

T3307 CLINGER ENTERPRISES

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Transfer No. 3307

* CHANGE IN NATURE OF USE * JAN 15 1988

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern District Office

APPLICATION FOR TRANSFER OF WATER RIGHT

To Change the Point of Diversion and/or the Place of Use

Name of applicant Clinger Enterprises Inc. Phone _____Post Office address 230 Harvard Avenue, Rexburg, Idaho

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 74-0037 Decreed to Clinger Enterprises, Inc.
in case of No. 4948 Proposed Findings of Water Rights in Lemhi River Basin
dated in Dec. 30, 1982 in 7th Judicial District Court of Lemhi
(Name)
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant is not the original holder of the water right, explain how it was acquired _____

3. Source of water Big Timber Creek tributary to Lemhi River

4. Date of priority 09-01-1874

5. Water is used for the following purposes:

amount 3.36 cfs for Irrigation purposes from 3-15 to 11-15
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 3.36 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 33
Township 16N Range 26E, B.M., in Lemhi County
Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
16N	26E	20									25	40	25				7		97
		29		37	26				30	30	13				2	29			167
		30	40		40	40	40			40	10				40	36			286

Total number of acres to be irrigated 550

9. Describe any other water rights used for the same purpose as described above 74-0039A was
decreed to the same place of use.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No. If yes, describe in item D, REMARKS.

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B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is ~~owned~~ by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. Place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

*2-18-87 KCW

1. General Information
 - a. Amount of water to be diverted 5.88 cfs Irrigation *
0.02 cfs stockwater (limited to 2.8 afa)*
5.90 c.f.s. &/or _____ acre feet
 - b. Description of diverting works wooden headgate
 - c. Describe the reasons for the proposed changes applicant is transferring one miners
inch for use by Roger & Penny Ogden as a consessions for continuing to
exercise a water right exchange involving rights 74-0996 & 74-0031.

2. Change in point of diversion NO CHANGE

Point of diversion NW ¼ NW ¼, Section 33 Township 16N
Range 26E, B.M., Lemhi County
Additional points _____

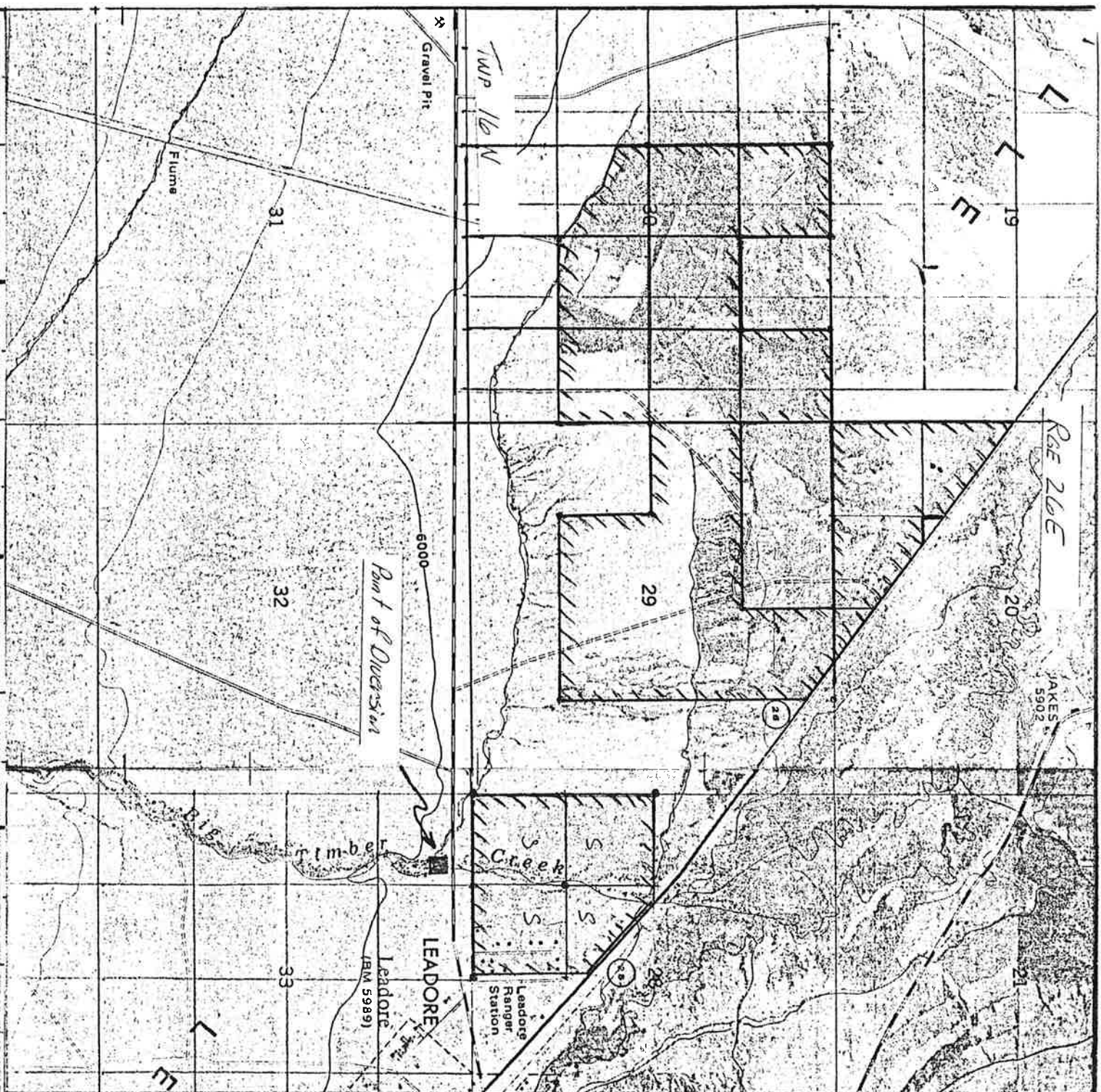
3. Change in place of use

- a. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed change.
- b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer
Land in the NE¼SE¼ Section 29 is being dewatered and will cease being
irrigated. Water historically used to irrigate this land will be
diverted by Roger & Penny Ogden pursuant to a memorandum agreement
dated March 15, 1986.

c. Describe the land or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
16N	26E	29		37	26			30	30	13					29			165	
		30	40		40	40	40			40	10				40	36		286	
		20									25	40	25			7		97	
16N	26E	28								S	S	S	S						
				</															

4. Describe any other water rights used for the same purpose as described above. None
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



D. REMARKS

The use of water for stockwatering purposes will be limited to when irrigation water is being diverted under rights 74-0037 & 74-0039A. The rate of diversion shall not exceed 0.02cfs or the quantity of water diverted through a one inch diameter pipe which ever is less. The volume of water diverted by Mr. Ogden shall not exceed 2.8 acre feet per annum, which is the consumptive use equivalent for two acres of alfalfa in Salmon.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willfull misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 27th day of October, 19 86.
Clinga Estey
(Signature of Applicant)

Philip W. Gorn
(Notary Public)

My commission expires 10-1-91

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 74-0037/0039A and said application is hereby APPROVED, subject to the following limitations and conditions:

1. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
2. Use of water under these rights is subject to control by the watermaster of State Water District No. 74W, Texas, Hawley, Timber, Junction, Bull, Jake, Canyon & 18-Mile Creeks.

Witness my hand this 4th day of January, 19 88.
A. Glen Saxton
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by <u>MW</u>	Date <u>10-29-86</u>	Protest filed by _____
Prelim. check by <u>KW</u>	Fee <u>\$50.00</u>	_____
Receipted by <u>MW</u> ⁴¹⁰⁶³	Date <u>2-20-87</u>	_____
Published in <u>Recorder Herald</u>	Copies of protest forwarded by _____	
Pub. dates <u>3-19 + 3-26-87</u>	Hearing held by _____ Date _____	
Watermaster recommendation requested on <u>WD 74-W</u>	Recommended for <u>approval</u> denial	
<u>3-27-87</u> rec'd. <u>4-06-87</u>	by <u>RPC Jim G.S.</u>	

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Application For Transfer of Water Right
Supplemental Information for
CHANGE IN NATURE OF USE

1. Fully complete Form 222. Type or print in ink "CHANGE IN NATURE OF USE" at the top of page 1. If no change in point of diversion or place of use is desired, so note under items C.2 and/or C.3 C.

2. Describe fully the new use to which the water is intended to be applied:

a. Nature of use: Stockwater on the property of Roger & Penny Ogden.

b. Rate of flow: 0.02cfs or the flow through a one inch diameter pipe
whichever is less.

c. Hours per day and days per year that the flow will be diverted: 24 hours
per day when irrigation water is available from the ditch, 245 days max.

d. Season of use: 3/15 to 11/15

e. Return flows from the use: (quantity and quality of return flows, and location of discharge):

None

3. Describe positive and negative effects on other waterusers predicted to result from the proposed change in nature of use. There will be no effects on other users because these rights will continue to be delivered by the watermaster as if there had been no change. Mr. Ogden will take his entitlement from the ditch downstream from the weir so water for both uses will be included when measuring the quantity of water delivered under rights 74-0037 and 74-0039A.

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Department of Water Resources
Eastern District Office

MEMORANDUM AGREEMENT

WHEREAS, CLINGER ENTERPRISES, INC., an Idaho corporation, along with MARJORIE McREA and EARL McREA, husband and wife, have requested to exchange certain public waters of the State of Idaho, under exchange No. 74-0996/0031; and

WHEREAS, ROGER OGDEN has filed an objection thereto;

In order to resolve the dispute between the parties, CLINGER ENTERPRISES, INC. and ROGER OGDEN and PENNY OGDEN, agree to compromise as follows:

1. That Clinger Enterprises, Inc. will transfer one inch of its water right to real property in the County of Lemhi, State of Idaho, more particularly described as follows:

W $\frac{1}{2}$ SW $\frac{1}{4}$, FR E $\frac{1}{2}$ SW $\frac{1}{4}$, FR NW $\frac{1}{4}$, Section 28, Township
16 North, Range 26, East of the Boise
Meridian, County of Lemhi, State of Idaho.

2. That said transfer will take the form of a one inch pipe running from Big Timber Creek, Clinger Diversion, north of the Farm to Market Road, within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 33, Township 16 North, Range 26, East of the Boise Meridian, which pipe will take the one inch of water to the real property owned by the Ogdens as above described.

3. That the Ogdens would have the right to that one inch of water at all times that Clinger Enterprises Inc. has the right to

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water in the Big Timber Creek, Clinger Diversion, under water right numbers 74-0037 and 74-0039A.

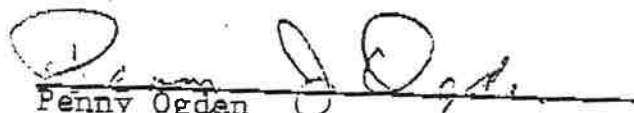
4. Clinger Enterprises, Inc. understands that it will be required by the Idaho State Water Board to transfer one inch of water right from approximately 1.8 acres of land in order to accomplish the said transfer. The one inch of water right will be transferred from the following described real property:

NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 29, Township 6 North, Range 26
East of the Boise Meridian, County of Lemhi,
State of Idaho

5. In exchange for the transfer of one inch of water, as above stated, the Ogdens agree to withdraw their protest to the aforementioned requested exchange.

DATED this 15th day of MARCH, 1986.


Roger Ogden


Penny Ogden

DATED this 2ND day of April, 1986.

CLINGER ENTERPRISES, INC.

By 
Zella Armstrong
Its: President

ATTEST:


Argus Clinger
Secretary

RECORDED & FILMED

MAR 03 1988

STATE OF UTAH

County of DAVIS

)
) ss.
)

On this 2ND day of APRIL, 1986, before me, the undersigned, a Notary Public in and for the State of Utah, personally appeared ROGER OGDEN and PENNY OGDEN, known to me to be the persons who executed the foregoing instrument.

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)


Notary Public for Utah BRENT W. INNES
Residing at: NOTARY
My Commission Expires: COMMISSION EXPIRES
22 APRIL 1987

STATE OF IDAHO

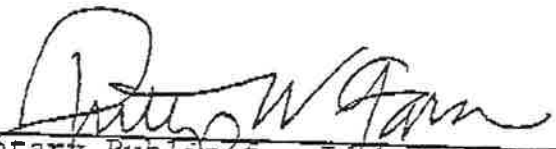
County of Madison

)
) ss.
)

On this 3rd day of May, 1986, before me, the undersigned, a Notary Public for the State of Idaho, personally appeared ZELLA ARMSTRONG, known to me to be the president of CLINGER ENTERPRISES, INC. and who executed the foregoing 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)


Notary Public for Idaho
Residing at: Rehburg Idaho
My Commission Expires: 10/91

NOTARIZED

MAR 03 1988