL 06S11E-06BBA1



#4

# GROUND WATER

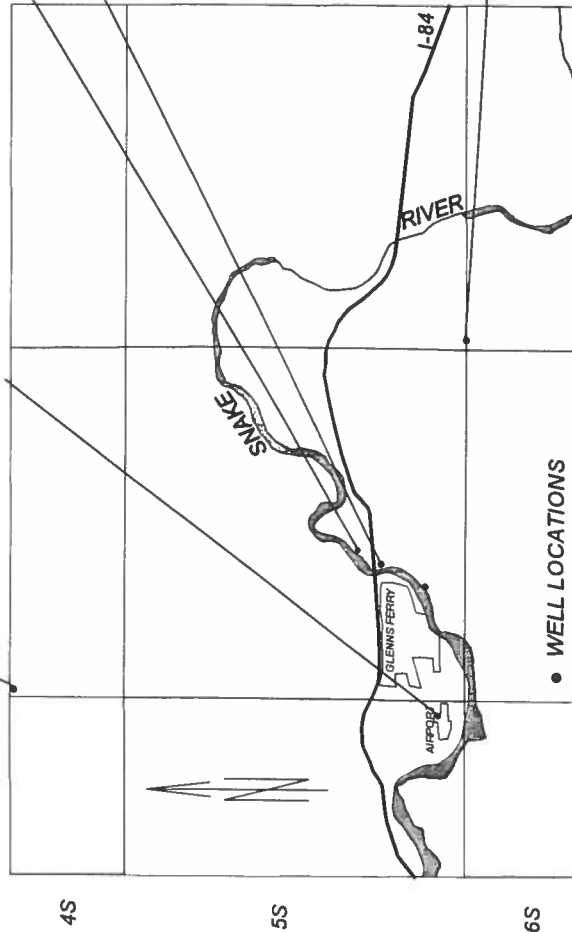
## HYDROGRAPHS

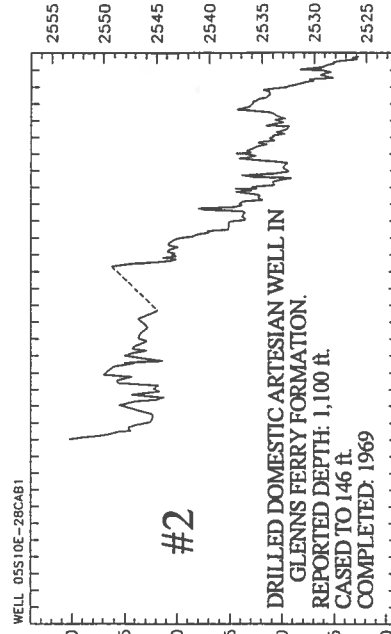
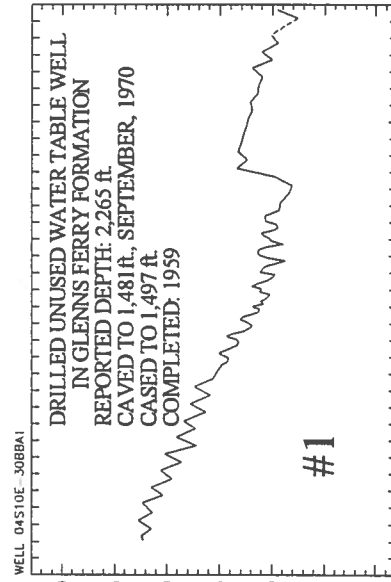
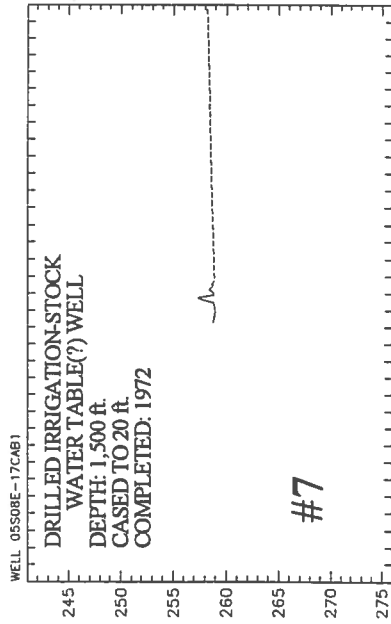
TIME PERIOD: 1996-1998

## GLENN'S FERRY AREA

### LEGEND

- BASE: YEAR
- LEFT SIDE: DEPTH TO WATER
- RIGHT SIDE: WATER ELEVATION
- ALL MEASUREMENTS IN FEET
- CURRENT TO FALL, 1998
- NA: NOT AVAILABLE

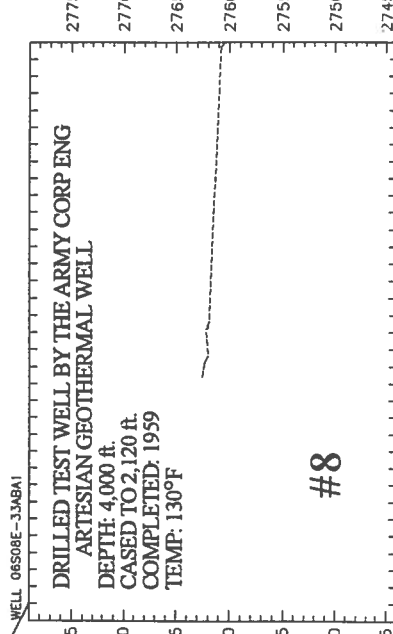
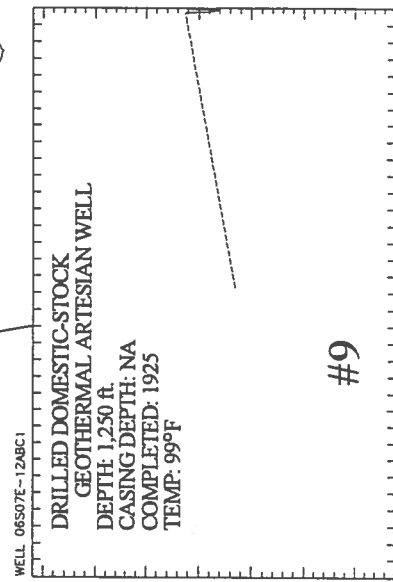
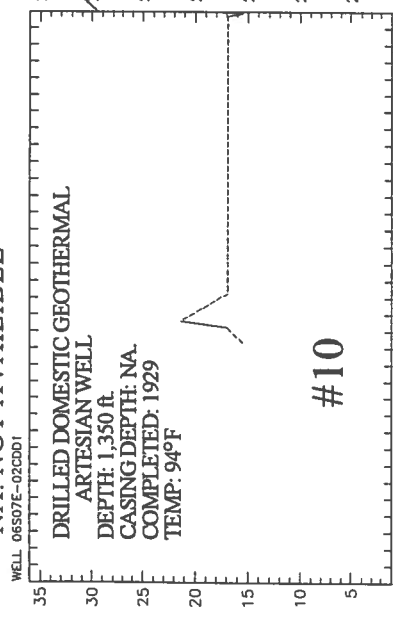
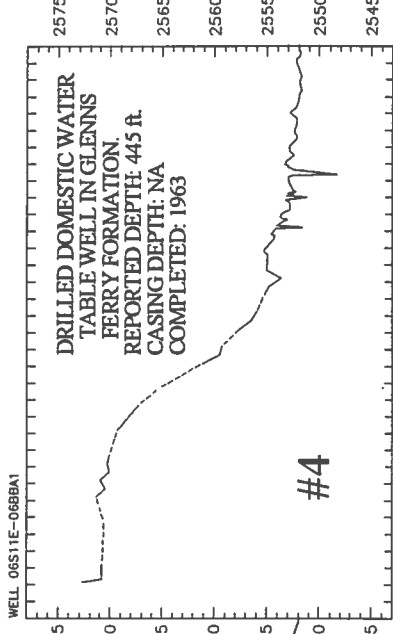
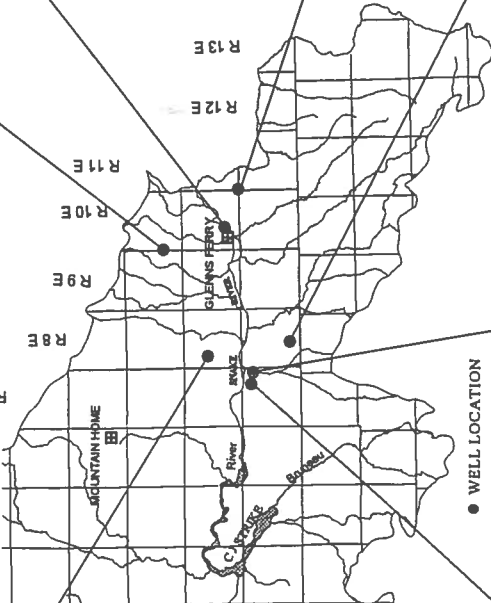




# GROUND WATER HYDROGRAPHS REGIONAL

## LEGEND

BASE: YEAR  
LEFT SIDE: DEPTH TO WATER  
RIGHT SIDE: WATER ELEVATION  
ALL MEASUREMENTS IN FEET  
CURRENT TO FALL, 1998  
DASHED LINE INDICATES MORE THEN ONE YEAR BETWEEN MEASUREMENTS  
NA: NOT AVAILABLE



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

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

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

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

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

and,

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

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

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

and,

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

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

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

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

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

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

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

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

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

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

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

to Cunningham.

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

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

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

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

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

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

to Magic West.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MAGIC WEST, INC.

By Roger L. Jones  
Roger L. Jones, President

ATTEST:

Richard Maggard  
Secretary

STATE OF IDAHO }  
County of Twin Falls } ss.  
I hereby certify that the instrument  
filed for record of this  
11:00 A.M. 11-5-1985  
at this office and duly recorded in book  
of ..... page .....  
RICHARD A. PENCE  
Ex-Officio Recorder  
Deputy  
Fee \$ .....  
Return to .....

229538

ELMORE COUNTY, IDAHO, ss  
Request of

GUARANTY TITLE INC.

Time 1:20 P.M.  
Date July 9, 1985  
Book \_\_\_\_\_ of \_\_\_\_\_  
Page \_\_\_\_\_

Recorder  
RAMONA YRAZABAL

By [Signature]  
Deputy

Fee 18.00

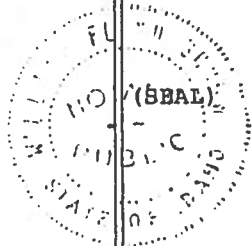
[Signature]  
Robert C. Cunningham

[Signature]  
Elaine I. Cunningham

STATE OF IDAHO )  
County of Minidoka ) ss.

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

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

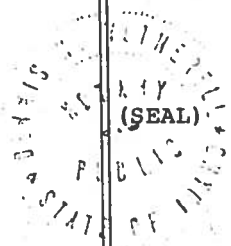


[Signature]  
Notary Public  
Residing at Rupert, Idaho  
My Commission Expires: Life

STATE OF IDAHO )  
County of Elmore ) ss.

On this 2nd day of July, 1985, before me the undersigned Notary Public in and for said State personally appeared ROBERT C. CUNNINGHAM and ELAINE I. CUNNINGHAM known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



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

WARRANTY DEED

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

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

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

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

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

Cunningham

A64-02248A

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

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

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

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

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

DATED this \_\_\_\_\_ day of May, 1985.

MAGIC WEST, INC.

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

ATTEST:

COPY: ORIGINAL SIGNED BY

Secretary

(SEAL)

STATE OF IDAHO

County of Minidoka

)  
) ss.  
)

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

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

(SEAL)

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

MEMORANDUM

Copy

DATE: 06-Jul-1993 08:45

TO: DAN STECKEL

FROM: KAY WALKER

Kay

RE: WATER RIGHT 61-02248

\*\*\*\*\*  
\*\*\*\*\*

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

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

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

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

7/14/93:

Per Dan Steckel - License was reduced to 0.08 cfs by ~~agreement~~ "findings" of 4-21-1960.

18758

Tom Newell  
220 Jefferson St

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION

GLENN E. HALL, RUTH M. HALL  
and H. G. JENNISON,

Claimants

vs.

CLAUDE W. SMITH,

Respondent

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

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

FINDINGS

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

I.

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

Beginning at the Northwest corner of Lot 3, Block 74, South Addition to Glenna Ferry, thence running South  $72^{\circ} 59'$  West 52 feet; thence South  $130^{\circ} 1'$  East to the meander line of Snake River; thence westerly along the meander line of Snake River to a point, then  $130^{\circ} 1'$  East of the Northeast corner of Lot 3, Block 74, South Addition to Glenna Ferry; thence North  $130^{\circ} 1'$  West to a point 120 feet South  $130^{\circ} 1'$  East of the said Northeast corner of Lot 3, Block 74, South Addition to Glenna Ferry; thence South  $72^{\circ} 59'$  West to a point 120 feet South  $130^{\circ} 1'$  West of the Northwest corner of Lot 3, Block 74, South Addition to Glenna Ferry; thence North  $130^{\circ} 1'$  East to the point of beginning, containing 2.41 acres more or less.

18758

II.

That Claimants have appropriated by means of a drilled well and put to beneficial use .08 cubic feet per second of ground water with point of diversion and place of use both on the same tract of land described in Finding No. 1.

III.

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

IV.

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

V.

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

VI.

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

THE BOARD ALSO FINDS:

VII.

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

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

VIII.

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

IX.

That the priority of this appropriation dates from October 30, 1930.

X.

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

XI.

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

THE BOARD FINDS FURTHER:

XII.

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

XIII.

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

XIV.

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

XV.

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

DECISION AND ORDER

IT IS THE DECISION AND ORDER OF THE BOARD:

I.

-61-02248  
That the right of the Claimants as set forth in their License No. 13758, issued by the State Reclamation Engineer on February 12, 1945, be confirmed as to priority, use, place of use, and point of diversion but that the amount be reduced to .08 cubic feet per second, the amount actually put to beneficial use.

II.

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

-no new number

III.

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

13758

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

IV.

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

V.

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

VI.

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

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

Signed at Boise, Idaho, this 21<sup>st</sup> day of April, 1960.

LOCAL GROUND WATER BOARD FOR  
BLAINE COUNTY

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

Thomas R. Howell  
Thomas R. Howell

John Baptie  
John Baptie

**State of Idaho**

Water License No. 18758

Amount 0.4 second foot

THIS IS TO CERTIFY that H. W. BELNAP  
of Glens Ferry, Idaho, made application for a permit to appropriate the  
public waters of the State of Idaho, dated March 23, 1939; that Permit No. 18758  
was issued under said application; that Certificate of Completion of works, with a carrying capacity of  
0.4 second feet, was issued thereunder on April 12, 1943, showing that said works  
were completed on the 12th day of March, 1923; and that on the 8th  
day of April, 1944,

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

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

The right hereby confirmed dates from April 3, 1939 :

The Point of Diversion is located North 240 feet from SW corner of land described in the Lot 3  $\frac{1}{4}$   $\frac{1}{4}$  Sec. 32, Tp. 5 S., R. 10 E., B. M. Elmore County

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

**Description and location of use:**

| Twp. | Range | Sec. | Forty-acre Tract                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | No. Acres<br>Described in Permit | No. Acres<br>Actually Irrigated |
|------|-------|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|---------------------------------|
|      |       |      | <p>A tract of land described as follows: Beginning at the Northwest corner of Lot 3, Block 74, South Addition to Glenna Ferry, thence running South 71° 59' West 50 feet; thence South 18° 01' East to the meander line of Snake River, thence West along the meander line of Snake River to a point South 18° 01' East of the Northeast corner of Lot 9, Block 74, South Addition to Glenna Ferry, thence North 18° 01' West to a point 120 feet South 18° 01' East of the said Northeast corner of said Lot 9 of Block 74, South Addition to Glenna Ferry, thence South 71° 59' West to a point 120 feet South 18° 01' East of the Northwest corner of Lot 3, Section 74, South Addition to Glenna Ferry, thence North 18° 01' West of the point of beginning.</p> |                                  |                                 |

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

WITNESS the seal and signature of the <sup>State Reclamation Engineer</sup> ~~Commissioner of Reclamation~~, affixed at Boise, Idaho,  
this 12th day of February, 1945

MARK R. KULP

Commissioner of Reclamation  
State Reclamation Engineer

(SEAL)

Assigned To H. G. Johnson  
See Permit records

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION  
BOISE, IDAHO

## REPORT OF ENGINEER

Permit No. 19758

This proof is for Beneficial use

In Water District No. \_\_\_\_\_

1. Name of applicant Mrs. Priscilla C. Delnap, Glenns Ferry, Idaho
2. Source of water supply: Subterranean (artesian well)
3. Location of point of diversion: Is in the Lot 3 (SE 1/4 NW 1/4) of Section 32  
T. 5 S. R. 10 E. County of Elmore
4. Describe works as they exist, giving dimensions and capacities of same: A Drilled well 950 feet deep (Approx.) and cased to hardpan with 4 inch casing.  
A concrete swimming pool 20 feet X 50 feet X 3 to 7 feet deep.  
An irrigating ditch 1 foot wide X 1 foot deep conducts overflow from the pool to irrigated area, well flows approximately .4 Second Fo
5. Water is used for: Irrigation, domestic and bathing Yes
6. State whether or not water has been turned into works of diversion: \_\_\_\_\_
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): Lot 3, Section 32, Township 5 South, Range 10 East, T. 5 S., R. 10 E., E. 1/4 NW 1/4

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

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

Remarks

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

18758

(Signed)

*Frederick Delman*  
Engineer

30

29

28

Point of Diversion

HW 30

31

32

33

Snake

RIVER

SCALE: 2 INCHES EQUALS 1 MILE. DRAW MAP IN INK.

18758

Water Right Number - 61-02248 **B**

Prefix Translation: WATER RIGHT

Old (D) Number - 18758

+ - - - - Last Name - - - - + + - - - - Address - - - - - +

\*\*\* C - CURRENT OWNER \*\*\*

BELNAP

1 -  
2 -  
3 -

City- GLENN'S FERRY

State- ID Zip-

Phone -

\*\*\* O - ORIGINAL OWNER \*\*\*

BELNAP

1 -  
2 -  
3 -

City-  
Phone -

State- Zip-

04/03/1939

14 WESTERN

GROUNDWATER

Source -

Priority Date -

Region -

Stage -

L - LICENSE

Tributary -

Status -

01 - IRRIGATION

46 - RECREATION

43 - DOMESTIC

Code

Description

Period From

Period To

Water Use

Diversion Rate

Diversion Volume

05S 10E 32 SE NW 3 (39) ELMORE

4-1 11-1

not claimed

0.400

0.400

0.400

55 10E 32 SENW 20.

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use -

P/U INCOMPLETE. SEE FILE.

Old Water Right Numbers

No Old Water Right Numbers found.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM VERIFICATION REPORT

09:51:44  
11/18/98

PAGE: 1  
GENERAL INFORMATION

CLAIM NUMBER: A61-022488

LAST: MAGIC WEST INC  
ADDRESS: PO BOX 475  
CITY: RUPERT  
PHONE NUMBER: 208-436-3126

FIRST:  
STATE: ID ZIP: 83350

OWNER CODE: C

LAST: SEMANKO  
ADDRESS: PO BOX 1906  
CITY: TWIN FALLS  
PHONE NUMBER: 208-734-0700

FIRST: NORMAN M  
STATE: ID ZIP: 833031906

OWNER CODE: A

FIELD EXAM REQUIRED?

FIELD  
EXAMINER  
Y ( ☒ ) N ( )

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE  
Y

CLAIM REMARKS: GEN ORIGINALLY WAS LICENSED FOR CAMPLAND RV CENTER, NOW ONLY USED  
FOR POTATOE PROCESSING.

AMENDED: 3/31/97 SCC.

CONTACT PERSON: \_\_\_\_\_ PHONE NUMBER: (\_\_\_\_) \_\_\_\_-\_\_\_\_  
DATE OF FIELD EXAM: \_\_\_\_/\_\_\_\_/\_\_\_\_ APPOINTMENT MADE: Y(\_\_\_\_) N(\_\_\_\_) TIME: \_\_\_\_:\_\_\_\_ A(\_\_\_\_) P(\_\_\_\_)  
ACCOMPANIED BY: \_\_\_\_\_ PHONE NUMBER: (\_\_\_\_) \_\_\_\_-\_\_\_\_  
RELATIONSHIP TO CLAIMANT: \_\_\_\_\_  
DIRECTIONS TO PROPERTY / NOTES:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A. AJ CLAIM: # A61-022488 PRIORITY DATE: 04-03-1939 STAGE: L

B. WR RECORD: # 61-02248 PRIORITY DATE: 04-03-1939 STAGE: L

C. CAN THE PRIORITY DATE CLAIMED BE CONFIRMED BY A DECREE OR LICENSE?

D. HAS THERE BEEN A LATER COURT DECREE OF THE WATER RIGHT(S) FROM THIS WATER SOURCE?

E. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE?  
(IF YES, DESCRIBE BELOW)

F. IF THIS CLAIM IS BASED ON A PERMIT, WHERE IS THE PERMIT IN THE LICENSING PROCESS?

PROOF OF BENEFICIAL USE SUBMITTED

FIELD EXAM COMPLETED

FIELD EXAM SENT TO STATE OFFICE

LICENSE ISSUED

\* IF THE PERMIT WILL NOT BE LICENSED PRIOR TO THE DIRECTOR'S REPORT,  
USE CONDITION CODE A01 AND RECOMMEND AS PERMITTED.G. IF THIS CLAIM IS BASED ON BENEFICIAL USE, IS ADDITIONAL EVIDENCE  
OF THE PRIORITY DATE REQUIRED?\* FOR CLAIMS BASED ON BENEFICIAL USE, DESCRIBE THE EVIDENCE OF PRIORITY SUBMITTED,  
INCLUDING THE ANALYSIS OF THE EVIDENCE.

H. IS THE STAGE OF THE CLAIM CODED CORRECTLY?

NOTES:

Recommend priority as of date (1 day after)  
 "exchange agreement" was signed  
 between claimant & Cunningham farm. This  
 priority should prevent injury to  
 rights filed between 1939 and 1985.  
 Magic best should have filed a  
 transfer of this right in 1985 when  
 exchange agreement was signed to  
 protect licensed priority date.

RECOMMENDED PRIORITY DATE:

7/3/1985

04-03-1939

REVIEWED BY

kw

DATE

11/18/98

Y(✓) N( )

Y(✓) N( )

Y( ) N(✓)

N/A( ) Y( ) N( )

N/A( ) Y( ) N( )

N/A( ) Y( ) N( )

N/A( ) Y( ) N( )

N/A(✓) Y( ) N( )

Y(✓) N( )

4-21-1960  
 findings  
 decisions

## A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT      | TWP. RGE. | SEC. | 1/4 | 1/4 | 1/4 | 1/4 | LOT | FLAG | COUNTY | DIVERSION NAME | DIVERSION NUMBER |
|------------|-----------|------|-----|-----|-----|-----|-----|------|--------|----------------|------------------|
| A61-022488 | 10S       | 15E  | 29  | SW  | SE  |     |     |      | ELMORE |                |                  |

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX  
R PREFIX  
NONE

WR RECORDS IN SAME 40 ACRE TRACT

NONE

SOURCE: GROUNDWATER

TRIB:

## B. WR POINT OF DIVERSION AND SOURCE:

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

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX  
R PREFIX

|           |            |           |
|-----------|------------|-----------|
| 02-02209B | A02-02209E | 61-10001  |
| 02-07470  | A02-10000  | R61-04141 |
| 02-07471  | A61-02248A |           |
| 61-04141  | A61-04141  |           |
|           | A61-10001  |           |

SOURCE: GROUNDWATER

TRIB:

C. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE?

N/A( ) Y( ) N( )

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

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA?

N/A( ) Y( ) N( )

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM?

Y( ) N( )

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A( ) Y( ) N( )

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

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE?

Y( ) N( )

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM?

Y( ) N( )



## PLACE OF USE REVIEW SHEET

CLAIM NUMBER: A61-02248B

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

## B. POU LISTING

| TWP | RNG | SEC | 1/4 | 1/4 | LOT | NAME           | AJ<br>#/ACRES      | WR<br>#/ACRES | LANDSAT<br>DATA | FIELD<br>EXAM. | RECOMM.<br>ACRES |
|-----|-----|-----|-----|-----|-----|----------------|--------------------|---------------|-----------------|----------------|------------------|
| 10S | 15E | 29  | SW  | SE  |     | MAGIC WEST INC | A61-02248B /       | -             | /               |                |                  |
|     |     |     | SW  | SE  |     | LARGE CLAIM    | A61-0020922 / 40.0 |               |                 |                |                  |

55  
10E  
N/A

ADDITIONAL POU FOUND

TOTAL ACRES A61-02248B

POU COUNTY: ELMORE

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

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

Y( ) N( )

## LIST OF ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE

| CLAIM NO.   | SOURCE      | NAME        | DIV. RATE  | RATE/ACRE | DIV. VOL. | DIV. VOL./ACRE |
|-------------|-------------|-------------|------------|-----------|-----------|----------------|
| A01-0020922 | LARGE CLAIM | LARGE CLAIM | 999999.000 | 26.443    | 999999.00 | 26.44          |

2/A

NO RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

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

\* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM: A61-07189

Y( ) N( )

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

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

N/A( ) Y( ) N( )

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

N/A( ) Y( ) N( )

G. SHOULD THE CLAIMED POJ BE VERIFIED BY FIELD EXAM? Y( ) N( )

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

CHECK DOCUMENTS USED TO VERIFY POJ: ( ) ORTHOPHOTOQUAD, IDWR NO. ; ( ) TOPOGRAPHIC QUAD, IDWR NO. ;

( ) NAPP, IDWR NO. ; ( ) ASCS PHOTO; ( ) OTHER

NOTES:

Place of use changed after  
"exchange agreement" w/ Cunningham farm.  
(see copy below) 005 - 006

RECOMMENDATIONS:

TOTAL ACRES: N/A( )

REVIEWED BY: DATE: 11/18/98

## PURPOSE OF USE, PERIOD OF USE, DIVERSION RATE AND DIVERSION VOLUME REVIEW SHEET

## A. AJ CLAIMED USES:

| PURPOSE OF USE              | PERIOD OF USE (MONTH/DAY) | DIV. RATE FOR EACH USE | DIV. VOL. FOR EACH USE |
|-----------------------------|---------------------------|------------------------|------------------------|
| A61-02248B INDUSTRIAL       | FROM 01-01 TO 12-31       | 0.400 CFS              |                        |
| TOTAL DIVERSION RATE/VOLUME |                           | 0.400 CFS              |                        |

## B. WR RECORDED USES:

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

C. DOES THE CLAIMED PURPOSE OF USE CORRECTLY DESCRIBE THE WATER USE? ☒ Y ☐ ND. IS THE CLAIMED PURPOSE OF USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? ☒ Y ☐ N

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

E. SHOULD THE CLAIMED PURPOSE OF USE BE VERIFIED BY FIELD EXAM? ☒ Y ☐ NF. DOES THE CLAIMED PERIOD OF USE CONFORM TO IDWR STANDARDS? ☒ Y ☐ NG. SHOULD THE PERIOD OF USE BE RECOMMENDED TO IDWR STANDARDS? ☒ Y ☐ N

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

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

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

I. SHOULD THE CLAIMED DIVERSION RATE FOR EACH USE BE VERIFIED BY FIELD EXAM? ☒ Y ☐ NJ. IS THE CLAIMED DIVERSION VOLUME FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? ☒ Y ☐ N

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

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

## NOTES:

Change in place of use & nature of use & point of diversion some time after exchange agreement (1985) was. CGL to prevent injury of other rights in Glenora. Today. A transfer application should have been submitted when exchange agreement was entered.

AJ CLAIM TOTAL DIVERSION RATE: 0.400 CFS

WR ROOT RIGHT TOTAL DIVERSION RATE: 0.400 CFS

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

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

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

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

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

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

FLOW MEASUREMENT

MEASUREMENT METHOD \_\_\_\_\_, SEE ATTACHED CALCULATIONS.

F.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE  
ACRES \_\_\_\_\_ x 0.02 CFS/ACRE = \_\_\_\_\_ CFS  
(Taken from pou review)

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

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

2. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = \_\_\_\_\_ AF/A

ACRES \_\_\_\_\_ x DIVERSION VOL. AF/A FOR AREA \_\_\_\_\_ =

TOTAL DIVERSION VOLUME \_\_\_\_\_ AF/A

3. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = \_\_\_\_\_ AF/A

ACRES \_\_\_\_\_ x CONSUMPTIVE VOL. AF/A FOR AREA \_\_\_\_\_ =

TOTAL CONSUMPTIVE USE \_\_\_\_\_ AF/A

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

$V = 0.08 \times 19835 \times 260 \text{ days} = 413 \text{ AFA}$   
(per exam 61-07189)

24 hrs/day  
5 days/week

per findings & decisions of  
4-21-1960:

— irrigation of small park  
(assume 2 acres since meter  
4 bound > 2 acres.  
use  $2 \text{ ac.} \times 4.0 = 8.0 \text{ AFA}$

## NOTES:

Diversion rate was decreased to 0.08 cfs in April 1960 per "Findings & decisions of local ground water board for Elmore County". See below. This change in diversion rate was not entered into computer system. Per legal review, the findings are valid & do limit the rate of diversion under license. See below for legal review.

WR RECORD CONDITIONS/REMARKS:

RECOMMENDATIONS: CHECK HERE IF RECOMMENDED AS CLAIMED ( )

| REC.<br>PURPOSE OF USE | REC. PERIOD<br>FROM TO | DATABASE | REC. DIV<br>RATE CFS | EXAMINER | DATABASE | REC. DIV<br>VOL. AF/A | EXAMINER | DATABASE | EXAMINER | REC. CONS.<br>USE |
|------------------------|------------------------|----------|----------------------|----------|----------|-----------------------|----------|----------|----------|-------------------|
| INDUSTRIAL             | 01-01 12-31            | ✓        | 0.400                | 0.08     | 0.0      |                       |          |          |          | 0.0               |
|                        |                        |          |                      |          |          |                       |          |          |          |                   |
|                        |                        |          |                      |          |          |                       |          |          |          |                   |
|                        |                        |          |                      |          |          |                       |          |          |          |                   |
|                        |                        |          |                      |          |          |                       |          |          |          |                   |
| TOTAL FOR THIS RIGHT   |                        |          |                      | 0.08     |          |                       |          |          |          | N/A               |

NON-IRRIGATION USES CLAIMED: INDUSTRIAL, POTATO PROCESSING

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

REVIEWED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

FLAG: \_\_\_\_\_ C \_\_\_\_\_

STANDARD CONDITIONS (CODE):

C03, C04, C05, C06

STANDARD REMARKS (CODE):

EXPLANATORY CONDITIONS (CODE):

EXPLANATORY REMARKS (CODE):

B05(1120)  
F05 (61-07189)  
combined w/water from city

A. CHECK ONLY THE FOLLOWING THAT APPLY:

ACCEPTED AS CLAIMED ☒ NEEDS REVIEW ☐  
☐ ☐ ☐ ☐

OWNERSHIP \_\_\_\_\_  
FORFEIT/ABANDON \_\_\_\_\_  
ADDITIONAL DIV. AMOUNT \_\_\_\_\_

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 61-02248

TOTAL DIVERSION RATE OF WR SPLITS

SPLITS:

| OLD RIGHT NUMBERS | CURRENT CLAIM NUMBERS    | DIVERSION RATE | "R" DIV. RATE | WR RIGHT NUMBERS | DIVERSION RATE |
|-------------------|--------------------------|----------------|---------------|------------------|----------------|
| -                 | A61-02248A<br>A61-02248B | 0.400<br>0.400 | out 0.08      | 61-02248         | 0.400-0.08     |

TOTAL CFS

0.800

DIVERSION RATE REVIEW

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

DATABASE N  
FIELD EXAMINER Y( ) N( )

0.400  
0.08

NOTES:

Claim A61-02248B recommended as A61-11900.

AUTHENTICATION:

SIGNATURE:

DATE:

NAME OF FIELD EXAMINER:

TITLE:

11/18/98  
Sr. Agent

MEMORANDUM

August 8, 1997

TO: FILE A61-02248B

FROM: KAY WALKER

RE: MAGIC WEST'S USE OF WATER

\*\*\*\*\*  
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In looking at the SRBA claims submitted by Magic West I found I was unclear about what the use of water under this claim was. The claim was originally submitted for irrigation of 20 acres from the well located in T05S, R10E, S32, Gov. Lot 3 (SE $\frac{1}{4}$ NW $\frac{1}{4}$ ) which is the point of diversion licensed under 61-02248. In April, 1997, Magic West amended this claim to show their "historic" use of this license was for industrial purposes at their plant in Glenns Ferry from a well at the site. If this is the case, why was the original claim submitted for irrigation use only from a seperate well? I read through all the documents in Application for Permit No. 61-07724 which Magic West filed to increase the season of use of their water right under 61-07189. In reading the application documents I found that Rt. A61-02248 was never mentioned as part of the Glenns Ferry plant until the conference (held on the protested application) of April 1, 1997. I find this to be interesting in the fact that the dispute of water used at the plant under the proposed application has been ongoing since September 27, 1996.

## MEMORANDUM

TO: GARY SPACKMAN

FROM: STEVE LESTER 

DATE: MAY 9, 1997

### RE: SUMMARY OF MAGIC WEST WATER RIGHTS

This memorandum summarizes IDWR file information for the use of ground water at the Magic West plant in Glenns Ferry. The water for the plant under water rights and/or SRBA claims in the name of the company is diverted from the company's low temperature geothermal well located in SWSE S.29, T5S, R10E (see attached map).

The company maintains that it has water from two rights for this well: license 61-07189 and SRBA claim A61-02248B, amended. Note that the latter right is claimed for Magic West whereby the nature of use, season of use, P/D and P/U have changed from the original items licensed in 61-02248 (old no. 18758) to the licensed well described in 61-07189. The SRBA information implies that an accomplished transfer occurred for part of 61-02248, meaning that the change was completed prior to the SRBA commencement in November, 1987. I cannot locate any documentation to substantiate an accomplished transfer for 61-02248.

To add to the complexity, note that the Cunninghams have also claimed all of the flow in 61-02248. They filed SRBA claim A61-02248A for .40 cfs for domestic and recreation uses all year (1 home and swimming pool). Their claim lists a P/D and P/U in Lot 3 (SENW) S. 32, matching the original licensed location.

License 61-07189 is relatively straight forward. The right includes .67 cfs and 12.9 afa from 8/15-7/1. IDWR made a significant effort during the course of licensing this right to make the best estimate of annual volume from the plant's well. The resulting data supplied by the water user lead to the licensed volume. Magic West recently initiated an action to address the volume limitation in the license, but it remains to be seen what impact, if any, this action will have on the water right.

It is interesting to note that a 1974 well interference complaint was lodged with the department when the Magic West well was drilled. See the September 9, 1974 letter by Gregory Logan and the department reply dated September 12, 1974 for details. Perhaps the 1978 *Parker v Wallentine* decision would result in a different response from IDWR today for a similar question.

*see in  
file  
A61-07189*

License 61-02248 is another matter, not at all straight forward. This right was licensed for a 4", 950' artesian low temperature (100 d. F) geothermal well in Lot 3 (SENW) S. 32 in the same township as above. The right included irrigation, domestic and bathing uses associated with the P/U, which was in the same tract as the well. The only acreage reference found in file 61-02248 is that listed in the original application, "about 3 acres" in application item #14 (P/U). The domestic and bathing reference applies to a small pool and associated "bath houses - dressing rooms etc" described in the 1943 "Proof of Completion of Works, Affidavit of Holder" under remarks.

The file does not include any reference to a home although one could reasonably conclude that the well was probably used for a home if one was in place -- why wouldn't such a well be used for a home? Maybe a home was never involved.

License 61-02248 was issued in 1945 for the artesian well to include .40 cfs for irrigation, domestic and bathing uses for the well in Lot 3, S. 32. The number of acres, place of use, season of use and domestic/bathing items were not elaborated upon in the license.

However, a 1960 action by the department ("Dept. of Reclamation") reduced that right to .08 cfs, "the amount actually put to beneficial use". See "Findings and Decisions of the Local Ground Water Board for Elmore County, Idaho" dated April 21, 1960 and signed by the Deputy State Reclamation Engineer. Furthermore, the order mandated that the well be equipped with proper control devices and "be closed and remain closed except during the periods necessary for irrigation or filling of the swimming pool". The well control devices must be permanently installed, plus approved and subject to inspection anytime by the department, the order goes on to state.

A reasonable volume estimate can be made for license 61-02248 via the following steps.

1) It appears that up to 3 acres of irrigation ("small park and garden" from proof filing) were licensed.

2) Under current standards, irrigation included 4/1-10/31, 4 afa/acre diversion volume (3 afa/acre consumptive volume), and up to .03 cfs/acre for under 5 acres of land. This means that up to .09 cfs and 12 afa could have been licensed even though .02 cfs/acre was probably the recognized limit at the time of licensing -- but allow .09 cfs for this exercise.

3) Domestic and recreation ("bathing") uses included filling and maintaining a swimming pool and associated but unnumbered amount of bath houses, dressing rooms etc. It is conceivable that a home (and yard?) might be included although silent in the license (but see #5 below which negates this idea). A generous assumption of 1.2 afa for these uses, or the modern-day equivalent of a home with up to 1/2 acre yard, would appear to fully cover the non-irrigation uses, including a refill component for the swimming pool.

4) The pool was 20' x 50' x 3'-7' (licensing field exam). Assuming an average 5' depth, the pool capacity was  $(20 \times 50 \times 5) / 43560 = 0.1 \text{ af}$ .

5) The rate of flow was limited to .08 cfs by the 1960 order. The order meant that the well was to remain closed unless actually being used to irrigate or fill the pool (which undercuts the possibility that the well served a home), implying that very limited well use was found outside of the irrigation season.

6) Based on the above, a reasonable but generous summary of uses under this license would include the following components, giving any benefit of doubt to the water user:

Irrigation, 3 acres from 4/1-10/31, .08 cfs, 12.0 afa

Domestic/Recreation from 1/1-12/31, .08 cfs, 1.2 afa (?)

Total .08 cfs 13.2 afa.

## CONCLUSION

At this time Magic West can use its well under the terms of license 61-07189. The well use is limited to .67 cfs, 12.9 afa from 8/15 through 7/1 each year.

It is possible but not yet verified that the company accomplished a transfer prior to November, 1987 for a portion of license 61-02248. If the transfer did legally occur by that date, it appears that no more than .08 cfs and about 12 afa could be recognized in the shift of irrigation to industrial use. The season of use change from irrigation season to all year could be problematic (expansion and/or injury?).

Since it appears that the plant's well capacity is .67 cfs, an accomplished transfer would suggest that the plant's allowable annual volume has about doubled but that the diversion rate remains at .67 cfs. IDWR does not have sufficient data to determine if the total amount of water used by the plant remains within the limits stated or implied by the associated water rights.

The concept of an accomplished transfer in this case remains problematic. Prior to amending the claim, A61-02248B listed 20 acres of irrigation, but there does not appear to be any file basis for that number of acres; perhaps it was assumed by the claimant per diversion rate of .40 cfs. That assumption suggests than the claim prior to amendment reflected an expanded use in which the number of irrigated acres had been increased (a SRBA "presumption" action).

Also, the amended claim for Magic West is recorded incorrectly (township and range; perhaps a typo error?) and is not substantiated by file documentation. If the change from the S. 32 well to the plant's S. 29 well occurred after November, 1987, the company must file an application for transfer. It appears that any transfer of right 61-02248, whether pre or post SRBA commencement, must include those limits defined by the 1960 order.

Additionally, what should one conclude from the other claim, A61-02248A, as it relates to Magic West's competing claim for the same right? The answer to that question can only be determined within the SRBA or in another water right action placed before the department.

No documentation can be found to support the idea that existing water rights at the Magic West plant authorize the use of any water for power production. This new use will require additional water right protection under a new right or by an approved change of an existing right.

From: DWR80::SLESTER 25-APR-1997 16:21:30.54  
To: KWALKER  
CC: SLESTER  
Subj: CLAIM A61-02248B FOR MAGIC WEST

Please note that this claim is linked to same well as A61-07189, the licensed P/D for Magic West. Appears per A61-02248B that company claims P/D change to licensed well shown in 61-07189. This point of view by Magic West appears to be the basis for food plant to pump flow/volume in excess of lic. 61-07189, if that is indeed what is occurring.

All of this is part of protested matter in Magic West's recent application for same well, 61-07724.

Due to the level of protest and alleged problems reported by other users of the low temp. geothermal aquifer, the injury question is a big one for any accomplished transfer claimed in SRBA for this aquifer.

-- Steve

MEMO

TO: KAY  
FROM: DAN *DS*  
DATE: 2/14/95  
RE: EXCHANGE AGREEMENT REGARDING LICENSE # 12758

-----

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

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

MEMORANDUM

DATE: OCTOBER 31, 1994

TO: DAN STECKEL

FROM: KAY WALKER 

RE: ATTACHED "EXCHANGE AGREEMENT"

\*\*\*\*\*  
\*\*\*\*\*

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

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

EXCHANGE AGREEMENT

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

WITNESSETH:

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

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

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

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

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

(copy # of document submitted w/Cunningham's claim - kw)

Cunningham

461-022484

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Income Before Taxes, Production and Sales Comparison  
November 01, 1986 to October 31, 1988

FEB 16 1999

WATER RESOURCES  
WESTERN REGION

|    | 1             | 2 | 3 | 4 | 5          | 6         | 7          | 8         |
|----|---------------|---|---|---|------------|-----------|------------|-----------|
|    |               |   |   |   | Production | lbs.      | SALES      | lbs.      |
|    |               |   |   |   | Month      | YTD       | Month      | YTD       |
| 1  | November 1986 |   |   |   | Flakes     | 854,290   | 854,290    | 940,510   |
| 2  |               |   |   |   | Hot Browns | 423,576   | 423,576    | 399,240   |
| 3  |               |   |   |   | Total      | 1,277,866 | 1,277,866  | 1,339,750 |
| 4  | November 1987 |   |   |   | Flakes     | 716,324   | 716,324    | 359,809   |
| 5  |               |   |   |   | Hot Browns | 884,863   | 884,863    | 886,609   |
| 6  |               |   |   |   | Total      | 1,601,187 | 1,601,187  | 1,246,418 |
| 7  |               |   |   |   |            |           |            |           |
| 8  | December 1986 |   |   |   | Flakes     | 786,631   | 1,640,921  | 1,102,898 |
| 9  |               |   |   |   | Hot Browns | 753,678   | 1,177,254  | 656,280   |
| 10 |               |   |   |   | Total      | 1,540,309 | 2,818,175  | 1,759,178 |
| 11 | December 1987 |   |   |   | Flakes     | 850,887   | 1,547,211  | 1,046,781 |
| 12 |               |   |   |   | Hot Browns | 1,063,242 | 1,949,105  | 966,094   |
| 13 |               |   |   |   | Total      | 1,914,129 | 3,515,216  | 2,032,877 |
| 14 |               |   |   |   |            |           |            |           |
| 15 | January 1987  |   |   |   | Flakes     | 647,532   | 2,287,953  | 727,395   |
| 16 |               |   |   |   | Hot Browns | 722,916   | 1,900,170  | 737,136   |
| 17 |               |   |   |   | Total      | 1,369,953 | 4,188,123  | 1,464,531 |
| 18 | January 1988  |   |   |   | Flakes     | 330,331   | 2,397,542  | 544,091   |
| 19 |               |   |   |   | Hot Browns | 1,176,588 | 3,124,693  | 1,168,254 |
| 20 |               |   |   |   | Total      | 2,006,919 | 5,522,235  | 1,712,345 |
| 21 |               |   |   |   |            |           |            |           |
| 22 | February 1987 |   |   |   | Flakes     | 929,330   | 3,217,183  | 1,113,270 |
| 23 |               |   |   |   | Hot Browns | 1,253,142 | 3,153,312  | 1,206,998 |
| 24 |               |   |   |   | Total      | 2,182,512 | 6,370,495  | 2,420,268 |
| 25 | February 1988 |   |   |   | Flakes     | 1,176,235 | 3,573,777  | 1,605,456 |
| 26 |               |   |   |   | Hot Browns | 1,970,046 | 5,094,739  | 1,914,861 |
| 27 |               |   |   |   | Total      | 3,146,281 | 8,668,516  | 3,520,317 |
| 28 |               |   |   |   |            |           |            |           |
| 29 | March 1987    |   |   |   | Flakes     | 553,920   | 3,771,106  | 739,514   |
| 30 |               |   |   |   | Hot Browns | 735,786   | 3,889,098  | 741,510   |
| 31 |               |   |   |   | Total      | 1,289,709 | 7,660,204  | 1,481,024 |
| 32 | March 1988    |   |   |   | Flakes     | 371,364   | 4,445,141  | 1,078,900 |
| 33 |               |   |   |   | Hot Browns | 1,150,200 | 6,244,939  | 1,193,095 |
| 34 |               |   |   |   | Total      | 2,021,564 | 10,690,080 | 2,271,995 |
| 35 |               |   |   |   |            |           |            |           |
| 36 | April 1987    |   |   |   | Flakes     | 720,990   | 4,492,096  | 365,724   |
| 37 |               |   |   |   | Hot Browns | 981,166   | 4,870,764  | 1,011,528 |
| 38 |               |   |   |   | Total      | 1,702,156 | 9,362,860  | 1,377,252 |
| 39 | April 1988    |   |   |   | Flakes     | 939,599   | 5,384,740  | 1,610,420 |
| 40 |               |   |   |   | Hot Browns | 1,354,812 | 2,599,151  | 1,378,102 |
|    |               |   |   |   | Total      | 2,293,811 | 7,983,891  | 2,988,522 |

COLUMN WRITE

|    |                |
|----|----------------|
| 1  | May 1987       |
| 2  |                |
| 3  |                |
| 4  | May 1988       |
| 5  |                |
| 6  |                |
| 7  |                |
| 8  | June 1987      |
| 9  |                |
| 10 |                |
| 11 | June 1988      |
| 12 |                |
| 13 |                |
| 14 |                |
| 15 | July 1987      |
| 16 |                |
| 17 |                |
| 18 | July 1988      |
| 19 |                |
| 20 |                |
| 21 |                |
| 22 | August 1987    |
| 23 |                |
| 24 |                |
| 25 | August 1988    |
| 26 |                |
| 27 |                |
| 28 |                |
| 29 | September 1987 |
| 30 |                |
| 31 |                |
| 32 | September 1988 |
| 33 |                |
| 34 |                |
| 35 |                |
| 36 | October 1987   |
| 37 |                |
| 38 |                |
| 39 | October 1988   |
| 40 |                |

|             | Production | lbs        | SALES      | lbs        |
|-------------|------------|------------|------------|------------|
|             | Month      | YTD        | Month      | YTD        |
| Flakes      | 1089,915   | 5582,011   | 12,447,746 | 6234,057   |
| HASH Browns | 1144,782   | 6,015,846  | 6,074,810  | 5727,502   |
| TOTAL       | 2234,697   | 11,597,857 | 23,19,616  | 12,161,619 |
| Flakes      | 1090,239   | 6,464,979  | 1,77,750   | 6,443,207  |
| HASH Browns | 1,499,770  | 9,088,921  | 6,004,448  | 9,111,945  |
| TOTAL       | 2,590,009  | 15,553,900 | 1,782,198  | 15,555,152 |
| Flakes      | 945,322    | 4,527,333  | 177,693    | 6,411,750  |
| HASH Browns | 743,562    | 6,759,108  | 787,176    | 6,714,738  |
| TOTAL       | 1,688,884  | 11,286,441 | 964,869    | 13,126,488 |
| Flakes      | 980,022    | 7,445,001  | 0          | 6,443,207  |
| HASH Browns | 1,119,528  | 8,208,449  | 1,024,420  | 9,146,405  |
| TOTAL       | 2,099,550  | 15,653,450 | 1,024,420  | 15,589,612 |
| Flakes      | 392,443    | 6,919,776  | 174,002    | 6,585,752  |
| HASH Browns | 367,182    | 9,126,290  | 330,282    | 9,045,020  |
| TOTAL       | 759,625    | 16,046,066 | 504,284    | 15,630,772 |
| Flakes      | 940,912    | 8,389,914  | 193,900    | 6,627,167  |
| HASH Browns | 1,435,546  | 11,633,995 | 1,439,424  | 11,435,869 |
| TOTAL       | 2,376,458  | 20,023,909 | 1,633,324  | 18,063,036 |
| Flakes      | 21,208     | 6,940,984  | 350,415    | 6,936,167  |
| HASH Browns | 246,100    | 8,372,890  | 149,562    | 9,174,582  |
| TOTAL       | 267,308    | 15,313,874 | 499,977    | 16,110,749 |
| Flakes      | 346,422    | 8,736,376  | 915,597    | 7,542,164  |
| HASH Browns | 451,123    | 10,85,118  | 419,616    | 11,055,485 |
| TOTAL       | 797,545    | 19,591,494 | 1,335,213  | 18,597,649 |
| Flakes      | 521,885    | 7,462,869  | 453,697    | 7,389,864  |
| HASH Browns | 1,053,504  | 8,456,454  | 1,58,350   | 8,302,932  |
| TOTAL       | 1,575,389  | 15,919,323 | 1,562,047  | 15,692,796 |
| Flakes      | 535,296    | 9,571,672  | 1,399,738  | 8,942,501  |
| HASH Browns | 1,714,278  | 8,859,396  | 1,627,152  | 8,702,637  |
| TOTAL       | 2,249,574  | 18,431,068 | 3,026,890  | 17,645,139 |
| Flakes      | 962,097    | 8,424,966  | 70,1924    | 8,091,788  |
| HASH Browns | 1,409,832  | 9,866,286  | 1,458,864  | 9,761,794  |
| TOTAL       | 2,371,929  | 18,291,252 | 2,160,788  | 17,853,582 |
| Flakes      | 858,008    | 10,429,640 | 1,403,385  | 10,345,887 |
| HASH Browns | 1,198,940  | 15,558,336 | 1,789,902  | 15,532,539 |
| TOTAL       | 2,056,948  | 25,987,976 | 3,193,287  | 25,878,426 |

## Walker, Kay

---

**From:** Shaff, Don  
**Sent:** Tuesday, February 09, 1999 3:30 PM  
**To:** Shurte, Jan  
**Cc:** Walker, Kay  
**Subject:** FW: FYI Magic West recommendations

FYI on the strategy for negotiating this sticky wicket.

Don  
208/327-7932  
dshaff@idwr.state.id.us

-----Original Message-----

**From:** Tuthill, Dave  
**Sent:** Tuesday, February 09, 1999 2:26 PM  
**To:** Hamlin, Susan  
**Cc:** Shaff, Don  
**Subject:** RE: FYI Magic West recommendations

Susan -- another fine finesse.

Thanks, Dave

-----Original Message-----

**From:** Hamlin, Susan  
**Sent:** Tuesday, February 09, 1999 2:24 PM  
**To:** Tuthill, Dave  
**Cc:** Anderson, Peter  
**Subject:** FYI Magic West recommendations

Dave,

This morning I talked to Norm Semanko about holding back our recommendations for Magic West in Basin 61. He was very reluctant to have them held back and would prefer that include these recommendations in the Directors Report. It did occur to me that we can file a NAP with the court for these water rights which have the appeal pending before the department. This should stay subcase activity until we file the NCAP. I talked to Don about this and he will file the NAP for magic west himself, soon after we file the director's recommendations in Basin 61. I told Don to include Magic West water rights in the 61 filing.

-- Susan

**ROSHOLT, ROBERTSON & TUCKER**

Chartered  
ATTORNEYS AT LAW

JOHN A. ROSHOLT  
J. EVAN ROBERTSON  
JAMES C. TUCKER  
GARY D. SLETTE  
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WATER RESOURCES  
WESTERN REGION

February 3, 1999

Kay Walker, Water Resource Agent  
Adjudication Bureau  
Idaho Department of Water Resources  
Western Region  
2735 Airport Way  
Boise, ID 83705

HAND DELIVERED

Re: Basin 61 SRBA Recommendations for Magic West, Inc.

Dear Kay:

We appreciate your January 25 response to our Notices of Error for the preliminary recommendations for SRBA Claim Nos. 61-02248B and 61-07189.

As we discussed yesterday, there is one remaining issue for these two claims that we believe needs to be corrected -- the season of use. Your revised preliminary recommendations include a season of use for both rights from August 15 through July 1. This season of use accurately reflects the season of use contained in Magic West's License No. 61-07189. However, the Glenns Ferry plant has operated year 'round since at least 1986, before the commencement of the SRBA. As a result, the accomplished transfer statute, I.C. Sec. 42-1425, should recognize this change in the season of use.

You are correct to conclude that the 1987 field examination conducted by Steve Lester only included 42 weeks in the volume calculation. This merely reflects the fact that the permit only authorized a period of use from August 15 through July 1. Uncontested testimony received at the December 15, 1997 administrative hearing on Magic West's Petition to correct the annual volume in License No. 61-07189 clearly indicates that the plant has been operated year 'round since at least 1986. For your information, I've enclosed excerpts from the Transcript of Hearing held December 15, 1997.

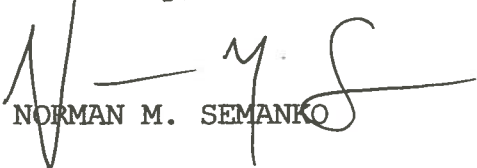
In addition, production and sales records for 1986 and 1987 verify that the plant was in use during July and August of those years. A copy of these records is enclosed.

Kay Walker  
February 3, 1999  
Page 2

The evidence clearly shows that year 'round use began no later than 1986, before the commencement of the SRBA in 1987. As a result, the recommendations for SRBA Claim Nos. 61-02248B and 61-07189 should both be revised to include a year 'round season of use, pursuant to the accomplished transfer statute, I.C. Sec. 42-1425. We request that these changes be made before the Director's Report for Basin 61 is filed.

Thank you for your consideration.

Sincerely,



NORMAN M. SEMANKO

02029902.NMS

Enclosures

cc: Susan Hamlin, IDWR

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FEB 03 1999

WATER RESOURCES  
WESTERN REGION

Idaho Department of Water Resources

RE: Magic West Inc.

Transcript of hearing held on  
December 15, 1997

2 of 3

APPEARANCES:

HEARING OFFICER

GLEN SAXTON

DIRECTOR, IDWR

KARL DREHER

PETITIONER, MAGIC WEST

MR. NORMAN SEMANKO  
Attorney at Law  
P.O. Box 1906  
Twin Falls, ID 83303

INTERVENOR, EDWARD T. POTUCEK

MR. DANIEL STEENSON  
Attorney at Law  
P.O. Box 2773  
Boise, ID 83701

INTERVENOR, ROBERT K. HALL

MR. PERCE HALL  
Attorney at Law  
340 East Second N.  
Mountain Home, ID 83647

1 entrance and exit of the plant?

2 MR. ANDERSON: Right.

3 MR. STEENSON: Of the plant.

4 [Pause]

5 MR. STEENSON: Now, at the time of the, let me  
6 ask you about this period in July and August when the  
7 plant has historically, as I understand it, correct me if  
8 I'm wrong, shut down for maintenance. In nineteen  
9 eighty, (unintelligible) nineteen eighty seven, did you  
10 shut down in June, in July and August to perform  
11 maintenance? Shut the plant down altogether for a forty  
12 five day period?

13 MR. ANDERSON: No.

14 MR. STEENSON: Okay. When was the last year  
15 that you did that? Shut the plant down entirely for  
16 maintenance?

17 MR. ANDERSON: Uh, to my knowledge we haven't.

18 MR. STEENSON: In your experience you've never  
19 shut the plant down between, during January, excuse me.  
20 July and August to perform maintenance for a period of  
21 forty five days?

22 MR. ANDERSON: No. We did not.

23 MR. STEENSON: So, in your experience, have you  
24 at all times operated the well every July and every  
25 August . . .

1 MR. SEMANKO: I'm going to object. Uh, this  
2 isn't part of the proceeding and application for permit  
3 which is not at issue here, one is of the specific issues  
4 in that proceeding is, is whether or not to extend the  
5 period of use from ten and a half months to twelve  
6 months. So, uh, if you want to do a deposition on that  
7 later, that's fine. But I don't think this is the time  
8 or the place for these questions.

9 MR. STEENSON: I am trying to ascertain water  
10 usage on average between nineteen eighty seven and  
11 nineteen ninety seven, nineteen seventy nine. In this,  
12 in this witness's experience. (unintelligible) back to  
13 nineteen eighty five. He talked about shutting the plant  
14 down for a period of, at, what was it? A certain period  
15 of time after a twenty one days operating period to  
16 perform cleaning. That affect annual diversion volume?  
17 If they're not diverting from the well in July and  
18 August, that affects annual diversion volume. So I think  
19 these issues are. Period of use. Timing of use.  
20 Duration of use. All of these issue are relevant to  
21 these proceedings.

22 HEARING OFFICER: My notes show that he  
23 testified to an eight hour clean up period. Is that what  
24 you're inquiring about?

25 MR. STEENSON: No. I'm inquiring about any

1 other period during which the plant is shut down. Now,  
2 my information is there's a period in July and August.  
3 I will now follow up and ask him if there was any other  
4 period during which Magic West historically and regularly  
5 shuts the plant down. It relates directly to annual  
6 diversion rate.

7 HEARING OFFICER: I'll allow the question. If  
8 you may answer.

9 MR. STEENSON: Let me back up.

10 MR. ANDERSON: Yeah. Tell me again.

11 MR. STEENSON: So we're both in the same place.  
12 My previous question was whether or not you have in your  
13 experience at Magic West shut the plant down in July and  
14 August?

15 MR. ANDERSON: For the forty five day period  
16 that . . .

17 MR. STEENSON: Yes.

18 MR. ANDERSON: No.

19 MR. STEENSON: And that has not occurred in  
20 your experience since nineteen eighty five?

21 MR. ANDERSON: No.

22 MR. STEENSON: Is there any other period of the  
23 year when you customarily or historically have shut  
24 operations down, other than the eight hour period you  
25 talked about, to maintain the facility, clean the

1 facility, change equipment or any other maintenance  
2 activity?

3 MR. ANDERSON: Uh, there has been over the  
4 years. I don't know the dates today. But we go down  
5 sometime for holidays. We're down. Uh, we are down once  
6 in a while for equipment change. For maybe two or three  
7 days. But not long periods of time.

8 MR. STEENSON: When you saw equipment change,  
9 that's entire replacement of equipment with other  
10 equipment?

11 MR. ANDERSON: Mostly uh, steam peelers, we  
12 have to re-build. Uh, shafts and those types of things,  
13 sometimes we're down for a couple of days for that.

14 MR. STEENSON: Okay. You know if since  
15 nineteen eighty five you've replaced the boilers in your  
16 plant?

17 MR. ANDERSON: No. We have not replaced them.

18 MR. STEENSON: And by holidays, is it, is it  
19 every year since nineteen eighty five you've shut down  
20 for Christmas?

21 MR. ANDERSON: Right.

22 MR. STEENSON: Do you shut down for  
23 Thanksgiving?

24 MR. ANDERSON: Right.

25 MR. STEENSON: And the rest of the main

1        were shut down are the same in nineteen six, ninety six  
2        and ninety seven, as in nineteen eighty five?

3                MR. ANDERSON: Uh, . . . pretty similar. I  
4        can't uh, I would have to go back in the records to  
5        answer that.

6                MR. HALL: You don't know?

7                MR. ANDERSON: I don't know.

8                MR. HALL: Don't you have any regular periods  
9        that you're shut down like July and August?

10               MR. ANDERSON: No. We don't.

11               MR. HALL: You (unintelligible) is that what  
12        you're saying?

13               MR. ANDERSON: That's what I'm saying.

14               MR. HALL: Now, on an average, in nineteen  
15        eighty five, how many days were you shut down?

16               MR. ANDERSON: Uh, . . .

17               MR. HALL: To your knowledge?

18               MR. ANDERSON: Probably, over the entire year,  
19        I would estimate uh, maybe twenty one days.

20               MR. HALL: And how about nineteen eighty six?

21               MR. ANDERSON: Uh, I'm just guessing, but uh,  
22        I would say probably clean ups, holidays, uh, same.

23               MR. HALL: And how about nineteen ninety six?

24               MR. ANDERSON: Uh, probably the same.

25               MR. HALL: The same for ninety seven?

FEB 03 '99 07:21AM MAGIC VALLEY FOODS

P.4

FOR THE MONTH OF: July, 1987

|                                                    | SUB-TOTAL | # TERMINATED | TOTAL BAL. FOR M |
|----------------------------------------------------|-----------|--------------|------------------|
| Construction jobs generated to date:               | 0         | 0            | 0                |
| New permanent jobs generated to date (1st of mo.): | 136       |              | 136 (July)       |
| New permanent jobs filled by minorities to date:   | 24        | 1            | 23               |
| New permanent jobs filled by Blacks to date:       | 0         | 0            | 0                |
| New permanent jobs filled by Hispanics to date:    | 20        | 0            | 20               |
| New permanent jobs filled by other minorities:     | 4         | 1            | 3                |
| New permanent jobs fill by caucasians:             | 114       | 9            | 105              |
| New permanent Very low jobs generated to date:     | 33        | 4            | 29               |
| New permanent low jobs generated to date:          | 96        | 6            | 90               |
| New permanent moderate jobs generated to date:     | 1         | 0            | 1                |
| New permanent high income jobs generated to date:  | 8         | 0            | 8                |
| New permanent jobs filled by CETA qualified:       | 0         | 0            | 0                |
| Number of jobs terminated for the month:           |           | 10           |                  |
| Number of jobs retained as of (end of mo.): July   | 138       | 10           | 128              |

RECEIVED

FEB 03 1999

WATER RESOURCES  
WESTERN REGION

FEB 03 '99 07:21AM MAGIC VALLEY FOODS

P.5

FOR THE MONTH OF: August

|                                                    | SUB-TOTAL | # TERMINATED | TOTAL BAL. FOR MO. |
|----------------------------------------------------|-----------|--------------|--------------------|
| Construction jobs generated to date:               | 0         | 0            | 0                  |
| New permanent jobs generated to date (1st of mo.): | 138       | 23           | 115                |
| New permanent jobs filled by minorities to date:   | 26        | 4            | 22                 |
| New permanent jobs filled by Blacks to date:       | 0         | 0            | 0                  |
| New permanent jobs filled by Hispanics to date:    | 22        | 3            | 19                 |
| New permanent jobs filled by other minorities:     | 4         | 1            | 3                  |
| New permanent jobs fill by caucasians:             | 112       | 19           | 93                 |
| New permanent Very low jobs generated to date:     | 35        | 10           | 25                 |
| New permanent low jobs generated to date:          | 94        | 13           | 81                 |
| New permanent moderate jobs generated to date:     | 1         | 0            | 1                  |
| New permanent high income jobs generated to date:  | 8         | 0            | 8                  |
| New permanent jobs filled by CETA qualified:       | 0         | 0            | 0                  |
| Number of jobs terminated for the month:           |           | 23           |                    |
| Number of jobs retained as of (end of mo.): August | 138       | 23           | 115                |

FEB 03 '99 07:20AM MAGIC VALLEY FOODS

P.2

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FEB 03 1999

WATER RESOURCES  
WESTERN REGION

As of July 31, 1986

3. Number of jobs created 170; 47 terminated; 123 currently employed.  
Number of Low Moderate (no high school diploma) 49; 15 terminated; 34 currently.  
Number of Minority 29; 5 terminated; 24 currently.  
Number of JTCA people 24; 11 completed; 2 terminated; 11 currently.
4. Number of construction people 0  
Number of permanent People 106  
Number of part time people 17  
Number of low Income People 112

*Barbara Bud, Sr. Magic Valley Inc.*

FEB 03 '99 07:20AM MAGIC VALLEY FOODS

P.3

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As of August 31, 1986

---

3. Number of jobs created: 194; 75 terminated; 119 currently employed.  
Number of Low Moderate (no high school diploma) 58; 22 terminated; 36 currently.  
Number of Minority 33; 11 terminated; 22 currently.  
Number of JICA people 25; 21 completed; 2 terminated; 2 currently.
4. Number of construction people 0  
Number of permanent People 110  
Number of part time people 9  
Number of Low Income People 105

---

*Barbara Lee Secretary*  
*Magic Valley Foods, Inc.*

DATE .

July 24, 1960

July '86  
per  
Norm  
Semanko  
2/3/99

YEAR TO DATE \$ 1,592.39

RECEIVED

FEB 03 1999

WATER RESOURCES  
WESTERN REGION

FROZEN

FEB 3 '99 11:53



## MEMORANDUM

TO: KAY WALKER *KW*

FROM: STEVE LESTER *SL*

DATE: FEBRUARY 1, 1999

### RE: MAGIC WEST, 61-07189 SEASON OF USE

*no copy retained*  
Your recent memo inquired about the 1987 field exam and season of use issue. The August 15 through July 1 season was based on the permit. During the field exam, I recall some conversation with the maintenance superintendent about the typical hours etc. of operation. His information was used as noted in the field exam report.

I specifically recall that the superintendent talked about the "down times" in which the plant did not operate. This is supported by the 7-30-1987 conversation memo in which the superintendent stated that the plant was not operating and would not gear up until about mid-August. Therefore, it would be a contradiction of Magic West's 1987 information to conclude that the plant operated year around as of that time.



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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

FAX (208) 334-2348

January 25, 1999

**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

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

and/or

Norman M. Semanko, Attorney  
ROSHOLT, ROBERTSON & TUCKER  
P.O. Box 1906  
Twin Falls, ID 83301

Gentlemen:

In reply to the Notice of Errors that you submitted in response to the proposed recommendations on Claim Nos. 61-02248B and 61-07189, I offer the following:

**Claim 61-02248B:**

We have reconsidered the advancement of priority date in regard to this right. We have changed the priority date to the licensed date of April 3, 1939. We have also changed the season of use to the season described at the field examination in 1987 which is August 15 through July 1. Since this right was used at the plant in 1987 when our examiner was out there and a season of use was defined by the maintenance superintendent at that field visit, I cannot recommend a different season of use for this right.

**Claim 61-07189:**

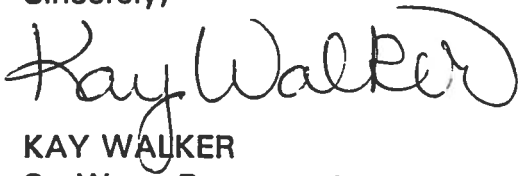
We have considered your request to change the quantity and period of use of this water right. The proposed recommendations reflect the license as it was issued in 1990. Since this license was recently issued, it requires administrative action to make any changes. The only way I can recommend any other volume is if the petition you have filed with IDWR is finalized prior to the Director's Report submittal to the SRBA Court.

I have enclosed a profile report of the revisions to Claim 61-02248B for your information. No changes were made to the proposed recommendations of Claim 61-07189.

There are several instances in which IDWR may reconsider the expansion in season of use request: (1) You could amend the petition that is pending in front of the Director to amend your license and request an expanded season of use along with your request for the increased volume, (2) You could file a transfer of these rights to increase the season of use, and (3) As you know, claimants always have the right to object to our recommendations with the court once our report is submitted.

I hope these changes resolve your problems with the way these claims have been recommended. Our Director's report is to be submitted to the court the second week of February.

Sincerely,

A handwritten signature in black ink that reads "Kay Walker". The signature is fluid and cursive, with the first name "Kay" and last name "Walker" clearly distinguishable.

KAY WALKER  
Sr. Water Resource Agent  
Adjudication Bureau

KW:k  
Enclosure

cc: Susan Hamlin, IDWR

DATE: 01/25/99  
PAGE: 1

Stage: LICENSE  
ELMORE County

**ELMORE County**

[illegible]

Other Water Rights Listing Overlapping Place(s) of Use:  
A37-06112

|     |                                                                     |        |
|-----|---------------------------------------------------------------------|--------|
| C03 | - RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION          |        |
|     | - PURSUANT TO SECTION 42-1425, IDAHO CODE.                          |        |
| C04 | - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT     |        |
|     | - TO SECTION 42-1425, IDAHO CODE.                                   |        |
| C05 | - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO    |        |
|     | - SECTION 42-1425, IDAHO CODE.                                      |        |
| C15 | - THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER    |        |
|     | - IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER |        |
|     | - RIGHTS IN BASIN 61:                                               |        |
|     | WATER RIGHT NO.                                                     | SOURCE |
|     | NONE                                                                | NONE   |
|     | - THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER    |        |
|     | - IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER |        |
|     | - RIGHTS IN THE SNAKE RIVER BASIN:                                  |        |
|     | WATER RIGHT NO.                                                     | SOURCE |
|     | NONE                                                                | NONE   |
|     | - ALL WATER RIGHTS WITHIN BASIN 61 ARE FROM CONNECTED SOURCES       |        |
|     | - OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED       |        |
|     | - CONJUNCTIVELY.                                                    |        |

Remarks: USE INDUSTRIAL USE IS FOR POTATO PROCESSING PLANT.

AJ0749NP  
No. R61-022488

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

DATE: 01/25/99  
PAGE: 2

=====

Remarks: EXP      RIGHT NO. 61-07189 IS ALSO DIVERTED THROUGH POINT OF  
                         DIVERSION DESCRIBED ABOVE.  
                         WATER TEMPERATURE MEASURED AT 112 DEGREES F.  
                         USE OF THIS RIGHT IS COMBINED WITH WATER FROM THE CITY OF  
                         GLENN'S FERRY.

Dates:      Exam Made Date:      Verified Date:      01/25/1999      Objection Filed Date:

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

Comments:      Date: 11/18/1998      User-ID: KWALKER      Subject: COPIED FROM REMARKS  
                         ORIGINALLY WAS LICENSED FOR CAMPLAND RV CENTER, NOW ONLY USED  
                         FOR POTATOE PROCESSING.  
                         |  
                         AMENDED: 3/31/97 SCC.

Date: 11/18/1998      User-ID: KWALKER      Subject: RECOMMENDATIONS  
THE RECOMMENDATIONS FOR THIS CLAIM ARE A LOT DIFFERENT THAN THE  
CLAIMED USE. IN ORDER TO FULLY UNDERSTAND THESE RECOMMENDATIONS

Comments:

Date: 11/18/1998 User-ID: KWALKER Subject: RECOMMENDATIONS  
A REVIEW OF THE "FINDINGS AND DECISIONS OF THE LOCAL GROUND WATER  
BOARD FOR ELMORE COUNTY" AND THE EXCHANGE AGREEMENT BETWEEN MAGIC  
WEST AND CUNNINGHAMS WOULD BE HELPFUL. THESE DOCUMENTS ARE FOUND  
IN FILE FOR REFERENCE. THE FINDINGS AND DECISIONS ISSUED IN  
APRIL, 1969 REDUCED THIS RIGHT TO 0.08 CFS FOR USE IN A SWIMMING  
POOL AND IRRIGATION OF A SMALL PARK. THE SWIMMING POOL IS  
RECOMMENDED UNDER CLAIM 61-11900 TO CUNNINGHAMS. I HAVE ASSUMED  
THE SMALL PARK TO BE AROUND 2 ACRES SINCE THE ENTIRE PROPERTY  
DESCRIBED IN THE FINDINGS WAS JUST OVER 2 ACRES. THE EXCHANGE  
AGREEMENT BETWEEN CUNNINGHAMS AND MAGIC WEST RESERVED LICENSE  
61-02248 FOR MAGIC WEST ALLOWING USE OF THE WELL THAT WAS IN  
PLACE FOR CUNNINGHAM IN THE SWIMMING POOL AND HEATING OF THEIR  
HOME. SINCE CUNNINGHAM'S HAD NO INTEREST IN LICENSE 61-02248 I  
HAVE RECOMMENDED THEIR CLAIM AS A B/U CLAIM WITH A 7/3/85  
PRIORITY DATE (DATE AFTER AGREEMENT WAS SIGNED). SINCE MAGIC  
WEST FAILED TO SUBMIT TRANSFER TO CHANGE THE POINT OF DIVERSION,  
PLACE OF USE AND NATURE OF USE FOR LICENSE 61-02248 I HAVE ALSO  
ADVANCED THE PRIORITY DATE OF THIS CLAIM TO 7/3/85 TO PREVENT  
INJURY TO OTHER PARTIES IN GLENN'S FERRY AREA. MAGIC WEST FILED  
AN AMENDED CLAIM ON THIS RIGHT IN MARCH, 1997 TO CORRECT THE  
LEGALS TO ACTUAL LOCATION OF WELL AND PLACE OF USE (WHICH IS

Comments:

Date: 11/18/1998 User-ID: KWALKER Subject: RECOMMENDATIONS WHERE RIGHT 61-07189 IS APPURTENANT). WHEN THEY AMENDED THIS CLAIM THEY CHANGED THE TOWNSHIP AND RANGE TO A LOCATION OUTSIDE THE BOUNDARIES OF BASIN 61. CORRECTIONS TO THE LEGAL DESCRIPTION ARE SHOWN ON RECOMMENDATION.

Date: 11/21/1998 User-ID: AJU10-JS Subject: AJU10 CONDITION UPDATE CONDITION CODE(S) C15 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

Date: 01/25/1999 User-ID: KWALKER Subject: CHANGES TO RECOMMENDATION PURSUANT TO NOTICE OF ERROR SUBMITTED IN REGARD TO THIS CLAIM AND LEGAL REVIEW BY SUSAN HAMLIN WE HAVE CHANGED THE PRIORITY DATE TO THE LICENSED DATE. I DID NOT HAVE ENOUGH INFORMATION TO ADVANCE PRIORITY DATE IN LIGHT OF INJURY TO OTHER RIGHTS. IF THE FOLKS IN THIS AREA DO NOT LIKE THIS RECOMMENDATION, THEY CAN PURSUE IT WITH THE COURT. I HAVE ALSO CHANGED THE SEASON OF USE TO THAT SEASON LICENSED UNDER RT. 61-07189. SINCE THAT WAS THE SEASON OF USE DESCRIBED BY MAINTENANCE SUPERINTENDANT AT TIME OF EXAM IN AUGUST, 1987, THAT MUST BE THE DATE FOR THIS CHANGED RIGHT ALSO.

Audit: 01/25/99 KWALKER

November 20, 1998

RECEIVED

NOTICE OF ERROR  
REPLY

DEC 28-1998

WATER RESOURCES  
WESTERN REGION

ATTENTION: KAY WALKER

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: December 18, 1998

\* Extension granted  
until Dec. 28  
by Kay Walker

Water right number: 61-02248B

MAGIC WEST INC  
PO BOX 475  
RUPERT ID 83350Attorney: Norman M. Semanko  
Rosholt, Robertson & Tucker  
P.O. Box 1906  
Twin Falls, ID 83303-1906Daytime Telephone Number: (208) 734-0700  
Evening Telephone Number:

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

Priority date

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

Priority date: Should be 4-3-39, as licensed

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

The accomplished transfer statute, I.C. Sec. 42-1425 allows a pre-SRBA change in the water right to be recognized unless there is injury. No injury has been shown. The statute does not provide that the licensed priority date will be lost. There is no basis to advance the priority date 46 years.

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

DATE: 12-24-98

SIGNATURE:

Please print your name:

Norman M. Semanko

Attorney for Magic West, Inc.

CC: SUSAN HAMLIN

IDWR Western Regional Office, 2735 Airport Way, Boise, ID 83705-5082, (208) 334-2190

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

(REGIONAL)

8.00 AFA

**Stage: LICENSE**

Place of use Legal Description for: INDUSTRIAL

SE

9

NOE extended to 86/198- but self! clear

Comments:

Date: 11/18/1998 User-ID: KWALKER Subject: COPIED FROM REMARKS  
ORIGINALLY WAS LICENSED FOR CAMPLAND RV CENTER, NOW ONLY USED  
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AJ0749NP  
No. R61-02248B

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

DATE: 11/18/98  
PAGE: 3

Comments:

Date: 11/18/1998 User-ID: KWALKER Subject: RECOMMENDATIONS  
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THE BOUNDARIES OF BASIN 61. CORRECTIONS TO THE LEGAL DESCRIPTION  
ARE SHOWN ON RECOMMENDATION.

Audit: 11/18/98 KWALKER

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM VERIFICATION REPORT

09:53:34  
11/18/98  
16

CLAIM NUMBER: A61-022485

7/3/1985

OWNER CODE: C  
NAME & ADDRESS: MAGIC WEST INC  
PRIORITY DATE: 04/03/1989  
WATER USE: INDUSTRIAL

Water Source: GROUNDWATER

Tributary to:

Point(s) of Diversion: 5510E  
140S R15E S29

TOTAL DIVERSION:

0.40 CFS 0.08 8.0 AFA  
0.40 CFS 0.08 8.0 AFA

Stage: LICENSE  
ELMORE County

Place of use Legal Description for: INDUSTRIAL

5510E 140S R15E S29  
NENE NWNE SWNE SENE : NENW NWNW SWNW SENW : NESW NMSW SWSW SESW : NESE NWSE SWSE SESE :  
S : Lt Ac Lt Ac Lt Ac Lt Ac : Lt Ac Lt Ac Lt Ac Lt Ac : Lt Ac Lt Ac Lt Ac Lt Ac : Lt Ac Lt Ac Lt Ac Lt Ac :  
140S R15E S29

POU County: ELMORE

Non-Irrigation Uses: INDUSTRIAL, POTATO PROCESSING

Other Rights: A61-07189

Remarks: GEN  
ORIGINALLY WAS LICENSED FOR CAMPLAND RV CENTER, NOW ONLY USED FOR POTATOE PROCESSING.

AMENDED: 3/31/97 SCC.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

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

C03 - change in p/d  
C04 - change in use  
C05 - change in plu  
C06 - prevent injury - change in priority

EXP - F05(61-022485)

- B05(112)

- use of this right is combined w/water from City of G.F.)

per 1960 &  
4-21-1985  
function ends  
decided in bk  
(see in bk)  
CVR back