

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: A25-12644
Date Received: 8/16/1989
Receipt No: E009870
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ELIZABETH A. DAY 208-522-5853
Address: 283 4TH ST.
IDAHO FALLS, ID 83401

OR

Name: WENDELL DAY 208-522-5853
Address: 283 4TH ST.
IDAHO FALLS, ID 83401

2. Date of Priority: MAY 31, 1967

3. Source: SPRINGS Trib. to: TWIN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01S	40E	31	NE	SE			BONNEVILLE
		32	SW	NW			BONNEVILLE

5. Description of diverting works:
RESERVOIRS AND BEAVER PONDS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.040		
IRRIGATION STORAGE	11/01	04/01	1.040		

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

8. Total consumptive use is 130.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NA

10. Place of Use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
01S	40E	32	NE	NW		IRR	8.0
			NW	NW		IRR	25.0
			SE	NW		IRR	10.0
			NW	SW		IRR	9.0

Section Acres 52.0

Total Acres **52.0**

11. Place of use in counties: BONNEVILLE

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

13. Other Water Rights Used:

A25-12645, A25-12646

14. Remarks:

BEAVER POND RESERVOIR: NESE, SEC 31, T1S, R40E
RESERVOIR: (130' X 320' X 8') NESE, SEC31, T1S, R40E
RESERVOIR: (25' X 75' X 8') SWNW, SEC32, T1S, R40E
WATER FLOWS FROM BEAVER POND RESERVOIR INTO LARGE RESERVOIR,
THENCE INTO TWIN CREEK FOR 1/4 MILE TO SMALLER RESERVOIR,
RESERVOIR IN SEC.31 CONTINUOUSLY REPAIRED AND CLEANED UNTIL 1949.
RESERVOIRS IN SEC. 31 ENLARGED IN 1949. RESERVOIRS IN SEC. 31
ENLARGED AND RESERVOIR IN SEC. 32 CONSTRUCTED IN 1967.
BASED ON CLAIM 25-04004

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 A25-12644
Date Received 8/16/89
Receipt Number E009870

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW



Please type or print clearly

1. Name of Claimant (s) WENDELL & ELIZABETH A. DAY Phone (208) 522-3822
Mailing Address 283 4TH ST., IDAHO FALLS, ID Zip 83401

2. Date of Priority (Only one (1) per claim) MAY 31, 1967

3. Source of water supply (a) SPRINGS
which is tributary to (b) TWIN CREEK

4. a. Location of existing point of diversion is: Township 1S Range 40E Section 31,
1/4 of NE 1/4 of SE 1/4, Govt. Lot, B.M., County of BONNEVILLE

Additional points of diversion if any: SWNW SEC. 32, T1S R40E

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.

BEAVER POND RESERVOIR - NESE SEC 31, T1S R40E
RESERVOIR (130' X 320' X 8') - NESE SEC 31, T1S R40E
RESERVOIR (25' X 75' X 8') - SWNW SEC 32, T1S, R40E

WATER FLOWS FROM BEAVER POND RESERVOIR INTO LARGE RESERVOIR, THENCE
INTO TWIN CREEK FROM FOR 1/4-MILE TO SMALLER RESERVOIR, RESERVOIR IN
SECTION 31 CONTINUOUSLY REPAIRED AND CLEANED UNTIL 1949. RESERVOIRS IN
SECTION 31 ENLARGED IN 1949. RESERVOIRS IN SECTION 31 ENLARGED AND
RESERVOIR IN SECTION 32 CONSTRUCTED IN 1967.

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from APR 1 to NOV 1 amount 1.04 or _____

For IRR STORAGE purposes from NOV 1 to APR 1 amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.04 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 130 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) NONE

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	
1S	40E	32					8	25		10		9							52

Total number of acres irrigated 52

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

12. Do you own the property listed above as place of use? Yes A 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.
JAN 4, 1915 & MAY 31, 1949 or None ()

14. Remarks:

Last Name _____ Ident No. _____

MICROFILMED

Copies: White - 5 Yellow - 5
NOV 11 1992

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

Decree _____

If applicable provide IDWR Water Right Number 25-4004

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 _____

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

Signature of Claimant (s) *Wendell Day*

Date Aug 16 - 1989

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 _____)

County of Bonner) SS.

Subscribed and sworn (or affirmed) before me this 16th day of August 19 89

SEAL

Notary Public *Anthony S. O'Connell*

Residing at *Stoke Falls*

My Commission Expires 9/12/1994

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ 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 _____

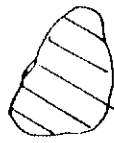
Address _____

Date _____

Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant

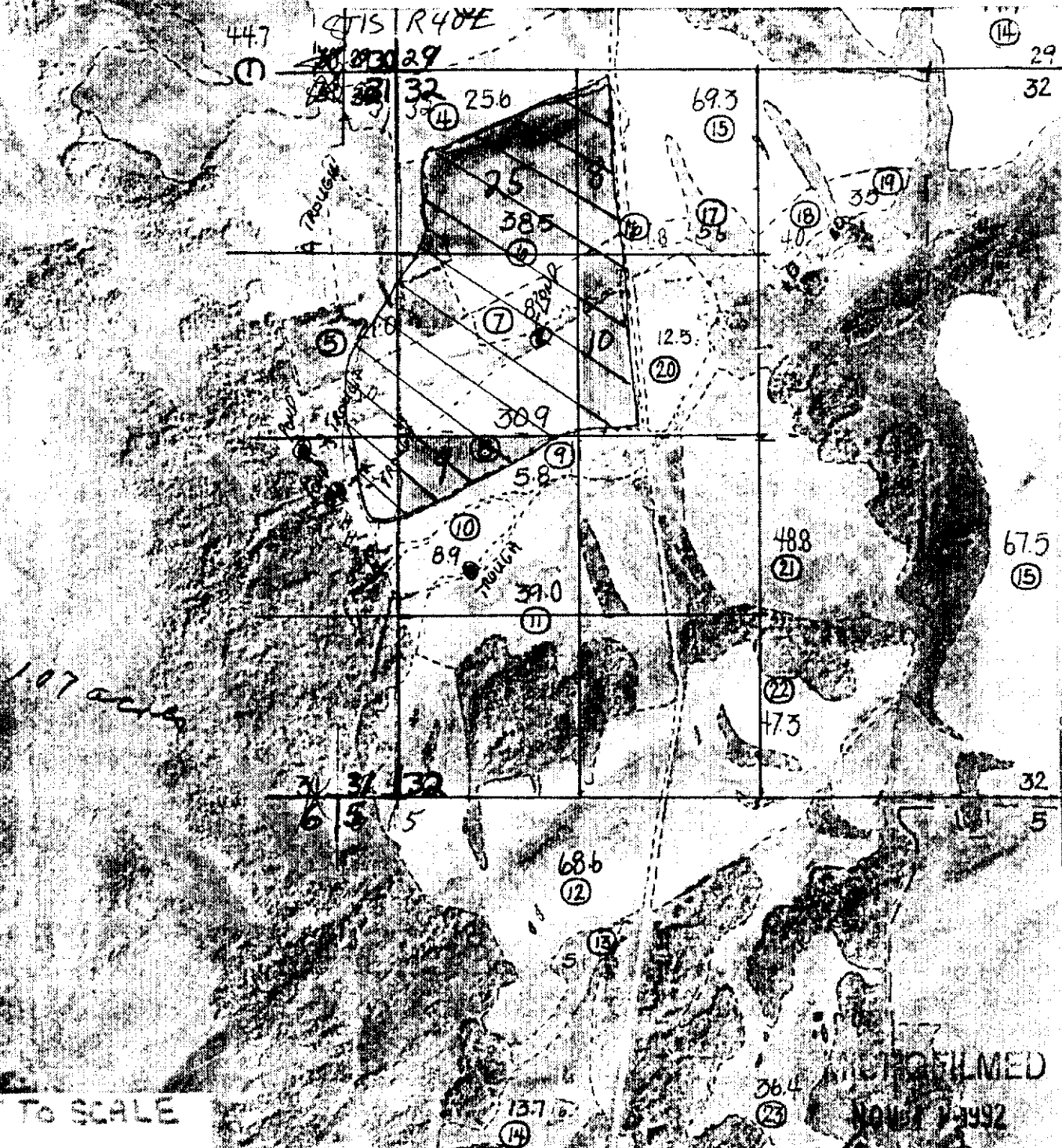
M-9



- TOTAL IRRIGATED ACREAGE



- MAY 31, 1967



M-9

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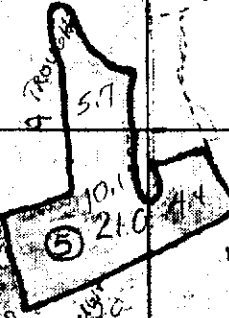
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MICROFILMED
NOV 11 1992

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NOV 11 1992

NOT TO SCALE

Log for claim 25-12644

Spatial Dynamics CAT

11/14/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
01s40e	32	NENW	8	40	Indiscernible
01s40e	32	NWNW	25	40	Indiscernible
01s40e	32	SENW	10	40	Indiscernible
01s40e	32	NWSW	9	40	Indiscernible
Totals:			52	160	

 **SPATIAL
DYNAMICS**

AJ5809NP
No. A25-12644

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/18/00
PAGE: 65

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	ELIZABETH A DAY	05/31/1967	IRRIGATION	04-01 11-01	1.040 CFS	
C	WENDELL DAY 283 4TH ST IDAHO FALLS ID 83401 (208) 522-5853		IRRIGATION STORAGE	11-01 04-01	1.040 CFS	
TOTAL DIVERSION:					1.040 CFS	
CONSUMPTIVE USE:						130.00 AFA

Water Source: SPRINGS

Tributary to: TWIN CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion: T01S R40E S31 NESE
S32 SWNW

BONNEVILLE County
BONNEVILLE County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM	
01S	40E	32	:					08	25			10				09				
TOTAL ACRES																			52.0	

POU County: BONNEVILLE

Non-Irrigation Uses: NA

Other Rights: A25-12645, A25-12646

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
25-12642 25-12643 A25-12642 A25-12643 A25-12645 A25-12646

Remarks: GEN BEAVER POND RESERVOIR: NESE, SEC 31, T1S, R40E
RESERVOIR: (130' X 320' X 8') NESE, SEC31, T1S, R40E
RESERVOIR: (25' X 75' X 8') SWNW, SEC32, T1S, R40E
WATER FLOWS FROM BEAVER POND RESERVOIR INTO LARGE RESERVOIR,
THENCE INTO TWIN CREEK FOR 1/4 MILE TO SMALLER RESERVOIR,
RESERVOIR IN SEC.31 CONTINUOUSLY REPAIRED AND CLEANED UNTIL 1949.
RESERVOIRS IN SEC. 31 ENLARGED IN 1949. RESERVOIRS IN SEC. 31
ENLARGED AND RESERRVOIR IN SEC. 32 CONSTRUCTED IN 1967.
BASED ON CLAIM 25-04004

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Audit: 10/16/89 BAUMHOFF 02/11/91 THOMPSON 03/29/95 POST-STD

FEBRUARY 13, 1991

WENDELL DAY
283 4TH STREET
IDAHO FALLS, ID 83401

RE: NOTICES OF CLAIM

Dear Mr. Day:

The three Notices you submitted August 16, 1989, (A25-12644, A25-12645, and A25-12646) are based upon the use of water previously recorded by Claim to a Water Right 25-4004.

It has come to our attention that uses for irrigation storage, irrigation from storage, domestic, domestic storage, and domestic from storage were listed on 25-4004 but were not included on the above Notices. These uses should be correctly indicated.

Please call this office (525-7161) to schedule an appointment so we can review and possibly modify your Notices.

Respectfully submitted,

Ernest Carlsen
Adjudication Supervisor

EC:jt

Enclosure

FILE: TIC

*James M. ...
mt. chs. ...
3-20-91*

MICROFILMED

NOV 11 1992

MEMO TO FILE: A25-12644; A25-12645; A25-12646

EMPLOYEE Anna Baumhoff *AB*

DATE: October 16, 1989

The three claims listed have been submitted by Mr. Wendell Day. All three are based upon 25-4004 which is a claim for irrigation of 108 acres. Uses included are irrigation, irrig. storage, irrig. from storage, domestic, domestic storage and domestic from storage.

The three adjudication claims only claim the irrigation uses.

From the descriptions on the claims it appears that there is storage and therefore irrigation storage (02) use with an acre feet volume and an irrigation from storage (03) with an acre feet volume as well as a total volume in acre feet per annum need to be part of this claim.

Dimensions of the ^{RESERVOIRS} ~~Reservoirs~~ as currently established are given on all three claims. As there were 2 dates where the volumes were increased (to what they are presently) it is not possible to determine the correct volumes of storage which correspond to each claim.

Notes on the bottom of the claim check list indicated that as there was no volume for storage on the accepted claim "code in the cfs diversion rate for the storage".

I have entered the claims, although I feel that clarification is required. First storage should be in afa, not cfs, and for this amount to be determined the Claimant needs to establish the volumes. And when there is "storage for" use there needs to be a "from storage" use both giving a volume amount.

MICROFILMED

NOV 11 1992

4/11/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME DAYCLAIM NO. A25-12644DATE RECEIVED 8/16/89

CR # _____

AMOUNT \$ _____

YES NO Required Info?

1. Is the name and address complete with zip code? X --- *
2. Is a priority date entered? X --- *
- Is the priority date acceptable in view of mandatory filing dates? X --- *
- See Adjudication Memos #1 and #4 to determine if a Permit is required. X --- *
3. (a) Is a source entered? X --- *
- x (b) Is a tributary to entered? (if required) N/A X --- *
4. Is the legal description of the p.d. sufficient? X --- *
5. Is there a description of the diverting works? X --- *
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. X --- *
- Is the period of use included? X --- *
- Is a quantity claimed for each use? X K --- *
7. Is a total quantity claimed entered? X --- *
- x 8. If required is a consumptive use entered? N/A X --- *
- x Is the consumptive use correct? N/A K --- *
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 X --- *
10. Is (are) the place(s) of use and purpose(s) indicated? X --- *
11. Is (are) the county(ies) entered? X --- *
12. Is the ownership of p.u. checked? X --- *
- x 13. Are other water rights listed or "none" indicated? X --- *
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 X --- *
15. Is the basis of the claim indicated? X --- *
- x 16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) N/A X --- *
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. X --- *
18. Has the claim been signed, sealed, and dated by a notary? X --- *
19. Was this claim filed on time, or was an extension granted? X --- *
20. Is the fee enclosed correct? Exempt X --- *
- x 21. If this claim is based on an existing water right, has the identification number been entered? N/A X --- *
22. Should this claim be data entered? X --- *

Claim checked by: TU Date: 8/16/89Claim must be returned to claimant: (Yes) X (No)Claimant must be notified of modifications: (Yes) X (No)

Receipt Prepared by: _____ Date: _____
Claim data entered by: _____ Date: _____
Sent to claimant by: _____ Date: _____

Comments: (2) CODE 1.04 CFS FOR STORAGE ALSO. (3) CODE "A 25-12645 ANDA 25-12646" INSTEAD OF DATES. (14) CODE ~~25-4004~~ "BASED ON CLAIM 25-4004."

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State of Idaho
DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

November 14, 1988

Wendell Day
c/o Sherry Day
283 4th St.
Idaho Falls, ID 83401

RE: Water Right Claims

Dear Mr. or Mrs. Day:

Enclosed are the water right claims I prepared from the information submitted to me on 11/10/88 and previous filings. The previous filings do not precisely coincide with the acreage currently being irrigated, so I made a few adjustments to the previously documented land descriptions.

There appears to be three separate irrigation rights.

- Jan. 4, 1915: Certificate of Completion of Works for Permit #10956 is for 1.3 cfs to irrigate 40 acres in the SW 1/4 of NW 1/4, Sec. 32, T1S, R40E.
- May 31, 1949: Irrigated acreage expanded 15.5 acres for a total of 55.5 acres. Refer to claim 25-4004 (attached).
- May 31, 1967: Sprinkler system installed - irrigated acreage expanded 51.8 acres for a total of 107.3 acres. Refer to claim 25-4004 (attached).

After plotting the 40 acres of the 1915 water right, I compared the acreage previously documented, to the acreage currently irrigated. Some of the described parcels do not agree with the currently irrigated acreage, so I re-arranged some of the described parcels to match the 107 acres outlined 11/10/88.

Please review the claims. Make any changes necessary to document the historical irrigation, domestic, or stock water use. Note: If you alter the location of the irrigated acreages on any of the claims, you must also change the attached map, or prepare a new map, to agree with the claim.

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A volume (acre feet) must be claimed for the irrigation storage in Item #6 of each irrigation claim. The storage volume should be limited to the reservoir storage capacities that existed at the time of the claimed priority date. For example, if two reservoirs with a capacity of 5 acre-feet existed in 1920 and, in 1940, the capacities were doubled by enlargements plus a third reservoir was added: The storage volume for the 1920 water right would be 5 acre-feet and the storage volume for the 1940 right would be the enlarged 5 acre-feet plus the capacity of the third reservoir.

I couldn't find any reference to water right for fisheries in the previous filings. If the fisheries water right mentioned 11/10/88 has the same priority date as one of the irrigation claims, you must add the purpose, dates, and amounts required, in Item #6 of the appropriate claim. The place of use (location of pond) must also be indicated in Item #10. The filing fee for fisheries purposes is \$100.00 per each claimed cfs for that purpose.

If the fisheries water right has a different priority date than the irrigation claims, and was before 5/20/1971, a separate claim form must be completed. If the fisheries use didn't begin until after 5/20/1971, a permit or license is required.

The claims must be signed, notarized, and returned to the Idaho Department of Water Resources (IDWR) along with the appropriate filing fees before the tentative 9/7/1989 Bonneville County deadline. The domestic/stock claims are \$25.00 each. The irrigation claims are \$50.00 each plus \$1.00 per irrigated. The total fee for the five prepared claims is \$307.00. If fisheries purposes are added to a claim, or an additional claim is submitted, the total fee will increase.

If you wish to discuss the claims further, please call the IDWR to make an appointment at 1-525-7161.

Sincerely,



Tony Olenichak
Water Right Agent, SR

Enclosures

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EXPLANATION OF CLAIM TO WATER RIGHT

Claimant, Wendell A. Day, and his wife, Elizabeth A. Day, started purchasing the following described lands (and other lands) from his father and mother, Abraham J. Day, also known as A. J. Day, and Lucy May Day, under written Sale Agreement, dated December 20, 1949, and now are the exclusive owners of said land, to-wit:

Township 1 South, Range 40, EBM.
Section 31: E $\frac{1}{2}$ NE $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{2}$.
Section 32: W $\frac{1}{2}$ NW $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{2}$, SE $\frac{1}{2}$ NW $\frac{1}{2}$.

Claimant is advised that the said Abraham J. Day commenced watering about 10 acres of land to pasture in the SE $\frac{1}{2}$ NE $\frac{1}{2}$ and about 5 to 10 acres in the NE $\frac{1}{2}$ SE $\frac{1}{2}$, of said Section 31, and also watered livestock in those quarter sections, all from the waters of what formerly known as North Twin Creek Spring and South Twin Creek Spring, the first of which said Springs is located in the SE $\frac{1}{2}$ NE $\frac{1}{2}$ and the second of said Springs is located in the NE $\frac{1}{2}$ SE $\frac{1}{2}$, of said Section 31; that the works by means of which the water was taken for such irrigating purposes consisted of small dams at the Springs creating two small reservoirs from which the water was taken by ditch onto the lands; that the waters from this North Twin Creek Spring were also used to water some 20 acres of lands to crops in the SW $\frac{1}{2}$ NW $\frac{1}{2}$, of said Section 32;

That his father obtained Water Permit No. 9629 in the year 1913, from the Idaho State Reclamation Department, for 30" of water to be used on the above described quarter sections of land and for domestic purposes, and that subsequent thereto, and in the year 1915, he obtained Water Permit No. 10956 from such Department for 65" of water from those Springs; for watering 160 acres of land in said Sections 31 and 32;

CERTIFICATE OF COMPLETION
FOR PERMIT 10956 SUBMITTED
MAY 24, 1917, FOR 1.3 CFS
ON 40 ACRES IN SW $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 32.

That in the year 1917, his father amended Permit No. 10956 to change the acreage to be irrigated under the permit to the 40 acres of land located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, of said Section 32;

That subsequently, his father relinquished his right under said Water Permits No. 9629 and No. 10956 insofar as either of them pertained to using the water from the Twin Creek Springs on the E $\frac{1}{2}$ SE $\frac{1}{2}$, of said Section 31, and the W $\frac{1}{2}$ SW $\frac{1}{2}$, of said Section 32, Township and Range aforesaid;

That notwithstanding cancellation of certain of his father's water permits and his father's relinquishment of certain lands from the permits, his father did receive desert entry patent to the E $\frac{1}{2}$ NE $\frac{1}{2}$, of said Section 31, and the W $\frac{1}{2}$ NW $\frac{1}{2}$, of said Section 32, in the year 1921, which patents are recorded in the Records of Bonneville County, Idaho, and his wife, Lucy May Day, received desert entry patent to the E $\frac{1}{2}$ SE $\frac{1}{2}$, of said Section 31, and the W $\frac{1}{2}$ SW $\frac{1}{2}$, of said Section 32, also in the year 1921, and claimant is advised that such patents would not have been granted if water had not been placed on the respective lands covered by those patents; that the only water available for those lands came from the aforementioned Twin Springs through the said reservoirs;

A photostatic copy of each of said Water Permits No. 9629 and No. 9956 are attached hereto and made a part hereof;

That affiant, during his boyhood in the 1930's and 1940's, up until he started purchasing the farm, worked summers on his father's ranch and personally observed the irrigation from those Springs and reservoirs of about 40 acres or more of that farm, same being about 5 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 10 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, of said Section 31, 20 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, of said Section 32;

That his father used those waters for raising diversified crops of hay, grain, lettuce and potatoes, and that other of said lands were irrigated for pasture through the various years up until the time claimant purchased the lands, and used all the waters during such times from both the Twin Creek Springs;

INCREASED ACREAGE
IN 1949 FROM
40 ACRES TO APPROX
55.5 ACRES (ADDED
15.5 ACRES).

When claimant took over possession of the lands under his Sale Agreement in 1949, he cleaned out the two Twin Creek Springs and developed the reservoir storage from the waters obtained therefrom and increased the irrigated acres considerably; that he increased to about 15 $\frac{1}{2}$ acres the previous 10 irrigated acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, and re-claimed and started irrigating to crops from the North Spring 5 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, of said Section 31, and brought 5 more irrigated acres to crops in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, in said Section 32, thereby increasing the irrigated crop acreage on the farm to around 55.5 acres;

INCREASED ACREAGE
IN SPRING 1967 FROM
55.5 ACRES TO
107 ACRES (ADDED
~~51.8~~ 51.8 ACRES)

That in the spring of 1967, claimant purchased a used portable sprinkler system, consisting of a borrowed portable pump, and about 800 feet of 4" aluminum lateral used pipe, which pipe was purchased at a cost of around \$300.00 to \$350.00, and was thus enabled by such portable system to water most of the 55.5 acres;

That also because of such portable system, he was then enabled that year to bring into cultivation for crops around 18.8 acres of land in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 18 new acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 15 more additional acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, all in said Section 32, bringing into crop and pasture cultivation for that year a total of some 107.3 acres, all watered entirely and exclusively by the waters from the said Twin Creek Springs, and it took all of the water output therefrom during the irrigation season.

That in the year 1968, claimant purchased about 400 odd feet of 4" aluminum portable sprinkler pipe and a portable pump, for about \$1,100.00, and used them during the irrigation season for that year for watering his crops from the waters from the Twin Creek Springs;

That subsequently, in the year 1969, claimant purchased about 1,100 feet of 5" aluminum mainline pipe with valves at a cost of around \$1,500.00, and when installed watered pasture, hay and grain crops on the place with the waters from the Twin Creek Springs;

That there are two main reservoirs used in connection with the irrigating of lands with the waters from the North Twin Springs Creek, one of them being located right near such Spring in the SE¹/₄NE¹/₄ of said Section 31, is about 130 feet wide, 320 feet long and about 8 feet high, and the second and smaller of the reservoirs used, as aforesaid, is 25 feet wide, 75 feet long and about 8 feet high, and is located in the SW¹/₄NE¹/₄ of said Section 32; and that there are also certain of the unused waters from the South Twin Creek Spring that find their way to this second reservoir for watering certain of the lands;

That because all the waters from the Twin Creek Springs are used each irrigation season, there is no water remaining during any irrigation season to flow into what is known as Twin Creek, and, in fact, there would not be enough water to irrigate the acres irrigated each such season without the two reservoirs used by claimant for storage;

Claimant is advised that during the times his father farmed the place, there was no water from the Springs going into Twin Creek;

That now since claimant owns and farms the property, he, too, uses, as hereinbefore indicated, all the water output from both the Twin Creek Springs for his irrigation and domestic purposes, and consequently, there is no water going into Twin Creek therefrom during the irrigation seasons.

Dated and signed this 27th day of August, 1970.

Harold A. Day