

DESCRIBE RIGHT HELD BY USER WITH WHOM YOU WISH TO EXCHANGE WATER

9. Name of Right Holder Clinger Enterprises, Inc.
Post office address 230 Harvard Avenue, Rexburg, ID 83440
10. Source of water Lemhi River tributary to Salmon River
(Name of stream or source)
11. Name of canal or ditch Garner's River Ditch (Div L-63) SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 28,
12. Amount of water a. 8.32 c.f.s. and/or T. 16N, R. 26E
b. _____ acre feet/annum
13. Right obtained by: 74-0996
a. Decree to Clinger Enterprises in Case of Findings of Water Right
(Name) Inc. Lemhi Basin
vs. _____, Dated _____ in _____
(Name of Court)
Court, County of Lemhi. Fully describe decree (if known) _____

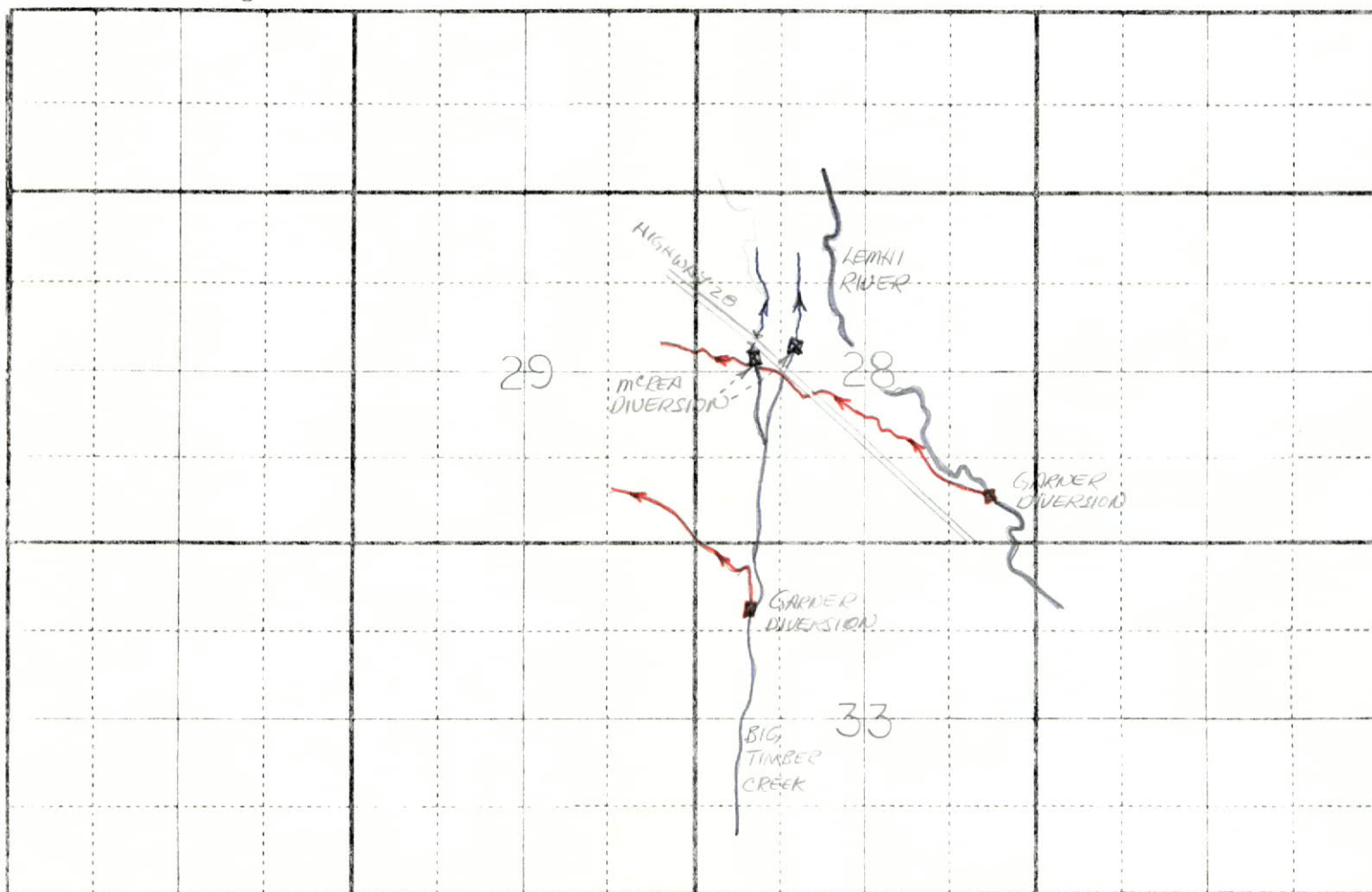
b. Permit, License, or Claim No. _____ in the records of the Department of
Water Resources.

EXCHANGE

- of right 73-0031 historically
14. 1.40 c.f.s. and/or _____ acre feet per annum of water diverted at the
point described in line 7 and will be delivered into now be diverted _____ at a point in
NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 16N, Range 26E, B.M.,
in Lemhi County; ~~Additional points, if any~~ at Lloyd Garner's
diversion on Big Timber Creek

15. In lieu thereof 1.40 c.f.s. and/or of 73-0996 acre feet per annum will be diverted
from Lemhi River at a point within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28
Township 16N, Range 26E, B.M., in Lemhi County.

16. ~~Explanation~~ and delivered to the McRea's in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$,
Sec. 28. Explanation: Because of the losses in Big Timber Ck., it is
mutually beneficial for all users for McRea's to divert 1.4 cfs from
Lloyd Garner's (Clinger) Ditch and allow Garner to divert 1.4 at his
In the space below draw a sketch map showing your point of diversion under the exchange,
where you will return the replacement water, land irrigated, and the general location of your
conveyance system. Include any other information which would help in understanding the pro-
posed exchange.



Diversion on,
Big Timber Ck.

RZ6E

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N



Exchange: 74-0031 &
74-0996

**NOTICE OF
APPLICATION FOR
EXCHANGE OF WATER**

Notice is hereby given that Marjorie E. or Earl McRea have applied to the Department of Water Resources to exchange the waters of Big Timber Creek for water from the Lemhi River.

The water from Big Timber Creek, tributary of the Lemhi River, is evidenced by right No. 74-0031 to Terry E. McRea in the Lemhi Findings of Water Rights with a priority of June 1, 1884. The right provides for the diversion of 1.40 cfs from points within the SW ¼ NW ¼, SE ¼ - NW ¼, Sec. 28, T. 16N, R. 26E, B.M., Lemhi County. The water is used from 3/15 to 11/15 for the irrigation of 89 acres within the N ½ NW ¼, SE ¼ NW ¼, Sec. 28, SW ¼ SW ¼, Sec. 21, T. 16N, R. 26E.

The right to be exchanged is evidenced by No. 74-0996 to Clinger Enterprises, Inc. in the Lemhi Findings of Water Rights and provides for the diversion of 8.32 cfs from the Lemhi River through Garner's River Ditch in the SE ¼ - SE ¼, Sec. 28, T. 16N, R. 26E.

PROPOSED EXCHANGE

The 1.40 cfs under right 74-0031 will be diverted at Lloyd Garner's Big Timber Creek diversion in the NW ¼ NW ¼, Sec. 33, T. 16N, R. 26E. In lieu there of 1.40 cfs of right 74-0996 diverted from the Lemhi River in the SE ¼ SE ¼, Sec. 28, T. 16N, R. 26E will be delivered to the McRea's in the SE ¼ NW ¼, SW ¼ - NW ¼, Sec. 28, and used to irrigate the 89 acres described as the place of use for right 74-0031.

Any protest to the above exchange of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402 on or before August 5, 1985.

A. KENNETH DUNN
Director

Published in The Recorder-Herald, Salmon, ID on 7/18 & 7/25/85.

7-18-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

JERRY G. ROSIN

being first duly sworn, deposes and says that he is one of the printers (publisher) of the RECORDER HERALD, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein,

That the Notice of Application for Exchange of Water-

74-0031 (McRea)

a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for two consecutive issues, commencing with the issue dated July 18, 1985 and ending with the issue dated July 25, 1985.

Jerry G. Rosin

Subscribed and sworn to before me, this twenty fifth

day of July, 1985

Paul Armstrong

Notary Public for the State of Idaho,
Residing at Salmon, Idaho

Publication Fee \$ 45.36

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR EXCHANGE OF WATER

APPROVED

APPLICANT'S RIGHT - Describe the water right under which you wish to exchange water

1. Name of Right Holder Marjorie E. or Earl McRea
Post office address P.O. Box 121, Leadore, ID 83464
2. Right obtained by: 74-0031
a. Decree to Terry E. McRea, in Case of Lemhi Findings of Water Rights
(Name) et ux
vs. , Dated in
(Name of Court)
Court, County of . Fully describe decree

b. Permit, License, or Claim No. in the records of the Department of Reclamation.
3. Source of water Big TimberCreek tributary to Lemhi River
(Name of stream or source)
4. Date of Priority of Right June 1, 1884
5. Amount of water a. 1.40 c.f.s. and/or
b. acre feet/annum
6. Water is used for irrigation from 3/15 to 11/15
(Purpose) (Month-Day) (Month-Day)
from to
(Purpose) (Month-Day) (Month-Day)
7. Location of point of diversion is SW 1/4 NW 1/4 of Section 28
Township 16N, Range 26E, B.M., in Lemhi County;
Additional points of diversion, if any SE 1/4 NW 1/4, Sec. 28, T. 16N, R. 26E
8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
16N	26E	28					10	34		27									71
		21											18						18

DESCRIBE RIGHT HELD BY USER WITH WHOM YOU WISH TO EXCHANGE WATER

9. Name of Right Holder Clinger Enterprises, Inc.

Post office address 230 Harvard Avenue, Rexburg, ID 83440

10. Source of water Lemhi River tributary to Salmon River
(Name of stream or source)

11. Name of canal or ditch Garner's River Ditch (Div L-63) SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 28,

12. Amount of water a. 8.32 c.f.s. and/or T. 16N, R. 26E
b. acre feet/annum

13. Right obtained by: 74-0996

a. Decree to Clinger Enterprises in Case of Findings of Water Right
(Name) Inc. Lemhi Basin

vs. , Dated in
(Name of Court)

Court, County of Lemhi. Fully describe decree (if known)

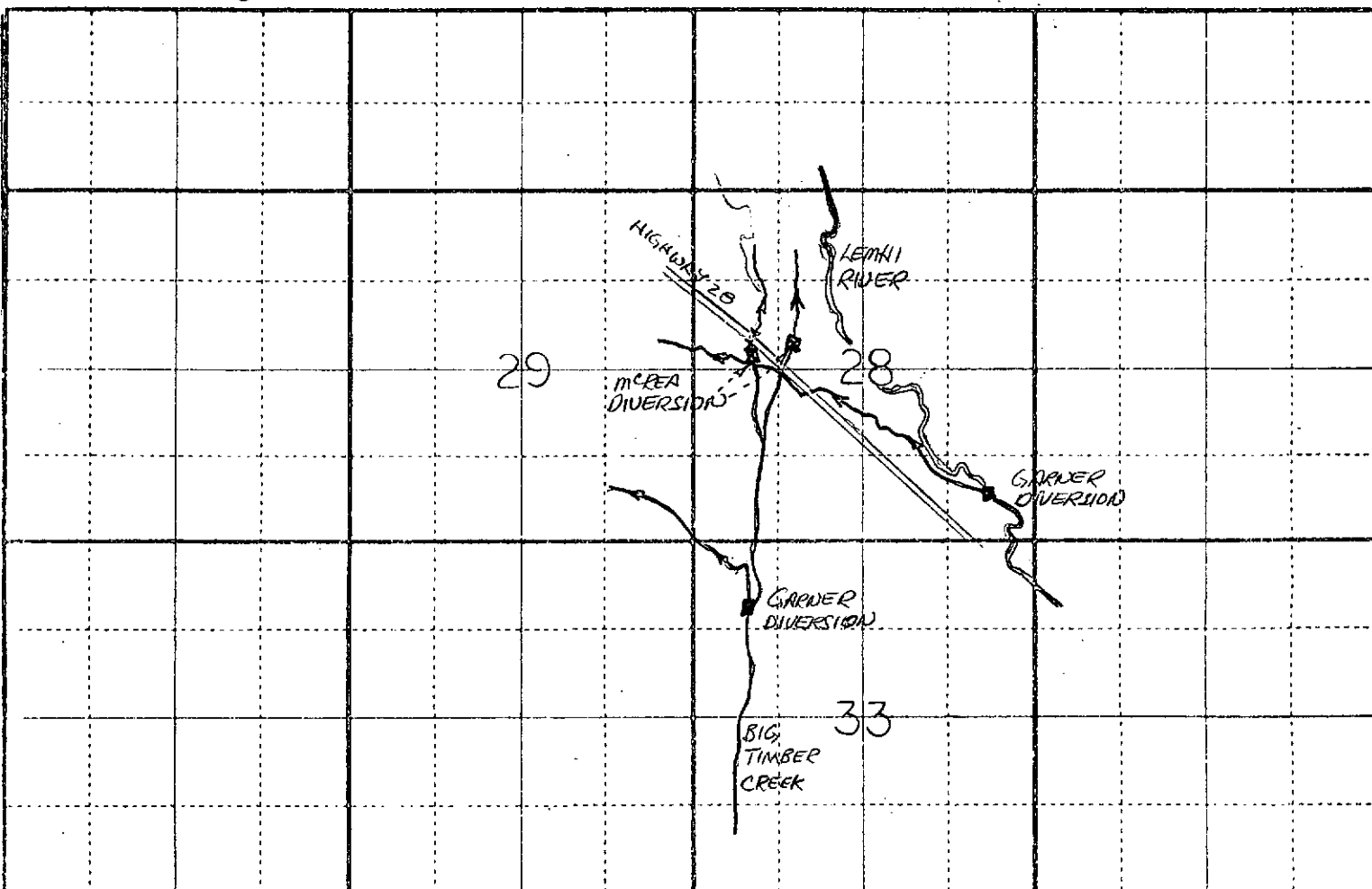
b. Permit, License, or Claim No. in the records of the Department of
Water Resources.

EXCHANGE of right 73-0031 historically

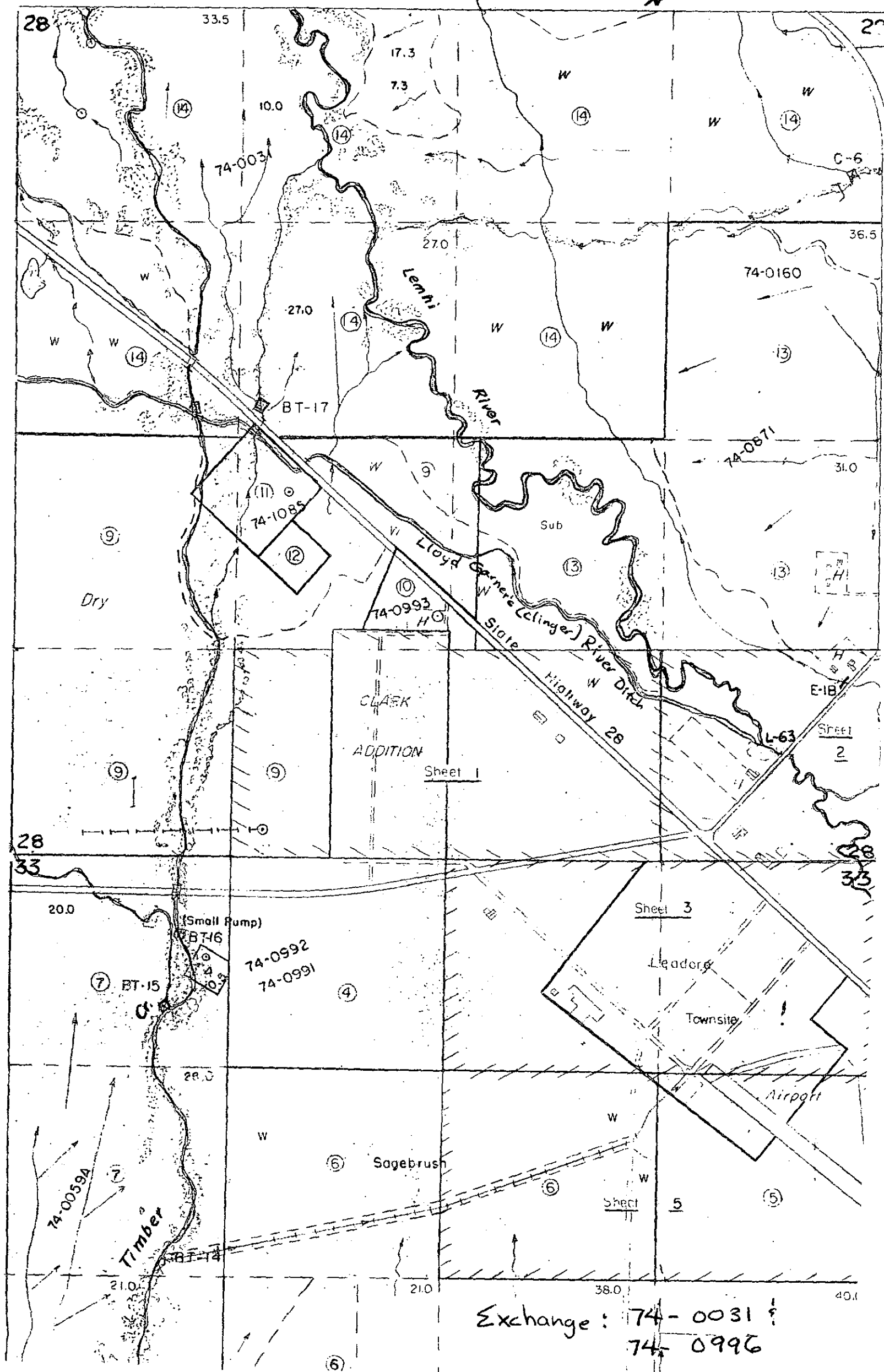
14. 1.40 c.f.s. and/or acre-feet per annum of water diverted at the
point described in line 7 and will be ~~delivered into~~ now be diverted at a point in
NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 16N, Range 26E, B.M.,
in Lemhi County; ~~Additional points, if any~~ at Lloyd Garner's
diversion on Big Timber Creek

15. In lieu thereof 1.40 c.f.s. and/or of 73-0996 acre-feet per annum will be diverted
from Lemhi River at a point within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28
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16. ~~Explanation~~ and delivered to the McRea's in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$,
Sec. 28. Explanation: Because of the losses in Big Timber Ck., it is
mutually beneficial for all users for McRea's to divert 1.4 cfs from
Lloyd Garner's (Clinger) Ditch and allow Garner to divert 1.4 at his
In the space below draw a sketch map showing your point of diversion under the exchange,
where you will return the replacement water, land irrigated, and the general location of your
conveyance system. Include any other information which would help in understanding the pro-
posed exchange.



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17. REMARKS

This exchange has taken place for at least 20 years. This application is filed to obtain the legal authority to assure that this exchange can continue indefinitely.

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

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

Eugene R. Marjorie E. McLean
(Signature of Applicant)

Subscribed and sworn to before me this 14th day of June, 19 85.

Ronald D. Carls
(Notary Public)

My commission expires 2/14/86

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Exchange

This is to certify that I have examined Application for Transfer of Water Rights No. 74-0031/0996

and said application is hereby APPROVED, subject to the following limitations and conditions:

1. A lockable headgate and measuring device subject to approval of the Department shall be maintained at the points of diversion in NWNW, Sec. 33 & SESE, Sec. 28, T16N, R26E.
2. Use of water under this exchange is subject to control by the watermasters of State Water District Nos. 74, Lemhi River and 74W, Texas/Hawley/Timber/Junction/Bull, Jake/Canyon/18 Mile Creeks.

Witness my hand this 21st day of September, 19 88

J. Glen Saylor
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by RDC Date 6-14-85 Protest filed by Roger Ogden
Prelim. check by KW Fee 50.00
Receipted by ew Date 6-14-85 #33329
Published in Recorder - Herald Copies of protest forwarded by CW
Pub. dates 7-18 & 7-25-85 Hearing held by _____ Date _____
Watermaster recommendation requested on 7-17-85 Recommended for ☒ approval ☐ denial
WD 74-W rec'd. 7-23-85 by Jim

Law Offices of
ST. CLAIR, HILLER, WOOD & McGRATH
CHARTERED

FIRST SECURITY BANK BUILDING

POST OFFICE BOX 29

IDAHO FALLS, IDAHO 83402

(208) 522-2350

June 21, 1985

MORTON B. HILLER
THEODORE V. WOOD
STEPHEN J. McGRATH
RICHARD T. ST. CLAIR
DWIGHT E. BAKER
KEVIN T. SULLIVAN
ALAN C. STEPHENS
MARVIN M. SMITH
WILLIAM R. DALLING

CLENCY ST. CLAIR (1871-1957)
PAUL T. PETERSON (1892-1967)
of Counsel
ROBERT W. ST. CLAIR
Legal Assistant
RICHARD E. SCHUMAN

Water Resource Board
State of Idaho
150 Shoup Avenue
Idaho Falls, Idaho 83402

Attention: Mr. Ron Carlson

Dear Mr. Carlson:

This firm represents Mr. and Mrs. Roger Ogden, who own real property in Lemhi County, state of Idaho. It has come to our client's attention that a request has been filed with the Water Resource Board by Clinger Enterprises and Margaret and Earl McRaey for a water exchange claim, on exchange Nos. 74-0996 and 74-0031.

Mr. and Mrs. Ogden strongly oppose the requested water exchange, because the understood result would deprive the Ogdens of stock water from Big Timber Creek in Leadore County, state of Idaho. The Ogdens have claimed water rights for their stock for many years and the requested exchange would cause substantial economic hardship to the Ogdens.

Sincerely,

ST. CLAIR, HILLER, WOOD
McGRATH, ST. CLAIR & BAKER



Alan C. Stephens

ACS:blg

cc: Mr. Roger Ogden
1160 North 150 East
Layton, Utah 84041

RECEIVED

JUN 21 1985

Department of Water Resources
Eastern District Office

examine same and, if otherwise proper, to cause notice of the proposed exchange of water to be published once a week for two (2) consecutive weeks in a newspaper published and of general circulation within the county or counties, as the case may be, where the water is to be exchanged, if there is such paper, otherwise in a newspaper of general circulation within the county. Such notice shall fully describe the nature of the proposed exchange of water and shall advise that anyone who wishes to protest the approval of such exchange shall file notice of protest with the director within ten (10) days of the last date of publication. The director shall also send notice of the proposed exchange by certified mail to the owners of the water right or rights with whom the applicant proposes to exchange water, and they shall be allowed thirty (30) days from the date of such notice within which to file a protest with the director.

Upon the receipt of any protest it shall be the duty of the director to investigate same and to conduct hearing thereon under rules and regulations promulgated under the provisions of chapter 52, title 67, Idaho Code. The director shall examine all the evidence and available information and shall approve said exchange of water in whole, or in part, or upon conditions provided the amount of water to which prior appropriators are entitled shall remain undiminished. Any application for exchange of water approved by the director shall not affect the water right of the party or parties with whom the water exchange is made, and in the event that the applicant is unable to supply water for such approved exchange, water may be diverted by said party or parties under their water rights as though such exchange had not been proposed nor approved.

In the event the director determines that a proposed exchange of water may not be approved as provided in this section, he shall deny same and forward notice of such action to the applicant by certified mail.

If a protest was filed and a hearing held thereon, any party to the hearing may seek judicial review pursuant to section 42-1701A(4) of the final decision of the director. If no protest was received and no hearing held, the applicant may contest the action of the director pursuant to section 42-1701A(3), Idaho Code. [I. C., § 42-240, as added by 1969, ch. 300, § 2, p. 900; am. 1974, ch. 20, § 3, p. 533; am. 1980, ch. 238, § 10, p. 526.]

Compiler's notes. Sections 9 and 11 of S.L. 1980, ch. 238 are compiled as §§ 42-238 and 42-304, respectively.

Section 25 of S.L. 1980, ch. 238 read: "The provisions of this act are hereby declared to be severable and if any provision of this act

or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act."

42-241. Pu dependent upon resources. The right claims for the future 1978, ch. 345, .

Compiler's notes refer to S.L. 1978, §§ 42-241 — 42-42-1736A, 42-1736

42-242. De
(1) "Person" private corporate state of Idaho. rights establish
(2) "Notice i form:

Every person association, pu county, state America, when state of Idaho, rights relating waters of the s section 42-230(authority of per or one of its p adjudicated by registered with than June 30, 1 WILL BE GRO TURE OF THI contact the Depa act and an expla § 5, p. 884.]

Compiler's notes compiler's notes, § 4:

June 13, 1985

To whom it concerns,

We the undersigned water users of Timber Creek district no. 74W do hereby agree that it is to our advantage to have the McRea water decree dumped into the Clinger Enterprises decree, then taken out of the Clinger Enterprises Lemhi River water. This being done in this manner eliminates having to send approximately 300 inches down Timber Creek for McReas to receive their 1.4 c.f.s. (70 inches) of water. This has been done for the last 29 years in agreement with all the water users on Timber Creek district no. 74W.

Name

Address

Date

Bob A. Adams	Leadore Ida.	6/13/85
Dick Foster	Leadore ID	6/13-85
Allan Small	Leadore, Idaho	6/13-85
Charles Shiner	Leadore Idaho	6/13/85
Clinger Enterprises, Lloyd Barron	Leadore	6/13/85
Tim McRea by Margorie E. McRea	Leadore	6/13/85

**NOTICE OF
APPLICATION FOR
EXCHANGE OF WATER**

Notice is hereby given that Marjorie E. or Earl McRea have applied to the Department of Water Resources to exchange the waters of Big Timber Creek for water from the Lemhi River.

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The right to be exchanged is evidenced by No. 74-0996 to Clinger Enterprises, Inc. in the Lemhi Findings of Water Rights and provides for the diversion of 8.32 cfs from the Lemhi River through Garner's River Ditch in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 28, T. 16N, R. 26E.

PROPOSED EXCHANGE

The 1.40 cfs under right 74-0031 will be diverted at Lloyd Garner's Big Timber Creek diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 33, T. 16N, R. 26E. In lieu there of 1.40 cfs of right 74-0996 diverted from the Lemhi River in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 28, T. 16N, R. 26E will be delivered to the McRea's in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28, and used to irrigate the 89 acres described as the place of use for right 74-0031.

Any protest to the above exchange of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402 on or before August 5, 1985.

A. KENNETH DUNN
Director

Published in The Recorder-Herald, Salmon, ID on 7/18 & 7/25/85.

7-18-2tc

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STATE OF IDAHO

County of Lemhi

ss.

JERRY G. ROSIN

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74-0031 (McRea)

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Jerry G. Rosin

Subscribed and sworn to before me, this twenty fifth

day of July, 19 85

Carl Armstrong

Notary Public for the State of Idaho,
Residing at Salmon, Idaho

Publication Fee \$ 45.36

05/04/83

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER RIGHTS ABSTRACT

74-AA

INDICATES TOTAL

SOURCE: BIG TIMBER CREEK

TRIBUTARY TO: LEWIS RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
74-0037	CLINGER ENTERPRISES INC. 230 HARVARD AVE. REXBURG ID 83440 REMARKS: AC. IRR.=549. P/U: T16N R26E S30 NENE(40) NESE(40) S29 NWNE(37) NWSE(29) S20 NWSW(25)	09-01-1874	IRRIGATION	03-15 11-15	3.36 CFS	NWNW S33 T16N R26E	DECREE	
							550 ACRES*	
74-0040	PURCELL, KERMIT P.O. BOX 5 LEADORE ID 83464 REMARKS: AC. IRR.=429.6. SOURCES ARE BIG TIMBER CK. & LITTLE TIMBER CK. 3.0 CFS DIVERTED FROM LITTLE TIMBER CK. & 1.2 CFS DIVERTED FROM BIG TIMBER CK. P/U: T16N R25E S24 NENE(40) NWSE(36) P/U: T16N R26E S19 NESW(37)	06-01-1879	IRRIGATION	03-15 11-15	4.20 CFS	SENE S05 T15N R26E SNNW S24 T15N R25E	DECREE	
							429 ACRES*	
74-0031	MC REA, TERRY E. MC REA, MARJORIE E. LEADORE ID 83464 REMARKS: AC. IRR.=88.2.	06-01-1884	IRRIGATION	03-15 11-15	1.40 CFS	SNNW S28 T16N R26E SENN S28 T16N R26E S21 T16N R26E	DECREE	
							89 ACRES*	
74-0042	ELLSWORTH, JAMES ELLSWORTH, MAYBELLE P.O. BOX 27 LEADORE ID 83464 REMARKS: AC. IRR.=209. P/U: T16N R26E S35 SNNW(18) P/U: T15N R26E S02 SWNE(14)	11-01-1888	IRRIGATION	03-15 11-15	4.80 CFS	NWSE S08 T15N R26E	DECREE	
							208 ACRES*	
74-0032	ADAMS, ROBERT H. ADAMS, OPAL C.	06-01-1895	IRRIGATION	03-15 11-15	3.24 CFS	SWSW S17 T15N R26E	DECREE	



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

September 21, 1988

RE: Exchange of Water Right Nos. 74-0031 & 74-0996

Marjorie E. or Earl McRea
Box 121
Leadore, ID 83464

Dear Water Right Holders:

Enclosed is a copy of your approved Application for Exchange of the above referenced water rights (Exchange No. 3187). Be sure to note any conditions of approval as listed on the final page.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

RECOMMENDED CONDITIONS OF APPROVAL

From: Ernest Carlsen

To: File

Application for Exchange of 74-0996 & 74-0031

RE: RECOMMENDED CONDITIONS OF APPROVAL

1. A lockable headgate and measuring device subject to approval of the Department shall be maintained at the points of diversion in NWNW Section 33, and SESE Section 28, Township 16N, Range 26E.
2. Use of water under this exchange is subject to control by the watermasters of State Water Districts No. 74, Lemhi River and No. 74W, Texas, Hawley, Timber, Junction, Bull, Jake, Canyon, & 18-Mile Creeks.

INTER-DEPARTMENT MEMO

From: Ernest Carlsen *EMC*

12 April 1988

To: File
Application for Exchange of 74-0996 & 74-0031

RE: Provision 5 of the Memorandum Agreement dated 15 March 1986 states the protestants agree to withdraw their protest of this exchange upon approval of a transfer allowing the protestants use of 0.02 cfs for stockwater. This transfer has been number 3307 and was approved 4 January 1988. With the transfer in place administrative action on the exchange application can proceed.

A copy of Transfer No. 3307 accompanied a letter to the protestants advising them the department is proceeding with administrative action on the exchange application.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Mailing Address:
150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

12 April 1988

Roger Ogden
1160 North 150 East
Layton, Utah 84041

RE: Application for Exchange of 74-0996 & 74-0031
Transfer of 74-0037 & 74-0039A

Dear Mr. Ogden:

Enclosed for your records is a copy of a transfer involving water rights 74-0037 and 74-0039A and numbered in our records as 3307. In compliance with the Memorandum Agreement signed by you and Zella Armstrong, President of Clinger Enterprises, Inc., this transfer dedicates 0.02 cubic feet per second for diversion to your property to be used as stockwater.

In accordance with the Memorandum Agreement approval of Transfer No. 3307 removes your protest of Application for Exchange of 74-0996 and 74-0031. The department therefore is proceeding with administrative action on the exchange application.

Respectfully submitted,

Ernest Carlsen
Water Rights Supervisor

Enclosure: Transfer No. 3307
cc: Alan C. Stephens, Attorney
Marjorie E. & Earl McRea

October 24, 1986

Clinger Enterprises, Inc.
c/o Zella Armstrong
230 Harvard Avenue
Rexburg, Idaho

Dear Ms. Armstrong:

A copy of the memorandum agreement between Clinger Enterprises Incorporated and Roger and Penny Ogden was sent to this office with a request by Allen C. Stevens that an application for transfer be prepared pursuant to that agreement.

After reviewing the memorandum agreement I prepared the enclosed application. This application essentially changes the nature of use for approximately one miners inch of water from irrigation to stock water. The irrigation water was appurtenant to two acres in the NE1/4SE1/4 of Sec. 29, T. 16N, R. 26E. Based on the application it would become appurtenant to Mr. Ogden's property in the SW1/4 of Section 28 for stockwater usage.

If you have any questions concerning the application or there are changes you feel should be made please call me. Should your review indicate the application is in conformance with the agreement then you will need to sign the application in the presence of a notary and return it to this office. It is my understanding that Mr. Ogden has consented to pay the filing fee on the application. Once its returned with your signature, I will therefore contact Mr. Ogden's attorney to make arrangements for payment of the fee.

Your prompt attention to this matter would be appreciated. It will help us expedite processing of the transfer application and also reinstate administrative consideration of the exchange application filed by Marjorie and Earl McCrae in June of 1985.

Respectfully submitted,

Ernest Carlsen
Assistant Regional Supervisor

EC/md

Enclosure

cc: Allen C. Stevens

Law Offices of
ST. CLAIR, HILLER, WOOD, McGRATH, ST. CLAIR & BAKER

A Partnership Composed of Professional Corporations

FIRST SECURITY BANK BUILDING

POST OFFICE BOX 29

IDAHO FALLS, IDAHO 83402

(208) 522-2350

July 11, 1986

MORTON B. HILLER *
THEODORE V. WOOD *
STEPHEN J. McGRATH *
RICHARD T. ST. CLAIR *
DWIGHT E. BAKER *
KEVIN T. SULLIVAN
ALAN C. STEPHENS
MARVIN M. SMITH
WILLIAM R. DALLING
DEAN DALLING
STEPHEN B. TELFORD
Legal Assistant
RICHARD E. SCHUMAN
*Professional Corporation

FORMERLY
ST. CLAIR, HILLER, WOOD &
McGRATH, CHARTERED
—
GLENCEY ST. CLAIR (1871-1957)
—
PAUL T. PETERSON (1892-1967)
—
of Counsel
ROBERT W. ST. CLAIR

RECEIVED

JUL 11 1986

Department of Water Resources
Eastern District Office

Mr. Ernest Carlson
Assistant Regional Supervisor
Water Resource Board
150 Shoup Avenue
Idaho Falls, Idaho 83402

Re: Application for Exchange
of Water Rights
#74-0996 and #74-0031

Dear Mr. Carlson:

Please find enclosed a copy of the Memorandum Agreement between Clinger Enterprises, Inc., and Roger and Penny Ogden regarding the transfer of approximately one inch of water under water rights #74-0037 and #74-0039A. The original agreement has been filed with the Lemhi County Recorder's office.

Sincerely,

ST. CLAIR, HILLER, WOOD,
McGRATH, ST. CLAIR & BAKER


Alan C. Stephens

ACS:blg
Enclosure

cc: Roger Ogden

RECEIVED

JUL 11 1986

Department of Water Resources
Eastern District Office

MEMORANDUM AGREEMENT

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

WHEREAS, ROGER OGDEN has filed an objection thereto;

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

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

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

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

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

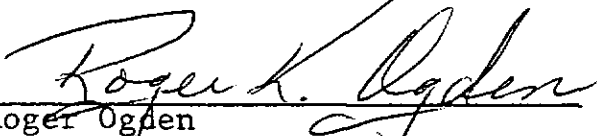
water in the Big Timber Creek, Clinger Diversion, under water right numbers 74-0037 and 74-0039A.

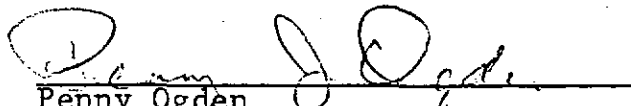
4. Clinger Enterprises, Inc. understands that it will be required by the Idaho State Water Board to transfer one inch of water right from approximately 1.8 acres of land in order to accomplish the said transfer. The one inch of water right will be transferred from the following described real property:

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

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

DATED this 15th day of MARCH, 1986.


Roger Ogden

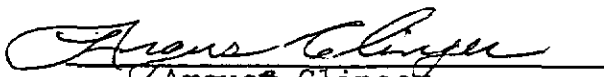

Penny Ogden

DATED this 2ND day of APRIL, 1986.

CLINGER ENTERPRISES, INC.

By 
Zella Armstrong
Its: President

ATTEST:

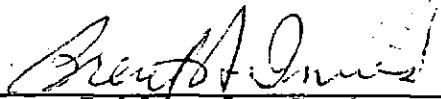

Argus Clinger
Secretary

STATE OF UTAH)
) ss.
County of DAVIS)

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

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

(SEAL)

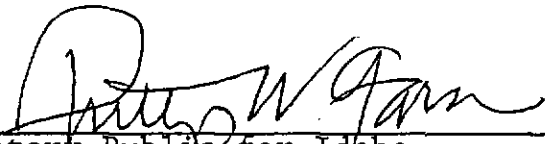

Notary Public for Utah BRENT W INNES
Residing at: NOTARY
My Commission Expires: COMMISSION EXPIRES
22 APRIL 1989

STATE OF IDAHO)
) ss.
County of Madison)

On this 30 day of May, 1986, before me, the undersigned, a Notary Public for the State of Idaho, personally appeared ZELLA ARMSTRONG, known to me to be the president of CLINGER ENTERPRISES, INC. and who executed the foregoing instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

(SEAL)


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

July 7, 1986

RE: Application for Exchange of Water Rights
No. 74-0996 and 74-0031

Mr. Roger Ogden
Box 132
Leadore, ID 83464

Dear Mr. Ogden:

On January 30, 1986, the Department of Water Resources conducted an administrative conference on your protest against the above captioned application for exchange. Based on the information presented at the conference it was the Department's understanding that you would pursue preparation of an application for transfer to change the nature of use and place of use for approximately one inch of water under water rights 74-0037 and 74-0039A in the name of Clinger Enterprises, Inc.

Those present at the conference agreed action on the exchange application should be deferred while you pursued transferring a portion of the Clinger right. To keep our file on the exchange current, we would like a status report on what action has taken place regarding the application for transfer and when you expect the application will be filed with the Department. If it appears it will be some time before the application is filed, the McReas' may wish to proceed with administrative action on their application for exchange.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

cc: Alan C. Stephens, Attorney

Leadore, Idaho
January 30, 1986

Idaho Department of Water Resources
State House
Boise, Idaho 83720

Gentlemen:

In regard to the proposed exchange of water permits between Earl and Marge McCrea and Lloyd Garner, we recommend that you allow and consummate this transaction for them.

This water has been used in this manner during my lifetime as far back as I can remember and has proven beneficial to the water users on Timber Creek as a whole. McCrea's and Garner's permits should be changed to reflect this actual use.

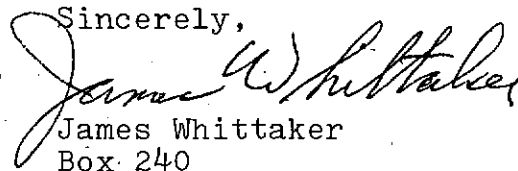
Nineteen years out of the past twenty there has been enough high water go to the river to water any stock that would be using the pasture between Garner's ditch and the river. If it is dry enough there is not any water in this area during that time and there probably is not any feed either. What feed there is could either be utilized before or after the watering season.

There is a tremendous amount of shrinkage of water in this area as well as the area above there. Not to allow this change of use will detrimentally affect the rest of the water users on the Creek.

I strongly urge that you allow this change of use.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "James Whittaker".

James Whittaker
Box 240
Leadore, Idaho 83464

Exchange 74-0996/0031

Jan 30, 1986.

Applicants - present.
Protestant - present. represented by Alan Stephens.

- Clinger Enterprises represented by Lloyd Garner.

Earl M. - application filed to make actual practice a matter of record. Practice has taken place ^{each year.} since ~~1957~~ before 1957. Earl's father owned property at time exchange was initiated.

- Entire flow of Timber Cr. is diverted at Garner diversion in Sec 33, once high water ~~with~~ flows have subsided.

- McReays have allowed stock being kept on Ogden's property to obtain drinking water from their ditch where it crosses timber creek in SWNW Sec 28.

- When Delbert Stroud owned land he ran cattle on property and used irrigation water as a source of water for stock water. He later transferred water right to other land on Timber Creek. Cattle then obtained drinking water from Lloyd Garners ditch where it runs through rodeo grounds. Prior to construction of rodeo facilities.

- Roger O. purchased property 1975 from Carol Wells.

Carol Wells allowed stock on his property that he but they either had to get their drinking water from ~~the~~ Lloyd Garner's ditch or water had to be pumped from city well at city park.

Ralph N.G.R. - block belonging to the rodeo association never drank water from Timber Creek.

Carol W. filed on a right listed in Green Book that was not recognized in readjudication. (74-0004?)

NOTE: Check Green Book for disallowed right.

- R. Ogden - would like a 1" pipe from Garner's ditch in NWNW Sec. 33.

- L. Garner agreed to a transfer of one inch of water for Clinger Enterprises' water right. Transfer and expenses to be incurred by R. Ogden.

74-0996/0031 Exchange - McRea

Library, City Hall, Leadore, ID
Thursday, January 30, 1986 - 9:00 a.m.

ROSTER OF ATTENDANCE

Hearing Officer: Bob Fleenor

Name	Representing	Address
Alan Stephens	Roger Ogden	320 A St. P.O. Box 29, I.F.
Roger Ogden	ROGER OGDEN	Box 132 LEADORE ID 2E 1160N 150E LAYTON UT.
Rabn M Rea	Marge McRea	Leadore Id.
Margaret E McRea	Margaret E. McRea	Leadore Id.
Richard E. Foster	Richard Foster	Leadore Id.
Earl McRea	Earl McRea 74-6	Leadore Idaho
Kurt Bird	Kurt Bird	Leadore, Id.
Gary Spackman	Water Resources	I.F., Idaho
James Ellsworth	Ellsworth Resources	Leadore Id.
Clara Zook		Leadore, Id.
Dee Ann Stroud		Leadore Id.
Lloyd Garner	Clingen Enterprises	Leadore Id.
Denise McRea	Earl & Marge McRea	Leadore Idaho

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTEST AGAINST APPROVAL)
OF APPLICATION FOR EXCHANGE NO. 74-0996/0031) STIPULATION
IN THE NAME OF MARJORIE E. OR EARL McREA)
_____)

BY THIS STIPULATION, the undersigned parties to the above-captioned case waive compliance with the requirements of Idaho Code §67-5211, including the right to a proposed decision, to file exceptions to a proposed decision and to present briefs and oral arguments to the Director of the Department of Water Resources and agree that the Director may render a final decision in this case without first submitting a proposed decision.

Dated this _____ day of _____, 1986.

(Notary Subscription)

PS Form 3811, July 1983 447-846

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO:" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:

Roger Ogden
1160 N 150 E
Rayton, Ut. 84041

4. Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

13359

Always obtain signature of addressee or agent and
DATE DELIVERED.

5. Signature - Addressee

X *Roger Ogden*

6. Signature - Agent

X

7. Date of Delivery

1-21-86

8. Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

74-0996

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS



SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

PENALTY FOR PRIVATE USE \$300

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

150 SHOUP AVE. #15

IDAHO FALLS, IDAHO 83401

(Name of Sender)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

(City, State, and ZIP Code)

**RETURN
TO**

JAN 22 1985

Department of Water Resources
Eastern District Office

SENDER: Complete items 1, 2, 3 and 4. Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. <u>The return receipt fee will provide you the name of the person delivered to and the date of delivery.</u> For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.	
1. ☐ Show to whom, date and address of delivery. 2. ☐ Restricted Delivery.	
3. Article Addressed to: <i>Plunger Enterprises Inc</i> <i>230 Harvard Ave.</i> <i>Leekburg, IA 83440</i>	
4. Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail	Article Number <i>13360</i>
Always obtain signature of addressee <u>or</u> agent and <u>DATE DELIVERED.</u>	
5. Signature -- Addressee X <i>Zella Armstrong</i>	
6. Signature -- Agent X	
7. Date of Delivery <i>Jan 1-17</i>	
8. Addressee's Address (ONLY if requested and fee paid)	

DOMESTIC RETURN RECEIPT

74-0996 etc

**UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS**



SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

DEPARTMENT OF WATER RESOURCES PENALTY FOR PRIVATE USE \$300

EASTERN DISTRICT OFFICE

150 SHOUP AVE. #15

IDAHO FALLS, IDAHO 83401

(Name of Sender)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

(City, State, and ZIP Code)

**RETURN
TO**

JAN 21 1986

Department of Water Resources
Eastern District Office

PS Form 3811, July 1983 447-845

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:

Margie Earl Mc Clea
P. Box 121
Leadon, Id. 83464

4. Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

13357

Always obtain signature of addressee or agent and
DATE DELIVERED.

5. Signature - Addressee

Margie Mc Clea

6. Signature - Agent

X

7. Date of Delivery

JAN 17 1986

8. Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

74-0996 etc

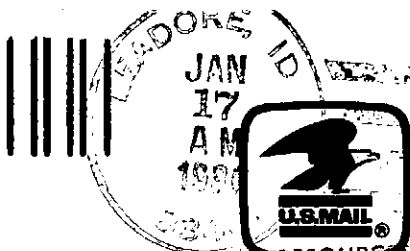
**UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS**

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

**RETURN
TO**



DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83401

(Name of Sender)

JAN 21 1986

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

Department of Water Resources
Eastern District Office

(City, State, and ZIP Code)

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:

Way Stephens
P.O. Box 29
Idaho Falls, Id. 83402

4. Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

13358

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery**8. Addressee's Address (ONLY if requested and fee paid)**

DOMESTIC RETURN RECEIPT

74-0966 etc.

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS



SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

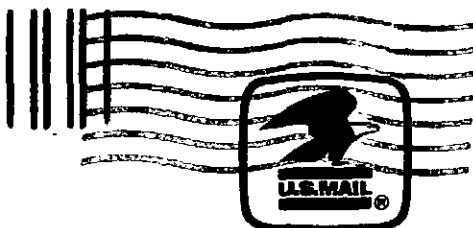
- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN TO

RECEIVED

JAN 23 1986

Department of Water Resources
Eastern District Office



DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

150 SHOUP AVE. #15

IDAHO FALLS, IDAHO 83401

(Name of Sender)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

(City, State, and ZIP Code)

ACCEPTANCE OF REGISTERED, INSURED, C.O.D. AND CERTIFIED MAIL

PS Form 3877, Sept. 1979

NAME AND ADDRESS OF SENDER		DEPARTMENT OF WATER RESOURCES EASTERN DISTRICT OFFICE 150 SHOUP AVE. IDAHO FALLS, IDAHO 83401		Indicate type of mail ☐ Registered ☐ Insured ☐ COD ☒ Certified		I certify that we have ☐ Commercial Insurance ☐ A deductible clause of \$		Affix stamp here if issued as certificate of mailing or for additional copies of this bill. POSTMARK AND DATE OF RECEIPT				
1 No	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (If Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S.D. FEE	S. H. FEE	REST. DEL. FEE REMARKS	
✓	13345	Robertson, Mollinger & Penrock Rt 2, Box 174 Reburg	22	75				70			21-0009 etc	
✓	13346	Melvin Jenkins Rt 1 Box 79 Ashton										
✓	13347	Lynne Bowman Ashton										
4	13348	Deland Clark, Ashton										
5	13349	George Kiedrow, Ashton										
✓	13350	Fish & Game, 1515 Lincoln Rd ST.		75								
7	13351	Herbert Steinman, Ashton										
✓	13352	Margaret Janssen, Ashton										
✓	13353	Fish & Game, Box 25 Boise									21-0009 etc	
✓	13354	Larry Newman, Monticello									32-7146	
✓	13355	B.M. P.O. Box 430 Salmon										
✓	13356	James Wood, Lands, Rt 1 Box 400, ST									32-7146	
✓	13357	Mrs. W. Earl McLean, P.O. Box 121 Reader									74-0996 etc	
14	13358	Alan Stephens, P.O. Box 29 ST.										
✓	13359	Roger Ogden, 1160 N 150E, Layton UT.										

IDAHO FALLS
 JAN 16 1986
 RECEIVED

TOTAL NUMBER OF PIECES LISTED BY SENDER 15	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE Fifteen	POSTMASTER, PER (Name of receiving employee) Betty Rindquist	The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to \$1,000 or the full amount of the deductible if the deductible exceeds \$1,000. The maximum indemnity payable is \$25,000 for registered mail, \$400 for COD and \$400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.
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DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

150 SHOUP AVE.

IDAHO FALLS, IDAHO 83401

NAME AND
ADDRESS
OF SENDER

Indicate type of mail

- ☐
- Registered
-
- ☐
- Insured
-
- ☐
- COD
-
- ☒
- Certified

I certify that we have

- ☐
- Commercial Insurance
-
- ☐
- A deductible clause of
-
- \$

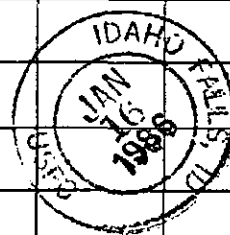
Affix stamp here if issued as
certificate of mailing or for
additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

ACCEPTANCE OF REGISTERED, INSURED, C.O.D. AND CERTIFIED MAIL

PS Form 3877, Sept. 1979

1 No.	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (If Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S.D. FEE	S. H. FEE	REST. DEL. FEE REMARKS
✓	13360	Clinger Enterprises 230 Harvard Berkeley 22	22	75		'		70			74-0996
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											
14											
15											

Total 16 articles
@ \$26.72TOTAL NUMBER OF
PIECES LISTED BY
SENDER

1

TOTAL NUMBER OF
PIECES RECEIVED
AT POST OFFICE

One

POSTMASTER, PER (Name of receiving employee)

Betty Lundquist

The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to \$1,000 or the full amount of the deductible if the deductible exceeds \$1,000. The maximum indemnity payable is \$25,000 for registered mail, \$400 for COD and \$400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN ☆ U.S. GOVERNMENT PRINTING OFFICE: 1979-301-994

BE COMPLETED BY TYPEWRITER, INK OR BALL POINT
up to \$1,000 or the full amount of the deductible if the deductible exceeds \$1,000. The maximum indemnity payable is \$25,000 for registered mail, \$400 for COD and \$400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.

January 23, 1986

Ms. Clara Ellis
City Clerk
Leadore, ID 83464

Dear Ms. Ellis:

This is to confirm the use of the Library for a water right hearing to be held by this Department on January 30, 1986 beginning at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

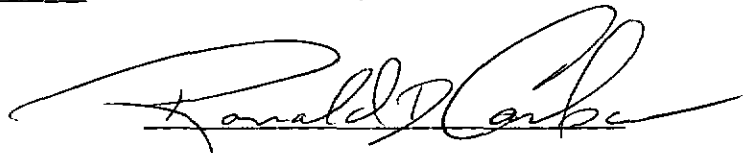
BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
EXCHANGE NO. 74-0996/0031 IN THE)
NAME OF MARJORIE E. OR EARL McREA) NOTICE OF HEARING
_____) AND/OR CONFERENCE

On June 14, 1985, Marjorie E. or Earl McRea filed with the Department of Water Resources an application to exchange the public waters of the State of Idaho. On June 21, 1985 the Department received a protest against approval of said application from Roger Ogden.

The Department has set the matter of protest for hearing for 9:00 a.m., Thursday, January 30, 1986 in the Library, City Building, Leadore, Idaho. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67 of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Dated this 15th day of January, 1986.



RONALD D. CARLSON

Eastern Regional Supervisor

December 27, 1985

RE: Application for Exchange No. 74-0996/0031

Marjorie E. or Earl McRea
P.O. Box 121
Leadore, ID 83464

Dear Applicants:

To recommend final action on the above captioned application a conference and/or administrative hearing must be held to examine the issues of protest against granting the exchange. January 30, 1986 has initially been selected as the date for conducting this meeting which will be held in Salmon.

To provide adequate time for implementing a change to this schedule, please advise this office of your availability to be present on the above date.

Certified notices confirming the date, place, and time must be mailed ten (10) days prior to the conference and/or hearing. Once the certified notices are mailed, a postponement will require prior consent of the applicant.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

December 27, 1985

RE: Application for Exchange No. 74-0996/0031 McRAE

Clinger Enterprises, Inc.
230 Harvard Avenue
Rexburg, ID 83440

Gentlemen:

To recommend final action on the above captioned application a conference and/or administrative hearing must be held to examine the issues of protest against granting the exchange. January 30, 1986 has initially been selected as the date for conducting this meeting which will be held in Salmon.

To provide adequate time for implementing a change to this schedule, please advise this office of your availability to be present on the above date.

Certified notices confirming the date, place, and time must be mailed ten (10) days prior to the conference and/or hearing. Once the certified notices are mailed, a postponement will require prior consent of the applicant.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

December 27, 1985

RE: Application for Exchange No. 74-0996/0031 McRAE

Mr. Roger Ogden
1160 North 150 East
Layton, UT 84041

Dear Mr. Ogden:

To recommend final action on the above captioned application a conference and/or administrative hearing must be held to examine the issues of protest against granting the exchange. January 30, 1986 has initially been selected as the date for conducting this meeting which will be held in Salmon.

To provide adequate time for implementing a change to this schedule, please advise this office of your availability to be present on the above date.

Certified notices confirming the date, place, and time must be mailed ten (10) days prior to the conference and/or hearing. Once the certified notices are mailed, a postponement will require prior consent of the applicant.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

cc: Alan C. Stephens, Attorney

Law Offices of
ST. CLAIR, HILLER, WOOD, McGRATH, ST. CLAIR & BAKER

MORTON B. HILLER
THEODORE V. WOOD
STEPHEN J. McGRATH
RICHARD T. ST. CLAIR
DWIGHT E. BAKER
KEVIN T. SULLIVAN
ALAN C. STEPHENS
MARVIN M. SMITH
WILLIAM R. DALLING
Legal Assistant
RICHARD E. SCHUMAN

A Partnership Composed of Professional Corporations
FIRST SECURITY BANK BUILDING
POST OFFICE BOX 29
IDAHO FALLS, IDAHO 83402
(208) 522-2350

FORMERLY
ST. CLAIR, HILLER, WOOD &
McGRATH, CHARTERED
CLENCY ST. CLAIR (1871-1957)
PAUL T. PETERSON (1892-1967)
of Counsel
ROBERT W. ST. CLAIR

October 9, 1985

Mr. Ron Carlson
Water Resource Board
150 Shoup Avenue
Idaho Falls, Idaho 83402

RECEIVED

OCT 10 1985

Department of Water Resources
Eastern District Office

Re: Roger Ogden
Exchange No. 74-0996/0031
(McRae)

Dear Mr. Carlson:

I wanted to let you know that Roger Ogden does demand a full hearing on this matter, as it is our contention that the suggested trade will damage Mr. Ogden's right to water his stock.

Please give us 30 days notice of any hearing set.

Sincerely,

ST. CLAIR, HILLER, WOOD,
McGRATH, ST. CLAIR & BAKER



Alan C. Stephens

ACS:blg

cc: Roger Ogden

July 30, 1985

RE: Application for Exchange No. 74-0996/0031 McREA

Mr. Roger Ogden
1160 North 150 East
Layton, Utah 84041

Dear Mr. Ogden:

This is to acknowledge receipt of the protest filed against the above referenced application for exchange. The following is the principle item we can consider at a conference and/or hearing in either approving or denying an application for exchange:

Chapter 2, Title 42, Idaho Code, states . . .
"the amount of water to which prior appropriators
are entitled shall remain undiminished."

You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

cc: IDWR - State Office
Alan C. Stephens, Attorney

July 30, 1985

RE: Application for Exchange No. 74-0996/0031

Marjorie E. or Earl McRea
P.O. Box 121
Leadore, ID 83464

Dear Applicants:

Enclosed please find a copy of the protest filed against the above referenced application. You should be aware the following is the item we can consider at a conference and/or hearing in either approving or denying an application for exchange.

Chapter 2, Title 42, Idaho Code, states. . .
"the amount of water to which prior appropriators are entitled shall remain undiminished."

You will be notified at a later date as to the time and place set for conference and/or hearing. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

If we may be of further assistance, please contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

RDC:cw

Enclosure

cc: IDWR - State Office

- **SENDER:** Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).

☒ Show to whom and date delivered \$
☐ Show to whom, date, and address of delivery

- 2.
- ☐
- RESTRICTED DELIVERY**
- \$

(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL \$

- 3.
- ARTICLE ADDRESSED TO:**

Chicago Enterprises
2309 Howard Ave
Rocky Hill, CT 06341

- 4.
- TYPE OF SERVICE:**

☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER

13314

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE
☐ Addressee ☐ Authorized agent

Zella Armstrong

- 5.
- DATE OF DELIVERY**

July 29 - 85

POSTMARK
 (must be on postpaid mail)

- 6.
- ADDRESSEE'S ADDRESS**
- (Only if requested)

- 7.
- UNABLE TO DELIVER BECAUSE:**

7a. **EMPLOYEE'S INITIALS**
ST

RETURN RECEIPT

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS



SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested"
- adjacent to number.

JUL 30 1985

PENALTY FOR PRIVATE
USE, \$300

RETURN
TO



Department of Water Resources
Eastern District Office

DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

(Name of Sender)

150 SHOUP AVE. *Suite 15*

IDAHO FALLS, IDAHO 83401

(Street or P.O. Box)

(City, State, and ZIP Code)

NAME AND
ADDRESS
OF SENDERDEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE.
IDAHO FALLS, IDAHO 83401Indicate type of mail
☐ Registered
☐ Insured
☐ COD
☒ CertifiedI certify that we have
☐ Commercial Insurance
☐ A deductible clause of
\$Affix stamp here if issued as
certificate of mailing or for
additional copies of this bill.
POSTMARK AND DATE OF RECEIPT

1 No	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (If Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S. D. FEE	S. H. FEE	REST. DEL. FEE REMARKS
1	13314	Clinger Enterprises Inc. 230 Harvard Lewiston, Id.	39	75	~~75~~			70			
2											
3											
4											
5											
6											
7											
8		Sent by certified mail									
9		7/26/85 cu									
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11											
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13											
14											
15											

IDAHO FALLS
JUL 26
1985
U.S. PS

TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	POSTMASTER. PER (Name of receiving employee)	The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to \$1,000 or the full amount of the deductible if the deductible exceeds \$1,000. The maximum indemnity payable is \$25,000 for registered mail, \$400 for COD and \$400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.
1	one	Taggart	

July 30, 1985

RE: Application for Exchange No. 74-0996/0031 McREA

Mr. Roger Ogden
1160 North 150 East
Layton, Utah 84041

Dear Mr. Ogden:

This is to acknowledge receipt of the protest filed against the above referenced application for exchange. The following is the principle item we can consider at a conference and/or hearing in either approving or denying an application for exchange:

Chapter 52, Title 67, Idaho Code, states . . .
"the amount of water to which prior appropriators
are entitled shall remain undiminished."

You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

cc: IDWR - State Office
Alan C. Stephens, Attorney

July 30, 1985

RE: Application for Exchange No. 74-0996/0031

Marjorie E. or Earl McRea
P.O. Box 121
Leadore, ID 83464

Dear Applicants:

Enclosed please find a copy of the protest filed against the above referenced application. You should be aware the following is the item we can consider at a conference and/or hearing in either approving or denying an application for exchange.

Chapter 52, Title 67, Idaho Code, states. . .
"the amount of water to which prior appropriators
are entitled shall remain undiminished."

You will be notified at a later date as to the time and place set for conference and/or hearing. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

If we may be of further assistance, please contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

RDC:cw

Enclosure

cc: IDWR - State Office

July 26, 1985

CERTIFIED MAIL

RE: Application for Exchange No. 74-0996/0031 McRAE

Clinger Enterprises, Inc.
230 Harvard Avenue
Rexburg, ID 83440

Gentlemen:

Enclosed for your review is an application to exchange water rights between yourself and the applicant. Pursuant to §42-240, Idaho Code, you have thirty (30) days from the date of this notice to file a protest with the Department of Water Resources should you object to the exchange.

The exchange, if approved, shall not affect your right; and in the event the applicant is unable to supply water for the exchange, water may be diverted under your right as though such exchange had not been proposed nor approved.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

RECEIVED

JUL 23 1985

Department of Water Resources
Eastern District Office

Identification No. 74-0996/0031

Exchange No. _____

APPLICATION FOR EXCHANGE OF WATER RIGHT

RECOMMENDATION OF WATERMASTER

I, Dan Smith, watermaster of Big Timber Creek,
of Water District No. 74-W, County of Lemhi, State of Idaho,
whose address is Box 22 Leadore Id 83464,
have read the enclosed copy of the application for exchange of water right for
Earl McRae, and to the best of my knowledge believe the
(name)
application to be correct.

A. I hereby endorse application for exchange and recommend that the State
Water Resource Director approve the exchange subject to the following conditions:

I approve of This exchange for it is
beneficial for all users on Big Timber Creek.

OR

B. I do not endorse approval of this application for exchange as requested
for the following reasons: _____

Dated at _____, Idaho, this 22 day of 7, 1985.

Dan P. Smith
Watermaster

July 17, 1985

RE: Application for Exchange No. 74-0996/0031 McREA

Dan Smith, Watermaster
Water District No. 74-W
Box 22
Leadore, ID 83464

Dear Mr. Smith:

Please find enclosed a copy of the above referenced application(s) and water recommendation form(s). Please review the application(s) and complete the form(s), returning it to this office on or before August 5, 1985.

Thank you for your cooperation in this matter.

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:CW

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
~~EXCHANGE~~
~~TRANSFER~~ ANALYSIS SHEET

INITIAL REVIEW BY: KEITH C. WILSON

1. Right number 74-0031 74-0996 Applicant Marjorie E. or Earl McRea
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☒ Other Exchange Big Timber Creek right and Lemhi River Right
4. Check:
- a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
- b. ☒ Description of original point of diversion.
- c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
- a. ☒ All of right.
- b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
- c. ☒ Check description of point(s) of diversion.
- d. ☒ Check description of place of use.
- e. ☒ Check map (shows p.d. and p.u. after transfer).
- f. ☒ Check for correct signature, notarization, and fee.
- g. ☒ Check proof of ownership of right &/or land from which water is transferred. NO CHANGE
- h. ☒ Check for expansion in use of right. Comments NONE
- i. ☒ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____ 8-58
- j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 74 W

FINAL PROCESSING REVIEW BY: Ernest Carlson

1. Watermaster recommendation requested on 7-17-85 Received on 7-23-85
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☒ Yes ☐ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* See attached recommended conditions of approval

4. By Ernest Carlson Date 12 April 1988 1113088

RECEIVED

NOTICE OF APPLICATION FOR EXCHANGE OF WATER

Notice is hereby given that Marjorie E. or Earl McRea have applied to the Department of Water Resources to exchange the waters of Big Timber Creek for water from the Lemhi River.

The water from Big Timber Creek, tributary of the Lemhi River, is evidenced by right No. 74-0031 to Terry E. McRea in the Lemhi Findings of Water Rights with a priority of June 1, 1884. The right provides for the diversion of 1.40 cfs from points within the SW1/4NW1/4, SE1/4NW1/4, Sec. 28, T. 16N, R. 26E, B.M., Lemhi County. The water is used from 3/15 to 11/15 for the irrigation of 89 acres within the N1/2NW1/4, SE1/4NW1/4, Sec. 28, SW1/4SW1/4, Sec. 21, T. 16N, R. 26E.

The right to be exchanged is evidenced by No. 74-0996 to Clinger Enterprises, Inc. in the Lemhi Findings of Water Rights and provides for the diversion of 8.32 cfs from the Lemhi River through Garner's River Ditch in the SE1/4SE1/4, Sec. 28, T. 16N, R. 26E.

PROPOSED EXCHANGE

The 1.40 cfs under right 74-0031 will be diverted at Lloyd Garner's Big Timber Creek diversion in the NW1/4NW1/4, Sec. 33, T. 16N, R. 26E. In lieu there of 1.40 cfs of right 74-0996 diverted from the Lemhi River in the SE1/4SE1/4, Sec. 28, T. 16N, R. 26E will be delivered to the McRea's in the SE1/4NW1/4, SW1/4NW1/4, Sec. 28, and used to irrigate the 89 acres described as the place of use for right 74-0031.

Any protest to the above exchange of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402 on or before August 5, 1985.

A. KENNETH DUNN

Director

Published in the Recorder Herald, Salmon, ID on 7/18 & 7/25/85