

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: A29-04339
Date Received: 2/23/1990
Receipt No: 8012139
Received By: EMC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EDWARD DE SANO
Address: 2110 NORTH MINK CREEK ROAD
POCATELLO, ID 83204
OR
Name: MARSHA DE SANO
Address: 2110 NORTH MINK CREEK ROAD
POCATELLO, ID 83204

208-233-8369

A2904339



2. Date of Priority: JUN 01, 1904

3. Source: UNNAMED STREAM Trib. to: MINK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	35E	20	SW	SW	SW		BANNOCK

5. Description of diverting works:
DITCH & POND

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/31	0.040		
STOCKWATER	01/01	12/31	0.020		

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

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

9. Non-irrigation uses:
S/10 HORSES, 99 HEAD CATTLE

A29-04339

Page 1

Date: 02/23/90

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10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	35E	20	SW	SW		IRR	2.0
						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:
GROUNDWATER

14. Remarks:

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:

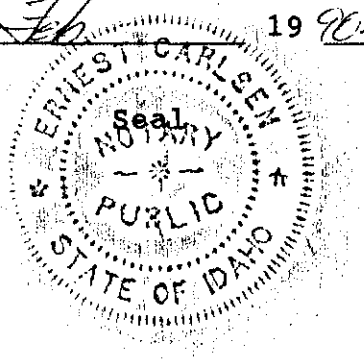
I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): [Signature] Date: 2/23/90

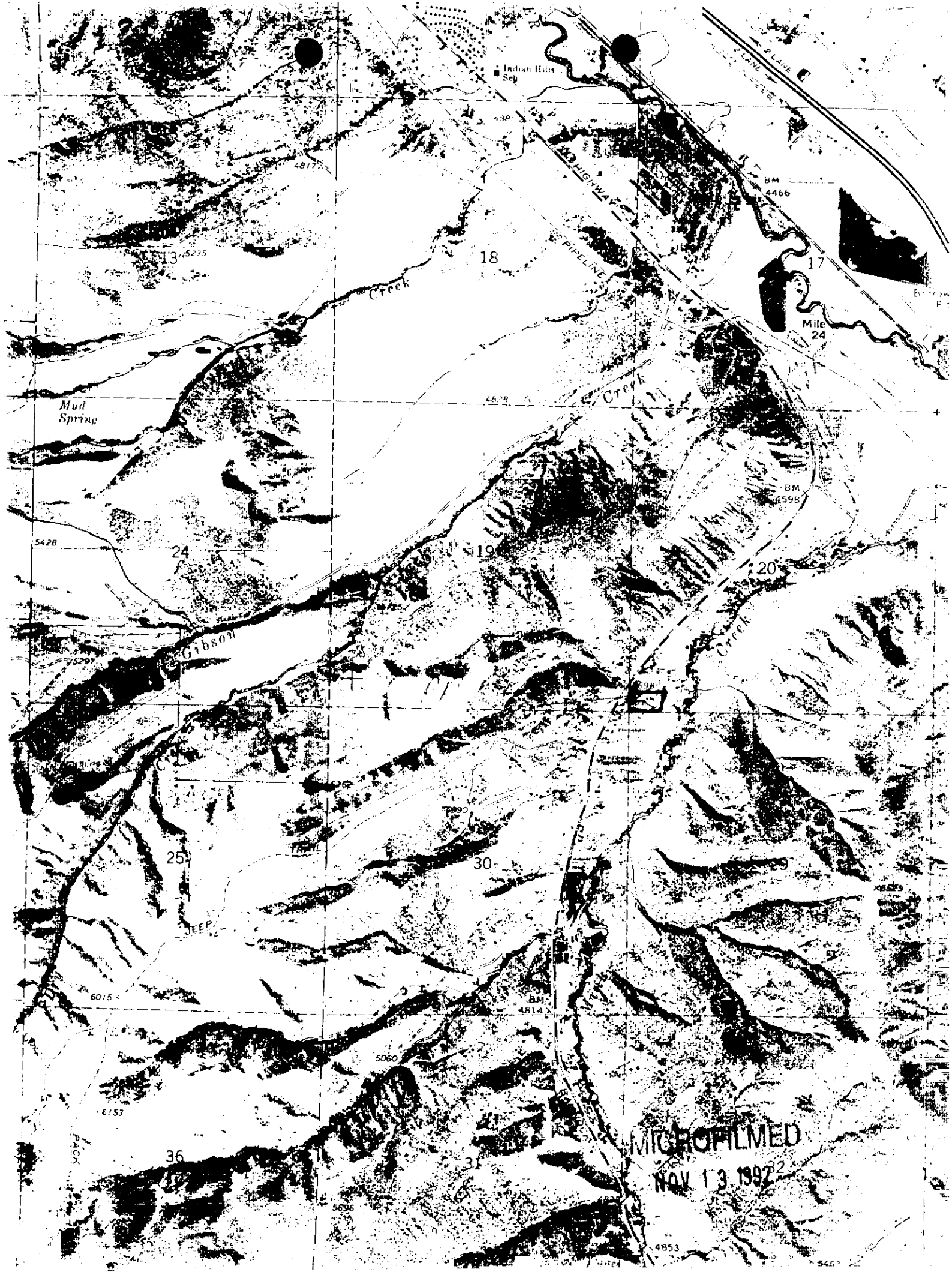
Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 23 day
of Feb 19 90. [Signature]
Notary Public



Residing at Albion Falls, ID
My Commission Expires 6-14-1994



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Log for claim A29-04339

Spatial Dynamics BTD

9/6/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
07s35e	20	SWSW	2	3.5	
Totals:			2	3.5	

AJ5809NP
No. A29-04339

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/18/00
PAGE: 209

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	EDWARD DE SANO 2110 N MINK CREEK RD POCATELLO ID 83204 (208) 233-8369	06/01/1904	IRRIGATION STOCKWATER	04-01 10-31 01-01 12-31	0.040 CFS 0.020 CFS	
TOTAL DIVERSION:					0.060 CFS	
CONSUMPTIVE USE:						5.00 AFA
C	MARSHA DE SANO 2110 N MINK CREEK RD POCATELLO ID 83204					

Water Source: UNNAMED STREAM

Tributary to: MINK CREEK

Stage: STATUTORY CLAIM

Point(s) of Diversion: T07S R35E S20 SWSWSW

BANNOCK County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE													
NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SESW		NESE		NWSE		SWSE		SESE			
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM	
-----																								-----	
07S 35E 20 :																								02 :	2.0
TOTAL ACRES																								2.0	

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

POU County: BANNOCK

Non-Irrigation Uses: S/10 HORSES, 99 HEAD CATTLE

Other Rights: GROUNDWATER

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

29-10697 29-11326 29-12164 A29-04268 A29-10361 A29-10697 A29-11326

Other Water Rights Listing Overlapping Place(s) of Use:

A29-00275 A29-04268 A29-10361

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

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

Audit: 02/23/90 CARLSEN 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 Edward or Marsha DeSano
(Name of Claimant)

432 Mink Creek Rd. Pocatello, ID 83204 Telephone No. 233-8369
(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) June 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)

Stream tributary to Mink Creek

- (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 <u>0.04 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>4-1</u>	To <u>10-31</u>
Quantity <u>0.02 cfs</u>	Use <u>Stock</u>	Period of Use From <u>1-1</u>	To <u>12-31</u>
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____

- (4) 0.06 cfs TOTAL QUANTITY USED.
(cfs, af)

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

SW ¼ SW ¼, Sec. 20 Twp. 7S Rge. 35E B.M., County of Bannock

Additional points of diversion: _____

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. Ditch from stream to stock pond and irrigation

- (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	
7S	35E	20											2						2

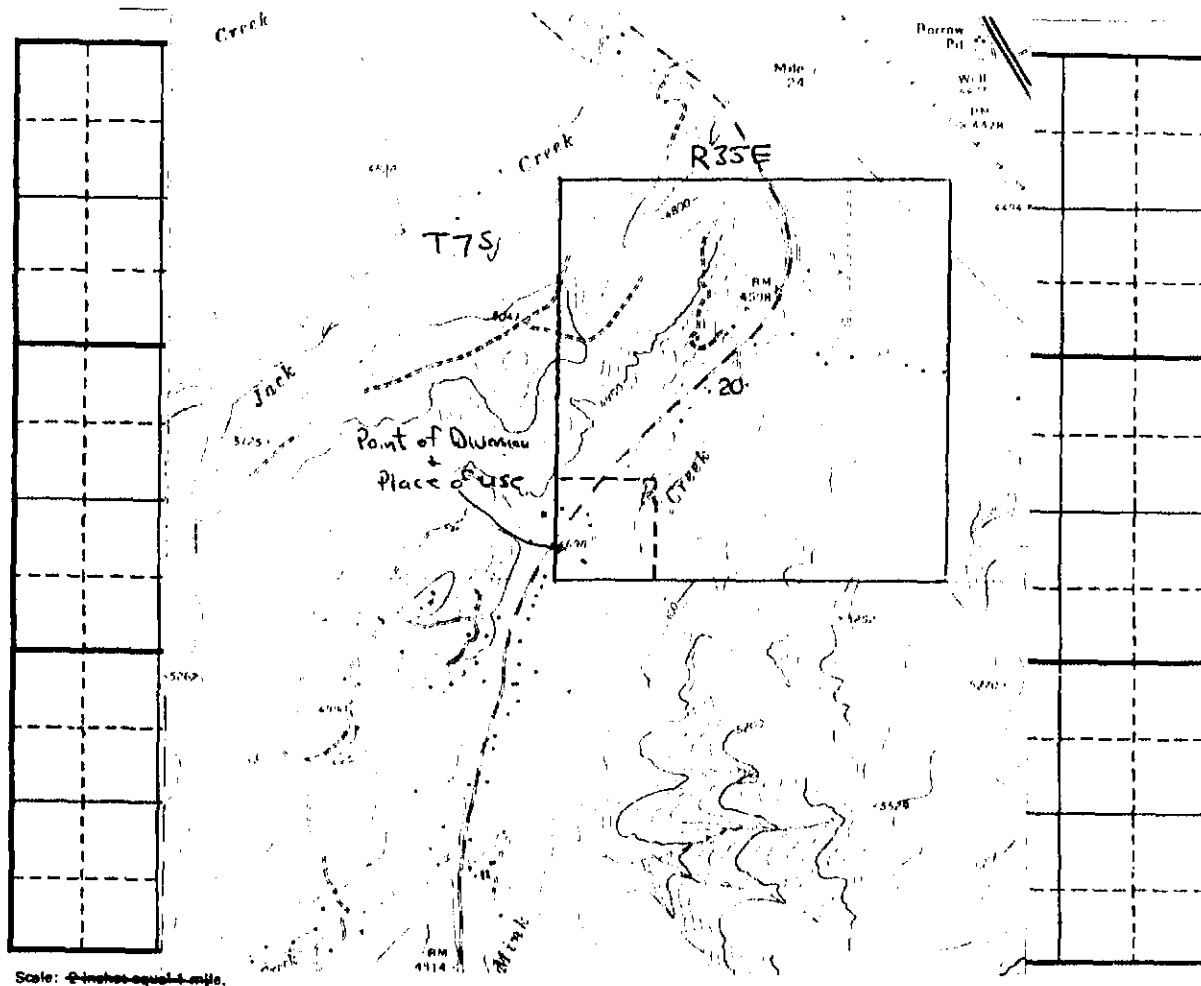
No. of acres 2

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

NOTE: Include here the type and number of stock watered: 10 horses & 12 head of cattle

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

(8) Remarks



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 Bannock

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 1 day of March

19 83.

Edward A. DeLong Jr.
(Claimant)

Barbara Waldron
Notary Public
Residing at DrKom, Idaho

My commission expires Lifetime

FOR DEPARTMENT USE ONLY

Assist by HWT
Received by CW
Prelim. check by Kaw
\$30.00 fee received by CW
Published in Idaho State Journal
Dates 5/5 - 3/12/83

Date 4-19-83
Date 4-22-83
Date 4-22-83 #38078

Exception filed by:

Forwarded to
claimant by:

Date

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A29-04339-1

EDWARD A. DeSANO, JR., M.D., P.A.

755 HOSPITAL WAY, B-2

POCATELLO, IDAHO 83201

Telephone 232-0581

February 15, 1995

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FEB 23 1995

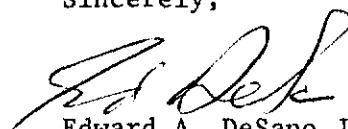
Department of Water Resources
Eastern District Office

Dear Sirs,

Enclosed is an attempt to verify water use from 1904 on the Say property of which I own a portion. James Shaw has most of the information therefore his name appears on many of the articles. His property adjoins mine and we share water rights. The two letters to Mr. Shaw are the 1st articles, one from Ed Say and one from A.L. Say. The next are articles that state priority date of 1904. There are other articles enclosed that I hope will be of help.

Obviously I'm not too sure of what I need to verify the water use but It appears this land has been used for irrigating, animals, as well as domestic. I personally have used it for those purposes since buying the house in 1974 and before that Bob Tanner used it I believe from 1967 until he sold it to me.

Sincerely,



Edward A. DeSano, Jr., M.D.

EAD/as

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Department of Water Resources
Eastern District Office

September 10, 1982

Idaho Department of Water Resources
Eastern Regional Office
150 Shoup
Idaho Falls, Idaho 83401

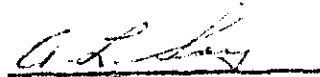
Re: James Freeman Shaw, Claimant

To: The Department of Water Resources

Please be advised that my name is A. L. Say and I grew up and formerly resided in the old farm house with the current address of 427 Mink Creek, Pocatello, Idaho.

I lived in the house from 1905 to 1924, during that period the unnamed spring running behind the house served as our principal source of water for the house. Further the spring was used for incidental water uses associated with a home, such as garden and lawn watering and it also watered the livestock, and poultry and other animals kept on the property at the time as well as for irrigation of the land.

To the best of my knowledge, the spring has been used for those domestic uses since about 1904 to the present date.


A. L. Say

Idaho Department of
Water Resources
Eastern Regional Office
150 Shoup
Idaho Falls, Idaho
83401

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NOV 13 1996

November 23, 1983

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Department of Water Resources
Eastern District Office

Idaho Department Of Water Resources
Eastern Regional Office
150 Shoup
Idaho Falls, Idaho 83401

Re: James Freeman Shaw, Claimant

To: The Department Of Water Resources

Please be advised that my name is Edward P. Say of Route 2, Box 216, Kimberly, Idaho and that I grew up and formerly resided in the old farm house with the current address of 427 Mink Creek Road, Pocatello, Idaho.

I lived in the house from 1905 to 1924. During that period the unnamed spring running behind the house served as our principal source of water for the house. Further, the spring was used for incidental water uses associated with a home, such as garden and lawn watering and it also watered the livestock, poultry and other animals kept on the property at the time as well as for irrigation of the land.

To the best of my knowledge the spring has been used for those domestic uses since about 1904 to the present date.

Edward P. Say,
Edward P. Say

STATE OF Idaho)
COUNTY OF Twin Falls)
:ss

SUBSCRIBED AND SWORN to before me this 25th day
of March, 1984.

(SEAL)

[Signature]
NOTARY PUBLIC for Idaho
Residing at Twin Falls

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POOR ORIGINAL

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Department of Water Resources
Eastern District Office

Id. State Journal

August 13, 1987
Idaho State Journal

THURSDAY, AUGUST 6, 1987

NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
NO. 29-02758

Notice is hereby given that Jack T. Christopherson, Mesa, Arizona, has applied to the Department of Water Resources for a change in the point of diversion of water from Mink Creek tributary to Portneut River. The right sought to be changed is evidenced by decree to Arthur Say in case of Smith, Admin. vs. City of Pocatello, et al, dated 6-5-1926 in 5th District Court County of Bannock and is recorded as follows:

AMOUNT: 1.50 cfs

PRIORITY: September 7, 1904

POINT OF DIVERSION: NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 29, T. 7S

R. 35E, B.M., Bannock County

The water is used to irrigate lands within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 20, NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 30, T. 7S, R. 35E.

TO BE CHANGED AS FOLLOWS

Only 0.23 cfs of the water will be diverted from a spring tributary to Mink Creek within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 30, T. 7S, R. 35E and used for domestic purposes and irrigation of 24 acres within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 20, T. 7S, R. 35E.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before August 24, 1987.

S/Norm Young
Acting Director
August 6, 13, 1987
No. 720

NOTICE OF SALE

PUBLIC NOTICES

NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
NO. 29-02758

Notice is hereby given that Jack T. Christopherson, Mesa, Arizona, has applied to the Department of Water Resources for a change in the point of diversion of water from Mink Creek tributary to Portneut River. The right sought to be changed is evidenced by decree to Arthur Say in case of Smith, Admin. vs. City of Pocatello, et al, dated 6-5-1926 in 5th District Court County of Bannock and is recorded as follows:

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POINT OF DIVERSION: NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 29, T. 7S

R. 35E, B.M., Bannock County

The water is used to irrigate lands within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 20, NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 30, T. 7S, R. 35E.

TO BE CHANGED AS FOLLOWS

Only 0.23 cfs of the water will be diverted from a spring tributary to Mink Creek within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 30, T. 7S, R. 35E and used for domestic purposes and irrigation of 24 acres within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 20, T. 7S, R. 35E.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before August 24, 1987.

S/Norm Young
Acting Director
August 6, 13, 1987
No. 720

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Department of Water Resources
Eastern District Office

F. RANDALL KLINE
WARD, MAGUIRE, BYBEE & KLINE
Professional Association
353 East Lander - P.O. Box 4758
Pocatello, ID 83205-4758
(208) 232-5167

IN RE: Application of Jack T.)
Christopherson)
Application No. 29-0275B)

NOTICE OF PROTEST

TO: The Director Department of Water Resources, Idaho Falls
Division

Jack T. Christopherson, Mesa, Arizona

NOTICE IS HEREBY GIVEN THAT:

Pursuant to Idaho Law including I.C. 42-203A, that Dr. Jim Shaw and Bonnie Shaw, husband and wife, protest the application for change of water right sought by Jack T. Christopherson, Mesa, Arizona.

Jack T. Christopherson has applied to the Department of Water Resources for a change in the point of diversion of water from Mink Creek tributary to Portneuf River. The point of diversion is in the NW1/4NW1/4, Sec. 29, T.7S R. 35E, B.M., Bannock County. The proposed use is domestic in the amount of 0.23 CFS and irrigation 1.50 CFS. The date the application was filed was Thursday, August 6, 1987. The proposed area for use

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of the waters in S1/2SE1/4, Sec. 19, SW1/4SW1/4, Sec. 20 T. 7S,
R. 35E for approximately 24 acres

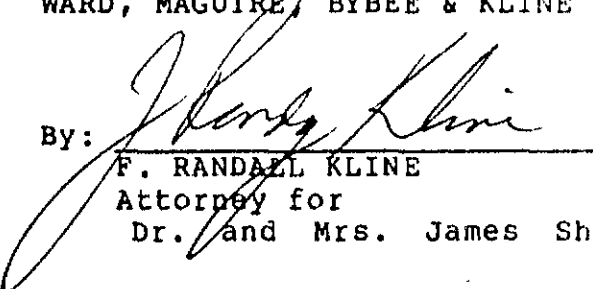
This Notice of Protest is being filed upon the grounds
and reasons that Mink Creek is a fully appropriated stream and
that downstream water owners, including but not limited to, the
protestant Dr. James Shaw and Bonnie Shaw, husband and wife,
and Dr. Ed DeSano are utilizing said waters for beneficial
purpose pursuant to Idaho Law for domestic and irrigation
purposes. That such appropriation will substantially diminish
the stream flow thereby depriving downstream appropriators from
beneficial use of the water.

Further, the Shaw's made application on 11-04-82 and
sought a constitutional priority date back to 1905.
Additionally, it should be noted that Neil Gardner filed an
application of 11-02-77, also on the same stream.

Based upon the foregoing, we specifically request that
the application be denied.

RESPECTFULLY Submitted this 17th day of August, 1987.

WARD, MAGUIRE, BYBEE & KLINE

By: 

F. RANDALL KLINE

Attorney for

Dr. and Mrs. James Shaw

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Department of Water Resources
Eastern District Office

2-1

780517

F. Randall Kline
MAGUIRE, WARD, MAGUIRE & BYBEE
Professional Association
353 East Lander - P. O. Box 4758
Pocatello, ID 83205-4758
Telephone: (208) 232-5167

In Re: Application of Autumn
Lane Water Users,

Application No. 29-7805

NOTICE OF PROTEST

TO: Autumn Lane Water Users Association
Lot owners and Residents of Mink Creek Mountain Estate
Subdivision, Bannock County, Idaho.

Pursuant to Idaho Law including I.C. 42-203A, that Dr.
and Mrs. James Shaw, husband and wife, protest further
appropriation by the Autumn Lane Water Users Association or Lot
owners or residents of Mink Creek Mountain Estate Subdivision.

Autumn Lane Water Users Association, ISU Box 9025,
Pocatello, Idaho 83209, have made application for diversion of
a certain spring tributary to Mink Creek. The point of
diversion is in the SENWNW Sec 30 T 07S R 35E. The proposed
use is domestic in the amount of 0.220 CFS and irrigation 0.120
CFS. The date the application was filed was 12-05-85. The
proposed area for use of the waters in SWSW Sec 20 T 07S R 35E
SWSE SESE Sec 19 T 07S R 35E NWNE NENW Sec 30 T 07S R 35E for
approximately 6 acres.

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This Notice of Protest is being filed upon the grounds and reasons that Mink Creek is a fully appropriated stream and that downstream water owners, including but not limited to, the protestant Dr. and Mrs. James Shaw, husband and wife, and Dr. Ed DeSano are utilizing said waters for beneficial purpose pursuant to Idaho law for domestic and irrigation purposes. That such appropriation will substantially diminish the stream flow thereby depriving downstream appropriators from beneficial use of the water.

That further, the Shaw's made application on 11-04-82 and sought a constitutional priority date back to 1905. Additionally, it should be noted that Neil Gardner filed an application of 11-02-77, also on the same stream.

Submitted this 15 day of September, 1986.

MAGUIRE, WARD, MAGUIRE & BYBEE

F. Randall Kline
F. Randall Kline
Attorney for Dr. & Mrs. James Shaw

State of Idaho, County of Bannock, ss.

On this 15th day of September, in the year of 1986, before me, a Notary Public in and for the State of Idaho, personally appeared F. Randall Kline, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

NOTARY SEAL

(SEAL)

780517

NO. 780517
RECORDER AT REQUEST OF
F. Randall Kline

'86 SEP 18 P3:42

OFFICIAL RECORD CHARGE \$450.
BANNOCK COUNTY, IDAHO
LARRY W. STEIN, RECORDER
FEE \$4.00 DEPUTY

NOTICE OF PROTEST - PAGE 2
1336D

Dwight R. Payne
NOTARY PUBLIC FOR IDAHO
Residing at Pocatello, Idaho
My commission expires: *lifetime*

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THE STORY OF ARTHUR PERCIVAL SAY
AND FANNIE EMMA BAUR

AS REMEMBERED BY ARTHUR R. SAY, THEIR
GRANDSON

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Department of Water Resources
Eastern District Office

The crops he raised were alfalfa hay, wheat, barley, oats and a couple of years he tried flax. The farm also had milk cows, pigs, chickens, and hoursees. Also on the farm were two big orchards which had all kinds of apples, several pear trees, bing and pie cherries, plums and rasberries. They did not sell much of the fruit, but gave most of it away. They had two big gardens. The buildings on the farm included the house, which was modern, electricity, central heat, hot and cold water (which came from a spring about 3/4 of a mile away), indoor bath and toilet. At one time it had carbide with with the carbide light fixtures and the carbide tank. There was a fruit cellar, two chicken houses, a garage, grainery, a blacksmith shop, a barn, and two corrals. There was also a big scale to weigh the wagons of hay. The farm also had a lot of cedar trees (juniper) and Mink Creek ran through it. It also had a reservoir that was fed by a spring and furnished the water for the house and gardens and orchards.

Granpa gave me a horse that we called Tom. It was a cow pony and I rode him all over the country. We fixed up an old time buggy and he repaired a one horse harness and we would ride the one horse buggy around. He also had another riding horse that we called Snip. It was a race horse that had his foot cut. We used the race horse for both riding and working. Then there were the two big work horses.

Grandpa was a very law abiding person. I have never know him to willingly break the law. One time there were some people renting his other farm. I do not believe they were paying the rent. One day we took the wagon to pick up some lumber that he had stored there. These people did not want us to take the lumber and they hit the horses and did all sorts of things to get us to leave, but grandpa did not say a thing but just continued to load the lumber. A few days later a summons came to gradpa, and he had to go to court. The court found him not gulty and also made the people move.

Grandpa told me a lot of stories. One was about a wild horse that use to roam about there. The horse had a club foot, but nobody could catch it. He also told a story about robbers who buried their loot of gold up a canyon before they were caught and the loot was never found.

Grandpa was a hard worker and always in good health. One day he was stacking hay and just finished the stack (about 30 ft. high). I was handling the horse that took the hay up by a Jackson Fork. He started to come down by hanging onto the fork while I was to lower him down, but the slack wasn't out of the cable and he fell all the way with the fork on top of him (about 50lbs.). He just got up and said "lets go to dinner." He was a little stiff the next day and didn't know why. Another time he was rakeing hay with a team of horses and a trip rack. The horses started to run away with him. Ronnie saw it and took out after him on another horse. But when he got to the rake grandpa was not on it, so he went back to look for him. When he found him he had blood all over his head. The team lost the rack when they went through the gate. Grandpa started after them, but the horses had stopped them. Everybody wanted to grandpa to go to the hospital, but grandpa. He finally agreed to go only after he had a bath. That night he found his clothes and walked out of the hospital. Another time he got hurt was he was working on a shut-off gate for the water.

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NOV 13 1995



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

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

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Department of Water Resources
Eastern District Office

January 22, 1987

Dr. James Shaw
2072 N. Mink Creek
Pocatello, Idaho 83204

Dear Dr. Shaw:

Enclosed for your records is a copy of transfer 1715 filed by Mink Creek Irrigation Corporation. The transfer granted a change in the point of diversion under right #29-0275. It is my understanding the new point of diversion is the site where the corporation pumps water from Mink Creek.

I apologize for failing to provide a copy of the transfer after your initial request.

Respectfully submitted,

Ernest Carlsen

Ernest Carlsen
Water Rights Supervisor

EC/md

Enclosure: copy/Transfer 1715

History of Water Right - Summary - Unnamed Tributary or Spring

1904 A.L. Say 1.5 cfs for 75 Acres Land

*1928 Water Deed A.L. Say 69 inches water from Mink Creek
(6-5-1926) 6 inches " " unnamed tributary
(6 inches = .12 cfs water)*

1957 Priority Claim ? Neil Gardner 4/1/57

1973 Mink Creek Irrigation Corp. - transferred point of diversion on 1.5 cfs (75 minor inches) on Mink Creek - NOB handwritten in application of 6 inches from unnamed trib.

*1977 Neil Gardner 0.20 cfs for irrigation + stockwater 2/11/77
claim to water right*

- 1982 - James F. Shaw 0.16 cfs domestic + irrigation
claim Water Right 11/2/82
- 1986 - Autumnhove Water Users Ass. 0.34 cfs domestic
+ irrigation Application for Water Right 1/16/86
Ray Stuyvesant - Notice of Denial 12/17/86
- 1987 - Jack T. Christopherson 0.23 cfs domestic + irrigation
purposes on 24 Acres (development) - proposed change
of Water Right 1/6/87

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NOV 13 1996



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

150 Shoup
Idaho Falls, Idaho 83401
(208) 525-7161

RECEIVED

DEC 22 1982

RECEIVED
Maguire, Ward & Maguire

FEB 23 1993

December 21, 1982

Randy Kline
P.O. Box 4758
Pocatello, ID 83201

Department of Water Resources
Eastern District Office

Dear Mr. Kline:

I received your letter about claims filed on an unnamed stream appurtenant to Dr. James Shaw's property.

The only other filing I can find is one by Neil Gardner. (see enclosed)

You also inquired about potential filings made by Jack Christofferson or the Land Owners Association of Mink Creek Mt. Estates. I found no claims filed under those names.

I hope this information helps you.

Sincerely,

HAROLD W. JONES
Sr. Resource Agent

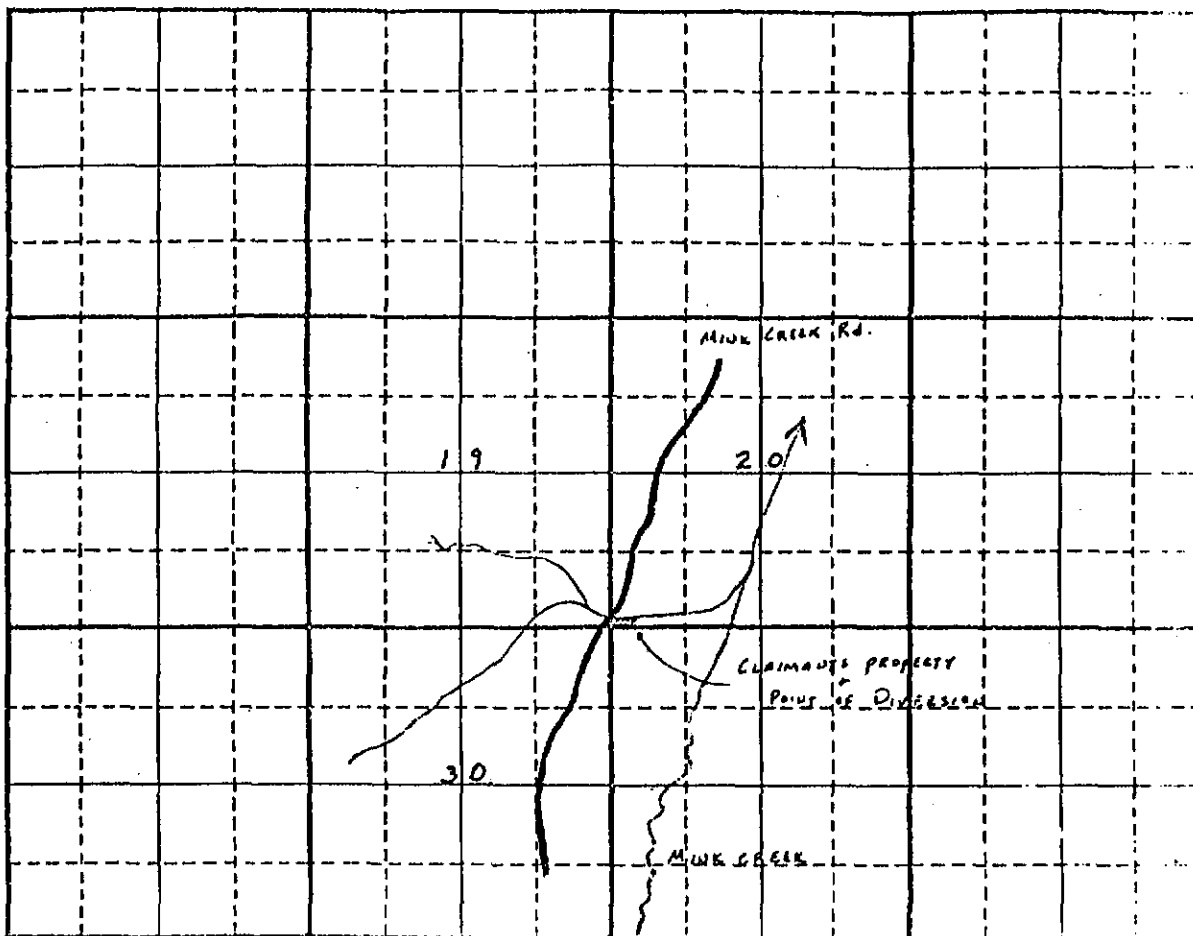
HWJ:bp

Enclosure

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NOV 13 1993

Remarks 1977 Neil Gardner filed an irrigation claim naming James Shaw and others as users of the water. The spring has also been used for domestic purposes since approximately 1904, being the house water supply. This is submitted to clarify that claim.



Scale: 2 inches equal 1 mile.

T 7 S., R 3 E. B. M.

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)
) ss.
County of Bannock)

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 2nd day of

November

19 82

Notary Public
Residing at

Pocatello Idaho

My commission expires

Life time

FOR DEPARTMENT USE ONLY

Received by

HWS

Date

11-07-82

Exception filed by:

Prelim. check by

HWS

Date

11-07-82

Published in

Idaho State Journal

Dates

11/18 & 11/25/82

Microfilm

NOV 13 1982

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that Neil Gardner,
(name of claimant)
of Box 426, Mink Creek Rd., Pocatello, ID
(mailing address), claims a right to the diversion and beneficial use of
the public water of the State of Idaho

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) unnamed spring
(located in NW 1/4 NW 1/4, Sec. 30, T. 7S, R. 35E), tributary to, Mink Creek
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Amount	<u>0.20</u>	Use	<u>Irrigation</u>	Period of Use: From	<u>Apr. 1</u>	To	<u>Nov. 1</u>
Amount	<u>0.20</u>	Use	<u>Stockwater</u>	Period of Use: From	<u>March 1</u>	To	<u>Nov. 15</u>
Amount		Use		Period of Use: From		To	
	(cfs, gpm or a/f)		(dom., irri., stock, etc.)				(both dates inclusive)

- (3) Total quantity of water claimed: 0.20 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.
- (4) Priority claimed: (the date water was first applied to beneficial use) April 1, 1957

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.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
SW 1/4 SW 1/4, Sec. 20 Twp. 7S Rge. 35E B. M. County of Bannock
Additional points of diversion: _____

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. 14" concrete headgate

- (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.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	35E	20											15						15

Total No. of acres 15

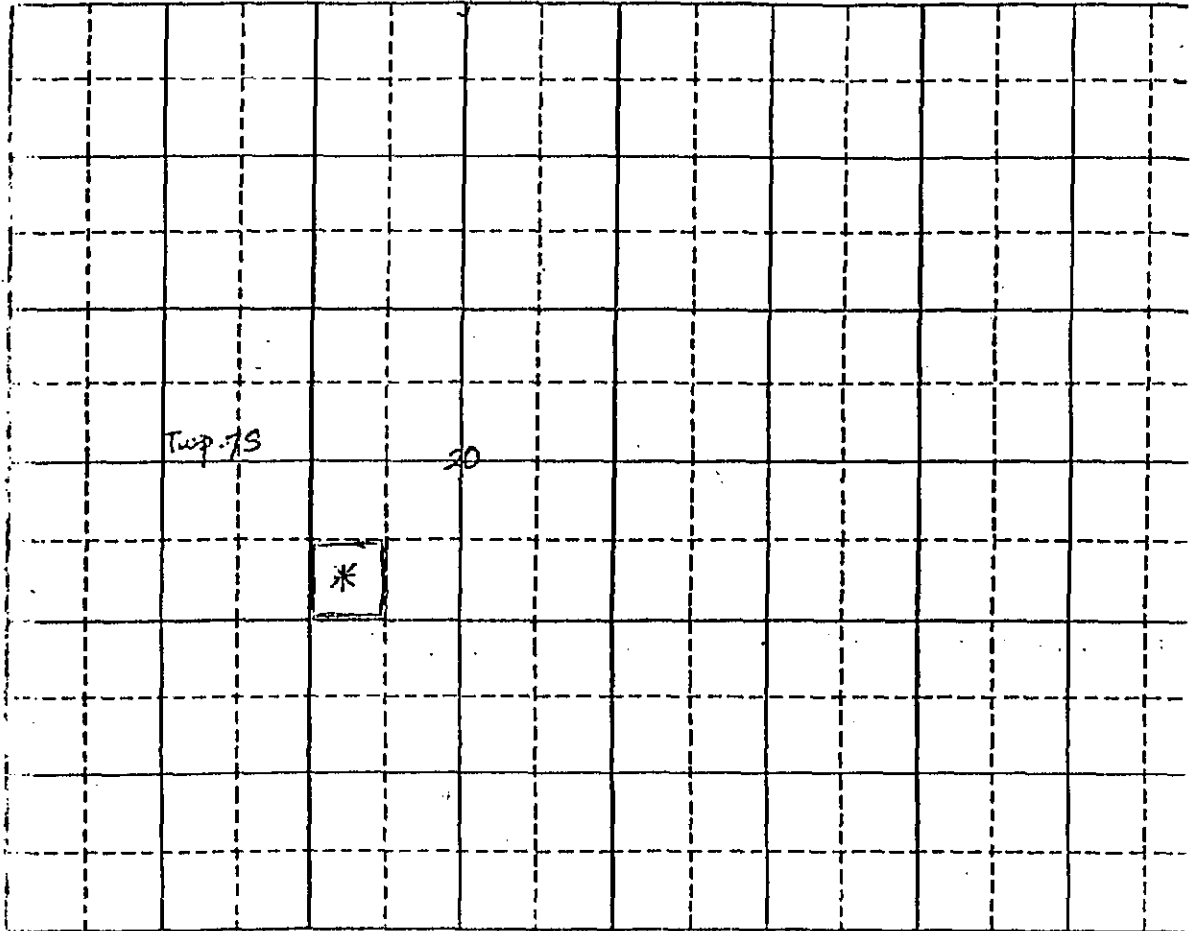
- * B) If the water is used for other than irrigation, fully describe that use, being as specific as possible:
Water is and has been used on property within described 40-acre tract by the claimant, James Shaw, and Edward DeSano

- (7) If you are claiming water as a member of an organization, list name of organization:
This is not an organization I simply want a record of this use recorded with the Department

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(8) Remarks This water is used to supplement Mink Creek Water Rights when the Mink Creek supply diminishes.

Range 35 E



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 Bannock) 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 11th day of February, 19 77.

Notary Public

Residing at Idaho Falls Id.

My commission expires Mar. 21, 1979

For Department Use Only

Received by U.S. Date 2-17-77 Exception filed by: Forwarded to Date
Prelim. check by 466 Date 2/16/77 claimant by:
\$10.00 fee received by U.S. Date 2-17-77
Approved for publication by U.S. 2-17-77
Published in Bannock County Record
Date Feb 24 1977

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NOV 21 1986

Department of Water Resources

Eastern District Office

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNER.

SAM B. SMITH, Administrator of the
Estate of T. B. Smith, deceased,
ELKHORN LIVESTOCK and DAIRY COMPANY,
a corporation, JOSEPH MUEN and
WILLIAM H. EDWARDS,

Plaintiffs.

vs.

CITY OF POCA TELLO, a municipal
corporation, ARTHUR SAY, J. A.
McKINNON, H. F. GALLOWAY, JAMES
A. CAMPBELL, JOHN PATTIS and
JOHN COVISIS,

Defendants.

6669

DETECT.

RECEIVED

FEB 23 1995

Department of Water Resources
Eastern District Office

This cause came on regularly for trial on the 23rd day of June, 1925, before the court sitting without a jury, a jury having expressly waived by the respective parties; Messrs. McDougall, McDougall & McDougall appeared for the plaintiffs, Messrs. D. W. Standrod and James Bacon appeared for the defendants and cross-complainants, J. S. Campbell and J. A. McKinnon, Messrs. Peterson and Coffin appeared for Arthur Say and H. F. Galloway and no one appeared for John Pattis and John Covisis, and their default was duly entered, and Jones, Pomroy & Jones appeared for the defendant and cross-complainant, the City of Pocatello,

Thereupon witnesses were sworn and testified on behalf of the plaintiff and the several defendants and cross-complainants herein, and documentary evidence was offered and received by and on behalf of the respective parties and the testimony closed. Argument was submitted by the respective counsel on behalf of said parties and the cause was finally submitted to the Court for decision and the Court having duly considered the testimony, the argument of the counsel, and being fully advised in the premises, has made its finding of fact and conclusions of law and ordered judgment to be entered in accordance therewith.

29-6211- That in the years 1917 and 1922, the Cross-complainant, the City of Pocatello, purchased 400 acres of land from certain tribal Indians who were occupying irrigating and cultivating their said lands to the extent of 161.1 acres at the time of the sale; and that on October 1st, 1901, the predecessors of the City of Pocatello, constructed a ditch and diverted water from Mink Creek to the City of Pocatello for municipal purposes to

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the extent 20 inches (.56 cu. foot.);

That on September 1st, 1917, the City of Pocatello increased the size of its pipe line to a carrying capacity of 5 cubic feet per second of time and since said time has diverted said amount from the waters of Mink Creek for municipal purposes.

That on June 17th, 1902, the cross-complainant, James S. Campbell, appropriated and diverted 70 inches of the waters of Mink Creek and Campbell Creek and has used the same since said date.

That on September 7th, 1904, Arthur Say appropriated and diverted 75 inches of the waters of Mink Creek and used the same for irrigation purposes since said date.

That on August 20th, 1907, the predecessors of H. P. Galloway appropriated and diverted 20 inches of the waters of Mink Creek and has since used the same for irrigation purposes.

That on July 5th, 1910, J. A. McKinnon appropriated and diverted 10 inches of the waters of Mink Creek and has since used the same for irrigation purposes.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED; that the following named persons and corporation, defendants and cross-complainants in this action have the right to the use of said Mink Creek and the tributaries thereof, and springs, the sources of said tributaries, such amount and amounts of water, of the date of appropriation and priority, and for the uses and purposes and the point of diversion and means of diversion as set forth in the following schedule:

MINK CREEK

Name of Claimant and Date of Priority	Amount in Second Feet.	Point of Diversion And Place of Use
1. Estate of T. B. Smith deceased: 9 0263 1869--February 26, 29 0264 1902--July 21,	10 inches 44.65 inches	Said water to be diverted from the said creek by means of a dam in said creek at or near the center of section 20, Township 7, South Range 35, T. B. M. Said water to be used on the following described land, Northwest quarter of section seventeen and Northwest quarter of Southwest quarter of Section 17, and Southwest quarter of Southwest quarter of section 8, Township 7, South Range 35, E. B. M.

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2. Elkhorn Livestock and Dairy Company, a corporation.

29 02661869--February 26 15 inches
29 02661902--July 21, 47.22 inches

Said water to be diverted by means of a dam across said Mink Creek at or near the center of section 20, Township 7, South Range 35, E. B. M. Said water to be used upon the following described land: Southeast quarter of the Northwest quarter, and the East one-half of the Southwest quarter of section 17, Township South Range 35, E. B. M.

3. Joseph Munn

29 02661869--February 26 5 inches
29 02661902--July 21, 26.98 inches

Said water to be diverted by means of a dam across said Mink Creek at or near the center of section 20, Township 7, South Range 35, E. B. M. Said water to be used upon the following described land: Southeast quarter of the Northeast quarter of section 18, and the West eight acres of the Southwest quarter of the Northwest quarter of section 17, Township 7, South Range 35, E. B. M.

4. William H. Edwards

29 02661869--February 26 20 inches
29 02701902--July 21, 31.53 inches

Said water to be diverted by means of a dam across said Mink Creek at or near the center of section 20, Township 7, South Range 35, E. B. M. Said water to be used upon the following described land: North half of the Northeast quarter of section 18, Township 7, South Range 35, E. B. M.

5. City of Pocatello

29 0271869--February 26 161.1 inches
29 0271901--October 1, 28 inches
29 0271917--October 1, 60.9 inches

Said water to be diverted by means of a dam and head gate in a pipe line at a point 3° 30' West 720.3 feet from the East quarter corner of section 13, Township 8, South Range 34, E. B. M. To be used for municipal purposes within the City of Pocatello, Bannock County, State of Idaho.

6. James S. Campbell

29 0271902--June 17, 70 inches

*From Mink
Creek, Idaho*

(from Mink Creek and Campbell Creek, the amount which he shall receive from Campbell Creek to be deducted from the 70 inches and the balance from Mink Creek)

Said water to be diverted near the Southeast corner of the Northwest quarter of the Northeast quarter of section 31, Township 7, South Range 35, E. B. M. Said water to be used upon the lands described as follows: Southeast quarter of the Northeast quarter, East half of the Southeast quarter of section 30, Northeast quarter of section 31, all in Township 7, South Range 35, E. B. M.

7. Arthur Say

29 0271904--September 7, 75 inches

Said water to be diverted by means of a dam and head gate in the Southeast quarter of the Southeast quarter of section 19 Township 7 South Range 35, E. B. M. Said water to be used upon the lands described as follows:

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The Southeast quarter of the
Southeast quarter of section 19,
the Northeast quarter of the
Northeast quarter of section 30,
the Northwest quarter of the
Northwest quarter of section 29,
the Southwest quarter of the
Southwest quarter of section 20,
 Township 7, South Range 35,
 E. B. M.

29 0276

8. H. F. Galloway

1907--August 7

20 inches

Said water to be diverted from
 the said Creek in the Southwest
 quarter of Section 20, Township
 7, South Range 35, E. B. M. ✓
 Said water to be used upon the
 lands described as follows:
 Northeast quarter of the South-
 west quarter, the Northwest
 quarter of the Southeast quarter
 of section 20, Township 7, South
 Range 35, E. B. M.

29 0277

9. J. W. McKinnon

1910--July 10,

12 inches

Said water to be diverted from
 the said creek through the ditch
 of James S. Campbell at a point
 near the Southeast corner of the
 Northwest quarter of the North-
 east quarter of Section 31, Town-
 ship 7, South Range 35, E. B. M.
 Said water to be used upon the
 lands described as follows:
 South half of the Northeast
 quarter, the Southeast quarter
 of the Northwest quarter and the
 Northeast quarter of the Southeast
 quarter of Section 31, Township
 7, South Range 35, E. B. M.

IT IS FURTHER DECREED that the parties hereto shall permit sufficient
 water to flow through their respective headgates during the irrigation season
 29 0278 29 0278
 to furnish 68.71 inches to Big Elk Allotment, and 37.46 to the Tonne Allot-
 ment, with a priority of February 26, 1869, and an additional inch of water
 for each additional acre added to the present irrigated area which the same
 is in Indian ownership, which area at the date hereof is 97.17 acres.

The above provision regarding said Indian lands is made to avoid
 litigation with said Indians and to enjoin each of the parties hereto from
 preventing the said amount of water from flowing to said allotments while the
 same are in Indian ownership. Provided, however, in the event litigation shall
 be instituted to decree said Indian rights, the provision herein regarding the
 same shall not be construed as any waiver of the right of the parties hereto to
 question the amount, extent or priority of the use of the waters to which said
 Indian allotments are entitled, and shall not bar or estop or limit the parties
 hereto from urging any matter that could have been raised had said provision not
 been included in this decree.

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No costs or disbursements are allowed to any of the parties to this action, but each shall pay his, her or its own costs.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED: That when the natural flow of the streams, the water of which is awarded by this decree, is not sufficient to furnish all parties claiming water therefrom with the full amount of water awarded to them, then such water shall be distributed in accordance with the priorities as hereinbefore decreed, and if the water is insufficient to furnish all rights which are of equal dignity, then the available supply of water shall be distributed pro rata among such rights.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED: That the Irrigation Season mentioned in this judgment shall be that portion of the calendar year beginning on the 15th day of April and closing on the 15th day of September being a total of five months, or 152 days; that the term Acre Foot, as used in this judgment, means and shall mean, 43,560 cubic feet of water, or the amount necessary to cover one acre of land one foot in depth;

That the Inches referred to in this judgment is such an amount of water which will pass through an orifice one inch square under a four-inch pressure, each second of time, being the 1-50 part of a cubic foot per second;

That the term Cubic Foot per Second as used in this judgment, is and shall be one cubic foot of water passing a definite, fixed cross-section per second of time.

That all water awarded by this judgment shall be measured at the point of diversion, except where conditions make it impossible so to do. Where it is so impossible, measuring devices or measuring stations shall be located at the nearest feasible point below said point of diversion;

That all canals or pipe lines diverting in excess of 30 cubic feet of water per second, must install a standard type of automatic register, to be passed upon by the Commissioner of Reclamations and subject to review by this Court;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED: That the later appropriators shall be entitled to the benefit of the return flow into the river and its tributaries, as against prior, lower, or prior and lower appropriators, in computing the amount of water herein awarded to said prior, lower or said prior and lower appropriators.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED: That the water hereby awarded has been applied to a beneficial use and that the parties to said action are the owners of the lands, reservoirs, dams, and ditches, and ditches, which by the terms of this judgment are referred to respectively as the lands upon which the water awarded to them has been used by means of said dams, ditches, reservoirs and other works.

That all rights herein awarded to the plaintiff and several defendants and cross-complainants, are for the beneficial uses specified, and none of the parties hereto, or their successors in interest, whether heirs, executors, administrators successors or assigns shall have the right to divert any of the waters of the said Mink Creek, its tributaries and sources, except for beneficial use, and whenever such use has ceased, such party or parties shall cease to divert, and shall have no right to divert, the said waters, or any part thereof, and each and every of the parties hereto, their servants, attorneys, employees and successors in interest as aforesaid, are hereby enjoined and restrained from any and all interference with or diversion or use of the said waters, except in the manner, and to the extent, and for the purposes provided in this judgment, whenever such interference, diversion or use would in any manner interfere with the diversion or use of the water awarded by this judgment to any of the other parties to this action;

That the parties hereto and their successors in interest shall install and maintain suitable and efficient headgates, controlling works and measuring devices at their respective points of diversion, and all water herein allotted and decreed shall be measured at said points of diversion. Said works and devices shall be built and installed in accordance with plans and specifications to be approved by the state official charged with the duty of supervising the distribution of water, (subject to review by this Court). All such devices shall be of such design as to accurately register the amount of water so diverted, and in case of ditches diverting more than 30 cubic feet per second, automatic measuring and registering devices shall be installed and shall at all times be subject to the inspection of any party to this action, or to any public officials or water masters having jurisdiction over the distribution and diversion of water, and no dam or other obstruction to the natural flow of the stream shall be maintained so as to divert water from the channel of the stream, except through ditches, canals or other works,

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NOV 13 1950

provided with such headgates, control works and measuring devices, except as in this judgment provided; and each of the parties hereto shall be perpetually enjoined from diverting from the channel of the said Mink Creek, or its tributaries or sources, any water through any ditch, conduit, or other devices not provided with such headgates, control works and measuring devices; provided, that in case of diversions through pipes for power purposes or otherwise, measuring devices may be dispensed with where the quantity of water diverted may be otherwise determined by other means of calculation.

That the City of Pocatello must install a Standard Weir and Stevens recording gage or other similar standard device or devices that may be readily read and may be located so that it is at all times subject to the inspection of the water users of Mink Creek and so located that ingress and egress is permitted thereto and therefrom. And the said City of Pocatello is required to submit to the Court plans for such device for the approval of the Court.

The rights herein decreed and required are designated and classified as (municipal purposes and irrigation rights). Irrigation rights are defined as the right to divert from Mink Creek water for the irrigation of the lands described in the decree belonging to the parties to this action. Domestic rights for municipal purposes are defined to be the right to divert from the waters of Mink Creek water through a pipe line to the City of Pocatello to be used by and distributed to the inhabitants of the said City of Pocatello for domestic purposes, irrigation of lawns, sprinkling of streets, fire and the purposes to which water is usually required by its inhabitants.

That no party to this decree shall divert more water than can be beneficially used, and that the waste of water is prohibited and enjoined.

That the retention of jurisdiction by the Court shall be for the following purposes and the following purposes only:

(a) To make corrections for clerical errors, inadvertences and omissions in the rights decreed.

(b) To review and amend the provisions of the decree fixing, if necessary, different limits upon the irrigating season as above described, and for reducing the amount of water which may be shown during actual operation of the creek and its tributaries, to be in excess of the amount actually necessary for the successful raising of crops.

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NOV 13 1996

(c) To define more accurately, if necessary, the diversions of the water to the several users, mentioned within the decree, with special reference to stipulated rights where one user secures the total amount, through several ditches enumerated opposite his name with no date submitted or available with reference to the capacity of the ditches supplying said lands of the user.

(d) To observe for a season or longer if necessary the operation of the creek in order that such additional provisions may be added to this decree to facilitate such operation in the field, but jurisdiction is not retained to operate the creek, under order of Court.

(e) Until the measuring devices and all diversions are installed and operating to the satisfaction of the Court, and the parties hereto are given sixty (60) days in which to install the same.

Done in open Court this the 5 day of June, A. D. 1926.

O. R. Baum

District Judge

FILED R.C.EARLEY
CLERK, AUDITOR & RECORDER
BANNOCK COUNTY, IDAHO
Anna Koofe, Dep
JUN 5 1926 4 47 PM

Recorded in Judgment Book 8, at page 306

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NOV 13 1986

STATE OF IDAHO, }
COUNTY OF BAIKOV. } ss.

I, R. C. EARLEY, Clerk of the District Court, Ex-Officio Auditor and Recorder in and for said county and state hereby certify that the above and foregoing is a full, true and correct copy of the original DECREE in the case of SAM B. SMITH, Administrator of the Estate of T. B. Smith, deceased, et al Plaintiffs, vs CITY OF POCA TELLO, a municipal corporation, et al, defendants, recorded in Judgment Book 8, at page 306, as the same appears of record or on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Pocatello, Idaho, this 26th. day of June, 1926.

R. C. Earley,

Clerk of the District Court, Ex-Officio Auditor and Recorder.

By *L. Longherg*
Deputy

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