

350
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: A27-04010
Date Received: 1/24/1990
Receipt No: E012016
Received By: KW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PHIL J. YOST 208-425-3875
Address: 1760 RICH RD.
GRACE, ID 83241
AND/OR
Name: DAVID M. MODERSITZKI 208-648-7722
Address: R.R. 1 BOX 1560
BANCROFT, ID 83217

2. Date of Priority: MAY 01, 1959

3. Source: CHICKEN CREEK Trib. to: CORRAL CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05S	40E	26	SW	SW	NE		CARIBOU
			SW	SE	NW		CARIBOU

5. Description of diverting works:
DIESEL PUMP WITH SPRINKLER SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.820		
IRRIGATION STORAGE	01/01	12/31			120.00
IRRIGATION FROM STORAGE	01/01	12/31			120.00

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

8. Total consumptive use is 750.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A27-04010

Page 1

Date: 01/24/90

MICROFILMED
NOV 12 1992

A2704010

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
05S	40E	26	NE		NE		IRR	40.0
			NW		NE		IRR	40.0
			SW		NE		IRR	30.0
			SE		NE		IRR	40.0
			NE		NW		IRR	40.0
			NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			SE		NW		IRR	30.0
							Section Acres	300.0
							Total Acres	300.0

11. Place of use in counties: CARIBOU

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

13. Other Water Rights Used:
NONE

14. Remarks:

THIS LAND IS IN C.R.P. WITH 7 YRS LEFT AS OF FILING DATE.
THE SOURCE IS CHICKEN CREEK ON QUAD. AND IS KNOWN LOCALLY AS
INDIAN CREEK.

15. Basis of Claim: STATUTORY CLAIM

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: _____

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): David Modersitz Date: 1-24-90

Date: _____

State of Idaho)
County of Caribou) SS.

Subscribed and sworn (or affirmed) before me this 24 day

of Jan 19 90

Seal

John Dal Cerna
Notary Public

Residing at Boise ID

My Commission Expires 5/3/94

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NOV 12 1992



Log for claim 27-04010

Spatial Dynamics LTD

12/4/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
05s40e	26	NENE	40	39	
05s40e	26	NWNE	40	39	
05s40e	26	SWNE	30	26	
05s40e	26	SENE	40	39	
05s40e	26	NENW	40	40	
05s40e	26	NWNW	40	40	
05s40e	26	SWNW	40	35	
05s40e	26	SENW	30	31	
05s40e	26	NESE	0	0.4	
Totals:			300	289.4	

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	PHIL J YOST 1760 RICH RD GRACE ID 83241 (208) 425-3875	05/01/1959	IRRIGATION	04-01 11-01	1.820 CFS	
			IRRIGATION STORAGE	01-01 12-31		120.00 AFA
			IRRIGATION FROM STORAGE	01-01 12-31		120.00 AFA
				TOTAL DIVERSION:	1.820 CFS	
C	DAVID M MODERSITZKI RR 1 BOX 1560 BANCROFT ID 83217 (208) 648-7722			CONSUMPTIVE USE:		750.00 AFA

Water Source: CHICKEN CREEK

Tributary to: CORRAL CREEK

Stage: STATUTORY CLAIM

Point(s) of Diversion: T05S R40E S26 SWSWNE SWSWSE CARIBOU 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	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM	
05S	40E	26	:	40		40		30		40		:	40		40		40		30		:						
																								TOTAL ACRES	300.0		

Place of use location for IRRIGATION FROM STORAGE is the same location as described for: IRRIGATION

POU County: CARIBOU

Non-Irrigation Uses: NONE

Other Rights: NONE

Remarks: GEN THIS LAND IS IN C.R.P. WITH 7 YRS LEFT AS OF FILING DATE.
THE SOURCE IS CHICKEN CREEK ON QUAD. AND IS KNOWN LOCALLY AS
INDIAN CREEK.

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

Misc: Water District Number: 27 Field Inspection Flag:
Presumption Flag:

Am No.

CLAIM TO A WATER RIGHT

Notice is hereby given that Gaylen Christensen
(name of claimant)

The extent and nature of said claim is as follows:

- A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

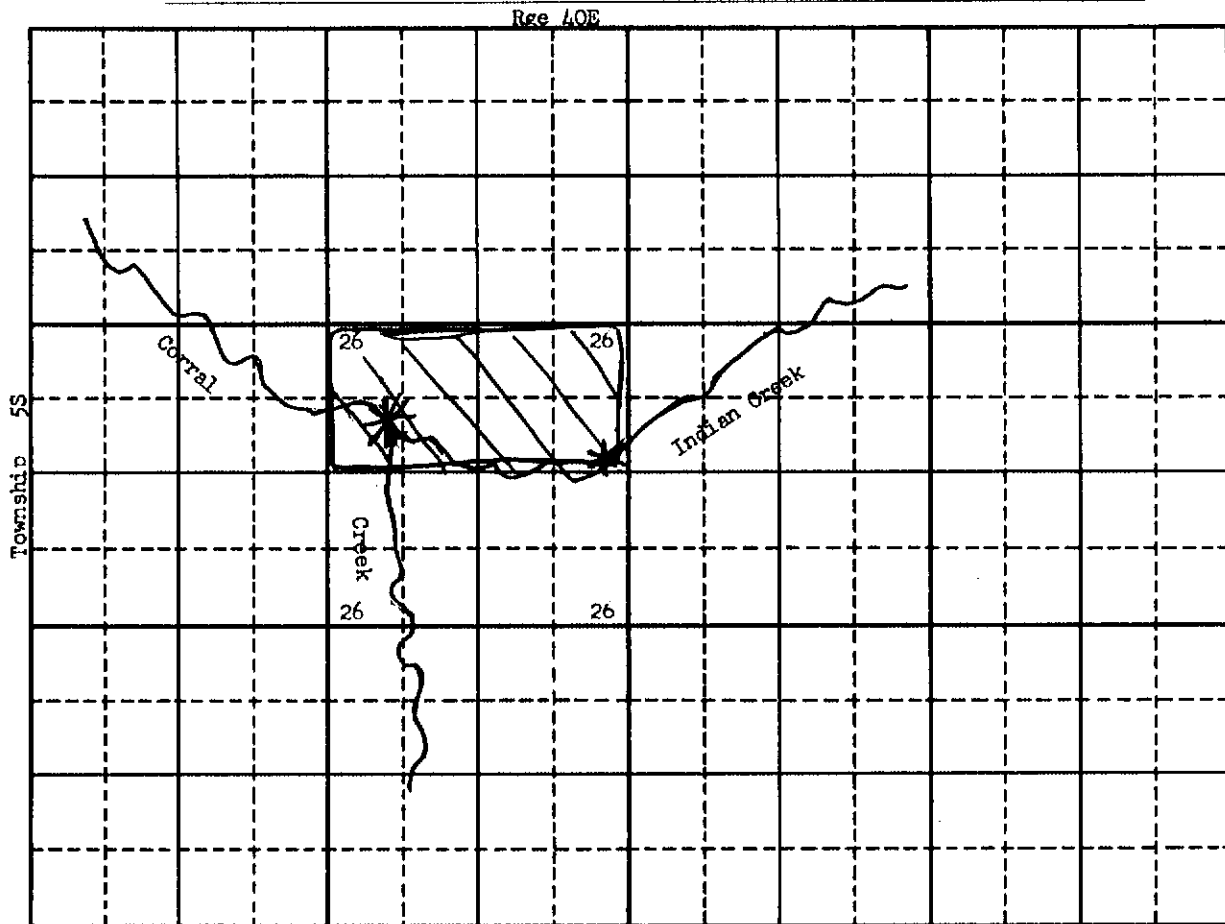
- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

Total No. of acres 320

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: _____
- _____
- _____
- If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)

County of Carbon) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 21st day of May, 19 77.

Gay R. Hirsch
Notary Public

Residing at Tremonton Utah

My commission expires 4-19 77

For Department Use Only

Received by <u>Cal</u>	Date <u>5-25-77</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>ARJ</u>	Date <u>5-26-77</u>		claimant by:	
\$10.00 fee received by <u>Cal</u>	Date <u>5-26-77</u>			
Approved for publication by <u>Mr. 6-23-77</u>	<u>#2310</u>	<u>Robert A. Hansen</u>	<u>Cal</u>	<u>6-14-77</u>
Published in <u>Carbon County Journal</u>		<u>William Hall</u>		
Dates <u>June 21 9-1977</u>				

ACKNOWLEDGMENT BY INDIVIDUAL

STATE OF IDAHO)

COUNTY OF)

SS:

On this 23rd day of January, in the year of 1995, before me,

JoAnn L. Rhodes, a Notary Public, personally appeared

H.D. Ozburn, known or identified to me

(or proved to me on the oath of _____), to be the

person(s) whose name(s) (is) (~~are~~) subscribed to the within instrument, and

acknowledged to me that (he) (~~she~~) (~~they~~) executed the same.

(SEAL)

JoAnn L. Rhodes
Notary Public in and for the State of Idaho
Residing at: Soda Springs, Idaho

My Bond Expires:

5-13-97

NOV 10 1995

AJ5809NP
No. A27-04010

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/26/94
PAGE: 6

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	PHIL J YOST 1760 RICH RD GRACE ID 83241 (208) 425-3875	05/01/1959	IRRIGATION IRRIGATION STORAGE IRRIGATION FROM STORAGE	04-01 11-01 01-01 12-31 01-01 12-31	1.82 CFS	120.00 AFA 120.00 AFA
				TOTAL DIVERSION: CONSUMPTIVE USE:	1.82 CFS	750.00 AFA
C	DAVID M MODERSITZKI RR 1 BOX 1560 BANCROFT ID 83217 (208) 648-7722					

Water Source: CHICKEN CREEK

Tributary to: CORRAL CREEK

Stage: STATUTORY CLAIM

Point(s) of Diversion: T05S R40E S26 SWSWE SWSNW CARIBOU County

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				NE				NW				SW				SE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
05S	40E	26	:	40		40		30		40		40		40		30				:	300.0
																				TOTAL ACRES	300.0

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POU County: CARIBOU

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Dates: Exam Made Date:

Verified Date:

Misc: Water District Number: 27

Field Inspection Flag:
Presumption Flag:

I have lived in this valley all my life
and have farmed in Carbon County for 40 years.
I have witnessed that this section of land
was under irrigation from 1959

Larry Dean Osborn
Osborn Farms
2403 Govt. Dam Road
Loda Springs, ID
82207

Phone: 208-547-3865

January 23, 1995

Mr. David Modersitzki
2526 Kelly Toponce Road
Bancroft, Idaho 83217

I am writing this letter in response to a request of Mr. Modersitzki. The purpose of this letter is to attempt ~~to~~ shed some light on the irrigation sources on the property formerly farmed by a Gaylen Christensen.

Several years ago we were in the wholesale petroleum business and Gaylen Christensen received petroleum products for farming purposes. We started operating our business in the early sixties and ceased business in 1987. We sold wholesale petroleum until approximately 1984. We may have started selling to Christensen in 1964 or 1965, and continued selling to him until the early 80's. Our recollection of dates is vague. We trust that the information in this letter will assist him in the matter of water rights in the vicinity of Township 5S - 40E, section 26.

We cannot attest to the legal CFS, or locations of any water rights in review. In 1964 or 65 we saw water being pumped from corral creek. Some time after 64 or 65, we seem to recall a well for pumping water south and east of the corral creek location. After that time it seems, G. Christensen built a water storage dam, tributary was Chicken Creek. This dam seemed to be used for pleasure and some irrigation.

It is impossible for us to give you information as to the amount of pumping and the amounts of petroleum used for irrigation at various locations. We recall delivering diesel to a well site and a location on corral creek for pumping water for irrigation. We recall delivering diesel for several uses. Christensen had many projects going from spring to late fall, planting grain, summerfallowing, irrigating grain, harvesting grain, fall plowing, and baling straw.

We regret that our recollections are vague, but trust the information will assist Mr. Modersitzki in the water right issue.

Do not hesitate to contact me again if you feel I may be able to give you some more information.

Yours very truly,

Marjorie Beins
Marjorie Beins

Information furnished by Marjorie Beins, secretary and part owner of Beins Oil & Supply Company.

RECORDED
NOV 13 1996

January 23, 1995

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2526 Kelly Toponce Road
Bancroft, Idaho 83217

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Yours very truly,

Marjorie Beins
Marjorie Beins

Information furnished by Marjorie Beins, secretary and part owner of Beins Oil & Supply Company.

RECORDED
NOV 13 1996

**INDIVIDUAL
ACKNOWLEDGEMENT**

STATE OF IDAHO)
) S.S.
COUNTY OF CARIBOU)

ON THIS 23RD DAY OF JANUARY, IN THE YEAR 1995, BEFORE ME
HUGH NORMAN, A NOTARY PUBLIC IN AND FOR SAID STATE OF IDAHO,
PERSONALLY APPEARED MARJORIE BEINS
KNOWN OR IDENTIFIED TO ME (OR PROVED TO ME ON THE OATH OF
) TO BE THE PERSON

WHOSE NAME SUBSCRIBED TO THE WITHIN INSTRUMENT AND
ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME.



RESIDING AT SODA SPRINGS

MY COMMISSION EXPIRES 12/10/98

NOTARY
NOV 13 1995

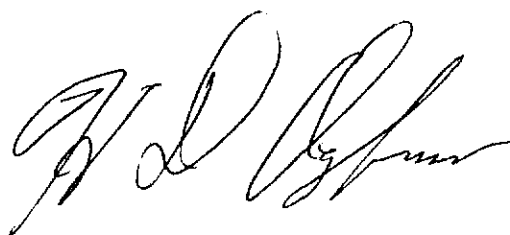
I, H.D. Ozburn, owner /operator of Ozburn Farms wish to assist in establishing priority right of water right claim ~~2403 Govt. Dam Road~~ in township 5S, range 40E, section 26. The water course is Chicken Creek which is a tributary to Corral Creek.

This section of land was at that time owned by Mr. Gaylan Christensen and since has been purchased by Mr. Phil J. Yost and Mr. David MODersitzki.

Mr. Chrsitensen built a water storage facility, tributary was Chicken Creek. Water for irrigation was then pumped from that water storage unit in 1959... and for several years after that date.

I have farmed in Soda Springs area for 40 years and so am well aware of irrigation proceeedures in the area north of Soda Springs as it was unique to our area... all the other farms in the area were dryland farms.

If I can be of further assistance, please contact me.



H.D. Ozburn
Ozburn Farms
2403 Govt. Dam Road
Soda Springs, Idaho 83276
Phone: 208-547-3868

RECEIVED
NOV 13 1964

RECEIVED

MAY 25 1977

Department of Water Resources
Eastern District Office

IN THE MATTER OF

Gaylen Christensen

AFFIDAVIT

Surface Water

State of Idaho

County of *Carbo*

being first duly sworn,

deposes and says:

I, Gaylen Christensen, did witness
Gaylen Christensen sprinkling his farm
from water out of Indian Creek in May
and June 1961.
Gaylen Christensen

I, Lynn J. Denson, did witness Gaylen
Christensen sprinkling his farm from
water out of Indian Creek in June
and July of 1961.
Lynn J. Denson

I, Lee Stoker, did witness Gaylen Christensen
pumping water out of Indian Creek
watering his crops 1961 & every year since.
Lee Stoker

I, Richard T. Maslow, did witness Gaylen
Christensen sprinkling his farm from
water out of Indian Creek in May and
June of 1961.
Richard T. Maslow

(Signature)

Subscribed and sworn to before me this *21st* day of *May*, 1977.

Quyn P. Kisch

(Notary Public)

Residing at *Town of Carbo*

My Commission Expires *4-1-78*