

04/01/2004

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

RIGHT NUMBER: 23-4040

NAME AND ADDRESS: KELLY CANYON WINTER PARK LLC
ATTN DAVE STODDARD
PO BOX 51330
IDAHO FALLS ID 83405

SOURCE: UNNAMED STREAM

TRIBUTARY: SOUTH FORK SNAKE RIVER

QUANTITY: 0.060 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE FOR IRRIGATION OF 0.06 CFS. COMBINED RIGHT
NOS.: 23-4040, 23-11312, 23-11313.

PRIORITY DATE: 06/01/1959

POINT OF DIVERSION:

T04N R41E S28 SWNESE Within BONNEVILLE County
T04N R41E S28 SENESE Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	0.060 CFS

PLACE OF USE: IRRIGATION Within JEFFERSON County

T04N R41E S28 NESE 3.0

3 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 3.0 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 23-4040, 23-11312,
23-11313.

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

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

EXPLANATORY MATERIAL: Beneficial Use

SOURCE IS ALSO KNOWN AS KELLY CANYON CREEK OR KELLY CREEK.

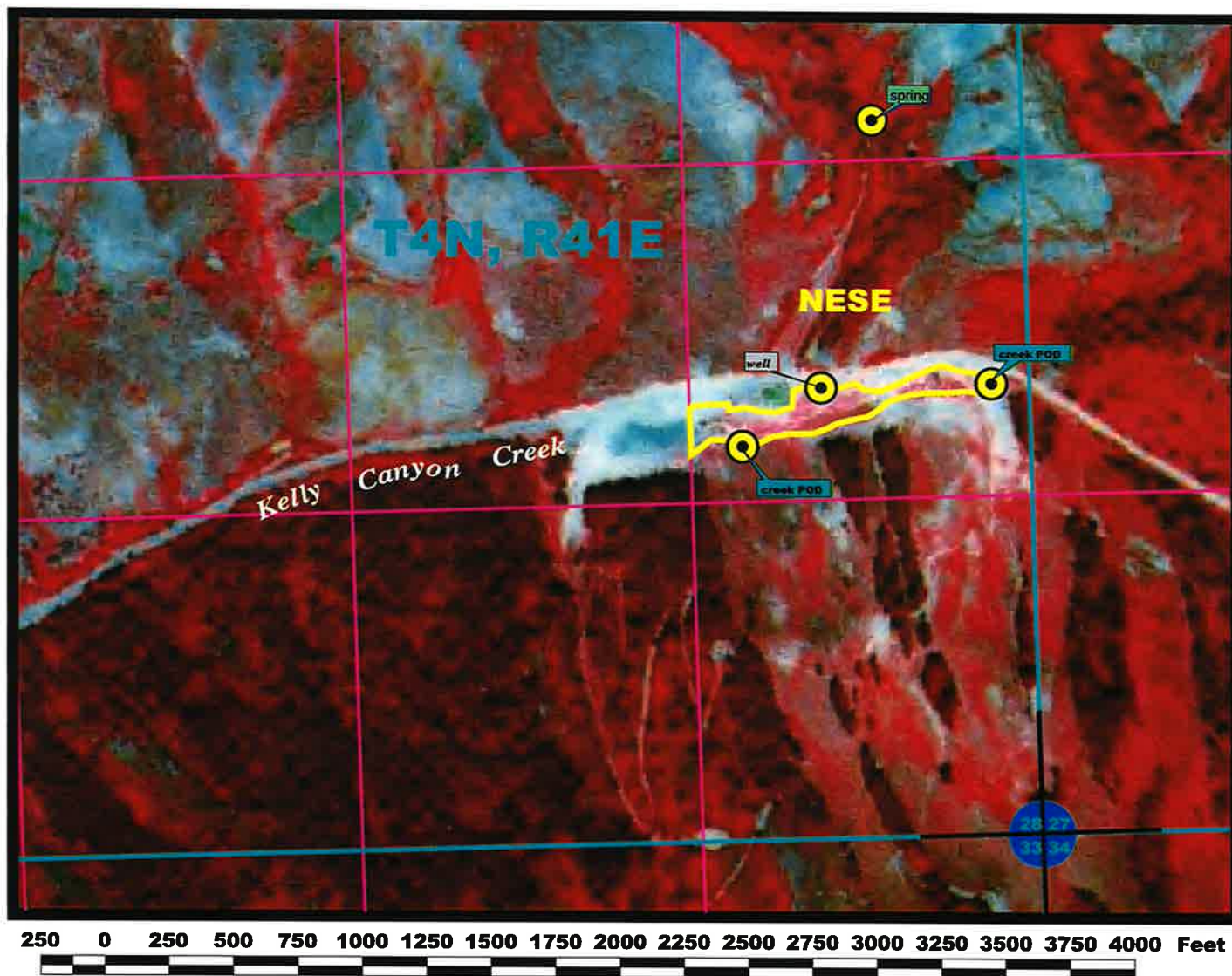


SCANNED
JUL 14 2004

State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):

23-04040 (crk),

23-11312 (spg),

23-11313 (well)

Place of Use: (part of)

T4N, R41E

Sec. 28 NESE

Point(s) of Diversion:

T4N, R41E Sec. 28

SENESE, SWNESE (creek)

SWNESE (well), SESENE (spg)

LEGEND



Point of Diversion



Place of Use



Section



Quarter-Quarter



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: A. Ruberry
Date: March 2004

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
04n41e	28	NESE	3	5	
Totals:			3	5	

500 23-11312 (Late claim)
 KELLY CANYON SPRING WATER IS COLLECTED FROM SPRING INTO CONCRETE BOX, THEN PIPED DOWN MOUNTAIN TO A 20,000 GALLON UNDER GROUND TANK. THEN FROM THE TANK DOWN TO IRRIGATED AREA AS SHOWN ON MAP. (SPRING SINKS.)
 Tag # A0012434

NESE Sec. 28
 4N 41E
 NO KNOWN WATER RIGHT
 500 23-11312 (Late claim)
 WELL IS LOCATED EAST OF SKI LODGE WITH A CONCRETE PIT. NEXT TO IT. FOR A PUMP AND PRESSURE TANK. PUMP IS MADE BY C.T.U. PUMPS SN# L0243476 60 gpm. WATER OUT OF WELL IS USED FOR CULINARY USE. (Sump pump)
 19 TOILETS + URINALS 14 SINKS 2 HYDRANTS.
 THE WELL IS ALSO USED TO MAKE ARTIFICIAL SNOW FROM DEC. 1 TO MAR. MOTOR IS MADE BY BALDOR INDUSTRIAL MOTORS 3 H.P. SN# F0210292287

Tag # A0012446

SCANNED

JUL 14 2004

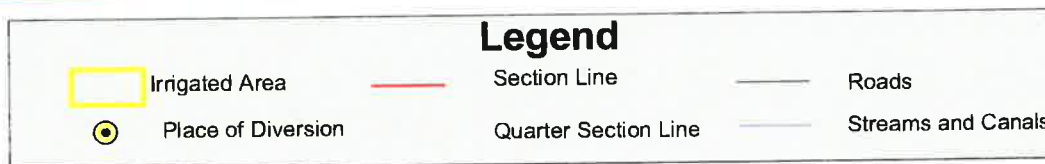
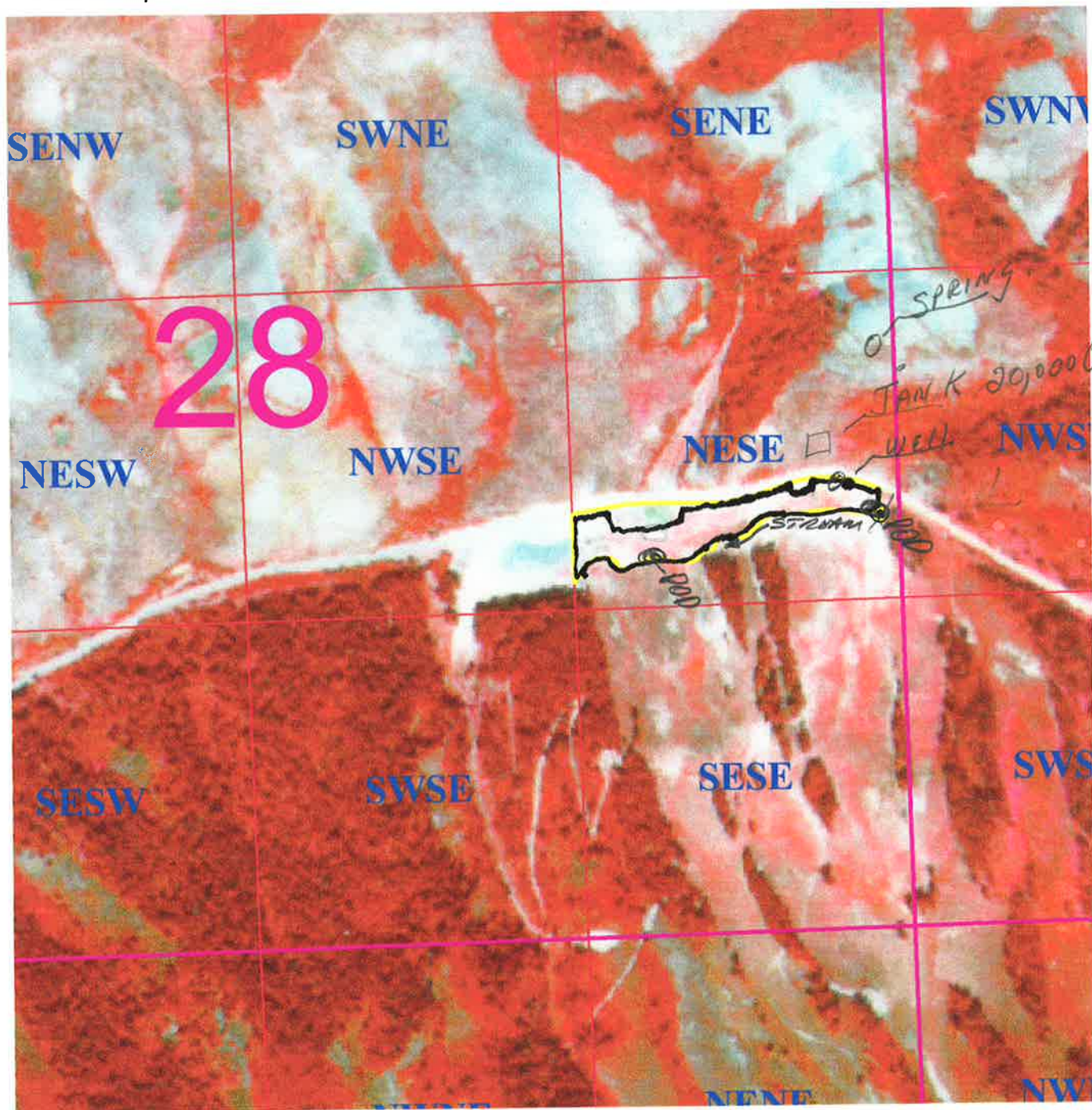
NOT PART OF THERE ARE WATER TANKS TO
 Kelly Canyon WATER CATTLE NEAR HEAD OF SPRING
 Winton Park HAS 1/2" STEEL PIPE FROM CONCRETE BOX TO TANKS.

8-23-03

4:00pm NLO

Water Right Claim Number 23-04040
Township , 4N41E

06/06/2001



400 0 400 800 Feet



SPATIAL
DYNAMICS

NLO
8/23/03

RECEIVE

MAR 04 2004

02/04/2004

Department of Water Resources
Eastern Region

NOTICE OF ERROR
REPLY

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 23-4040

KELLY CANYON WINTER PARK, LLC
PO BOX 51330
IDAHO FALLS ID 83405
Telephone Number: (208) 523-0862

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

We disagree that the water right has been disallowed.

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

See attached easement document and affidavit.

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

- attached easement establishes right to spring in 1950's
- attached affidavit establishes right to well in 1950's

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

DATE:

3/4/04

SIGNATURE:

J. David Stoddard

Please print your name:

J. David Stoddard, Treasurer

and

LLC Owner

IDWR Regional Office,

See Letter April 3, 2003 requesting evidence and mapping. No Response.

Claim is for Kove Canyon Stream (brook) NOT Spring

NOT well.

3/15/04 No changes to recommendation made. Probs w/ claim and other sources.

4/01/04 Changed recommendation w/ priority date. Filed new claims on other sources 23-11312 and 23-11313.

ACKNOWLEDGEMENT OF WATER RIGHTS

THIS DOCUMENT will acknowledge that Kelly Canyon Winter Park, L.L.C. by virtue of interests granted to its predecessors in interest has a water right to remove and use water in and from that certain spring and that certain well and that certain unnamed stream located on the real property more particularly described as follows:

Tract 1:

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

Section 28: SW $\frac{1}{4}$ SE $\frac{1}{4}$
S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$

EXCEPTING THEREFROM: A piece of land in the SE $\frac{1}{4}$ of said Section 28, described as follows:

Starting at the intersection of the Kelly Canyon Ski Hill, Inc. property and the South right of way line of the Forest Service Road, which point lies North 37°44' West 2,173.4 feet from the Southeast Corner of Section 28, said Township and Range, running thence South 83°0' West along the right of way of said Forest Service Road a distance of 600 feet; thence South 0°13' East 300 feet; thence North 83°0' East 600 feet to the West property line of the Kelly Canyon Ski Hill, Inc., property, running thence North 0°13' East 300 feet along said boundary to the POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM: Kelly Canyon Road right of way.

Tract 2:

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

Section 28: E $\frac{1}{2}$ SE $\frac{1}{4}$
EXCEPTING THEREFROM: Kelly Canyon Road Right of way.

SUBSCRIBED AND SWORN to before me this 3rd day of ^{March}~~February~~, 2004.



Laurie Foster
Notary Public for Idaho
Residing at: Rigby, Idaho
My Commission Expires: 5/11/09

A RIGHT TO THE USE OF CERTAIN WATER IN SAID SPRING LOCATED ON

FIRST PARTY'S LAND UNDER THE TERMS AND CONDITIONS HEREINAFTER

SET FORTH AND

WHEREAS, THE PARTY OF THE SECOND PART INTENDS BY THIS

AGREEMENT TO GRANT, SURRENDER AND SELL INTO THE PARTY OF THE FIRST
PART, ALL OF THE TIMBER ON THE REAL PROPERTY HEREINAFTER DESCRIBED,
OWNED BY PARTY OF THE SECOND PART, WHICH IS SITUATE FOR THE

USE OF FIRST PARTY, THEIR HEIRS, ADMINISTRATORS, EXECUTORS AND
ASSIGNS, FOR RANCH AND FARM PURPOSES, TOGETHER WITH THE RIGHT OF
FIRST PARTY, THEIR AGENTS AND EMPLOYEES, TO HAVE THE RIGHT OF
INGRESS, EGRESS AND RECESS FROM, ON, OVER AND ACROSS SAID LANDS
OF SECOND PARTY, FOR THE PURPOSE OF CUTTING AND REMOVING SAID
TIMBER FROM SAID PREMISES, EXCEPTED, HOWEVER, THAT NO TIMBER
SHALL BE CUT BY THE PARTY OF THE FIRST PARTY WHICH WILL
INTERFERE WITH EITHER THE LANDSCAPING OR OPERATION OF THE

SKI RUN OR WILL IN THE DISSEMINATION OF THE PARTY OF THE SECOND

PARTY

WHEREAS, THE PARTY OF THE SECOND PART INTENDS TO GRANT TO

THE PARTY OF THE FIRST PART UNDER THE TERMS AND CONDITIONS OF

THIS AGREEMENT, A PERPETUAL EASEMENT TO THE RIGHT TO AND FOR

ALL PASTURAGE AND GRAZING UPON THE PREMISES OWNED BY THE PARTY

OF THE SECOND PART, AS HEREINAFTER DESCRIBED,

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF

THE MUTUAL COVENANTS AND AGREEMENTS TO BE PERFORMED BY THE PARTY

HERETO, ONE INTO THE OTHER, IT IS AGREED AS FOLLOWS:

1. THE PARTY OF THE FIRST PART RESERVE INTO THEMSELVES

FOR STOCK WATERING PURPOSES, THE WATER OF THE SPRINGS LOCATED ON

THE FOLLOWING DESCRIBED PROPERTY IN DEERSON COUNTY, IDAHO, TO-WIT:

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER
(SECTION 26, TOWNSHIP 4 NORTH, RANGE
41 EAST OF THE BOISE MERIDIAN, IN DEERSON COUNTY,
IDAHO.

AND GRANT, SURRENDER AND SELL INTO THE SAID PARTY OF THE SECOND PART,

ITS SUGGESTIONS AND ASSIGNS, EASEMENT AND RIGHT, USE AND PRIVILEGE

TO DRAY AND USE FROM SAID SPRINGS SUCH SURPLUS OR EXCESS WATER FOR

COMMERCIAL PURPOSES AS ARE NOT REQUIRED BY THE PARTY OF THE

FIRST PART FOR THE WATERING OF THEIR LIVESTOCK, AND THE SAID PARTIES

OF THE FIRST PARTY SO HEREBY GRANT AND CONVEY UNTO THE SAID PARTY OF THE SECOND PARTY A PERMANENT EASEMENT FOR A WATER PIPE NOT TO EXCEED TWO INCHES IN DIAMETER, EXTENDING FROM THE SPRING LOCATED ON SAID LANDS OF THE FIRST PARTIES, HEREINAFOVE DESCRIBED, AND EXTENDING OVER SAID LANDS TO THE LANDS OF THE PARTY OF THE SECOND PARTY, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS AND REGRESS OVER SAID LANDS OF FIRST PARTIES IN ORDER TO KEEP AND MAINTAIN SAID PIPE LINE IN GOOD CONDITION AND REPAIR. THE PARTY OF THE SECOND PARTY EXPRESSLY AGREES THAT ITS SAID PIPE LINE, EXTENDING FROM SAID SPRING OVER THE LANDS OF THE SAID PARTIES OF THE FIRST PARTY, SHALL BE INSTALLED IN SUCH A MANNER AS NOT TO INTERFERE WITH THE FLOW OF THE WATERS OF SAID SPRINGS, OR TO INTERFERE WITH THE FLOW OF THE WATERS FROM SAID SPRINGS TO THE DIVERSION INSTALLATIONS LOCATED IN SAID SPRINGS BY THE SAID PARTIES OF THE FIRST PARTY FOR THE WATERING OF ITS LIVESTOCK, AND SAID PIPE LINE SHALL BE INSTALLED BY SAID PARTY OF THE SECOND PARTY IN GOOD, WORKMANLIKE MANNER.

2. THE PARTY OF THE SECOND PARTY HEREBY GRANTS, BARGAINS AND SELLS UNTO THE PARTIES OF THE FIRST PARTY, THEIR HEIRS AND ASSIGNS, A PERPETUAL EASEMENT TO CUT AND REMOVE ALL OF THE TIMBER LOCATED ON THE FOLLOWING DESCRIBED REAL PROPERTY OWNED BY THE PARTY OF THE SECOND PARTY, TO-WIT:

THE EAST HALF OF THE SOUTHEAST QUARTER (E $\frac{1}{2}$ SE $\frac{1}{4}$)
OF SECTION 28, TOWNSHIP 4 NORTH, RANGE 41 EAST
OF THE BOISE MERIDIAN, IN JEFFERSON COUNTY, IDAHO,

WHICH IS SUITABLE FOR RANCH AND FARM PURPOSES, TOGETHER WITH THE RIGHT OF THE FIRST PARTIES, THEIR AGENT AND EMPLOYEES, OF INGRESS, EGRESS AND REGRESS FROM, ON, OVER AND ACROSS THE SAID LANDS OF SECOND PARTY FOR THE PURPOSE OF CUTTING AND REMOVING SAID TIMBER FROM SAID PREMISES; PROVIDED, HOWEVER, THAT NO TIMBER SHALL BE CUT BY THE PARTIES OF THE FIRST PARTY WHICH WILL INTERFERE WITH EITHER THE LANDSCAPING OR OPERATION OF THE SKI RUN OR HILL IN THE DISCRETION OF THE PARTY OF THE SECOND PARTY. THE PARTY OF THE SECOND PARTY HEREBY FURTHER GRANTS, BARGAINS AND SELLS UNTO THE PARTIES OF THE FIRST PARTY,

-4-

THEIR HEIRS AND ASSIGNS, A PERPETUAL EASEMENT TO AND FOR THE RIGHT TO ALL PASTURAGE AND GRAZING UPON THE ABOVE DESCRIBED PREMISES OWNED BY THE PARTY OF THE SECOND PARTY.

3. THESE EASEMENTS SHALL CONSTITUTE APPURTENANCES TO THE LANDS AND BUNDLES RUNNING WITH THE LANDS, AND SHALL BE PERPETUAL AND FOREVER.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE HEREUNTO SET THEIR HANDS THE DAY AND YEAR FIRST ABOVE WRITTEN.

C. Warren Blakely

Bertie N. Blakely

Thomas Blakely

John M. Blakely
PARTIES OF THE FIRST PARTY

(SEAL)

ATTEST:

Thomas Blakely
SECRETARY

KELLEY CANYON SKI HILL,
INCORPORATED

By E. B. Blakely
PRESIDENT

PARTY OF THE SECOND PARTY

STATE OF IDAHO

COUNTY OF JEFFERSON

ss.

ON THIS 20TH DAY OF DECEMBER, 1959, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED C. WARREN BLAKELY AND BEATRICE D. BLAKELY, HUSBAND AND WIFE, AND LAWRENCE BLAKELY AND ZELLA MAE BLAKELY, HUSBAND AND WIFE, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING 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 IN THIS CERTIFICATE FIRST ABOVE WRITTEN.


NOTARY PUBLIC IN AND FOR THE STATE
OF IDAHO, RESIDING AT RIGBY, IDAHO
MY COMMISSION EXPIRES 3-26-62

(SEAL)

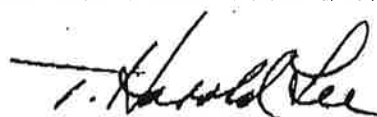
STATE OF IDAHO

COUNTY OF JEFFERSON

ss.

ON THIS 9TH DAY OF DECEMBER, 1959, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED E. BUD JOHNSON AND LAWRENCE BLAKELY, KNOWN TO ME TO BE THE PRESIDENT AND SECRETARY-TREASURER, RESPECTIVELY, OF THE CORPORATION THAT EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION EXECUTED THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL, THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.


NOTARY PUBLIC IN AND FOR THE STATE
OF IDAHO, RESIDING AT RIGBY, IDAHO
MY COMMISSION EXPIRES 3-26-62



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 21, 2002

RE: Investigation of Water Right Claims in the Snake River Basin Adjudication

Dear Claimant:

The Idaho Department of Water Resources (IDWR) is commencing its Snake River Basin Adjudication (SRBA) investigation of water rights in the Blackfoot River, Willow Creek and South Fork of the Snake River Drainages. This investigation is a major effort, and IDWR has hired a contractor, Intrepid Engineering Services, to assist us with this task.

The purpose of this letter is to advise you that personnel from Intrepid will make an effort to contact claimants to arrange for conducting a field investigation and obtain information about your water use. IDWR requests that you provide Intrepid with access to your water diversion system so that their personnel can conduct this field examination. Intrepid will be gathering information on the rate of flow, diversion location and place of use of your water rights. Information collected during this process will be reported to IDWR and used by a Senior Water Resource Agent to prepare a recommendation on the water right.

The process of adjudicating water rights is straightforward for most people, resulting in the issuance of decreed water rights. Experience has shown that water users who work with our agency early in the process to ensure that their recordings are correct have a better experience than those who wait until IDWR has filed its findings with the SRBA Court. Thus, we encourage you to work with our staff and with Intrepid to ensure that the results accurately reflect your water uses.

If you have sold your property, we request that you forward this letter to the purchaser. The new owner is responsible for advising IDWR of the change in ownership so future correspondence will be mailed to the correct party. If you are unable to forward this letter, please send any information regarding a new owner to our Eastern Regional Office located at 900 N Skyline Dr, Idaho Falls, ID, 83402, Attention: Jennifer Crabtree (208) 525-7161.

Sincerely,

Ernest Carlsen
Adjudication Section Supervisor
Eastern Regional Office

1/28/04 CONTACTED DAVID STODDARD TO REMIND
HIM I NEED EVIDENCE.

April 3, 2003

Kelly Canyon Ski Area Inc
C/O Teton Crane
865 Pancheri
Idaho Falls ID 83401

2/04/04 DISALLOW CLAIM
NO RESPONSES.

REMAINED TO:
NICK BROWN
(SEE C/O ATTACHOO)

RE: EVIDENCE OF PRIORITY FOR WATER RIGHT CLAIM 23-04040

Dear Claimant (s):

The Idaho Department of Water Resources is nearing the end of water rights review in Basin 29. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

Your claim referenced above, shows a Priority Date of June 1, 1959, for Kelly Canyon Stream (creek).

I have enclosed a photo illustration of the immediate area for your use. Please indicate on the photo the location of the point of diversion (pump) and the 3 acres that are owned and irrigated by you. → Nick's Field Exam

Please return the annotated photo with the evidence of priority.

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "What Kind

of Evidence is Required” and “Some Examples of Documents Which May Be Evidence of the Priority Date”.

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other elements of the Notice of Claim have been or soon will be conducted by Department personnel.

.....
The Department will not recommend the Notice of Claim be decreed by the court if evidence of a priority date is not submitted. The Notice of Claim will be disallowed.
.....

Please submit the documentation supporting the priority date within 30 days of the date of this letter, referencing all documents with the corresponding Claim number. If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact this office.

Respectfully submitted,

Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on “Evidence of Priority”
Notice of Claim (copy) 23-04040

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

DELOG
AR
1-5-04

RECEIVED

DEC 31 2003

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

Department of Water Resources
 Eastern Region

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

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
<u>see attached</u>	<u>23-4040</u>				

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

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

OR

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

3. Name and Address of Former Owner/Claimant(s) Kelly Canyon Ski Area, Inc.
865 Pantheri, Idaho Falls, ID 83401
4. New Owner/Claimant(s) Kelly Canyon Winter Park, LLC
 Name Connector (Check one): [] and, [] or, [] and/or
- New Mailing Address P.O. Box 51330, 1000 Riverwalk Dr., Suite 100
Idaho Falls, ID 83405
- New Telephone Number (208) 523-0862
5. Date you acquired the property 1/2/01

KELLY CANYON WINTER PARK LLC
C/O COOPER NORMAN
PO BOX 51330
1000 RIVERWALK DR STE 100
IDAHO FALLS ID 83405-1330

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

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

Water Right and/or Adjudication Claim Number _____

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

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

Water Right and/or Adjudication Claim Number _____

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

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

J. Sant
Treasurer

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

For Office Use Only

Received by _____	Date _____	Fee _____
Received by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

10-25-(50) Snow Making
10A30 Connected

DAVE STODARD
523-0862

Artificial Snow - 1255
Not = No W.R. from Vail

DAVE STODARD - Partner
523-0862



Monthly Focus: Roles—
Your key relationships and
responsibilities are where
you spend your time, energy,
and resources

Unthinking, idle, wild, and young,
I laugh'd and dance'd and talk'd and sung.
—Amelia

28

Wednesday
January 2004

Daily Notes

28th Day 398 Left Week 5

830⁺ DENNIS KLOPP CALLED TO DISCUSS WIL'S
FROM BURTON SPANNI 21009, 1890 R's
FROM PASSENGER CH. THAT WAS SPLIT.

845 CALLED STAN KLASSEN - DISCUSSED THIS BURTON
SP. WAGON SPLIT W/ NEIGHBORS - THIS
DISCUSSION W/ DENNIS WOULD ABOUT -

1015 CALLED DAVE STODARD - RE: KAY CANYON
23-4090 - DISCUSSED INFO FOR BURTONS
OR PRIORITY OF 1959 AND THE WELL
NOT HAVING A WATER TIGHT WELL
CONTACT NEW BURTON TO HAVE him

CALLED CHARLES - RE: SUMMITT BURY
Language for Hamby and Ben HORN
5:55
Charles returned call - Used 9000
fraction language from 5/09/03
2-MILL.

1030 TONY CHUDO & WIFE'S were for Jan. 1st.
Discussed their 1893 rd and PASSENGER
DANG delivery system

1225 ESTER TRAUGHBER & WIFE were at W/DC
TO COVER 23-500 TO PASSENGER CANYON
RATED TO CANYON FOR ROAD.

145 NICK CALLED - GPS PASSENGER CANYON NEGATIVE

315 CALLED CHARLES - SUMMITT BURY
Normal 9000 fraction → QUANTITIES

2/4/04 No Response to REQUEST for EVIDENCE
or Priority → DISALLOWED!

P03

PERPETUAL EASEMENT AGREEMENT

THIS PERPETUAL EASEMENT AGREEMENT, MADE THIS 7TH DAY OF NOVEMBER, 1959, BY AND BETWEEN C. WARREN BLAKELY AND BEATRICE D. BLAKELY, HUSBAND AND WIFE, AND LAWRENCE BLAKELY AND ZELLA MAE BLAKELY, HUSBAND AND WIFE, HEREINAFTER REFERRED TO AS THE PARTIES OF THE FIRST PARTY, AND KELLEY CANYON SKI HILL, INCORPORATED, AN IDAHO CORPORATION, AUTHORIZED TO DO BUSINESS IN THAT STATE, WITH ITS PRINCIPAL PLACE OF BUSINESS AT Ririe, JEFFERSON COUNTY, IDAHO, HEREINAFTER REFERRED TO AS THE PARTY OF THE SECOND PARTY, WITNESSETH:

WHEREAS, THE PARTIES OF THE FIRST PARTY ARE THE OWNERS OF CERTAIN LANDS SITUATE IN THE COUNTY OF JEFFERSON, STATE OF IDAHO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE $\frac{1}{4}$ NE $\frac{1}{4}$) OF SECTION TWENTY-EIGHT (28), TOWNSHIP FOUR (4) NORTH, RANGE FORTY-ONE (41) EAST OF THE BOISE MERIDIAN, IN JEFFERSON COUNTY, IDAHO,

ON WHICH THERE IS A SPRING WHICH ARISES WHOLLY UPON THE PREMISES HEREINABOVE DESCRIBED AND ENDING WHOLLY UPON THE PREMISES HEREINABOVE DESCRIBED, AS WELL AS OTHER ADJOINING LANDS; AND

WHEREAS, THE PARTY OF THE SECOND PARTY IS THE OWNER OF CERTAIN LANDS SITUATE IN THE COUNTY OF JEFFERSON, STATE OF IDAHO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

THE EAST HALF OF THE SOUTHEAST QUARTER (E $\frac{1}{2}$ SE $\frac{1}{4}$) OF SECTION TWENTY-EIGHT (28), TOWNSHIP FOUR (4) NORTH, RANGE FORTY-ONE (41) EAST OF THE BOISE MERIDIAN, IN JEFFERSON COUNTY, IDAHO.

ON WHICH THERE IS CERTAIN TIMBER AND GRAZING; AND

WHEREAS, THE PARTY OF THE SECOND PARTY DESIRES TO OBTAIN A PERPETUAL EASEMENT FOR A WATER PIPE, NOT TO EXCEED TWO (2) INCHES IN DIAMETER, EXTENDING FROM THE SPRING LOCATED ON FIRST PARTIES' LAND DESCRIBED ABOVE, AND EXTENDING OVER THE LANDS OF SAID PARTY OF THE FIRST PARTY TO THE LANDS HEREINAFTER DESCRIBED OWNED BY THE PARTY OF THE SECOND PARTY, TOGETHER WITH THE RIGHT OF ingress and egress OVER THE LANDS OF FIRST PARTIES IN ORDER TO KEEP SAID PIPE IN GOOD CONDITION AND REPAIR; AND

WHEREAS, THE SAID PARTY OF THE SECOND PARTY DESIRES TO OBTAIN

ACKNOWLEDGEMENT OF WATER RIGHTS

THIS DOCUMENT will acknowledge that Kelly Canyon Winter Park, L.L.C. by virtue of interests granted to its predecessors in interest has a water right to remove and use water in and from that certain spring and that certain well located on the real property more particularly described as follows:

Tract 1:

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

Section 28: SW $\frac{1}{4}$ SE $\frac{1}{4}$
S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$

EXCEPTING THEREFROM: A piece of land in the SE $\frac{1}{4}$ of said Section 28, described as follows:

Starting at the intersection of the Kelly Canyon Ski Hill, Inc. property and the South right of way line of the Forest Service Road, which point lies North $37^{\circ}44'$ West 2,173.4 feet from the Southeast Corner of Section 28, said Township and Range, running thence South $83^{\circ}0'$ West along the right of way of said Forest Service Road a distance of 600 feet; thence South $0^{\circ}13'$ East 300 feet; thence North $83^{\circ}0'$ East 600 feet to the West property line of the Kelly Canyon Ski Hill, Inc., property, running thence North $0^{\circ}13'$ East 300 feet along said boundary to the POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM: Kelly Canyon Road right of way.

Tract 2:

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

Section 28: E $\frac{1}{2}$ SE $\frac{1}{4}$
EXCEPTING THEREFROM: Kelly Canyon Road Right of way.

Tract 3:

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

Section 28: A piece of land in the SE ¼ of said Section 28, described as follows:
Starting at the intersection of the Kelly Canyon Ski Hill, Inc. property and the South right of way line of the Forest Service Road, which point lies North 37°44' West 2,173.4 feet from the Southeast Corner of Section 28, said Township and Range, running thence South 83°0' West along the right of way of said Forest Service Road a distance of 600 feet; thence South 0°13' East 300 feet; thence North 83°0' East 600 feet to the West property line of the Kelly Canyon Ski Hill, Inc. property, running thence North 0°13' East 300 feet along said boundary to the POINT OF BEGINNING.

EXCEPTING THEREFROM: Kelly Canyon Road right of way.

Tract 4:

The Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) of Section Twenty-Eight (28), Township Four (4) North, Range Forty-One (41) East of the Boise Meridian, in Jefferson County, Idaho.

Kelly Canyon Winter Park, .L.L.C. through its predecessors in interest has had the water right as herein stated since 1959. I know these facts to be true because I authorized the drilling of the well at a time when I owned an interest in the above described real property.

STATE OF IDAHO)
) ss.
County of Bonneville)

E. Bud Johnson, being first duly sworn on oath, deposes and says:
That he is an individual residing in Bonneville County; that he has read the foregoing ACKNOWLEDGEMENT OF WATER RIGHTS and knows the contents thereof and that he verily believes the same to be true.


E. Bud Johnson

WARRANTY DEED

THIS INDENTURE is made this 5 day of January, 2001, by KELLY INVESTORS, INC., an Idaho corporation ("Grantor"), to KELLY CANYON WINTER PARK LLC, an Idaho limited liability company, whose mailing address is 4622 East 250 North, Rigby, Idaho 83442 ("Grantee").

WITNESSETH:

That the Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presents does grant, bargain, sell, convey and confirm unto the Grantee, and to the Grantee's successors and assigns forever, all of the following described real property in the County of Jefferson, State of Idaho, to-wit:

TRACT 1:

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

Section 28: SW1/4 SE1/4
S1/2 NW1/4 SE1/4

EXCEPTING THEREFROM: A piece of land in the SE1/4 of said Section 28, described as follows:

Starting at the intersection of the Kelly Canyon Ski Hill, Inc., property and the South right of way line of the Forest Service Road, which point lies North 37°44' West 2,173.4 feet from the Southeast corner of Section 28, said Township and Range, running thence South 83°0' West along the right of way of said Forest Service Road a distance of 600 feet; thence South 0°13' East 300 feet; thence North 83°0' East 600 feet to the West property line of the Kelly Canyon Ski Hill, Inc., property, running thence North 0°13' East 300 feet along said boundary to the POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM: Kelly Canyon Road right of way.

RECEIVED BY
ASSESSOR

For PLATTING

Date 1/5/01 Time 4:05

Instrument # 305982

RIGBY, JEFFERSON, IDAHO

2001-01-05

04:05:00

No. of Pages: 4

Recorded for : FIRST AMERICAN TITLE

CONNIE M. KELLER

Fee: 12.00

Ex-Officio Recorder Deputy

Index to: WARRANTY DEED

TRACT 2:

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

Section 28: E1/2 SE1/4

EXCEPTING THEREFROM: Kelly Canyon Road right-of-way.

TRACT 3:

Township 4 North, Range 41 East of the Boise Meridian, Jefferson County, Idaho.

Section 28: A piece of land in the SE1/4 of said Section 28, described as follows: Starting at the intersection of the Kelly Canyon Ski Hill, Inc., property and the South right of way line of the Forest Service Road, which point lies North 37°44' West 2,173.4 feet from the Southeast corner of Section 28, said Township and Range, running thence South 83°0' West along the right of way of said Forest Service Road a distance of 600 feet; thence South 0°13' East 300 feet; thence North 83°0' East 600 feet to the West property line of the Kelly Canyon Ski Hill, Inc., property, running thence North 0°13' East 300 feet along said boundary to the POINT OF BEGINNING.

EXCEPTING THEREFROM: Kelly Canyon Road right of way.

SUBJECT TO all existing easements, patent reservations, rights of way, and protective covenants of record, all applicable zoning ordinances, building codes, laws and regulations, all encroachments, overlaps, boundary line disputes, claims of easements and other matters that would be disclosed by an accurate survey or inspection of the property, and the following matters:

1. Taxes for the year 2001.
2. Reservation of right of way for ditches and canals and other conditions and restrictions contained in the Patent from the United States of America, recorded September 28, 1933, in Book 113 of Patents, at Page 307, records of Jefferson County.
3. Right-of-Way Deed, from LAWRENCE BLAKELY and WARREN BLAKELY, unmarried brothers, Grantors, to UNITED STATES OF

- AMERICA, Grantee, recorded May 6, 1938, in Book 124 of Deeds page 89, records of Jefferson County.
4. Perpetual Easement granted to LAWRENCE BLAKELY and ZELLA MAE BLAKELY, husband and wife, recorded December 28, 1959, in Book 166 of Easements page 341, records of Jefferson County.
 5. Pole Line Easement granted to UTAH POWER & LIGHT COMPANY recorded January 10, 1961, in Book 166 of Easements page 127, records of Jefferson County.
 6. Pole Line Easement granted to UTAH POWER & LIGHT COMPANY, recorded March 5, 1965, in Book 179 of Easements page 67, records of Jefferson County.
 7. Conditions and Reservations in that certain Warranty Deed recorded August 28, 1969, Instrument No. 152219, between C. WARRANT BLAKELY and BEATRICE D. BLAKELY, husband and wife, and LAWRENCE BLAKELY and ZELLA MAE BLAKELY, husband and wife, Grantors, and KELLY CANYON SKI HILL, INCORPORATED, an Idaho Corporation, Grantee.
 8. Conditions and Reservations in that certain Warranty Deed recorded February 25, 1970, Instrument No. 153795, between C. WARRANT BLAKELY and BEATRICE D. BLAKELY, husband and wife, and LAWRENCE BLAKELY and ZELLA MAE BLAKELY, husband and wife, Grantors, and KELLY CANYON SKI HILL, INCORPORATED, an Idaho Corporation, Grantee.
 9. Conditions and Reservations in that certain Warranty Deed recorded June 19, 1995, Instrument No. 276966, and re-recorded June 26, 1995, Instrument No. 277040, between KELLY CANYON SKI HILL, INC., AN IDAHO CORPORATION, Grantor and SKI KELLY, INC., AN IDAHO CORPORATION, Grantee, records of Jefferson County.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, remainders, rents, issues and profits therefrom; and all estate, right, title and interest in and to the property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD the property and the appurtenances unto the Grantee, and to the Grantee's successors and assigns forever. The Grantor and the Grantor's

successors shall warrant and defend the property in the quiet and peaceable possession of the Grantee and the Grantee's successors and assigns, against the Grantor and the Grantor's successors, and against every person whomsoever who lawfully holds (or who later lawfully claims to have held) rights in the property as of the date hereof.

In construing this Warranty Deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

GRANTOR:

KELLY INVESTORS, INC.

By: Neil Brown
Its: Pres

STATE OF IDAHO)
)ss.
County of Jefferson)

On the 5th day of January, 2001, before me, the undersigned, a notary public in and for said State, personally appeared NEIL BROWN, known or identified to me to be the PRESIDENT of Kelly Investors, Inc., and the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

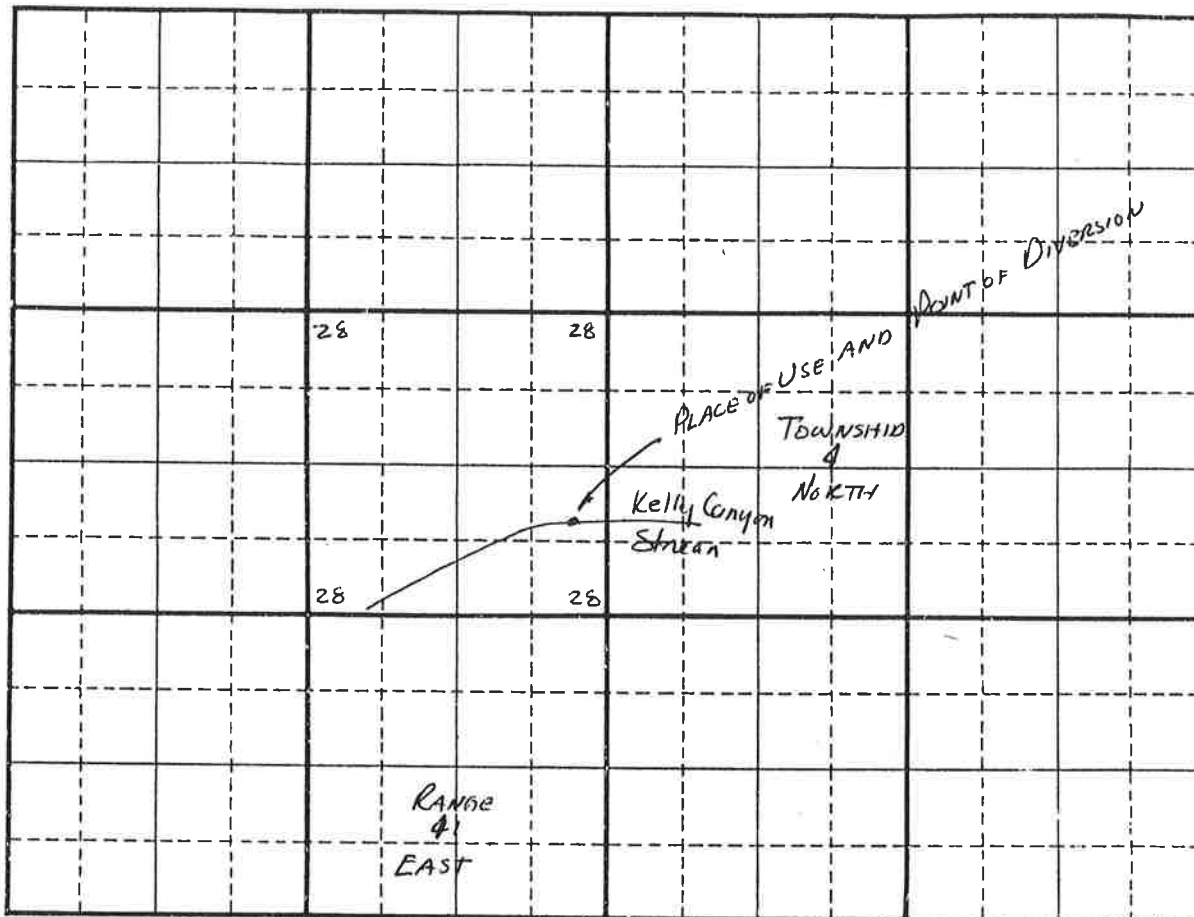
(seal)

Kathy Moedl
Notary Public for Idaho
Residing at Pexbury
My Commission Expires: 7-16-2005



(7) If you are claiming water as a member of an organization, list name of organization:

(8) Remarks _____



Scale: 2 inches equal 1 mile.

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

State of Idaho)
County of Bonneville) ss.

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

Sworn to before me this 20th day of July, 1982.

Bob Nickle Sec. Treas.
(Claimant)

William Gray
Notary Public
Residing at Idaho Falls, Id.

My commission expires 6/15/85

FOR DEPARTMENT USE ONLY

Received by SM Date 7/20/82 Exception filed by: _____ Date _____
Prelim. check by KCW Date 7/20/82 Forwarded to claimant by: _____
\$30.00 fee received by BP Date 7-20-82 #22397
Published in Rigby Star Dawn S. Blakeley CW Date 8/19/82
Dates 7-29, 8-5-82

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: A23-04040
Date Received: 9/13/1988
Receipt No: E002257
Received By: HWJ

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: KELLY CANYON SKI AREA INC. 208-529-2538
Address: 865 PANCHERI C/O TETON CRANE
INC.
IDAHO FALLS, ID 83401

2. Date of Priority: JUN 01, 1959

3. Source: KELLY CANYON STREAM Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	41E	28	SE	NE	SE		JEFFERSON

5. Description of diverting works:
PUMP & SPRINKLER SYSTEM AND WATER TROUGH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.220		
STOCKWATER	05/01	11/01	0.060		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
S/150 HEAD CATTLE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	41E	28	NE	SE		IRR	3.0

A23-04040

Page 1

Date: 09/13/88

MICROFILMED
NOV 10 1992



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	41E	28	NE	SE		STOCK	
Section Acres							3.0
Total Acres							3.0

11. Place of use in counties: JEFFERSON

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM
Water Right Number: 234040

16. Signature(s)

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

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Robert K. Useike Date: Sept 13-88

Date: _____

X For Organizations:

I do solemnly swear or affirm that I am Robert R. Useike of
Kelly Canyon Shi Area Inc. that I have signed the foregoing
document in the space below as Secretary-Treasurer of
Kelly Canyon Shi Area Inc. and that the statements contained in the
foregoing document are true and correct.

Robert R. Useike
Signature of Authorized Agent
Sec. Treasurer
Title and Organization
Sept 13-88
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 13th day
of September 19 88

Betty Thompson
Notary Public

Seal

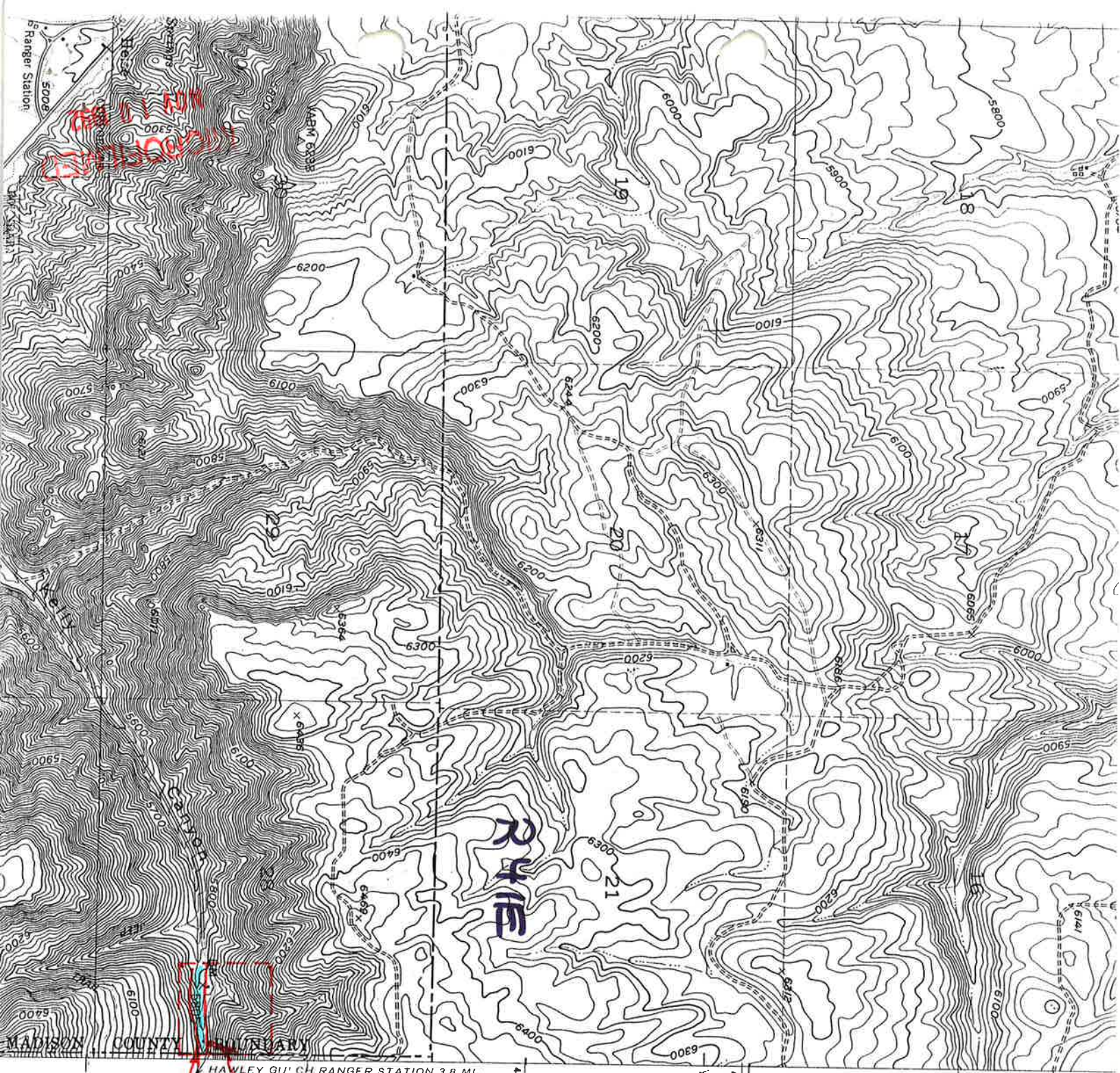
Residing at Idaho Falls

A23-04040

Page

My Commission Expires 6-94
3 Date: 09/13/88

MICROFILMED
NOV 10 1992



5008
Ranger Station

5300
5400
5500
5600
5700
5800
5900
6000
6100
6200
6300
6400
6500
6600
6700
6800
6900
7000
7100
7200
7300
7400
7500
7600
7700
7800
7900
8000
8100
8200
8300
8400
8500
8600
8700
8800
8900
9000
9100
9200
9300
9400
9500
9600
9700
9800
9900
10000

MADISON COUNTY BOUNDARY

HAWLEY GULCH RANGER STATION 3.8 MI.

HAWLEY GULCH RANGER STATION 4 MI.

A23-04040

T4N

Point of Div.
P.O.U.