

# Idaho Dept of Water Resources

Claim No(s): 65-03848

Claimant(s) Ellis

T11N, R03E, S 1

T11N, R04E, S 6

Prepared by: Sue Bock

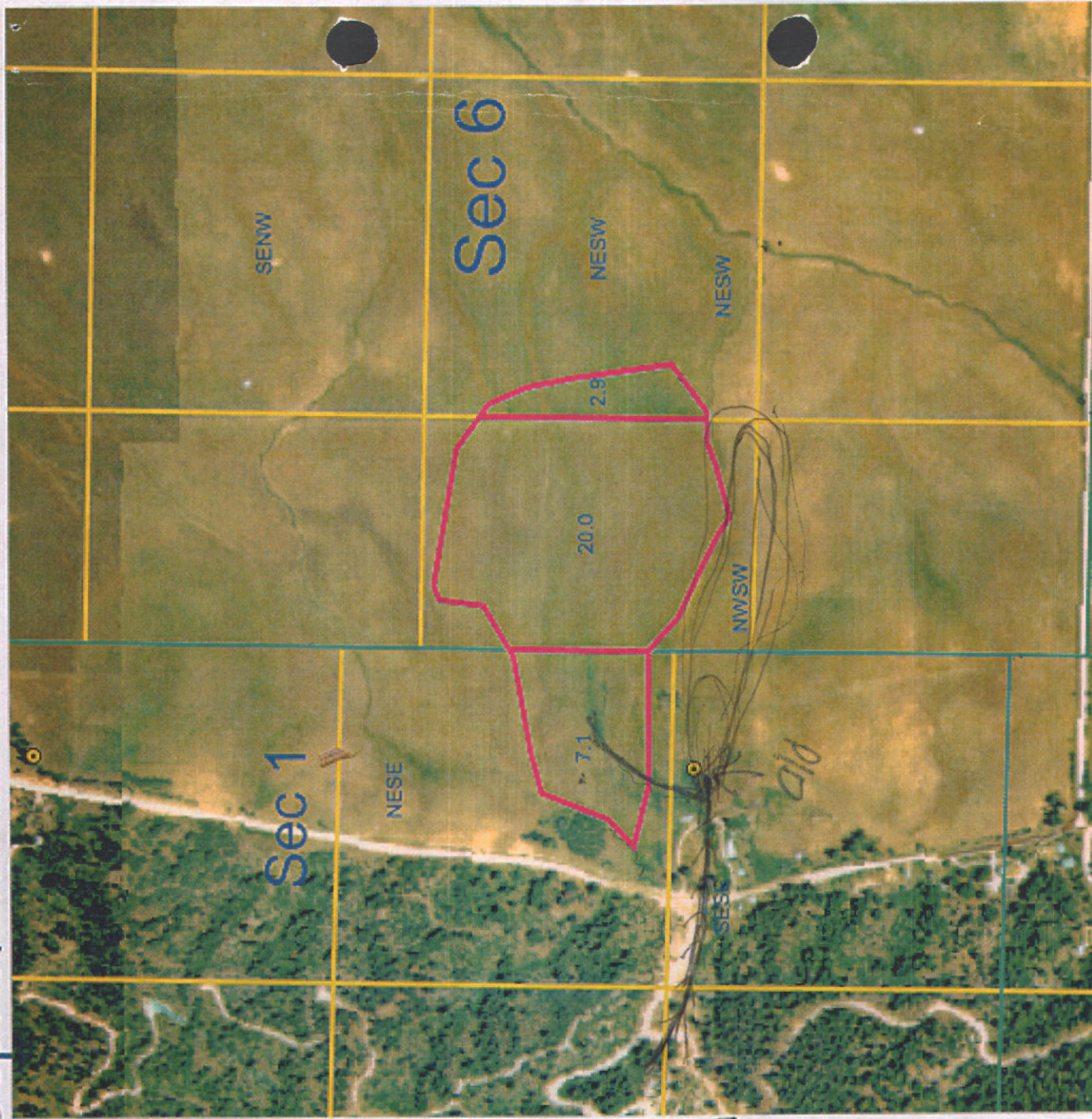
Date: 10/14/99

 Place of Use

 Point of Diversion

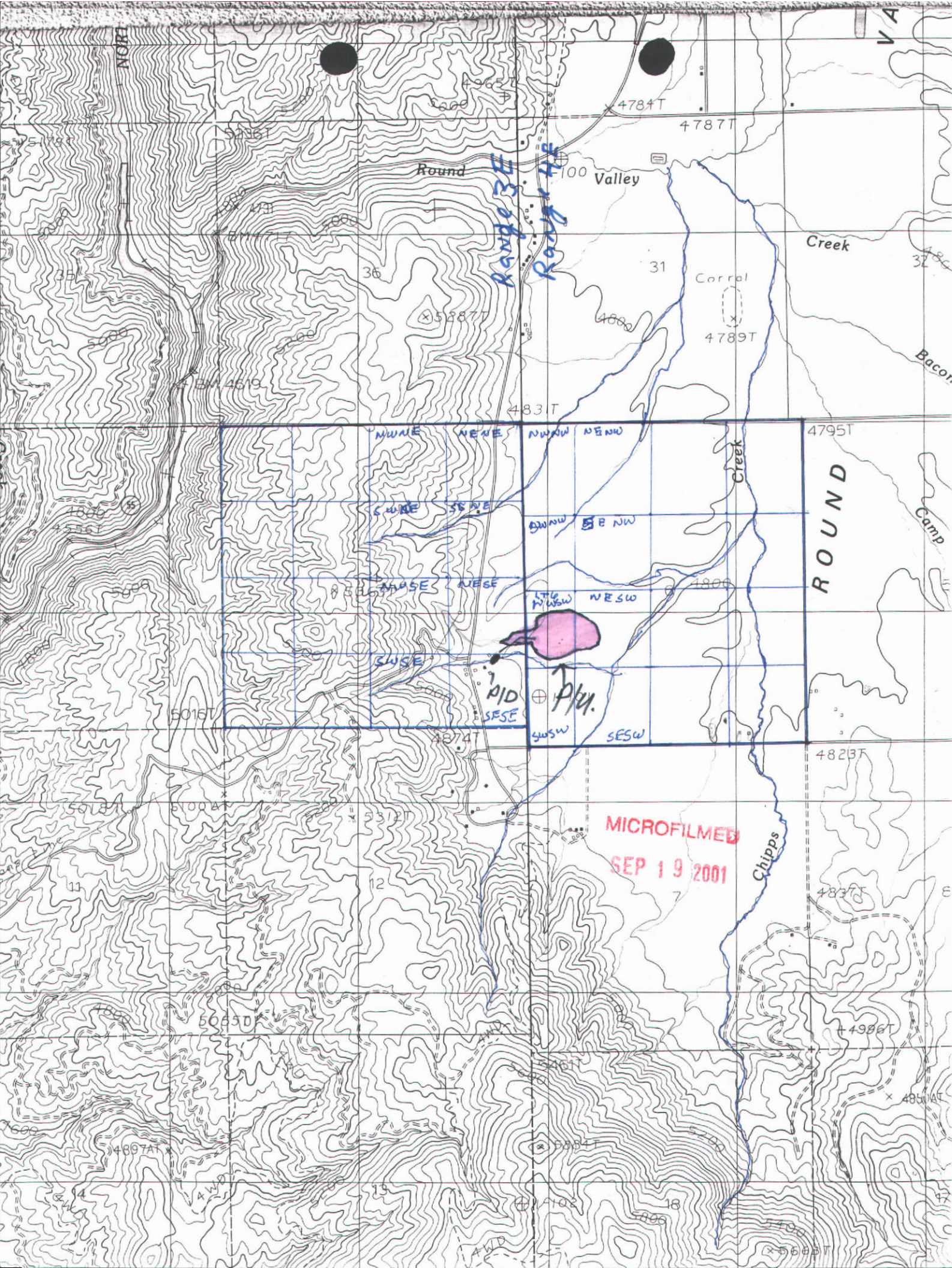
 Section lines

 1/4 1/4 lines



0 0.25 0.5 1 Miles 1987 NAAPP Photo

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Claim No(s): 65-03848

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T11N, R03E, S 1

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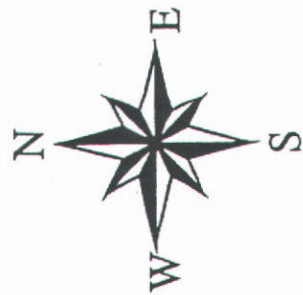
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☐ Place of Use

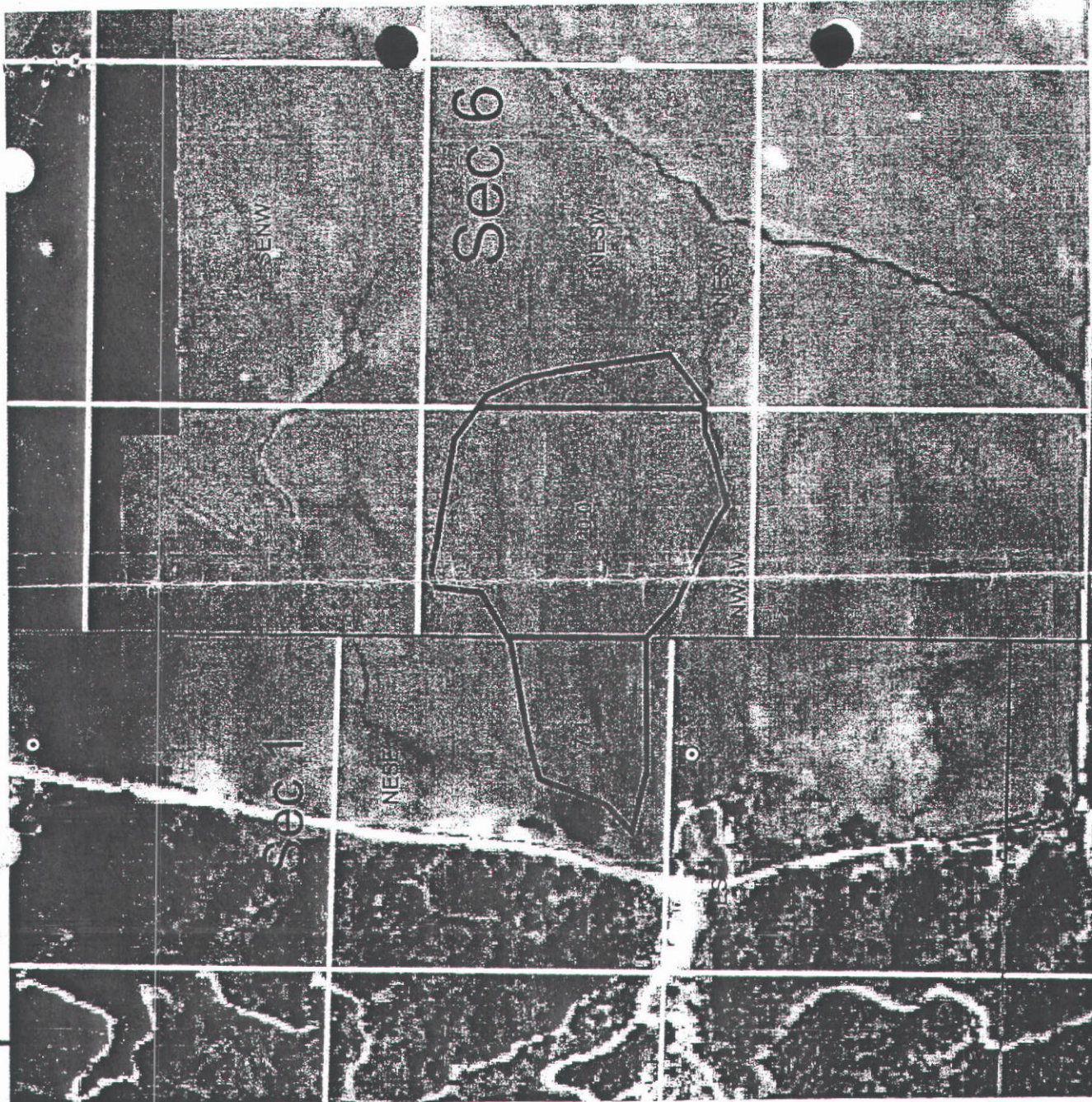
☒ Point of Diversion

☐ Section lines

1/4 1/4 lines



EXHIBIT



BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
NO 65-3848 AND PERMIT NO. 65-13944 )  
IN THE NAME OF KYLE F ELLIS AND )  
FERN R. ELLIS )  
\_\_\_\_\_ )

**AMENDED  
PRELIMINARY ORDER  
RECOGNIZING ABANDONMENT  
OF WATER USE**

This matter having come before the Department of Water Resources (Department) as a result of a notice of intent to abandon the right to use water, the Department makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

- 1 On October 31, 2000, the Snake River Basin Adjudication (SRBA) court of the Fifth Judicial District of Idaho issued a partial decree finding that Fern R. Ellis and Kyle F. Ellis (right holders) have Water Right 65-3848 authorizing them to divert water from an unnamed tributary of Chipps Creek for the irrigation of 30 acres in Valley County, including three (3.0) acres of land in the NE¼SW¼, Sec 6, Township 11 North, Range 4 East, B. M.
- 2 On July 2, 2001, the Department issued Permit 65-13944 authorizing Fern R. Ellis and Kyle F. Ellis to divert water from a unnamed tributary of Chipps Creek for the irrigation of 30 acres in Valley County, including three (3.0) acres of land in the NE¼SW¼, Sec. 6, Township 11 North, Range 4 East, B. M. The right holders stated in their application for Permit 65-13944, "This is a supplemental filing to 65-03848 claim, and will irrigate the same acres."
3. On July 26, 2001, the Department received the right holders' Proof of Beneficial Use statement for Permit 65-13944. The right holders indicated on the Proof of Beneficial Use statement that they had established a beneficial use of water in accordance with the permit on 27 acres and that the Department should "delete the 3 acres T11N-R4E-NESW."
4. On December 23, 2002, the Department received the right holders' signed and notarized statement (statement) of their intent to abandon the portion of Water Right 65-3848 for the diversion of 0.06 cfs to irrigate 3 acres in the NE¼SW¼ of Section 6, Township 11 North, Range 4 East, B. M. The statement also indicates the right holders' intent to reduce the use authorized under Permit 65-13944 by diminishing the diversion rate by 0.06 cfs and the place of use by 3 acres located in the NE¼SW¼ of Section 6, Township 11 North, Range 4 East, B. M.

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- 5 On January 2, 2003, the Department received a copy of an agreement (agreement) signed on January 16, 2001, by the right holders and by Florence E. Herrick, trustee of the Dorsey and Florence Herrick Family Trust (Herrick). The agreement states that the 3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 11 North, Range 4 East, B. M., included in the place of use for Water Right 65-3848 and Permit 65-13944, is located on land owned by Herrick. The agreement obligates the right holders to take action to "exclude reference to the Herrick land" in their water right place of use descriptions. The agreement also states, "Ellis also agrees that Ellis will continue not to apply the Ellis water rights to the Herrick land . . ."

#### CONCLUSIONS OF LAW

1. Abandonment of a water right requires the intent to give up the right and the actual relinquishment or surrender of the water right. *Jenkins v. State, Dep't of Water Resources*, 103 Idaho 384, 388 (1982).
2. The agreement between the right holders and Herrick confirms that the right holders have ceased irrigating 3 acres of Herrick land located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 11 North, Range 4 East, B. M., and that they intend to give up the right to do so.
3. The right holders have abandoned that portion of Water Right 65-3848 for the diversion of 0.06 cfs to irrigate 3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 11 North, Range 4 East, B. M.
4. By longstanding practice, a permit holder can relinquish a permit in its entirety or in part by submitting a signed statement of intent to the Department.
5. The right holders have relinquished the portion of Permit 65-13944 authorizing the irrigation of 3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 11 North, Range 4 East, B. M.

#### ORDER

IT IS HEREBY ORDERED that the record of Water Right 65-3848 shall be modified to show the abandonment of that portion of the right authorizing the diversion of 0.06 cfs from an unnamed tributary of Chipps Creek to irrigate 3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 11 North, Range 4 East, B. M.

IT IS FURTHER HEREBY ORDERED that the record of Permit 65-13944 shall be modified to show that the right holders have relinquished that portion of the permit authorizing the diversion of 0.06 cfs from an unnamed tributary of Chipps Creek to irrigate 3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 11 North, Range 4 East, B. M.

Dated this 13<sup>TH</sup> day of JANUARY, 2003.

  
NORMAN C. YOUNG  
Administrator, Water Management Division

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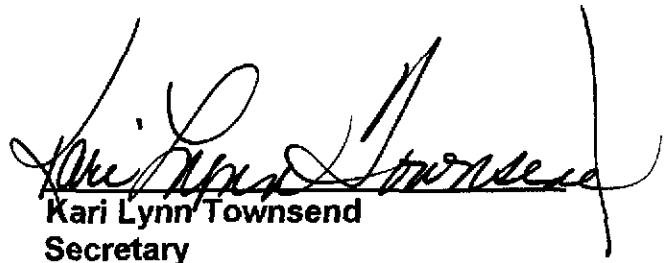
## CERTIFICATE OF SERVICE

I hereby certify that on **January 14, 2003**, I mailed a true and correct copy, certified, postage prepaid, of the foregoing **AMENDED PRELIMINARY ORDER** to the person(s) listed below:

**RE: Permit 65-13944 & Water Right 65-3848**

**KYLE F ELLIS  
FERN R ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611**

**DORSEY HERRICK  
FLORENCE HERRICK  
10568 HWY 55  
CASCADE ID 83611**

  
**Kari Lynn Townsend  
Secretary**

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MAR 20 2003

**EXPLANATORY INFORMATION  
TO ACCOMPANY A  
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

**PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

**EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

**REQUEST FOR HEARING**

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

**ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

**CERTIFICATE OF SERVICE**

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

## **FINAL ORDER**

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

## **APPEAL OF FINAL ORDER TO DISTRICT COURT**

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

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BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
NO. 65-3848 AND PERMIT NO. 65-13944 )  
IN THE NAME OF KYLE F. ELLIS AND )  
FERN R. ELLIS )  
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2. On July 2, 2001, the Department issued Permit 65-13944 authorizing Fern R. Ellis and Kyle F. Ellis to divert water from a unnamed tributary of Chipps Creek for the irrigation of 30 acres in Valley County, including three (3.0) acres of land in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 1, Township 11 North, Range 3 East, B. M. The right holders stated in their application for Permit 65-13944, "This is a supplemental filing to 65-03848 claim, and will irrigate the same acres."
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4. On December 23, 2002, the Department received the right holders' signed and notarized statement (statement) of their intent to abandon the portion of Water Right 65-3848 for the diversion of 0.06 cfs to irrigate 3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 11 North, Range 4 East, B. M. The statement also indicates the right holders' intent to reduce the use authorized under Permit 65-13944 by diminishing the diversion rate by 0.06 cfs and the place of use by 3 acres located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 11 North, Range 4 East, B. M.

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5. On January 2, 2003, the Department received a copy of an agreement (agreement) signed on January 16, 2001, by the right holders and by Florence E. Herrick, trustee of the Dorsey and Florence Herrick Family Trust (Herrick). The agreement states that the 3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 11 North, Range 4 East, B. M., included in the place of use for Water Right 65-3848 and Permit 65-13944, is located on land owned by Herrick. The agreement obligates the right holders to take action to "exclude reference to the Herrick land" in their water right place of use descriptions. The agreement also states, "Ellis also agrees that Ellis will continue not to apply the Ellis water rights to the Herrick land . . ."

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#### ORDER

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IT IS FURTHER HEREBY ORDERED that the record of Permit 65-13944 shall be modified to show that the right holders have relinquished that portion of the permit authorizing the diversion of 0.06 cfs from an unnamed tributary of Chipps Creek to irrigate 3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 11 North, Range 4 East, B. M.

Dated this 6<sup>TH</sup> day of JANUARY, 2003.

  
NORMAN C. YOUNG  
Administrator, Water Management Division

MAY 20 2003

RECEIVED

JUL 26 2001

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner.

1. Permit No. 65-13944 Telephone No. 208-382-4518

2. Name of Permit Holder(s): Kyle F. & Fern R. Ellis

3. Mailing Address: 9982 Round Valley Road  
City CASCADE State IDA Zip 83611

4. Source of Water: UNNAMED STREAM If GROUNDWATER (well), Date Drilled: mo. \_\_\_\_\_ / yr. \_\_\_\_\_

Well Driller: \_\_\_\_\_ Drilling Permit Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): \_\_\_\_\_ Stockwater (No. and type of stock): \_\_\_\_\_

Irrigation (No. of acres): 27 Other: (delete the 3 Acres T11N-R4E-NESW)

6. Total rate of diversion and/or volume for which proof is submitted: 0.60 cfs OR \_\_\_\_\_ acre-feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional Please check either yes or no Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required?

Yes \_\_\_\_\_ or No X

Has the measuring device been installed?

Yes \_\_\_\_\_ or No X

8. Fee Enclosed: \$ 100 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: Kyle F. Ellis Telephone Number: 208-382-4518

Address: 9982 Round Valley Rd

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: [Signature] Date: 7/25/01

(include your title, if on behalf of company or organization)

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State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 65-13944

Priority 03/03/2000

Maximum Diversion Rate 0 60 CFS

This is to certify, that FERN R ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611

KYLE F ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM Tributary: CHIPPS CREEK

and a permit is APPROVED for development of water as follows

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> |
|-----------------------|----------------------|--------------------------|
| IRRIGATION            | 03/15 to 10/31       | 0 60 CFS                 |

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec 1, Twp 11N, Rge 03E, B.M. VALLEY County

PLACE OF USE: IRRIGATION

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW  |      |    |    | SE  |    |    |    | Totals |
|-------------|----|----|----|----|----|----|----|----|-----|------|----|----|-----|----|----|----|--------|
|             | NE | NW | SW | SE | NE | NW | SW | SE | NE  | NW   | SW | SE | NE  | NW | SW | SE |        |
| 11N 03E 1   |    |    |    |    |    |    |    |    |     |      |    |    | 7 0 |    |    |    | 7 0    |
| 11N 04E 6   |    |    |    |    |    |    |    |    | 3 0 | 20 0 |    |    |     |    |    |    | 23 0   |
|             |    |    |    |    |    |    |    |    |     | L 6  |    |    |     |    |    |    |        |

Total Acres: 30

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 1, 2002**
2. Subject to all prior water rights
3. Use of water under this water right will be regulated by the watermaster of State Water District No. 65
4. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above
6. Source is known locally as Rabbit Creek

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 2<sup>nd</sup> day of July, 2001

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*Karl J Dreher*  
for **KARL J DREHER, Director**

**BEFORE THE DEPARTMENT OF WATER RESOURCES**  
**OF THE**  
**STATE OF IDAHO**

|                                                        |                      |
|--------------------------------------------------------|----------------------|
| <b>IN THE MATTER OF APPLICATION )</b>                  |                      |
| <b>FOR PERMIT NO. 65-13944, )</b>                      | <b>DEFAULT ORDER</b> |
| <b>IN THE NAME OF KYLE &amp;/OR )</b>                  |                      |
| <b>FERN ELLIS )</b>                                    |                      |
| <hr style="width:100%; border: 0.5px solid black;"/> ) |                      |

A prehearing conference regarding protests against application for water right no. 65-13944 in the name of Kyle &/or Fern Ellis was scheduled for Monday, August 28, 2000, at 9:00 a.m. at the offices of the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705. Notice of the prehearing conference was sent to Frederick Ringel at P.O. Box 742, Cascade, Idaho 83611.

At the time and place for the prehearing conference, Kyle Ellis, the applicant, and Gary Spackman, the hearing officer, appeared. Darrell Ellis also appeared. Frederick Ringel did not appear for the prehearing conference. Frederick Ringel did not communicate with IDWR regarding his absence.

A notice of default was mailed to Frederick Ringel on August 28, 2000, informing him that he had seven (7) days from the date of the service of the notice of default to challenge, in writing, why a default order should not be issued against him dismissing his protest. Frederick Ringel did not respond to the notice.

**ORDER**

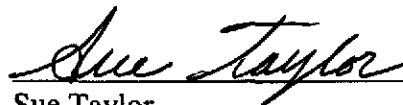
IT IS HEREBY ORDERED that the protest of Frederick Ringel against application for permit to appropriate water no. 65-13944 in the name of Kyle &/or Fern Ellis is **DISMISSED** for failure to appear.

Dated this 6<sup>th</sup> day of April, 2000.

  
\_\_\_\_\_  
Gary Spackman  
Hearing Officer

CERTIFIED MAIL

I hereby certify that on this 6<sup>th</sup> day of April, 2001, I mailed a true and correct copy, postage prepaid, of this Default Order to those listed below:



Sue Taylor  
Senior Secretary

KYLE &/OR FERN ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611

FREDERICK RINGEL  
PO BOX 742  
CASCADE ID 83611

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SEP 19 2001

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Ident. No. 6513944

"Rabbit Creek"  
RECEIVED

JUN - 4 2001

AMENDED

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Department of Water Resources

- Name of Applicant Kyle F. & Fern R. Ellis Phone 382-4518  
Mailing address 9982 Round Valley Rd. Cascade, Idaho 83611
- Source of water supply Round Stream (Rabbit Ck.) which is a tributary of Chippis Creek
- Location of point of diversion is Township 11 N. Range 03 E Sec. 01 in the NF 1/4, SE 1/4, SE 1/4, Govt. Lot Valley, B.M., Valley County;  
additional points of diversion if any: H. N. 04 E S 46

4. Water will be used for the following purposes:

- |                                                                                                            |                         |
|------------------------------------------------------------------------------------------------------------|-------------------------|
| Amount <u>0.60</u> for <u>irrigation</u> purposes from <u>04-15</u> to <u>10-31</u> (both dates inclusive) | <u>10-31</u> <u>RFE</u> |
| (cfs or acre-feet per annum)                                                                               |                         |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)                                 |                         |
| (cfs or acre-feet per annum)                                                                               |                         |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)                                 |                         |
| (cfs or acre-feet per annum)                                                                               |                         |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)                                 |                         |
| (cfs or acre-feet per annum)                                                                               |                         |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)                                 |                         |
| (cfs or acre-feet per annum)                                                                               |                         |

- Total quantity to be appropriated is (a) 0.60 cfs and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum

6. Proposed diverting works:

- Describe type and size of devices used to divert water from the source existing stream channel and ditches
- Height of storage dam \_\_\_\_\_ feet; active reservoir capacity \_\_\_\_\_ acre-feet; total reservoir capacity \_\_\_\_\_ acre-feet
- Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet
- Is ground water with a temperature of greater than 85°F being sought? \_\_\_\_\_
- If well is already drilled, when? \_\_\_\_\_; Drilling firm \_\_\_\_\_  
Well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_

- Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. \_\_\_\_\_
- Stockwatering; list number and kind of livestock. \_\_\_\_\_
- Municipal; show name of municipality. \_\_\_\_\_
- Domestic; show number of households. \_\_\_\_\_
- Other; describe fully. \_\_\_\_\_

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5. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RGE | SEC | N E |    |    |    | N W |    |    |    | S W |    |    |    | S E |    |    |    | TOTALS |
|-----|-----|-----|-----|----|----|----|-----|----|----|----|-----|----|----|----|-----|----|----|----|--------|
|     |     |     | NE  | NW | SW | SE | NE  | NW | SW | SE | NE  | NW | SW | SE | NE  | NW | SW | SE |        |
| 11N | 3E  | 1   |     |    |    |    |     |    |    |    |     |    |    |    | 7   |    |    |    | 7      |
| 11N | 4E  | 6   |     |    |    |    |     |    |    |    | 3   | 20 |    |    |     |    |    |    | 23     |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
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|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |

Total number of acres to be irrigated 30

10. Describe any other water rights used for the same purposes as described above. Combined with permit 65-03848

11. a. Who owns the property at the point of diversion? Kyle F. & Fern R. Ellis

b. Who owns the land to be irrigated or place of use? Kyle F. & Fern R. Ellis

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

12. Remarks: This is a supplemental filing to 65-03848 claim, and will irrigate the same acres.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Signature of Applicant (and title, if applicable)

Fern R. Ellis

Received by LM Date 3-3-00 Time

Fee \$ 100.00

Received by LM

Preliminary check by DAN

# 4202687-6 Date 3-3-00

Publication prepared by LM Date 5-3-10-00

Published in LONG VALLEY ADVOCATE

Publication approved LM 10-3-00

Date

MICROFILMED

SEP 13 2001

# Idaho Dept of Water Resources

Claim No(s): 65-03848

Claimant(s) Ellis

T11N, R03E, S 1

T11N, R04E, S 6

Prepared by: Sue Bock

Date: 10/14/99



SEP 19 2001

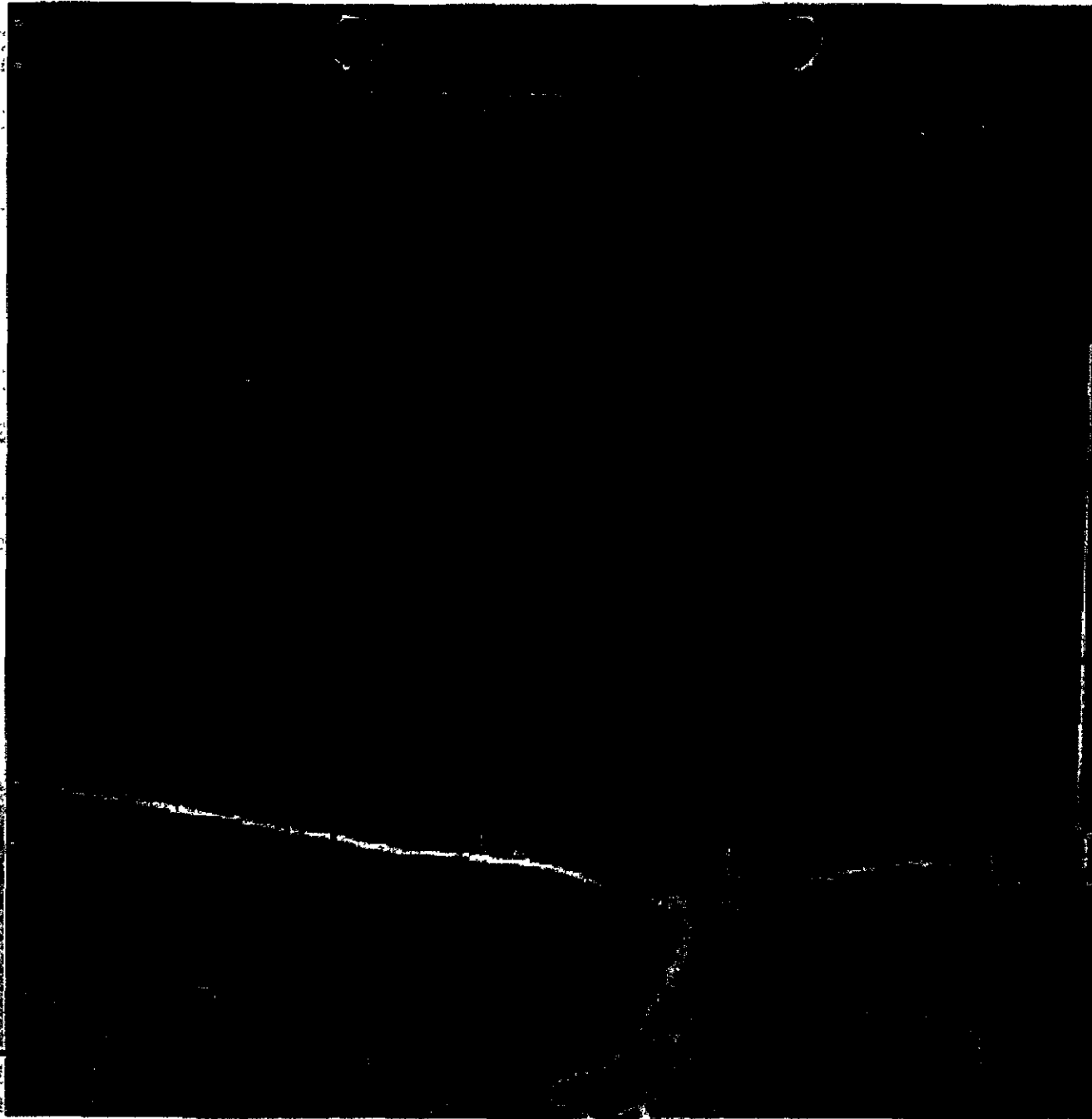
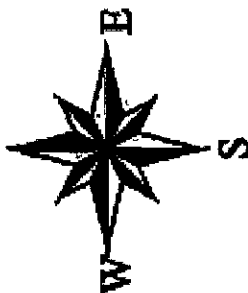
Place of Use

Point of Diversion

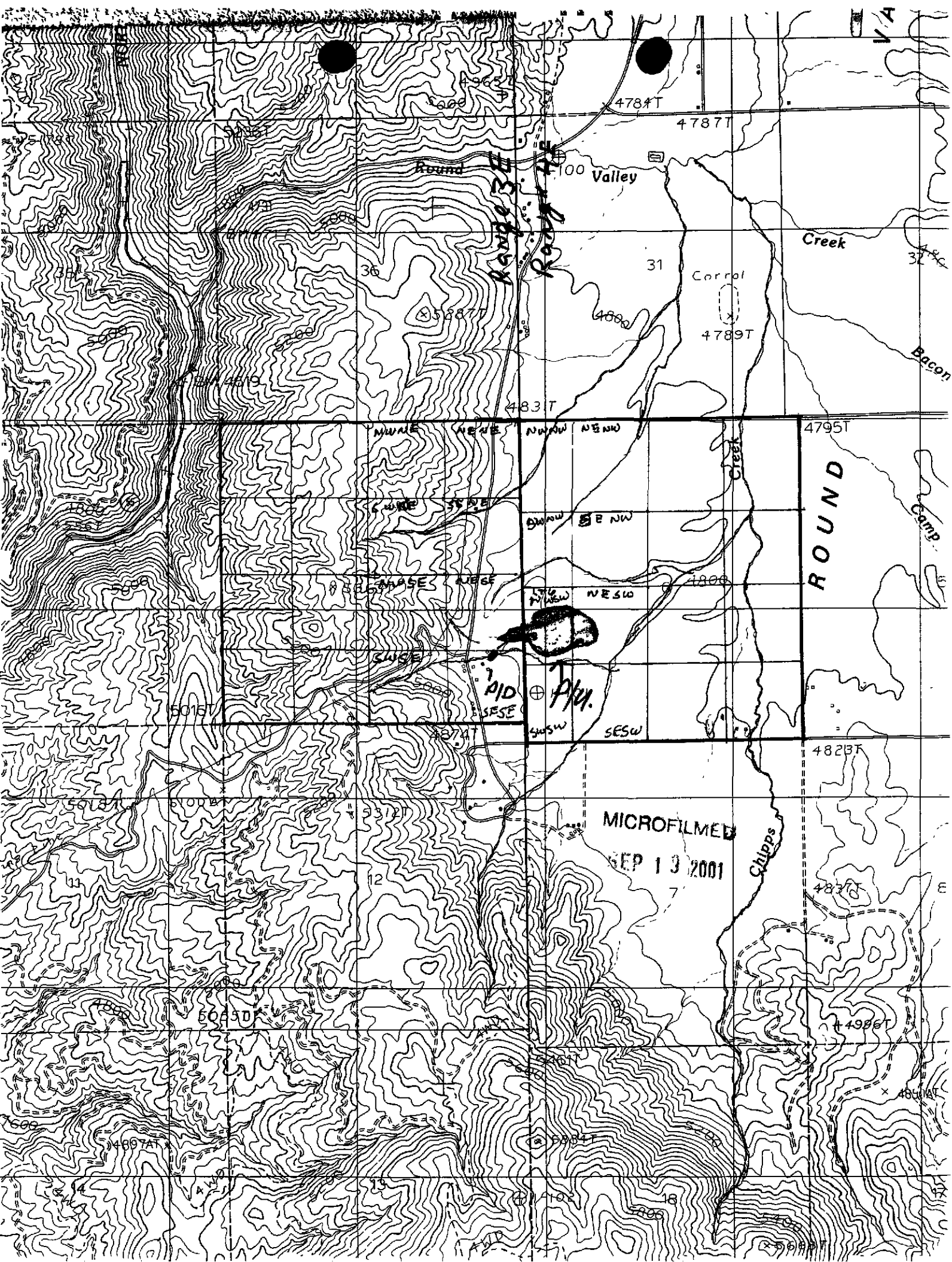
Section lines

1/4 1/4 lines

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0 0.25 0.5 Miles 1987 NAAPP Photo





STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

"Rabbit Creek"

ORIGINAL

## APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

- Name of Applicant Kyle F. & Fern R. Ellis Phone 382-4518  
Mailing address 9982 Round Valley Rd. Cascade, Idaho 83611
- Source of water supply Unnamed Stream (Rabbit Cr.) which is a tributary of Chipp's Creek
- Location of point of diversion is Township ~~11 N.~~ 11 N. Range 03 E Sec. 01 in the NF 1/4, SE 1/4, SE 1/4, Govt. Lot \_\_\_\_\_, B.M., Valley County;  
additional points of diversion if any: 11 N. 04 E S 06
- Water will be used for the following purposes:  
 Amount 0.60 for irrigation purposes from 04-15 to 10-15 (both dates inclusive)  
 (cfs or acre-feet per annum)  
 Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum)  
 Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum)  
 Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum)  
 Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum)  
 Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum)
- Total quantity to be appropriated is (a) 0.60 cfs and/or (b) \_\_\_\_\_  
 cubic feet per second acre feet per annum
- Proposed diverting works:
  - Describe type and size of devices used to divert water from the source existing Stream Channel  
and ditches
  - Height of storage dam \_\_\_\_\_ feet; active reservoir capacity \_\_\_\_\_ acre-feet; total reservoir capacity \_\_\_\_\_ acre-feet
  - Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet
  - Is ground water with a temperature of greater than 85°F being sought? \_\_\_\_\_
  - If well is already drilled, when? \_\_\_\_\_; Drilling firm \_\_\_\_\_  
 Well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_
- Time required for completion of works and application of water to proposed beneficial use is \_\_\_\_\_ years (minimum 1 year)
- Description of proposed uses (If irrigation only, go to item 9):
  - Hydropower; show total feet of head and proposed capacity in KW. \_\_\_\_\_
  - Stockwatering; list number and kind of livestock. \_\_\_\_\_
  - Municipal; show name of municipality. \_\_\_\_\_
  - Domestic; show number of households. \_\_\_\_\_
  - Other; describe fully. \_\_\_\_\_

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SEP 19 2001

8. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RGE | SEC | N E |    |    |    | N W |    |    |    | S W |    |    |    | S E |    |    |    | TOTALS |
|-----|-----|-----|-----|----|----|----|-----|----|----|----|-----|----|----|----|-----|----|----|----|--------|
|     |     |     | NE  | NW | SW | SE | NE  | NW | SW | SE | NE  | NW | SW | SE | NE  | NW | SW | SE |        |
| 11N | 3E  | 1   |     |    |    |    |     |    |    |    |     |    |    |    | 7   |    |    |    | 7      |
| 11N | 4E  | 6   |     |    |    |    |     |    |    |    | 3   | 20 |    |    |     |    |    |    | 23     |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
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|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |

Total number of acres to be irrigated 30

10. Describe any other water rights used for the same purposes as described above. Combined with permit 65-03848

11. a. Who owns the property at the point of diversion? Kyle F. & Fern R. Ellis

b. Who owns the land to be irrigated or place of use? Kyle F. & Fern R. Ellis

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: \_\_\_\_\_

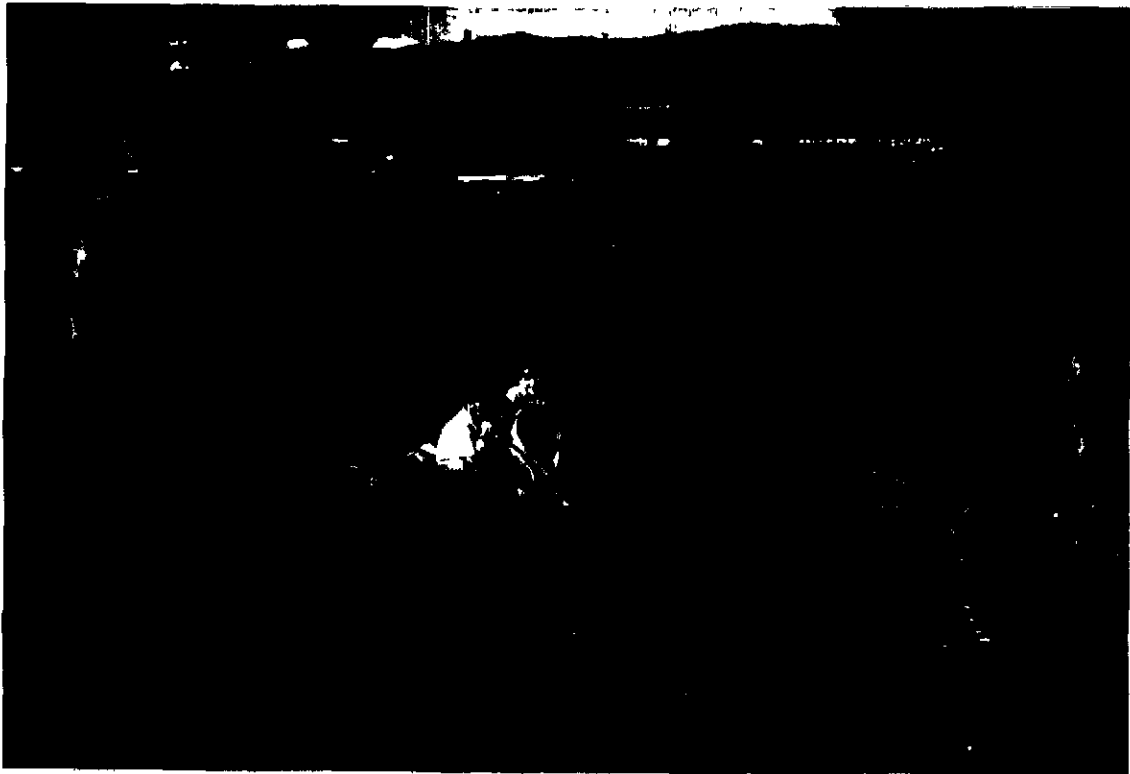
12. Remarks: \_\_\_\_\_

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

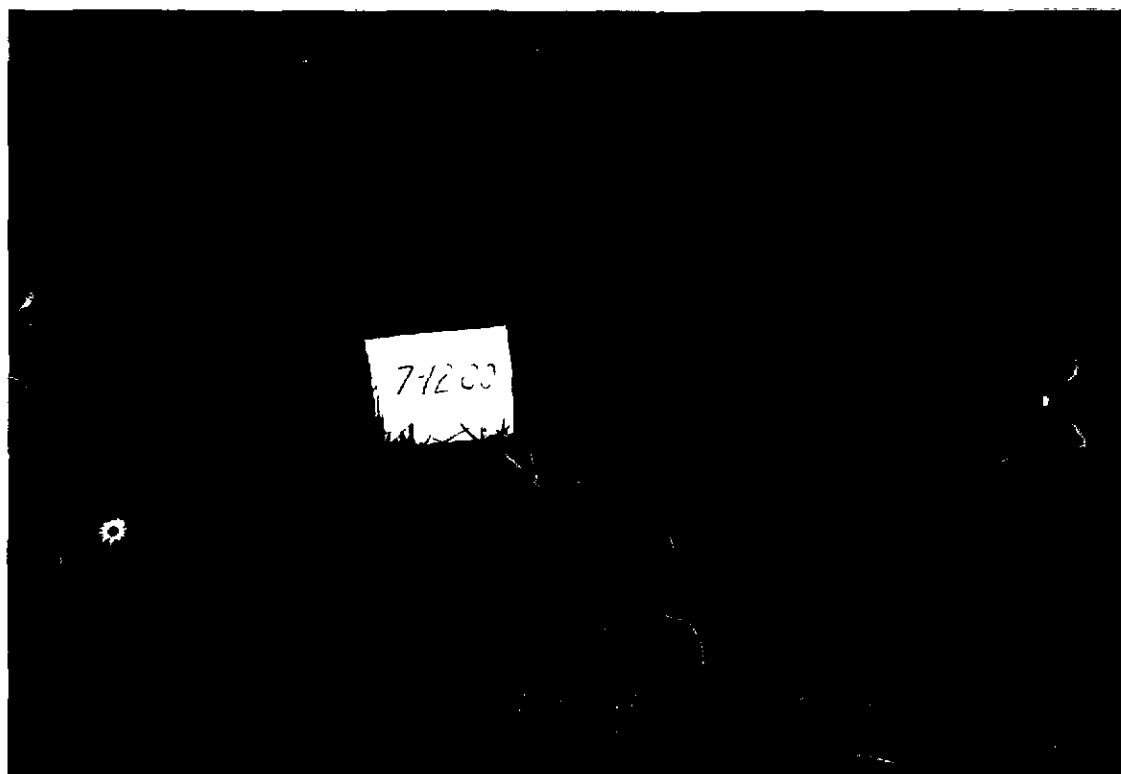
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Kyle F. & Fern R. Ellis  
Signature of Applicant (and title, if applicable)

Received by LM Date 3-3-00 Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_  
Fee \$ 100.00 Receipted by LM # 4002687 + 6 Date 3-3-00  
Publication prepared by \_\_\_\_\_ Date \_\_\_\_\_ Published in \_\_\_\_\_  
Publication approved \_\_\_\_\_ Date \_\_\_\_\_



SEP 14 2009



CMED

SEP 13 2001

65-3848  
65-13944

Mr. Kyle Ellis  
9982 Round Valley Rd  
Cascade ID 83611-5407

RECEIVED

FEB 3 - 2003

Department of Water Resources

Shelley Keen -

We are at a temporary  
address & would like our  
mail sent here as Post Office  
will not Forward it  
(Due to "Return to Sender")  
on envelop

\* Please send any mail to  
us till further notice  
at this address:

Kyle Ellis  
22400 Eel Lane  
Middleton, Id.  
83644



MICROFILMED

MAR 20 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

January 14, 2003

KYLE F ELLIS  
FERN R ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611

RE: Amended Preliminary Order Recognizing Abandonment of Water Use in the  
matter of Water Right 65-3848 and Permit 65-13944

Dear Interested Parties:

The accompanying order is an "**amended preliminary order**" issued by the department pursuant to Section 67-5243, *Idaho Code*. The amended preliminary order was issued on the department's own motion to correct typographical errors in the legal descriptions shown in finding of fact #1 and finding of fact #2 of the preliminary order issued on January 6, 2003. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at 208-327-7940.

Sincerely,

Shelley W. Keen  
Water Rights Supervisor

Enclosures

MICROFILMED

MAY 20 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

January 7, 2003

KYLE F ELLIS  
FERN R ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 893611

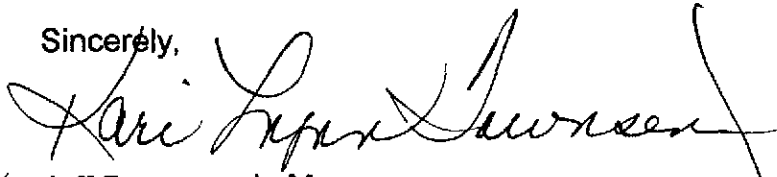
RE: Preliminary Order Recognizing Abandonment of Water Use in the matter of  
Water Right 65-3848 and Permit 65-13944

Dear Interested Parties:

The accompanying order is a "**preliminary order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at 208-327-7940.

Sincerely,

*for*   
Jeff Peppersack, Manager  
Water Right Permits Section

JP:klt

Enclosures

cc: Garrick Baxter, IDWR Legal Section  
Dorsey & Florence Herrick

MICROFILMED

MAY 20 2003

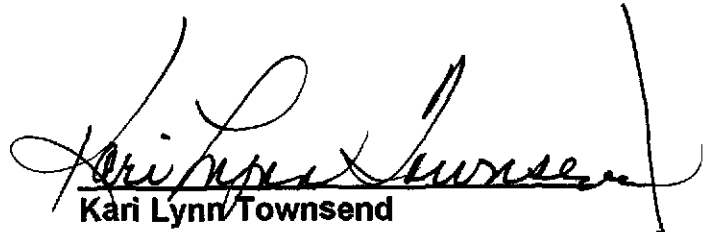
## CERTIFICATE OF SERVICE

I hereby certify that on **January 7, 2003**, I mailed a true and correct copy, certified, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

**RE: Permit 65-13944 & Water Right 65-3848**

**KYLE F ELLIS  
FERN R ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611**

**DORSEY HERRICK  
FLORENCE HERRICK  
10568 HWY 55  
CASCADE ID 83611**



**Kari Lynn Townsend  
Secretary**

MICROFILM

MAR 20 2003

**EXPLANATORY INFORMATION  
TO ACCOMPANY A  
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

**PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

**EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

**REQUEST FOR HEARING**

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

**ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

**CERTIFICATE OF SERVICE**

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

### FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

### APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MICROFILMED  
MAR 20 2003

RECEIVED

JAN - 2 2003

Department of Water Resources

AGREEMENT

Instrument # 252396

VALLEY COUNTY, CASCADE, IDAHO

2001-01-30

10:00:07 No of Pages: 7

Recorded for : FLORENCE HERRICK

LELAND G. HEINRICH

Fee: 21 00

Ex-Officio Recorder Deputy

Index to MISCELLANEOUS RECORD

DEFINITIONS

1. "Ellis" refers to Kyle and Fern Ellis whose address is 9982 Round Valley Rd, Cascade, ID 83611;
2. "Ellis water rights" means water right nos. 65-03848 and 65-13944, which are more specifically described on Exhibits A and B attached hereto;
3. "Herrick" refers to the Dorsey and Florence Herrick Family Trust, whose address is 10568 Hwy 55, Cascade, ID 83611;
4. "Herrick land" means Township 11N, Range 4E, Section 6, NESW;
5. "Place of use" refers to a three-acre place of use description contained in the Ellis water rights, which describes the three-acre place of use as being located on the Herrick land, as more fully illustrated on Exhibit C attached hereto.

AGREEMENT

WHEREAS the Ellis water rights contain an error in the place of use descriptions in that the place of use descriptions erroneously refer to three acres of the Herrick land;

WHEREAS Herrick has valid claims and causes of action to require that the Ellis water right place of use descriptions be amended to exclude reference to the Herrick land;

WHEREAS Ellis has agreed to correct, at Ellis' sole expense, the Ellis water right place of use descriptions to exclude reference to the Herrick land, but Ellis has requested additional time within which to make the necessary corrections;

WHEREFORE, the parties agree as follows:

In consideration of Herrick not immediately exercising any valid claims or causes of action to require that the Ellis water right place of use descriptions be amended to exclude reference to the Herrick land, Ellis agrees, at Ellis' sole expense, to correct the Ellis water right place of use descriptions to exclude reference to the Herrick land upon the earlier of (1) completion of the pending Snake River Basin Adjudication (SRBA) and administrative processes for the Ellis water rights, or (2) two years from the date of this agreement, whichever occurs first.

Ellis also agrees that Ellis will continue not to apply the Ellis water rights to the Herrick land and that Ellis has no claim of, and will make no future claim for, any interest whatsoever in and to the Herrick land. Time is of the essence of this agreement. If legal action is required by any party to enforce this agreement, the prevailing party shall be

MICROFILMED  
MAR 20 2003

COPY

entitled to reimbursement of reasonable costs and attorney fees. This agreement supercedes all prior oral or written communications between the parties and shall represent the entire agreement between the parties. This agreement shall be binding on the parties, their heirs, successors, and assigns.

WE AGREE TO THE ABOVE TERMS AND CONDITIONS:

Kyle F. Ellis  
KYLE F. ELLIS

Fern R. Ellis  
FERN R. ELLIS

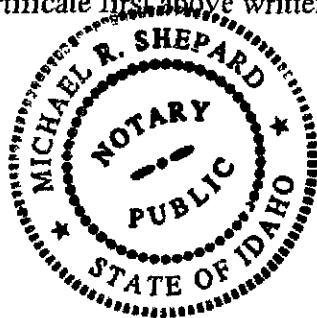
Florence Herrick trustee  
FLORENCE E. HERRICK, as Trustee of  
THE DORSEY & FLORENCE HERRICK  
FAMILY TRUST

VERIFICATION

STATE OF IDAHO )  
County of Ada )ss.

On the 16th day of January 2001, before me, the undersigned, a Notary Public in and for the State, personally appeared KYLE F. ELLIS known to me to be the person whose name appears upon the within instrument and subscribed to same, and being by me first duly sworn signed 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.

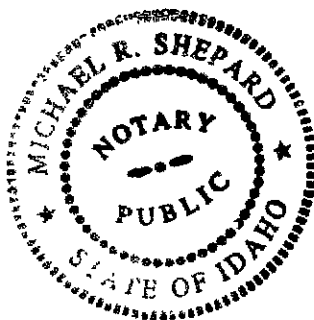


[Signature]  
NOTARY PUBLIC FOR IDAHO  
Residing at Boise  
My commission expires 1-15-05

STATE OF IDAHO )  
County of Ada )ss.

On the 16th day of January 2001, before me, the undersigned, a Notary Public in and for the State, personally appeared FERN R. ELLIS known to me to be the person whose name appears upon the within instrument and subscribed to same, and being by me first duly sworn signed 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.

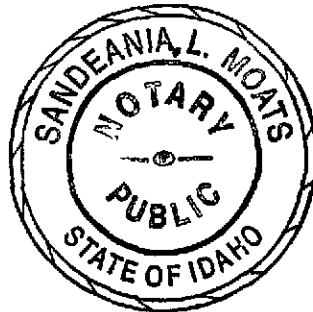


[Signature]  
NOTARY PUBLIC FOR IDAHO  
Residing at Boise  
My commission expires 1-15-05

STATE OF IDAHO )  
 )ss.  
County of Valley )

On the 30<sup>th</sup> day of January 2001, before me, the undersigned, a Notary Public in and for the State, personally appeared FLORENCE E. HERRICK known to me to be the person whose name appears upon the within instrument and subscribed to same, and being by me first duly sworn, declared that she is the Trustee of the Dorsey & Florence Herrick Family Trust and that she signed the foregoing instrument as Trustee of the aforementioned trust

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



Sandeana L. Moats  
NOTARY PUBLIC FOR IDAHO  
Residing at New Meadows  
My commission expires 9/15/2003

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES  
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: DEC-8-1999  
PAGE A-813

|                            |                                                                                                                     |                              |                      |
|----------------------------|---------------------------------------------------------------------------------------------------------------------|------------------------------|----------------------|
| RIGHTS FROM:               | SOURCE UNNAMED STREAM                                                                                               | TRIBUTARY: CHIPPS CREEK      |                      |
| RIGHT NUMBER:              | 65-03848                                                                                                            |                              |                      |
| NAME & ADDRESS:            | FERN R ELLIS<br>9982 ROUND VALLEY RD<br>CASCADE ID 83611<br><br>KYLE F ELLIS<br>ROUND VALLEY RD<br>CASCADE ID 83611 |                              |                      |
| SOURCE:                    | UNNAMED STREAM                                                                                                      | TRIBUTARY: CHIPPS CREEK      |                      |
| QUANTITY:                  | 0.6 CFS                                                                                                             |                              |                      |
| PRIORITY DATE:             | 06/01/1887                                                                                                          |                              |                      |
| POINT OF DIVERSION:        | T11N R03E S01                                                                                                       | SESE                         | Within VALLEY County |
| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE<br>IRRIGATION                                                                                        | PERIOD OF USE<br>04-15 10-15 | QUANTITY<br>0.6 CFS  |
| PLACE OF USE               | IRRIGATION<br>T11N R03E S01 NESE 7<br>R04E S06 NESW 3 Lot 6 (NWSW)20<br>30 ACRES TOTAL                              |                              |                      |

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE, SECTION 42-1412(6) IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

MICROFILMED  
1999 10 2009

EXHIBIT A

DATE: 07/25/00  
PAGE: 1

VOLUME

04/06/2000 IRRIGATION

CASCADE ID 83611

8157-785 (807)

**Stage: APPLICATION**

**NESEF**

33

**3 MB**

Ac Lt Ac Lt Ac

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| Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources): | 65-03848 | 65-03849 | 65-07598 | 65-10775 |
|---------------------------------------------------------------------------------------|----------|----------|----------|----------|
|                                                                                       |          |          |          |          |

Other Water Rights Listing Overlapping Place(s) of use:  
65-03848

**Remarks:** GEN Applicant agrees to mitigate consumptive use in the future as needed.

|        |                 |            |                    |            |
|--------|-----------------|------------|--------------------|------------|
| Dates: | App. Received:  | 03/03/2000 | Priority Date:     | 04/06/2000 |
|        | Proof Due Date: |            | Proof Made Date:   |            |
|        | Exam Made Date: |            | Exam Sent to S.O.: |            |
|        | Licensed Date:  |            |                    |            |

Misc: \_\_\_\_\_  
Water District Number: \_\_\_\_\_  
Field Exam Fee: \_\_\_\_\_

Comments: Date: 04/14/2000 User-ID: DNELSON Subject: ADDITIONAL INFORMATION  
APPLICANT: Unhatched stream known locally as Rabbit Creek. This  
is a supplemental filing to 65-03848 and will irrigate the same  
acres from a different creek.  
IDWR: 65-03848 overlaps place of use, but is for a different  
stream.

Audit: 04/14/00 DNELSON 04/18/00 SCURTIS 06/01/00 STAYLOR

# EXHIBIT

Claim No(s): 65-03848

Claimant(s) Ellis

T11N, R03E, S 1

T11N, R04E, S 6

Prepared by: Sue Bock

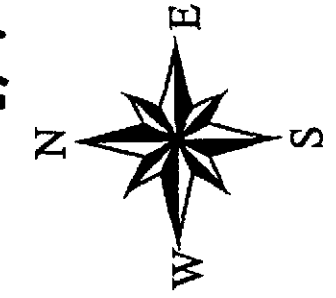
Date: 10/14/99

☐ Place of Use

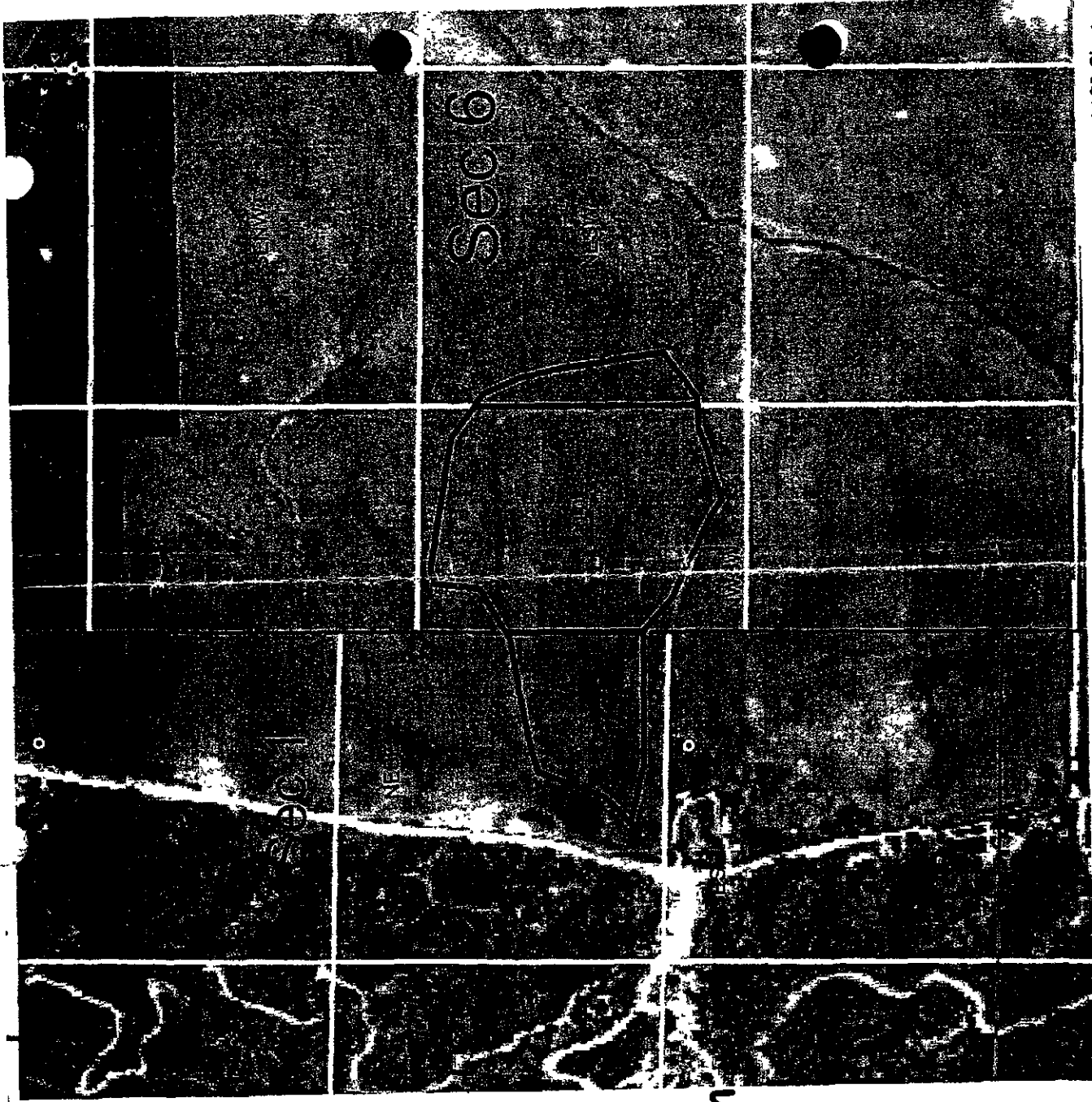
☒ Point of Diversion

☐ Section lines

1/4 1/4 lines



EXHIBIT



0.5 Miles

0.25

0

1987 NAPP Photo

December 23, 2002

RECEIVED

DEC 23 2002

Idaho Department of Water Resources  
1301 No. Orchard St.  
P O Box 83720  
Boise, Idaho 83705-5082

Department of Water Resources

Norman Young  
Administrator  
Water Management Division

MICROFILMED

DEC 23 2002

Subject: Ellis Decreed Water Right 65-3848 and Ellis Permit Application 65-13944

Dear Sir:

We, Kyle F. and Fern R. Ellis, 9982 Round Valley Road, Cascade, Idaho. 83611 hereby request that our Decreed Water Right 65-3848 be amended to reflect the abandonment of that portion of our filing showing 3 acres located in the NESW portion of Section 6, T11N, R04E, and that prorated portion of our 0.6 cfs of water to a new amount of 0.54 cfs of water. Our previous filings were in error, as the Dorsey and Florence Herrick Family Trust own these 3 acres.

We also request that our Permit Application 65-13944 also be amended, showing the abandonment of the same 3 acres and the same prorated 0.54 cfs of water as Permit 65-13944 is combined with our Decreed Water Right 65-3848 listed above.

Finally, we hereby request a Formal Order by the Director of the Idaho Department of Water Resources recognizing our intent to abandon; And that the Idaho Department of Water Resources revise its Water Rights records to reflect the abandonment of our Decreed Water Right 65-03848 and Permit for Application 65-13944 for these 3 acres of land belonging to the Dorsey and Florence Herrick Family Trust

Respectfully,

Kyle F. Ellis  
Kyle F. Ellis

Fern R. Ellis  
Fern R. Ellis

Derroll Ellis

ellis9988@myruelbox.com

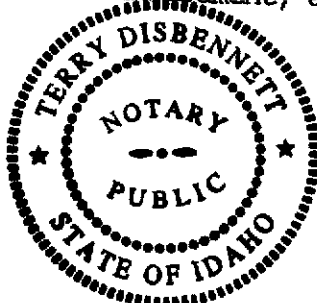
9988 Round Valley Rd. Cascade, ID 83611 (208) 382-4518  
5268 Bainbridge Dr. Boise, ID 83703 (208) 336-5570  
Summer 2002 - Winter 2003

STATE OF IDAHO

COUNTY OF Ada )  
: SS

On This 23<sup>rd</sup> day of December, in the year 2002, before me, a Notary Public in and for said State, personally appeared Kyle F. Ellis and Fern R. Ellis, known or identified to me to be the person(s) whose name(s) are subscribed to the within Instrument, and acknowledged to me that they executed the same.

12/23/02



Terry Disbennett

Notary Public of Idaho  
Residing at Boise, Idaho  
Commission Expires: 03/19/2007

December 23, 2002

Idaho Department of Water Resources  
1301 No. Orchard St.  
P.O. Box 83720  
Boise, Idaho 83705-5082

Norman Young  
Administrator  
Water Management Division

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Respectfully,

Kyle F. Ellis  
Kyle F. Ellis

Fern R. Ellis  
Fern R. Ellis

STATE OF IDAHO )  
COUNTY OF Ada ) : SS

On This 23<sup>rd</sup> day of December, in the year 2002, before me, a Notary Public in and for said State, personally appeared Kyle F. Ellis and Fern R. Ellis, known or identified to me to be the person(s) whose name(s) are subscribed to the within Instrument, and acknowledged to me that they executed the same.

12/23/02



Terry Disbennett  
Notary Public of Idaho  
Residing at Boise, Idaho  
Commission Expires: 03/19/2007



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

July 27, 2001

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

KYLE F ELLIS  
FERN R ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611

**PROOF ACKNOWLEDGMENT LETTER**

**RE: PERMIT NO. 65-13944**

Dear Permit Holder:

The department is in receipt of the proof of beneficial use form submitted for the above referenced permit.

The next step in the process of developing a water right is for the department to contact you and schedule a field examination to determine and confirm the uses being made of the water, and that it meets the permitted beneficial use for licensing of this water right. The department then issues a license that reflects what you have developed and applied to a beneficial use.

During my review of the proof you filed, I see that you wish to have 3 acres deleted in the NE1/4 SW1/4 of Section 6, T11N, R4E, which changes the total acres permitted for irrigation to 27. I suggest that when the field examiner meets with you to go over the diversion, that he/she note this change and then the license will be issued to reflect the current use of the water.

Additionally, under item number 4 of the Conditions of Approval on your Permit states that, "Prior to diversion of water..., the right holder shall install and maintain a measuring device and lockable controlling works... acceptable to the Department..." I recommend that you comply with this condition before the field examiner meets with you, in order to avoid delay of the issuance of the license.

Be advised that Section 42-248, Idaho Code requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

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**SEP 19 2001**

Page 2

If you have questions concerning the field examination, please contact the **Western** Regional Office of the department in Boise at (208) 334-2190. If you have any additional questions, please contact me at (208) 327-7953.

Sincerely,

A handwritten signature in cursive script that reads "Deborah J. Gibson".

Deborah J. Gibson  
Administrative Assistant  
Water Allocation Bureau

Encl.

c: IDWR - Regional Office

MICROFILMED

SEP 19 2001

## ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 65-13944

Reviewed By: dgibson

Date: July 27, 2001

|                                   | <u>Yes</u> | <u>No</u> |                                  | <u>Yes</u> | <u>No</u> |
|-----------------------------------|------------|-----------|----------------------------------|------------|-----------|
| Proof received timely?            | X          |           | Drilling permit required?        |            | X         |
| License examination fee required? | X          |           | Drilling permit No.              |            |           |
| Appropriate fee submitted?        | X          |           | Drilling permit upgrade needed?  |            |           |
| Receipt No.:                      |            | C055141   | Well driller's report filed?     |            | X         |
| Additional Amount Due.            |            |           | Measuring device required?       | X          |           |
| Name and address same as permit?  | X          |           | Measuring device installed?      |            | X         |
| Are the water uses correct?       | X          |           | Measure device waiver requested? |            |           |

### Priority Calculation

|                     |   |            |
|---------------------|---|------------|
| Date proof received |   | 07/26/2001 |
| Date proof due      | - | 07/01/2002 |
| Lapse notice sent   | - |            |
| No of days late     | = | 0          |
| Holiday allowance   | + |            |
| Priority date       | + | 03/03/2000 |
| New priority date   | = | 03/03/2000 |

### Deficiencies of Actions Items

Acknowledge proof and address the change in the acres they irrigate with this right.



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

July 2, 2001

FERN R ELLIS  
KYLE F ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611

RE: Permit No. 65-13944

**Permit Approval Notice**

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

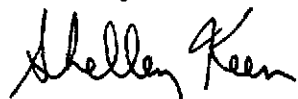
Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

**MICROFILMED**

**SEP 19 2001**

If you have any questions, please contact me at 208-327-7946.

Sincerely,

A handwritten signature in cursive script that reads "Shelley Keen".

Shelley W. Keen

Water Rights Supervisor

SWK:klf

Enclosure(s)

MICROFILMED

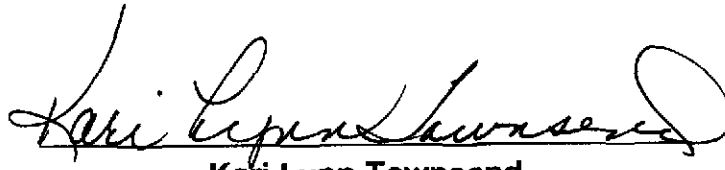
SEP 19 2001

**CERTIFICATE OF MAILING**

I hereby certify that on July 2, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

**RE: WATER RIGHT NO. 65-13944**

**FERN R ELLIS  
KYLE F ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611**

  
**Kari Lynn Townsend  
Secretary**

**MICROFILMED  
SEP 19 2001**

**EXPLANATORY INFORMATION  
TO ACCOMPANY A  
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

**PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

**EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

**REQUEST FOR HEARING**

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

**ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

**CERTIFICATE OF SERVICE**

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303)

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SEP 19 2001

### FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

### APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

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SEP 19 2001

## MEMORANDUM

**To: File 65-13944**

**From: Sharla**

**Date: June 14, 2001**

**Re: Application for Permit vs. Application for Transfer**

This application for permit filing is for a diversion from an unnamed stream for the irrigation of 30 acres that are also irrigated under Right 65-3848 from another unnamed stream.

I spoke with Dan Nelson concerning the rationale behind filing an application for permit when an application for transfer could have been filed on right 65-3848 to add a second point of diversion. Dan told me that the advertising of the application for permit had already occurred when department personnel realized that an application for transfer of the existing right could have been filed instead. They spoke to the applicant about this and the applicant stated that since the app for permit had already been advertised, protested and the protest dismissed, he did not want to go through the same process for an app for transfer and wished to proceed with the app for permit.

When talking with Dan, he explained the locations of the two diversion points used to irrigate these 30 acres. Right 65-3848 is diverted from an unnamed stream a little northwest of the unnamed stream to be diverted from with right 65-13944. The two unnamed streams connect and a ditch carries the water north to the irrigated lands.

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SEP 19 2001

# APPLICATION FOR PERMIT STATE OFFICE ANALYSIS

Reviewed by Sharla Curtis on 6/13/01

No. 65-13944 Name. Ellis Corp Officers N/A Ad ok ☒ Govt Lots

AREA OF CONCERN: No/Yes                      Moratorium                      ~~GWMA~~ TRUST/NON-TRUST

## GROUNDWATER: (✓Flow Chart)

### DRILLING PERMIT

All wells - 046  
Basin 34 - 084 (if necessary)  
WMD - North/East/West  
≤ 0.24 cfs/5 acres - No MD  
> 0.24 cfs/5 acres - 067

### ~~WMD~~

Supply (ir = only use) - 065-104  
Supply (ir + other uses) - 100-105  
≤ 0.24 cfs/5 acres - No MD  
> 0.24 cfs/5 acres - 01M

## LOCATION:

Boise Front LoGeo - 058 (<85 GW)  
Mitigation - 121  
  
Trust - 051 (consumptive uses)  
Non-Trust - 048-049 (consumptive uses or non-cons > 10 cfs)

## USES:

~~STORAGE~~ - 18C-01H-01P-18B-NA  
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)  
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)  
STOCKWATER - R37 (BLM/FS)-111 (instream stock)  
MINING - 054-106  
FISH PROP - 029 (70's only)-007-042-106  
HEAT/COOL - R07 (injection well)  
FIRE PROT - 077  
COMMERCIAL/  
INDUSTRIAL - 106-R07  
DAIRY - 082-WD8

## SURFACE WATER: (✓Flow Chart)

F&G contacted - Yes/No Response No objection  
In/Above MSF - WB9

### PLANNING REVIEW/RESPONSE

WD - R04 (WD# 65)  
≤ 0.20 cfs/others - 01H(P01), 01P or No MD  
> 0.20 cfs - 01J

### SPRINGS/SINK, INACTIVE WD or WD

≤ 0.24 cfs/5 acres - No MD  
> 0.24 cfs/5 acres - 01M or No MD

## RIVER BASINS: (SW special considerations)

SNAKE R (01) - W22, N/A  
(02,03) - 007 (w/ remark WB9 if above Weiser)  
PAYETTE R (65) - W22, 047 (Payette Lake)  
SALMON R (70's) - 029 (fish screens)  
WEISER R (67) - 086-087

## USES:

POWER - 17H or 17K (+uses)-17G (not under FERC)  
or 17M (FERC regulated >25 cfs or 500hp)  
08A-025-027-01N-106-W13 (if dewatering stream)  
  
MUNICIPAL  
Restricted area - 022,075  
Irr., GW supp to SW - 102  
  
DOMESTIC  
Surface water - WB5 (Big Wood or Boise above Star Bridge)  
27A (Payette R)  
> 1 in restricted area - 070-071-075 (no parks/common areas, etc)  
Irr use listed separate  
or none allowed - WB5  
Moratorium approvable - W03 (2500 gpd - meets domestic definition  
i.e. D/convenience store)

BENEFICIAL USE DUE: 6/01/2002

## MISC CONDITIONS/REMARKS:

Protested - 020-W19 dismissed  
Development Period  
> 1 yr - 26A  
Ownership - 004  
Non-consumptive - 027  
Water Quality - 106-R07

Multiple pd's per 1/4 - W32  
Subd lot desc (pd) - W59  
Subd lot desc (pu) - W60  
Use definitions - W02 example - S/50 range  
Pre-1987 development - 068-074 (allow 120 days for proof due)  
Single pd intended - 076

IRRIGATION SEASON 3/15 - 10/31 (Per updated map)

IRR VOLUME/ACRE 4.5

## OTHER CONDITIONS/REMARKS

COMMENTS source known locally as Rabbit Creek.

IDAHO DEPARTMENT OF WATER RESOURCES  
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: DAN DATE: 3-22-00 APPLICATION: 65-13944

REQUIRED INFORMATION

- ☒ Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)
- ☒ Address:
- ☒ Source: (See USGS Quad for names of water sources)
- ☒ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ County:
- ☒ Quantity: (flow and/or volume)
- ☒ Period of use:
- ☒ Nature of proposed use: (Include description of use)
- ☒ Description of diverting works:
- ☒ Time required for beneficial use of water:
- ☒ Place of use or acres irrigated:
- ☒ Map: (show T, R, S, QQ &/or QQQ)
- ☒ Subdivision plat: (for > 1 home in restricted area.  $\geq$  5 homes in non-restricted area)
- ☒ Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid

Gov't. Lots:  
NO P/D  
yes P/U

RECEIVED

JUN - 4 2001

Department of Water Resources

ADDITIONAL INFORMATION

YES ADVERTISE REMARK(S)  
(Reviewer identify which remarks)

X T FLAG CHANGED TO P FLAG

YES NO

- ☒ Overlapping place of use: (Describe source & relationship to present application on next page.)
- ☒ Overlapping point of diversion.
- ☒ Critical groundwater area:
- ☒ Groundwater management area:
- ☒ 1992 moratorium:
- ☒ Surface water source, IDFG letter needed.
- ☒ Protected river or minimum flow reach, notify water planning bureau.
- ☒ E-mail to SCA staff: (perennial stream, non-pump diversion &/or any mining).
- ☒ E-mail to Dam Safety staff: (for any storage)
- ☒ Mitigation plan: Check any that apply.  
\_\_\_\_\_ immediate = acceptable plan required and submitted.  
☒ future = open areas, acceptance of condition of approval is in file.
- ☒ Send power requirement letter &/or fish farm requirement letter.
- ☒ Power residency affidavit:
- ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
- ☒ \*REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

Date Requested \_\_\_\_\_ Date Response Received \_\_\_\_\_

## PROCESSING

APP. NO. 65-13944

YES NO

☒ ☐ In form for advertising:  
☒ ☐ Statewide advertising: (> 10 cfs &/or 1000 af)  
☒ ☐ Fee amount, receipt number and date recorded on application:

SEND COPIES TO: NOTE IF E-MAIL COMMENT LETTER USED.

YES NO

☐ ☒ I.D. Health & Welfare  
☐ ☒ I.D. District Health  
☒ ☐ I.D. Fish & Game  
☐ ☒ I.D. Lands

YES NO

☐ ☒ U.S. BLM  
☐ ☒ U.S. Forest Service  
☒ ☐ Water Dist. # 65  
☐ ☒ Water Planning Bureau  
☒ ☐ Other see attached  
ROUND VALLEY  
LIST

## FINAL REGIONAL PROCESSING REVIEW:

YES NO

☒ ☐ Affidavit of publication received:  
☒ ☐ Application published correctly: If not, record action taken.

☒ ☐ Publication dates and paper recorded on application:  
☐ ☒ Final date for protest 5-22-00  
☐ ☒ Protests received.  
☐ ☒ Recommendations attached:  
☐ ☒ Measuring device required:  
☒ ☐ Water delivered by water master? District # 65, Payette River  
☐ ☐ Special conditions of approval or cover letter: 121

See below for additional information

Recommended Date of Priority 3/3/00Recommended by: Gay Date: 5/28/01

## ADDITIONAL INFORMATION:

~~application for permit~~ 65-03848 OVERLAPS  
 PLACE OF USE BUT IS FROM ANOTHER  
 UNKNOWN STREAM 65-03709 ALSO OVERLAPS  
 PLACE OF USE, BUT DOES NOT SEEM  
 SIGNIFICANT. 65-03848, 65-03849-65-07598,  
 65-10775, 65-12946 OVERLAP POINT OF DIVERSION, BUT  
 ARE FOR SPRINGS EXCEPT FOR 65-03848 WHICH IS ANOTHER  
 UNNAMED STREAM.

SD-0420-2  
MODIFY RECORD

Idaho Department of Water Resources  
Modify Comment

Date: 04/14/00  
Time: 10:35:48

Water Right Number: 65-13944

Comment Date: 4/14/2000 User ID: DNELSON

Subject: ADDITIONAL INFORMATION \_\_\_\_\_

APPLICANT: Unnamed stream known locally as Rabbit Creek. This\_\_\_\_  
is a supplemental filing to 65-03848 and will irrigate the same\_\_\_\_  
acres from a different creek.\_\_\_\_\_

IDWR: 65-03848 overlaps place of use, but is for a different\_\_\_\_  
stream.\_\_\_\_\_

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

(Enter=Continue/Exit) (Gold2=Update) (Gold3=Delete) (Gold4=Prev) (Gold5=Next)

MICROFILMED

SEP 19 2001

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO**

**IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 65-13944 IN THE ) NOTICE OF DEFAULT  
NAME OF KYLE &/OR FERN ELLIS )  
\_\_\_\_\_ )**

A prehearing conference regarding protests against application for water right no. 65-13944 in the name of Kyle &/or Fern Ellis was scheduled on Monday, August 28, 2000, at 9:00 a.m. at the offices of the Idaho Department of Water Resources (IDWR), Western Region, 2735 Airport Way, Boise, Idaho 83705. Notice of the prehearing conference was sent to Frederick Ringel at P. O. Box 742, Cascade, Idaho 83611.

At the time and place for the prehearing conference, the applicant, Kyle Ellis appeared. Also, Darrell Ellis and Gary Spackman, appeared. Frederick Ringel did not appear for the prehearing conference. Frederick Ringel did not communicate with IDWR regarding his absence.

**NOTICE OF DEFAULT**

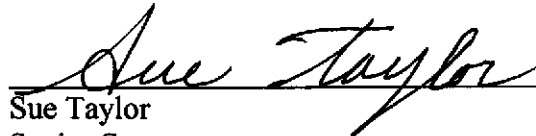
Notice is hereby given that a default order is proposed to be issued because of a failure of the protestant to appear at the time and place set for the prehearing conference. Protestant Frederick Ringel has seven (7) days from the date of service to challenge, by written petition, why a default order should not be issued. Good cause must be shown why Ringel did not appear at the prehearing conference.

Dated this 28<sup>th</sup> day of August, 2000.

  
\_\_\_\_\_  
Gary Spackman  
Hearing Officer

## CERTIFICATE OF MAILING

I hereby certify that on this 30<sup>th</sup> day of August, 2000, I mailed a true and correct copy, postage prepaid, of this Notice of Default to those listed below:

  
Sue Taylor  
Senior Secretary

KYLE &/OR FERN ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611

FREDERICK RINGEL  
PO BOX 742  
CASCADE ID 83611

MICROFILMED  
SEP 19 2001

**IDAHO DEPARTMENT OF WATER RESOURCES**  
**2735 AIRPORT WAY, BOISE, IDAHO 83705**

**Conducted by: Gary Spackman**

## ADDRESS

Gerald R. Ellis. 9948 Royal Vlnk Rd. Chateaufort, Va.  
 Kyle F. Ellis " " " "

SEP 13 2001

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE**

**STATE OF IDAHO**

**IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 65-13944, IN THE )  
NAME OF KYLE &/OR FERN ELLIS )**

---

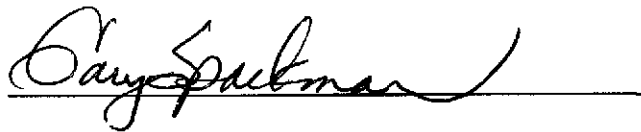
**NOTICE OF PREHEARING  
CONFERENCE**

On March 3, 2000, Kyle &/or Fern Ellis filed with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by Frederick Ringel.

IDWR has scheduled a prehearing conference for the protest to be held on **Monday, August 28, 2000, at 9:00 a.m. at the Idaho Department of Water Resources, Western Region, Boise, Idaho 83705.** The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the IDWR within (10) days prior to the conference.

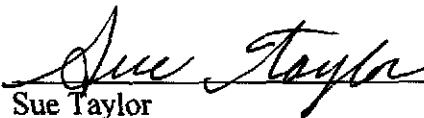
Dated this 9<sup>th</sup> day of August 2000.



Gary Spackman

## CERTIFICATE OF MAILING

I hereby certify that on the 14<sup>th</sup> day of August 2000, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to the applicant(s) and protestant(s) listed:

  
Sue Taylor  
Senior Secretary

KYLE &/OR FERN ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611

FREDERICK RINGEL  
PO BOX 742  
CASCADE ID 83611

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SEP 19 2001

## **CONFERENCE AND HEARING PROCEDURE**

### **APPLICATION FOR PERMIT**

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

### **BURDEN OF PROOF**

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

### **PROCEDURE**

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

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SEP 19 2001

## **CONFERENCE**

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter.

At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

## **HEARING**

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

## **EXHIBITS**

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

## **AMERICANS WITH DISABILITIES ACT**

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

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SEP 19 2001



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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

FAX (208) 334-2348

**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

June 20, 2000

LONG VALLEY ADVOCATE  
PO BOX 1079  
CASCADE ID 83611

Re: Ad for Application for Permit No. 65-13944 in the Name of Kyle &/or Fern Ellis

Dear Legal Dept.:

Enclosed is a copy of a legal notice and a copy of the affidavit for the above-referenced application for permit. You will notice that there are discrepancies between the two. The water right number was advertised in error.

Please publish the enclosed correction on July 6 and 13, 2000.

An affidavit of the corrected publication should be submitted to the department by July 24, 2000.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Sue Taylor'.

Sue Taylor  
Senior Secretary

Enclosures

MICROFILMED

SEP 13 2001

**CORRECTED NOTICE OF PROPOSED  
APPLICATION NO. 65-13944**

Notice for **KYLE F. AND FERN R. ELLIS**, of 9982 Round Valley Road, Cascade, ID 83611, was published May 3<sup>rd</sup> and 10<sup>th</sup> incorrectly listing the application number as o. 65-13943 instead of 65-13944.

Any protest against the approval of the corrected change must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705-5082, together with a protest fee of \$25 for each application on or before July 24, 2000. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Long Valley Advocate on July 6 & 13, 2000.

MICROFILMED

SEP 19 2001

## COMMENT LETTER LIST FOR ROUND VALLEY

FREDERICK &/OR GLORIA RINGEL  
PO BOX 582  
CASCADE, ID 83616

DEROLL K ELLIS  
5268 BAINBRIDGE DRIVE  
BOISE, ID 83703

ROBERT PETERSON  
11378 LLOYD COURT  
CASCADE, ID 83611

JERRY BETCHAN  
4809 ANDERSON WAY  
NAMPA, ID 83687

RICK MC MULLEN  
C/O ELK VALLEY RANCH  
PO BOX 508  
CASCADE, ID 83611

JIM KLING  
1515 SOUTHSIDE BLVD.  
NAMPA, ID 83686

GENE AND ROBERTA BRUMBAUGH  
290 GRAY LANE  
CASCADE, ID 83611

LARRY AND NANCY FITZGERALD  
C/O GENE AND ROBERTA BRUMBAUGH  
290 GRAY LANE  
CASCADE, ID 83611

CLEOTA AND STAN PATTERSON  
HORSEPITALITY RV PARK  
BOX 2525#8  
WICKENBURG, AZ 85358

WOOD LIVING TRUST  
PO BOX 670  
CASCADE, ID 83611

RUSS WALLACE  
5603 GARY LANE  
BOISE, ID 83703

MICROFILMED

SEP 19 2001



**State of Idaho**  
**DEPARTMENT OF WATER RESOURCES**

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

June 5, 2000

**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

KYLE &/OR FERN ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611

Re: Application for Permit No. 65-13944

Dear Applicant:

Enclosed is a protest filed against the issuance of a permit pursuant to the above-referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (per Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The department suggests you contact the protestant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

Enclosed are calendars for the months of July and August, 2000. Please mark dates you are **unavailable** during the two months and return them within two weeks of receiving this letter. Also, please specify if you would rather hold the conference in Cascade or in Boise. After the expiration of two weeks, this office will shortly schedule a conference if the matter is not resolved informally. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

Please contact this office if you have questions regarding this procedure.

Sincerely,

  
Gary Spackman

MICROFILMED

GS:st

Enclosure: Copy of protest(s) and Calendars

SEP 19 2001



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**

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

June 5, 2000

**DIRK KEMPTHORNE**  
GOVERNOR

FREDERICK D RINGEL  
PO BOX 742  
CASCADE ID 83611

**KARL J. DREHER**  
DIRECTOR

Re: Application for Permit No. 65-13944 in the Name of Kyle &/or Fern Ellis

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

Enclosed are calendars for the months of July and August, 2000. Please mark dates you are **unavailable** during the two months and return them within two weeks of receiving this letter. Also, please specify if you would rather hold the conference in Cascade or in Boise. After the expiration of two weeks, this office will shortly schedule a conference if the matter is not resolved informally. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If this office can be of further assistance, please contact us.

Sincerely,

  
Gary Spackman

MICROFILMED

GS:st

CC: Application and Calendars

SEP 19 2001

**RINGEL & ASSOCIATES, P.A.**  
LAND SURVEYING - DEVELOPMENT - CONSTRUCTION



May 16, 2000

**RECEIVED**  
**MAY 19 2000**  
WATER RESOURCES  
WESTERN REGION

**CORPORATE OPERATIONS**  
**PO BOX 742**  
**CASCADE, IDAHO 83611**  
**PHONE: (208) 382-4230**

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

Re: Application for Water Right No. 65-13943 and 65-13944  
in the name of Kyle &/or Fern Ellis

Dear Mr. Spackman:

We have no formal protest against Application No. 65-13943 as long as it does not affect our existing irrigation or the down stream stock water rights.

We now make formal protest against the approval of Application No. 65-13944. Enclosed is a check for \$25.00, check #1057.

Sincerely,

Fredrick D. Ringel

Enclosure: 1

cc: Michael Pierce, Attorney  
Dan Hawkey, Attorney

**SEATTLE AREA OFFICE**  
P.O. Box 88926 SEATTLE, WA 98138  
PHONE (206) 439-8922 CEM MICROFILMED FAX (206) 439-8826

SEP 13 2001

**Taylor, Sue**

---

**From:** Lester, Steve  
**Sent:** Monday, May 08, 2000 3:37 PM  
**To:** Taylor, Sue  
**Subject:** FW: Applications for Permit

Sue

Please file a copy in each application.

thanks,

Steve

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

From: SCOTT GRUNDER [mailto:sgrunder@IDFG.STATE.ID.US]  
Sent: Monday, May 08, 2000 3:07 PM  
To: slester@idwr.state.id.us  
Cc: CECE MANN, TERRY VERNHOLM  
Subject: Applications for Permit

Dear Mr. Lester.

The Idaho Department of Fish and Game has reviewed the below listed applications for permit to appropriate surface waters and we do not anticipate significant adverse effects on fish or wildlife habitats:

63-12578 in the Name of Wilson/Unander/Oakes

65-13943 in the Name of Kyle &/or Fern Ellis

~~65-13944~~ in the Name of Kyle &/or Fern Ellis

Thank you for the opportunity to comment.

Scott A. Grunder  
Environmental Staff Biologist  
Idaho Department of Fish and Game, Southwest Region Office  
3101 South Powerline Road  
Nampa, Idaho 83686  
Phone (208)-465-8465  
FAX (208)-465-8467  
email address sgrunder@idfg.state.id.us

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2000 5 10 PM

State of Idaho  
Department of Water Resources

**MAY 08 2000**

**WATER RESOURCES  
WESTERN REGION**

SEP 19 2001



**State of Idaho**  
**DEPARTMENT OF WATER RESOURCES**

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

**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

April 28, 2000

MARK LIMBAUGH  
102 N MAIN  
PAYETTE ID 83661

Re: Applications for Water Right No. 65-13943 in the Name of Kyle &/or Fern Ellis and 65-13944 in the Name of Kyle &/or Fern Ellis

Dear Watermaster:

Enclosed are copies of the above-referenced applications for permit. Also enclosed are forms for your recommendation concerning these applications.

Please review the applications and return any comments you might have within two weeks.

If you have any questions or need information, feel free to contact this office.

Sincerely,

A handwritten signature in black ink that reads 'Gary Spackman'. The signature is fluid and cursive, with the first name 'Gary' being more prominent.

Gary Spackman

GS:lm

Encl: Copy of Application  
Recommendation of Watermaster Form

MICROFILMED

SEP 19 2001



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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

FAX (208) 334-2348

May 2, 2000

**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

SCOTT GRUNDER  
STATE OF IDAHO  
DEPT OF FISH & GAME  
3101 S POWERLINE RD  
NAMPA ID 83686

Re: Application for Permit No. 63-12578 in the Name of Wilson/Unander/Oakes,  
Application for Permit No. 65-13943 in the Name of Kyle &/or Fern Ellis, and  
Application for Permit No. 65-13944 in the Name of Kyle &/or Fern Ellis,

Dear Sir:

Enclosed are copies of the above-referenced applications that the proposed use is from surface water. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of this application(s), your written protest along with the \$25.00 protest fee must be received in this office by May 22, 2000.

If you have any questions regarding the application, please contact this office.

Sincerely,

Gary Spackman

GS:lm

Encl.

MICROFILMED

SEP 19 2001



**State of Idaho**  
**DEPARTMENT OF WATER RESOURCES**

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

**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

April 28, 2000

FREDERICK &/OR GLORIA RINGEL  
PO BOX 582  
CASCADE ID 83616

Re: Application for Water Right No 65-13943 in the Name of Kyle &/or Fern Ellis and  
Application for Water Right No 65-13944 in the Name of Kyle &/or Fern Ellis

Dear Sir and/or Madam:

Enclosed are copies of the above-referenced applications for permit which may be of interest to you. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if you desire to file a formal protest against the approval of this application(s), your written protest along with the \$25.00 protest fee must be received in this office by May 22, 2000.

If you have any questions regarding the application, please contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

Gary Spackman

GS:lm

Encl: Copy of Application

MICROFILMED

SEP 10 2000

# REQUEST TO PROCESS

COMPLETE REQUEST IF YOU WANT YOUR APPLICATION TO BE PROCESSED USING ONE OF THE  
THREE ALTERNATIVES BELOW

Name of Applicant KYLE F AND/OR FERN R ELLIS  
Mailing Address 9982 ROUND VALLEY ROAD  
CASCADE, IDAHO 83611  
Application No. NOT KNOWN  
(if known)

       IN LOCAL PUBLIC INTEREST

Yes, I want my application processed and before it is advertised, I will amend my application to demonstrate that the proposed appropriation is in the local public interest including the need to preserve flows in the Snake River during the migration periods of anadromous fish.

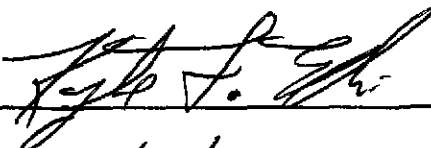
       PROPOSE MITIGATION NOW

Yes, I want my application processed and before it is advertised, I will amend my application to include proposed mitigation to offset anticipated depletions in the Snake River during periods of anadromous fish migration.

YES WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

Yes, I want my application processed at this time, and I will accept a condition of approval that will require mitigation should the Director of the Idaho Department of Water Resources determine that mitigation is necessary to offset depletions from this appropriation to flows in the Snake River during periods of anadromous fish migration. I understand that mitigation is not required now but may be needed in the future. I also understand that the Director will not require mitigation until I have an opportunity to review the process by which the need for mitigation is established and the amount of water required is quantified.

Signature



Date

4/14/00

Please return this form to:

Idaho Dept. of Water Resources  
Western Regional Office  
2735 Airport Way  
Boise, ID 83705-5082

MICROFILMED

SEP 19 2001



**State of Idaho**  
**DEPARTMENT OF WATER RESOURCES**

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

**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

3/27/2000

COPY

KYLE F AND FERN R ELLIS  
9982 ROUND VALLEY RD  
CASCADE ID 83611

**RE: 2 APPLICATIONS FOR PERMIT FOR UNNAMED STREAMS  
TRIBUTARY TO CHIPPS CREEK**

Dear Mr. and Ms. Ellis:

Our office received two applications for permit from you on 2/3/2000. Unfortunately, we will need to delay the processing of these applications until some additional information is supplied. You will need to submit the following information on each application prior to our office assigning these applications a priority or advertisement of the applications:

**Stockwater application from an unnamed stream tributary to Chipps Creek:**

- 1.) **(Section 3)** You neglected to put in the legal description of the point of diversion. For in-stream flows the legal description for the point of diversion should have where the stream enters your property and where it leaves your property. It is recorded as starts in township (?) range (?) section (?)  $\frac{1}{4}$   $\frac{1}{4}$  and ends in township (?) range (?) section (?)  $\frac{1}{4}$   $\frac{1}{4}$  (like you did in Section 9). Please put in the correct legal description and initial and date the enclosed amended application form.
- 2.) **(Section 4)** On section 4 you gave a diversion rate of .03 cfs. Our office can allow up to .05 cfs for 200 head of cattle. If you would like to change this please mark it out and initial that you made the change.
- 3.) **(Section 7)** We need the time it will take to complete this project. If the project is already complete you will still need to enter 1 years in this space. Our department requires that a minimum of 1 year to a maximum of 5 years be marked on each application form.

**MICROFILMED**

**SEP 10 2001**

4.) (Section 13) Each application for permit needs a map showing the creek, the point of diversion and the place of use. I have enclosed a couple of maps for the area described in the legal description. Please make sure that the points marked on the maps correspond with the legal descriptions on the permit form.

5.) (Signature) In section 1 of the application you put your names as Kyle F. & Fern R. Ellis and in the signature area only Kyle Ellis signed the application. If you only want 1 signature on the application you will need to list the names as Kyle F. &/or Fern R. Ellis. If you wish to leave the name line as it is then both Kyle and Fern need to sign the application.

**A copy of this application for permit, marked amended, has been sent with this letter. Please initial and date any changes to the application form and draw a single line through any mistakes that are corrected.**

**Irrigation application from an unnamed stream tributary to Chipps Creek:**

1.) (Section 4) In the dates that the water is to be used area, you entered from 4/15 to 10/31. Our department has adopted a new season of use for your area of from 4/15 to 10/31. You can change to this new season of use if you choose to.

2.) (Section 7) On section we need the time it will take to complete this project. If the project is already complete you will still need to enter 1 years in this space. Our department requires that a minimum of 1 year to a maximum of 5 years be marked on each application form.

3.) (Section 13) Each application for permit needs a map showing the creek, the point of diversion and the place of use. I have enclosed a couple of maps for the area described in the legal description. Please make sure that the points marked on the maps correspond with the legal descriptions on the permit form.

4.) It looks as though water right 65-03848 is used to irrigate the same lands from the same creek. I have enclosed a map used in the Snake River Basin Adjudication (SRBA) to show the lands irrigated and the point of diversion for 65-03848. You may want to give a short explanation of how this new application is related to 65-03848.

MICROFILMED

SEP 19 2001

Page 3  
Ellis

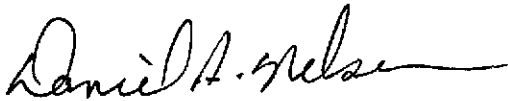
5.) **(Signature)** In section 1 of the application you put your names as Kyle F. & Fern R. Ellis and in the signature area only Kyle Ellis signed the application. If you only want 1 signature on the application you will need to list the names as Kyle F. &/or Fern R. Ellis. If you wish to leave the name line as it is then both Kyle and Fern need to sign the application.

**A copy of this application for permit, marked amended, has been sent with this letter. Please initial and date any changes to the application form and draw a single line through any mistakes that are corrected.**

In order to process all of the applications in our office as efficiently as possible, I am required by Idaho Code § 42-204 to ask that this information be returned to my office within 30 days. Our office will be required to void the application for permit if this information is not returned. **Therefore, if the above information is not received by 4/28/2000 your applications for permit will be voided.** You will be able to re-file this application, but it will have a later priority date.

There is a great deal of information needed to complete your application for permit. If you need assistance, please call me and we will set up an appointment to rework your application. If you have any other questions or concerns please contact me at the above address or telephone number.

Respectfully,



Daniel A. Nelson  
Sr. Water Right Agent

MICROFILMED  
SEP 19 2001

# Affidavit of Publication

## STATE OF IDAHO COUNTY OF VALLEY

RECEIVED

AUG 18 2000

WATER RESOURCES  
WESTERN REGION

I, Robin M. Simpson, being duly sworn deposes, and says, I am the Publisher of The Long Valley Advocate, a weekly newspaper published at Cascade, in Valley County, Idaho; and having a general circulation therein and of legal status in said county.

The app for water rights, a copy of which is attached hereto; was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of every number thereof during the period and time of publication, and was published in the newspaper proper and not in a supplement, and that publication of such notice began 7/14, 2000, and ended 7/12, 2000.

Robin M. Simpson

Robin M. Simpson

Signed this the 17 day of Aug, 2000.

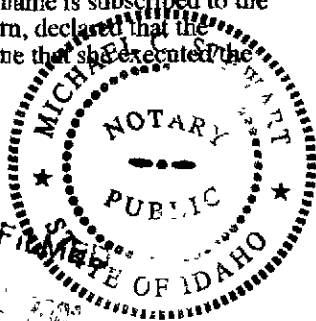
STATE OF IDAHO )  
:SS.  
COUNTY OF VALLEY )

On this the 17<sup>th</sup> day of August, 2000, before me, a Notary Public in and for said State, personally appeared Robin M. Simpson, known or identified to me to be the person whose name is subscribed to the within Instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Michael E. Stewart  
Notary Public State of Idaho

Residing at Cascade

Commission Expires 10/30/2004



*De-mun*  
The Long Valley & e

---

65-13944

ELLIS, KYLE F

ELLIS, FERN R

9982 ROUND VALLEY ROAD

CASCADE, ID 83611

Source UNNAMED STREAM

Tributary CHIPPS CREEK

Diversion Pt NESESE Sec 1 T11N

R03E in VALLEY County

Use IRRIGATION (0 600 CFS)

Total Diversion (0 600 CFS)

(0.60AF)

Date Filed 4/6/2000

In VALLEY County

T11N R-3E S01 NESE

R04E S06 NESW Lot

6(NWSW)

30 0 ACRES TOTAL

Applicant agrees to mitigate consump-  
tive use in the future as needed

Publish 7/6, 7/12

---

# Affidavit of Publication

## STATE OF IDAHO COUNTY OF VALLEY

RECEIVED

JUN 16 2000

WATER RESOURCES  
WESTERN REGION

I, Robin M. Simpson, being duly sworn deposes, and says, I am the Publisher of The Long Valley Advocate, a weekly newspaper published at Cascade, in Valley County, Idaho; and having a general circulation therein and of legal status in said county

The app for water rights, a copy of which is attached hereto, was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of every number thereof during the period and time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began 5/3, 1900, and ended 5/10, 1900

Robin M. Simpson

Robin M. Simpson

Signed this the 8 day of June, 1900

## STATE OF IDAHO COUNTY OF VALLEY

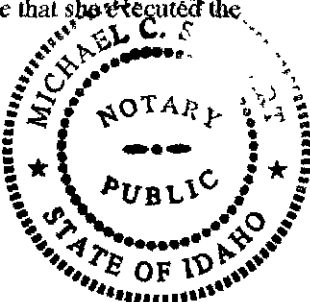
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met  
2000

On this the 8<sup>th</sup> day of June, 1900, before me, a Notary Public in and for said State, personally appeared Robin M. Simpson, known or identified to me to be the person whose name is subscribed to the within Instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same

Michael Stewart

Notary Public State of Idaho  
Residing at Cascade  
Commission Expires 10/10/00



**NOTICE OF APPLICATION FOR  
WATER RIGHT**

The Following application(s) have been  
filed to appropriate the public waters of the  
State of Idaho.

**65-13943**  
**ELLIS, KYLE F**  
**ELLIS, FERN R**  
**9982 Round Valley Road**  
**Cascade, Idaho 83611**  
Source UNNAMED STREAM  
Tributary CHIPPS CREEK  
Diversion Pt NWSESW Sec 6 T11N R04E  
in VALLEY County  
SWSESW Sec 6 T11N R 04E in VAL-  
LEY County  
Use STOCKWATER (0 050 CFS)  
Total Diversion: (0 050CFS)  
Date Filed 4/6/2000  
In VALLEY County  
T11N R04E S06 SESW

**65-13943**  
**ELLIS, KYLE F**  
**ELLIS, FERN R**  
**9982 Round Valley Road**  
**Cascade, Idaho 83611**  
Source UNNAMED STREAM  
Tributary CHIPPS CREEK  
Diversion Pt NFESE Sec 1 T11N R03E  
in VALLEY County  
Use IRRIGATION (0 600 CFS)  
Total Diversion (0 0600CFS) (0 60 AF)  
Date Filed 4/6/2000  
In VALLEY County  
T11N R043E S01 NESE  
R04E S06 NESW Lot 6(NWSW)  
30.0 ACRES TOTAL

Applicant agrees to mitigate consumptive  
use in the future as needed

Permits will be subject to all prior water  
rights. Protests may be submitted based on  
the criteria of Sec. 42-203A, Idaho Code.  
Any protest against the approval of this  
application must be filed with the Director,  
Dept. of Water Resources, Western Region,  
2735 Airport Way, Boise, Idaho 83705  
together with a protest fee of \$25.00 for  
each application on or before MAY 22  
2000. The protestant must also send a copy  
of the protest to the applicant  
KARL J. DREHER, Director  
Publish 5/2 & 5/10/2000

65-13944

ELLIS, KYLE F  
ELLIS, FERN R  
9982 ROUND VALLEY ROAD  
CASCADE, ID 83611

Source: UNNAMED STREAM

Tributary: CHIPPS CREEK

Diversion Pt: NESESE Sec 1 T 11N R 03E in VALLEY County.

Use: IRRIGATION ( 0.600 CFS)  
Total Diversion: ( 0.600 CFS) ( 0.60 AF)

Date Filed: 4/ 6/2000

In: VALLEY County  
T11N R03E S01 NESE  
R04E S06 NESW Lot 6(NWSW)

30.0 ACRES TOTAL

Applicant agrees to mitigate consumptive use in the future as needed.

MICROFILMED

SEP 19 2001