

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: A29-04220
Date Received: 3/30/1990
Receipt No: MOD 6437
Received By: CA

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ROBERT F. ZAUSCH 208-233-2358
Address: 8083 W. POCA TELLO CREEK RD.
POCA TELLO, ID 83201

AND/OR

Name: KATHLEEN A. ZAUSCH 208-233-2358
Address: 8083 W. POCA TELLO CREEK RD.
POCA TELLO, ID 83201

2. Date of Priority: APR 01, 1904

3. Source: POCA TELLO CREEK, NORTH FORK Trib. to: POCA TELLO CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
06S	35E	20	SE	NE	NE		BANNOCK
		21	SW	NW	NW		BANNOCK

5. Description of diverting works:
HEADGATE AND DITCH, PUMP AND PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.020		
STOCKWATER	01/01	12/31	0.010		

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

8. Total consumptive use is 5.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER, 16 HORSES AND CATTLE

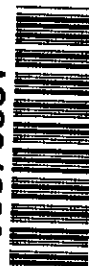
A29-04220

Page 1

Date: 03/30/90

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NOV 13 1992

A2904220



10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
06S	35E	20	NE	NE	IRR	2.0
			NE	NE	STOCK	

Section Acres 2.0

Total Acres 2.0

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:

A29-10887 *po'd Domestic*

14. Remarks:

SHARES DIVERSION SYSTEM WITH WATER RIGHTS A29-10888 & A29-10889.

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: -1-

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): *[Signature]* Date: 3-30-90
Date: _____

State of Idaho)
County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this 30th day
of March 19 90 *[Signature]*
Notary Public

Seal

Residing at Carter Fritschle, Notary Public
Residing at Eagle, Idaho
My Commission Expires March 21, 1994
My Commission Expires _____

A29-04220

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MICHAEL
NOV 3 1992

Log for claim A29-04220

Spatial Dynamics BTD

9/20/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
06s35e	20	NENE	2	1.2	
Totals:			2	1.2	

4/3/01 Needs Priority Evidence

CS

- Domestic 29-10887 PO'd

29-10888

4/10/01 microfilm Evidence against Priority

4/17/01 - POU not in 29-N decree.

- Priority date doesn't match on claim Decreed Right
- Send letter Requesting Priority Evidence
- Priority date not earlier than April 1 1925
unless Evidence is provided to show otherwise
This includes 29-10888 and 29-10889

April 25, 2001

29-04220, 29-10888
ROBERT ZAUSCH
KATHLEEN ZAUSCH
8083 W POCATELLO CR RD
POCATELLO ID 83201

RE: EVIDENCE OF PRIORITY

Dear Claimant (s):

The Idaho Department of Water Resources has recently begun its water right review in Basin 29. The Notice(s) of Claim identified with the number shown **above in the "address" label and at the "end" of this letter** has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Notice. The date the water was first put to use, known as the priority date, has not been confirmed by a license, Decree, or Permit. For this reason, proof must be provided supporting the priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

It is important that each element of the Notice be substantiated. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is Required**" and "**Some examples of Documents Which May Be Evidence of the Priority Date**".

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other items of the Notice have been or soon will be conducted by Department personnel.

.....
The Department can not recommend the Notice be decreed by the court if no evidence of a priority date is submitted.
.....

Please submit the documentation supporting the priority date by May 11, 2001, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact me at 525-7161.

Respectfully submitted,

Craig L. Saxton
Water Resource Agent
Adjudication Bureau

Enclosure: Brochure on "Evidence of Priority"
 Notice of Claim 29-04220, 29-10888

IN THE MATTER OF:)

Claim to a Water)
Right No. 29-4220)
Robert F. Zausch)

State of Idaho)
County of Bonneville)

RECEIVED
AFFIDAVIT FEB 24 1982

Department of)
Idaho State Court)

I, Dwaine W. Anderson being first duly sworn,
deposes and says: I object to the above mentioned claim to
a water right on Pocatello Creek made by Robert F. Zausch. All
available water in the streams of Pocatello Creek are now being
used under decreed rights, so there is no water available to
supply Mr. Zausch with water from the Creek. He has a well
for his stock and garden water.

I am one of the original owners of this ground and the
water was never used on it. We sold this piece of ground
in 1965.

[Signature]
(Signature)

Subscribed and sworn to before me this 24th day of February, 1982
Pocatello Creek Road, Pocatello, ID 83201

[Signature]
(Notary Public)

Residing at Idaho Falls, ID
My Commission Expires 6/15/85

March 8, 1982

RE: Claim to a Water Right No. 29-4220 ZAUSCH

Dwaine W. Anderson
Pocatello Creek Road
Pocatello, Idaho 83201

Dear Mr. Anderson:

We have received the exception dated February 24, 1982, filed against the above referenced claim to a water right. The following is a quote from the provisions of the Idaho Code under which this claim has been filed:

42-225b. Recording of claims by department---Corrections.----

.....
At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Administration (renamed Department of Water Resources, July 1, 1974) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

If you have any questions regarding this matter, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

March 8, 1932

RE: Claim to a Water Right No. 29-1227

Robert F. Tausch
Pocatello Creek Road
Pocatello, Idaho 83201

Dear Mr. Tausch:

Enclosed please find a copy of the exception filed in connection with the above referenced claim. The following is a quote from the provisions of the Idaho Code under which this claim has been filed:

Section 2-211. Filing of claims by department----Corrections.-----
At any time when filing a claim under the provisions of this section, any person who disposes that a right has been established as set forth in said claim, file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Administration (renamed Department of Water Resources July 1, 1914) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for confirmation or final disposition of claims or rights.

If you have any questions regarding this matter, please contact us.

Very truly yours,

ROY L. D. CAPESON
Eastern Regional Supervisor

RDC:ow

Enclosure

AJ5809NP
No. A29-04220

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/24/00
PAGE: 71

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	KATHLEEN A ZAUSCH	04/01/1904	IRRIGATION	04-01 11-01	0.020 CFS	
C	ROBERT F ZAUSCH		STOCKWATER	01-01 12-31	0.010 CFS	
	8083 W POCATELLO CREEK RD					
	POCATELLO ID 83201					
	(208) 233-2358					
				TOTAL DIVERSION:	0.030 CFS	
				CONSUMPTIVE USE:		5.00 AFA
	Water Source: POCATELLO CREEK, NORTH FORK		Tributary to: POCATELLO CREEK			Stage: STATUTORY CLAIM

AJ5809NP
No. A29-04220

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/24/00
PAGE: 72

Point(s) of Diversion:

T06S R35E S20

SENEE

BANNOCK County

AJ5809NP
No. A29-04220

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/24/00
PAGE: 73

Point(s) of Diversion: T06S R35E S21 SWNNW BANNOCK County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE								
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	---
06S	35E	20	:	02				:					:					:					:	2.0
																							TOTAL ACRES	2.0

Place of use Legal Description for: STOCKWATER

				NE				NW				SW				SE								
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	
06S	35E	20	:	S				:					:					:					:	

POU County: BANNOCK

Non-Irrigation Uses: STOCKWATER, 16 HORSES AND CATTLE

Other Rights: A29-10887

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):

29-10085	29-10709	29-10710	29-10887	29-11064	29-11359	29-11651	29-12072	A29-10085	A29-10709
A29-10710	A29-10887	A29-10888	A29-10889	A29-10890	A29-11064	A29-11359	A29-11651	A29-12072	

Remarks: GEN SHARES DIVERSION SYSTEM WITH WATER RIGHTS A29-10888 & A29-10889.

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

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

Audit: 03/30/90 MOBILE2 07/20/94 THOMPSON 03/29/95 POST-STD

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that **ROBERT F. ZAUSCH**
(Name of Claimant)

Pocatello Creek Rd., Pocatello Id. 83201

Telephone No. 233-2358

(Mailing Address)

(Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) **April 1, 1904**

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 is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

POCATELLO CREEK

tributary to

SNAKE RIVER

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

	(cfs, af)	(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive) (Mo., Day)	(Mo., Day)
Quantity	.02cfs	Use	Irrigation	Period of Use From	4/1 To 11/1
Quantity	.01cfs	Use	Stockwater	Period of Use From	1/1 To 12/31
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To

- (4) **.03cfs** TOTAL QUANTITY USED.
(cfs, af)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

SW ¼ NE ¼, Sec. 20 Twp. 6S Rge. 35E B.M., County of Bannock

Additional points of diversion:

42.0 - 029.0 - 001.0 (P.O.C.)

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. **Pump and pipeline. Also ditch 288' long. Pump is 3/4HP and pipe is 1½" dia, approx. 400' long.**

- (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.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
6S	35E	20			2														2

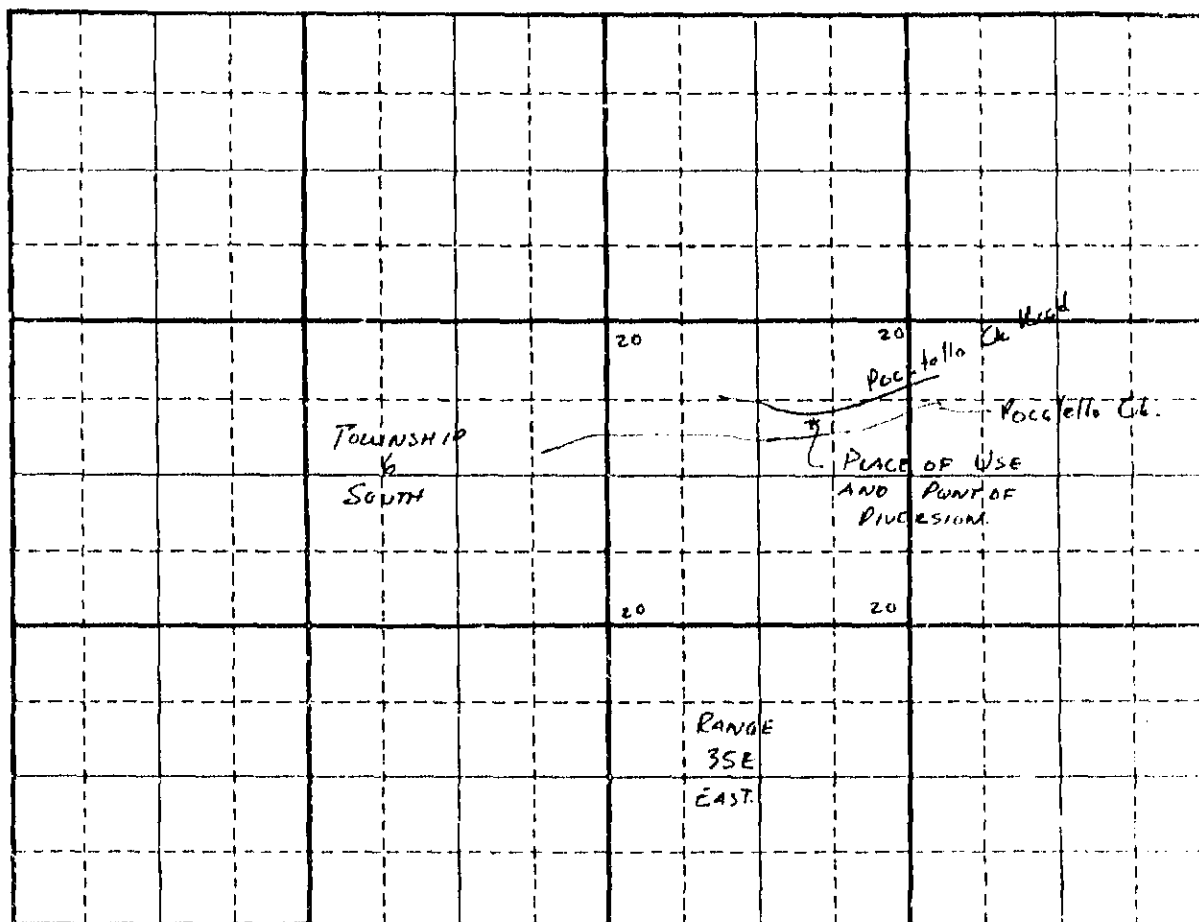
No. of acres **2**

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

NOTE: Include here the type and number of stock watered: **3 head horses and 5 head cattle**

- (7) If you are claiming water as a member of an organization, list name of organization:

- (8) Remarks water has been previously used at an old cabin site on the property.



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 Bingham) 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 affiant's knowledge.

Sworn to before me this 3rd day of February, 1982.

Notary Public
Residing at Fort, Idaho

My commission expires 2/14/82

FOR DEPARTMENT USE ONLY

Received by	Date	Exception filed by:	Forwarded to	Date
Prelim. check by	Date		claimant by	
\$30.00 fee received by	Date			
Published in	Date	Dwaine W. Anderson	CW	3-03-82
Dates				