

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: **A21-11191**
Date Received: 4/18/1989
Receipt No: E006908
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: KENNETH T. WRIGHT 312-558-9055
Address: 626 WARWICK ROAD
KENILWORTH IL 60043
2. Date of Priority: JUL 1, 1938
3. Source: MOOSE SPRING Trib. to: HENRYS FORK SNAKE RIVER
4. Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------|-------|---------|--------|--------|-----|-----|---------|
| 13N | 42E | 29 | | SW | SW | | FREMONT |
| | | | | SE | SW | | FREMONT |
| | | 32 | | NW | NW | | FREMONT |
5. Description of diverting works:
SPRING IN BOTTOM OF PRIVATE LAKE OR POIND/EARTHEN DAM
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S | (or) | A.F.A. |
|--------------------|-------|-------|-------|------|---------|
| RECREATION STORAGE | 04/01 | 11/01 | | | 1500.00 |
| STOCKWATER STORAGE | 04/01 | 11/01 | | | 11.00 |
7. Total Quantity Appropriated is:
C.F.S. (and/or) 1500.00 A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
PRIVATE FISHING; 400 PRS. COWS/CALVES (SAME CATTLE AS 21-0005)
10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13N	42E	29	NW	SW		REC S	

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A21-11191

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Date: 08/24/92 OCT 23 1992

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
13N	42E	29	NW		SW		STOC S	
			SW		SW		REC S	
			SW		SW		STOC S	
			SE		SW		REC S	
			SE		SW		STOC S	
		30	SE		SW		REC S	
			SE		SW		STOC S	
			NE		SE		REC S	
			NE		SE		STOC S	
			SW		SE		REC S	
			SW		SE		STOC S	
			SE		SE		REC S	
			SE		SE		STOC S	
		31	NE		NE		REC S	
			NE		NE		STOC S	
		32	NE		NW		REC S	
			NE		NW		STOC S	
			NW		NW		REC S	
			NW		NW		STOC S	
			SW		NW		REC S	
			SW		NW		STOC S	
			SE		NW		REC S	
			SE		NW		STOC S	

11. Place of use in counties: FREMONT

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

13. Other Water Rights Used:

STOCKWATER USE IS SAME AS UNDER 21-0005

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

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OCT 23 1992

For Individuals:

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

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

17. Notice of Appearance:

Notice is hereby given that I, _____ will be
Print Name

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

Signature _____

Address _____

Date _____

MICROFILMED

OCT 23 1992

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

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

CIVIL CASE NUMBER: 39576

Ident. Number A21-11191

Date Received _____

Receipt Number _____

RECEIVED

JUL 15 1992

Department of Water Resources
Eastern District Office

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

1. Name of Claimant(s) Kenneth T. Wright Phone (708) 251-9262

Mailing Address 626 Warwick Road, Kenilworth, Illinois Zip 60043

2. Date of Priority (Only (1) per claim) July 1, 1938

3. Source of water supply (a) Moose Spring

which is tributary to (b) Henry's Fork, Snake River

4.a. Location of existing

point of diversion is: Township 13N Range 42E Section 29,

1/4 of SW 1/4 of SW, Govt. Lot, B.M., County of Fremont

Additional points of diversion if any: SE1/4 SW1/4, Sec. 29, NW1/4 NW1/4
Sec. 32, T.13N, R.42E.

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of

_____ 1/4 of _____ 1/4 Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. The source of water for the pond or lake is a spring known as Moose Spring, a large spring in the bottom of the private lake or pond. An earthen dam approximately 10 feet wide at the top and approximately 1500 feet in length varying in height up to about 30 feet with a concrete and steel outlet and spillway is located in the S1/2 SW1/4 of Sec. 29 and the NW1/4 NW1/4, Sec. 32, T.13N, R.42E. The lake covers about 100 acres to an average depth of 15 feet.

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OCT 23 1992

6. Water is claimed for the following purposes:

(Both dates are inclusive) (cfs) (acre feet)

For Recreation purposes from 04/01 to 11/01 amount _____ or 1500

For Stockwater purposes from 04/01 to 11/01 amount _____ or 21-005 See

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) _____ (cfs) and/or (b) 1500 (acre feet)

8. Total consumptive use claimed is None acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.)
Private fishing; 400 pairs cows and calves (same cattle as described in 21-0005.

10. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP:RNG:SEC:	NE1/4	:	NW1/4	:	SW1/4	:	SE1/4	:	TLS
:	:NE 'NW 'SW 'SE	:	:NE 'NW 'SW 'SE	:	:NE 'NW 'SW 'SE	:	:NE 'NW 'SW 'SE	:	:
13N:42E: 29:	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :
:	: 30:	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :
:	: 31:S&R'	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :
:	: 32:	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :
:	: :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :
:	: :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :
:	: :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :	' ' ' ' :

Total number of acres irrigated N/A

11. In which county(ies) are lands listed above as place of use located?
Fremont

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
Stockwater use is the same as under 21-0005. or None ()

14. Remarks:

Last Name Wright Ident. Number _____

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OCT 23 1992

15. Basis of Claim (Check one) Beneficial Use X Posted Notice _____
Permit _____ Decree _____ License _____

If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature(s)

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

Number of attachments 0

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) Kenneth T. Wright Date 7/6/92
KENNETH T. WRIGHT

For Organizations: I do solemnly swear or affirm that I am _____ of _____, that I have signed the
Title Organization

foregoing document in the space below as _____ Title
of _____ and that the statements contained in the
Organization

foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or Idaho)
County of Fremont) SS.

Subscribed and sworn (or affirmed) before me this 6th day
of July, 1992.

Notary Public Anthony Mackay
Residing at Idaho Falls, Idaho
My Commission Expires 6-10-94

17. Notice of Appearance:

Notice is hereby given that I, Kent W. Foster will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Kent W. Foster
Address P.O. Box 50130, Idaho Falls, Idaho 83405
Date 7/15/92

Last Name Wright Ident. Number _____

MICROFILMED
OCT 23 1992

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A21-11191
Date Received: 4/17/1989
Receipt No: E006908
Received By: JK

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: KENNETH T. WRIGHT 312-558-9055
Address: 626 WARWICK ROAD
KENILWORTH, IL 60043
2. Date of Priority: JUL 01, 1938
3. Source: ICE HOUSE CREEK Trib. to: HENRYS FORK SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13N	41E	26	NE	NE	NW		FREMONT

5. Description of diverting works:
DITCHES/DAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
RECREATION STORAGE	04/01	11/01			1500.00
STOCKWATER STORAGE	04/01	11/01			11.00

7. Total Quantity Appropriated is:
C.F.S. (and/or) 1500.00 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
PRIVATE FISHING; 400 PRS. COWS/CALVES (SAME CATTLE AS 21-0005)

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13N	42E	29	NW	SW		REC S	
			NW	SW		STOC S	

A21-11191

Page 1

Date: 04/19/89

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OCT 23 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
13N	42E	29	NW SW	SW SW	REC S	
			NW SW	SW SW	STOC S	
			SE SW	SW	REC S	
		30	SE SW	SW	STOC S	
			SE SW	SW	REC S	
			SE SW	SW	STOC S	
			NE SE	SE	REC S	
			NE SE	SE	STOC S	
			SW SE	SE	REC S	
			SW SE	SE	STOC S	
			SE SE	SE	REC S	
			SE SE	SE	STOC S	
		31	NE NE	NE	REC S	
			NE NE	NE	STOC S	
		32	NE NW	NW	REC S	
			NE NW	NW	STOC S	
			NW NW	NW	REC S	
			NW NW	NW	STOC S	
			SW NW	NW	REC S	
			SW NW	NW	STOC S	
			SE NW	NW	REC S	
			SE NW	NW	STOC S	

11. Place of use in counties: FREMONT

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

13. Other Water Rights Used:

STOCKWATER USE IS SAME AS UNDER 21-0005

14. Remarks:

ADDITIONAL POD: SE1/4 NW1/4 NE1/4 SW1/4, SAME SEC., TWP, & RGE.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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

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

CIVIL CASE NUMBER: 39576
Ident. Number A21-11191
Date Received 4-17-89 (late)
Receipt Number 6006908 / 6006911

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

A211191

Please type or print clearly

1. Name of Claimant (s) Kenneth T. Wright Phone (312) 558-905
Mailing Address 626 Warwick Road, Kenilworth, Illinois Zip 60043
2. Date of Priority (Only one (1) per claim) July 1, 1938
3. Source of water supply (a) Ice House Creek
which is tributary to (b) Henry's Fork Snake River
4. a. Location of existing point of diversion is: Township 13N Range 41E Section 26,
1/4 of NE 1/4 of NW 1/4, Govt. Lot, B.M., County of Fremont
Additional points of diversion if any: SE 1/4 NW 1/4, NE 1/4 SW 1/4, same Sec. Twp. and Rge.
b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. The water for the pond or lake comes from the same
ditch from Ice House Creek shown and described in Claims Nos. 31-0005, 31-0003, 21-0004 and
21-2023. The ditch empties into the lake in the SE 1/4 SW 1/4, Sec. 30, T.13N., R.42E. An
earthen dam approximately 100 feet wide at the top and approximately 1500 feet in length
varying in height up to about 30 feet with concrete and steel outlet and spillway is located
in the S1/2 SW 1/4 of Sec. 30 and the NW 1/4 NW 1/4, Sec. 32 of T.13N., R.42E. The lake covers
about 100 acres to an average depth of 15 feet.

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OCT 23 1992

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For recreation 47 purposes from Apr. 1 to Nov. 1 amount or 1500

For stockwatering 05 purposes from Apr. 1 to Nov. 1 amount or See 21-0005

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) (cfs) and/or (b) 1500 (acre feet)

8. Total consumptive use claimed is None acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) private fishing; 400 pairs cows and calves (Same cattle as described in 21--0005

10. 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 use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
13N	42E	29										S&R	S&R	S&R					
		30												S&R	S&R		S&R	S&R	
		31	S&R																
		32					S&R	S&R	S&R	S&R									

Total number of acres irrigated

11. In which county (ies) are lands listed above as place of use located? Fremont

12. Do you own the property listed above as place of use? Yes X No
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
Stockwater use is same as under 21-0005 or None ()

14. Remarks:

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OCT 23 1994

Last Name Wright Ident No.

Copies: White - State, Yellow - Claimant

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For recreation purposes from Apr. 1 to Nov. 1 amount _____ or 1500

For stockwatering purposes from Apr. 1 to Nov. 1 amount _____ or See 21-0005

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) _____ (cfs) and/or (b) 1500 (acre feet)

8. Total consumptive use claimed is None acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) private fishing; 400 pairs cows and calves (Same cattle as described in 21--0005

10. 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 use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
13N	42E	29										S&R	S&R	S&R					
		30												S&R	S&R		S&R	S&R	
		31	S&R																
		32					S&R	S&R	S&R	S&R									

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Fremont

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
Stockwater use is same as under 21-0005 or None ()

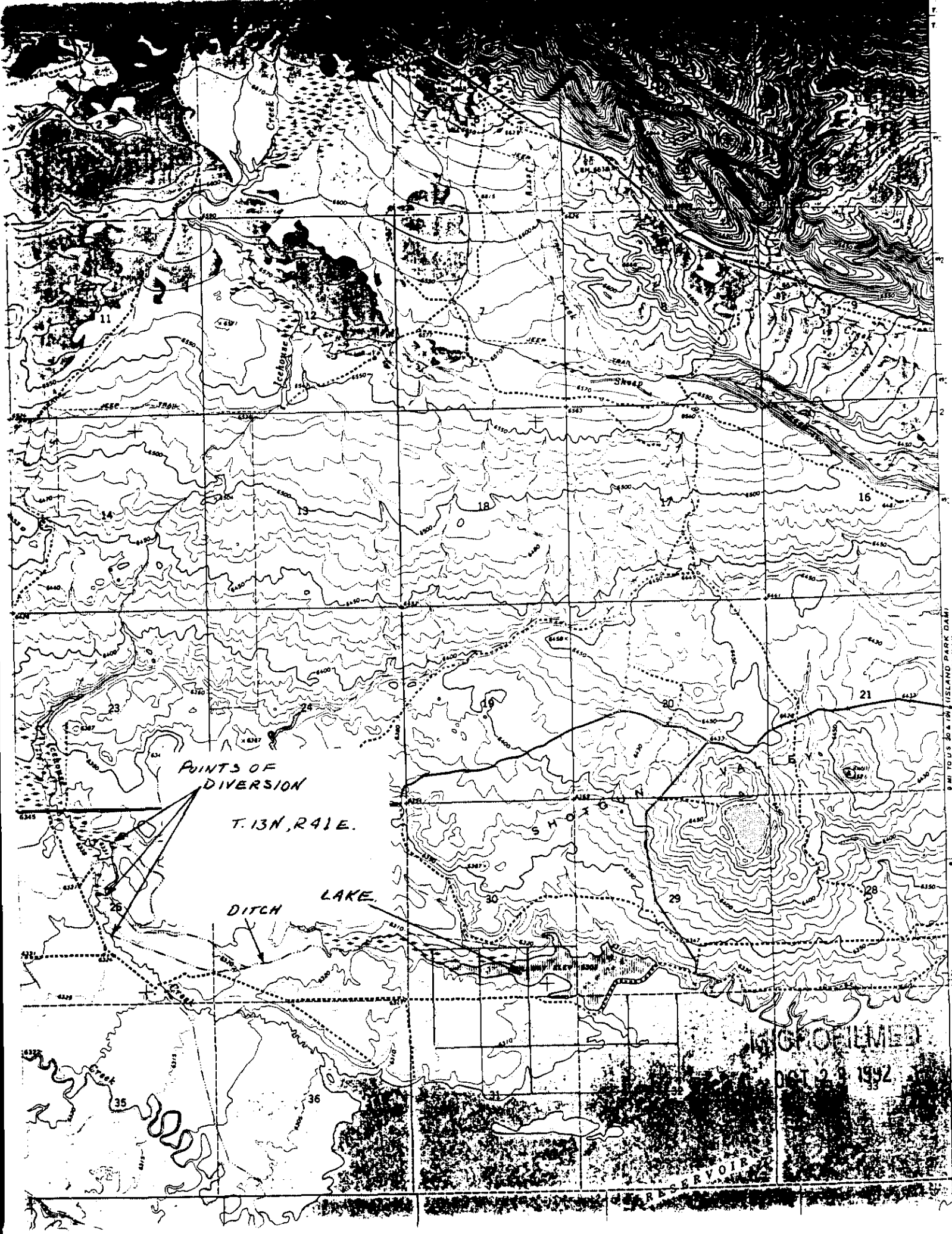
14. Remarks:

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OCT 23 1992

Last Name Wright Ident No. _____

Copies: White -State, Yellow-Claimant



POINTS OF
DIVERSION

T. 13N, R. 41E.

DITCH LAKE

UNCLASSIFIED
DIST. 2.3.1992

RESERVOIR

Scale: 2 inches equals 1 mile

A 16x16 grid of 256 squares. Each square contains a crosshair pattern formed by two dashed lines intersecting at the center. The lines are composed of short segments with gaps, creating a 'dashed' appearance. The grid is uniform, with every square containing the same pattern.

MICROFILMED

OCT 23 1992

Last Name Wright Ident No. _____

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____

Decree _____

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments 1

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) M. J. Wright Date 3/17/89

Date _____

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of ~~Idaho~~/or Illinois)

County of Cook) SS.

Subscribed and sworn (or affirmed) before me this 17th day of March 19 89

SEAL

Notary Public Mary J. Summers

Residing at Chicago, Illinois

My Commission Expires Jan 13, 1990

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, Kent W. Foster will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address Box 50130, Idaho Falls, Idaho 83405

Date _____

MICROFILMED

OCT 23 1992

Last Name Wright Ident. Number _____

Copies White-State, Yellow-Claimant

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FALLS OFFICE

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
MICHAEL D. CRAPO
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
KUMEN L. TAYLOR
JAMES K. SLAVENS

WEST ONE BANK
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

KEY FINANCIAL CENTER
702 W. IDAHO SUITE 610
BOISE, IDAHO 83702

TELEPHONE (208) 343-0820
TELEFAX (208) 343-8078

BOISE OFFICE

WM. LYMAN BELNAP, P.A.
RANDALL B. REED
RONALD D. CHRISTIAN

ARTHUR W. HOLDEN
(1877-1967)
ROBERT B. HOLDEN
(1911-1971)
TERRY L. CRAPO
(1939-1982)
WILLIAM S. HOLDEN
(1907-1988)

July 15, 1992

RECEIVED

JUL 15 1992

Department of Water Resources
Eastern District Office

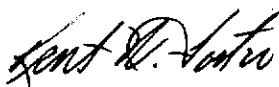
Idaho Department of Water Resources
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

Gentlemen:

We are enclosing with this letter an Amended Notice of Claim to a Water Right on behalf of Kenneth T. Wright.

If you have any questions or concerns, please call at your earliest convenience.

Yours very truly,


Kent W. Foster

#1535.00/srs

Enclosure

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OCT 23 1992

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)

R. VERN KIDWELL, OF COUNSEL

WILLIAM S. HOLDEN
FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEELER
MARIE T. FEELEY

April 18, 1989

RECEIVED

APR 18 1989

Department of Water Resources
Eastern District Office

Mr. Ernest Carlson
Idaho Department of Water
Resources
150 Shoup Avenue
Suite 15
Idaho Falls, Idaho 83402

RE: Water Rights Claims of Kenneth T. Wright

Dear Ernest:

Pursuant to our telephone conversation of this date, we are enclosing our check in the amount of one hundred seventy-five dollars (\$175.00) for the additional filing fees you requested.

You indicated that the instream stockwater claim on Sheep Creek (which has not yet been assigned a number) required a flat fee of only twenty-five dollars (\$25.00) rather than fifty dollars (\$50.00). In addition, you indicated that the variable use fee requested on the claim for the recreational use on the pond or reservoir would be two hundred dollars (\$200.00).

Rather than having you refund twenty-five dollars (\$25.00) or having us re-issue a new check, we have issued the new check for one hundred seventy-five dollars (\$175.00) and ask that the additional twenty-five dollars (\$25.00) on the Sheep Creek stock claim be applied as well to make up the difference for the two hundred dollars (\$200.00) for the variable fee on the pond.

Also, as we discussed, this two hundred dollars (\$200.00) is paid under protest basically because we do not believe that the rules or the statute clearly require payment of a variable use fee in these circumstances where variable use fees have already been paid on the same water through the same diversion for

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Mr. Ernest Carlson
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irrigation and stockwatering purposes. We therefore respectfully request the same reconsideration with respect to this fee as with the ones mentioned in our April 17th letter.

Yours very truly,



Kent W. Foster

#1525.00/srr

Enclosure

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TERRY L. CRAPO (1939-1982)
R. VERN KIDWELL, OF COUNSEL

April 17, 1989

Mr. Ernest Carlson
Department of Water Resources
150 Shoup, Suite 15
Idaho Falls, Idaho 83402

Dear Ernest:

We are enclosing for filing ten Notices of Claim and a check in the amount of one thousand six hundred seventeen dollars (\$1,617.00). The fees have been calculated as follows:

- | | |
|------------------------|-------------------------------|
| 1. Claim No. 21-4028 | |
| Flat Fee | \$ 50.00 |
| Variable Fees | |
| 148 Acres Irrigated | \$140.00 |
| Stockwatering | \$300.00 (paid under protest) |
| 2. Claim No. 21-0003 | |
| Flat Fee | \$ 50.00 |
| Variable Fee | |
| 302 Acres Irrigated | \$302.00 |
| 3. Claim No. 21-2023 | |
| Flat Fee | \$ 50.00 |
| Variable Fee | |
| Same acres as 21-0003 | |
| 4. Claim No. 21-0005 | |
| Flat Fee | \$ 50.00 |
| Variable Fee | |
| Acreage--same acres as | |
| 21-0003 and 21-2023 | |
| Stockwatering | \$200.00 (paid under protest) |

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5.	Claim No. 21-0004	
	Flat Fee	\$ 50.00
	Variable Fee	
	Acreage--same acres as	
	21-0003, 21-2023 and	
	21-0005.	
6.	April 1, 1987--Domestic	
	Flat Fee	\$ 25.00
	Late Fee	\$ 50.00
7.	April 1, 1938--Domestic	
	Flat Fee	\$ 25.00
	Late Fee	\$ 50.00
8.	June 1, 1988--Stockwell	
	Flat Fee	\$ 25.00
	Late Fee	\$ 50.00
9.	Sheep Creek Stock Claim	
	Flat Fee	\$ 50.00
	Late Fee	\$ 50.00
10.	Claim for Pond	
	Flat Fee	\$ 50.00
	Late Fee	\$ 50.00

Besides the five claims previously submitted, there are four which should have been included with the first five, but apparently were inadvertently omitted from the first group. They include two for domestic wells, one for a stockwater well, and one for instream stockwater from Sheep Creek. The tenth claim is for a pond or lake used primarily for recreation, but from which the same cattle that drink from the ditch described in 21-0005, 21-0003, 21-0004 and 21-2023 can and do also drink.

We anticipate that you may request a variable fee on this additional claim as well for stockwater and/or recreation uses. However, as we will attempt to express, we cannot see how such a variable use fee could be justified under the statute, or computed under the rules. The five hundred dollar (\$500.00) variable use fees for stockwater under 21-0005 and 21-4028 is paid under protest. We request that the matter be reconsidered and that this sum be refunded. We respectfully disagree with your analysis.

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You make reference to §42-1201A(12); we assume you really mean §42-1401A(12), which is the definition of "stockwatering use". As we have argued in other instances, we are not convinced that either the legislature (under 42-1414(2)(d)) or IDWR under its rules, has provided for a variable use fee for livestock watering purposes, whether the use is within the definition of §42-1401A(12) or not. As we have said, we are skeptical that IDWR has the legal power to provide for charging of a variable use fee for use excluded from the statute; assuming IDWR's position to be that Rule 5, 4, 3 is intended to include such uses as stockwater even though the same are excluded by the statute.

But even if a variable use fee is to be charged for stockwatering use that does not meet the 42-1401A(12) definition, we are not persuaded that the claims we have filed do not come within the parameters of that definition anyway. As you have indicated, 13,000 gallons per day is more than enough water for the number of cattle shown in the claim.

Your review of the department's standards on diversion rates raises additional issues. Surely the department realizes that diversion requirements, even for stockwater, are dependent upon a number of variables. Until the department has investigated each of those variables in a given instance, we do not see how it is helpful to suggest that the department has historically recognized any particular diversion rate. A claimant, attempting to file an adjudication claim, is probably better advised to rely on the historical rate of diversion in his ditch rather than some theoretical rate the department recognizes. The department gets to make a report with a determination, but hopefully that will be based upon an appropriate examination and not just what the department has historically recognized.

The other question apparently raised by your discussion of IDWR recognized diversion rates is how is such relevant to the variable use fee issue? Both the code and the rules refer to a variable "use" fee, not a variable "diversion rate" fee. We understand use and diversion to be two different things and believe the legislature does also. If the use does not exceed 13,000 gallons per day, then why are you concerned about the diversion rate? You use the term "total use" in your letter. As nearly as we can tell that is neither a statutory term or concept, nor can we see it in the rules. We are skeptical that the legislature intended a variable fee to be charged on the basis of diversion rather than use, even if somehow it intended a variable use fee to be charged for stockwatering.

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We agree that there should be no variable fee for incidental stockwater, but whether stockwater is incidental to the irrigation in Shot Gun Valley or whether irrigation is incidental to stockwatering might be debatable. Typically in a good water year there is enough water for irrigation of all irrigated lands only for a few days or a couple weeks in the early summer and after that the rancher is lucky to have adequate stockwater and some incidental irrigation.

We appreciate your suggestions about how to fill out a claim for incidental stockwater, but we doubt that the stockwater claimed here is merely incidental, at least in the same sense it might be in the case of a large canal company or irrigation district further down in the valley where potatoes and other cash crops are more important. The claim form, the instructions, and even the rules do not appear to clarify how incidental stockwater is to be treated.

A claimant really has no choice but to claim his historical diversion rate under number 6 on the form rather than the potentially much smaller amount that may be actually used by his cattle. Also it would be a mistake to only claim that the water is used for one purpose when in fact it is needed and used for more than one. We cannot imagine IDWR taking the position that a water right holder is entitled to use water for a purpose not listed in the decree. But it appears to us that the legislature did not provide that two variable fees must be paid when the same water (whenever a sufficient amount is available) is diverted through a single diversion for irrigation and for stockwater use, and for only for stockwater use when the supply is insufficient for economical irrigation.

As we have said before, we would be pleased to visit further with you about these matters because it is probably not cost effective for any single claimant to litigate these questions.

Yours very truly,



Kent W. Foster

#1535.00/srr

Enclosures

UNRECORDED

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1/30/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME WrightCLAIM NO. 421-1191DATE RECEIVED 17 April 89CK # 42715AMOUNT \$

- | | YES | NO | Required Info? |
|--|--|-------------------------------------|----------------|
| 1. Is the name and address complete with zip code? | ☒ | ☐ | * |
| 2. Is a priority date entered? | ☒ | ☐ | * |
| Is the priority date acceptable in view of mandatory filing dates? | ☒ | ☐ | * |
| See Adjudication Memos #1 and #4 to determine if a Permit is required. | ☒ | ☐ | * |
| 3. (a) Is a source entered? | ☒ | ☐ | * |
| (b) Is a tributary to entered? (if required) | ☐ N/A | ☐ | |
| 4. Is the legal description of the p.d. sufficient? | ☒ | ☐ | * |
| 5. Is there a description of the diverting works? | ☒ | ☐ | |
| 6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. | ☒ | ☐ | * |
| Is the period of use included? | ☒ | ☐ | |
| Is a quantity claimed for each use? | ☒ | ☐ | * |
| 7. Is a total quantity claimed entered? | ☒ | ☐ | |
| 8. If required is a consumptive use entered? | ☒ N/A | ☐ | |
| Is the consumptive use correct? | ☒ N/A | ☐ | |
| 9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. | ☒ N/A | ☐ | * |
| 10. Is (are) the place(s) of use and purpose(s) indicated? | ☒ | ☐ | * |
| 11. Is (are) the county(ies) entered? | ☒ | ☐ | |
| 12. Is the ownership of p.u. checked? | ☒ | ☐ | |
| 13. Are other water rights listed or "none" indicated? | ☒ | ☐ | |
| 14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) | ☒ N/A | ☐ | |
| 15. Is the basis of the claim indicated? | ☐ | ☐ | |
| 16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) | ☒ N/A | ☐ | |
| 17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. | ☒ | ☐ | * |
| 18. Has the claim been signed, sealed, and dated by a notary? | ☒ | ☐ | * |
| 19. Was this claim filed on time, or was an extension granted? | ☐ | ☒ | * |
| 20. Is the fee enclosed correct? | ☒ Exempt | ☐ | * |
| 21. If this claim is based on an existing water right, has the identification number been entered? | ☒ N/A | ☐ | |
| 22. Should this claim be receipted and data entered? | ☒ | ☐ | |

Claim checked by: Ernest CalanDate: 18 April 89

Claim must be returned to claimant:

☐ (Yes) ☐ (No)

Claimant must be notified of modifications:

☐ (Yes) ☐ (No)

Receipt Prepared by: _____

Date: _____

Claim data entered by: _____

Date: _____

Sent to claimant by: _____

Date: _____

Checked by: _____

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Date: _____

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Comments: Item 6 - enter 11 ACRE FEET for stockwater.Will be submitting additional fee. Paid \$125.00 on Receipt 6006908
175.00 on 6006910