

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: A29-07333
Date Received: 5/17/1990
Receipt No: C016434
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MORRIS LEHMAN 208-233-5138
Address: 2174 MICHAUD CREEK RD
POCATELLO, ID 83201

AND/OR

Name: CLAUDIA LEHMAN 208-233-5138
Address: 2174 MICHAUD CREEK RD
POCATELLO, ID 83201

2. Date of Priority: JUN 24, 1976

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06S	33E	22	NW	SE			POWER

5. Description of diverting works:
WELL, PUMP & PIPELINE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.080		14.00
DOMESTIC	01/01	12/31	0.100		3.60

7. Total Quantity Appropriated is:
0.160 C.F.S. (and/or) 17.60 A.F.A.

8. Total consumptive use is 17.6 Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 HOME & 2 SETS OF DUPLEXES S/ 2 CATTLE, 1 HORSE

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
06S	33E	22	NW SE		IRR	4.0
Section Acres						4.0
Total Acres						4.0

11. Place of use in counties: POWER

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: LICENSE

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: _____

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:

Ident. Number

Date Received

Receipt Number

39576

A29-07333

4/20/90

C016434

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
APR 20 1990

Department of Water Resources

Please type or print clearly

1. Name of Claimant (s) MORRIS & CLAUDIA LEHMAN Phone (208) 233-5138
Mailing Address 2174 MICHAUD CREEK ROAD Zip 83201
POCATELLO, IDAHO

2. Date of Priority (Only one (1) per claim) JUNE 24, 1976

3. Source of water supply (a) GROUNDWATER
which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 6S Range 33E Section 22,
_____ 1/4 of NW 1/4 of SE 1/4, Govt. Lot, _____ B.M., County of POWER

Additional points of diversion if any: _____

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

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

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.

WE HAVE A 7 1/2 H.P. PUMP IN
AN 8" DIAMETER WELL 250 FT. DEEP WITH TWO 50
GALLON PRESSURE TANKS SERVING OUR RESIDENCE AND
TWO DUPLEXES AND IRRIGATING 4 ACRES.

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NOV 13 1992

A2907333

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from APRIL 1 to NOV 1 amount 0.08 or 14 ACRE FT.

For DOMESTIC purposes from JAN 1 to DEC 31 amount 0.10 or 3.6 ACRE FT.

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.16 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 17.6 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) FIVE HOUSEHOLDS - 2 COWS - 1 HORSE

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	
<u>6S</u>	<u>33E</u>	<u>22</u>														<u>4</u>			<u>4</u>
																<u>D</u>			

Total number of acres irrigated 4

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

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

13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (X)

14. Remarks: OUR WELL AND HOME AND 2 DUPLEXES ALL UNDER SINGLE OWNERSHIP ON THE FORT HALL INDIAN RESERVATION. DEEDED GROUND

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NOV 13 1992

Last Name LEHMAN Ident No. A-29-07333

Copies: White -State, Yellow-Claimant

Scale: 2 inches equals 1 mile

A 16x16 grid of squares, each containing a crosshair. Handwritten text is present in several cells:

- Row 7, Column 7: R 313 E
- Row 10, Column 3: T
- Row 10, Column 4: 6
- Row 11, Column 3: 5
- Row 10, Column 6: 22
- Row 10, Column 10: WELL
- Row 11, Column 7: A small square symbol.

NOV 13 1992

Last Name LEHMAN

Ident No. A 29-07333

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License ☒ Permit _____
Decree _____
If applicable provide IDWR Water Right Number A29-07333
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)

Morris Lehman
Claudia Lehman

Date 4-18-90

Date 4-18-90

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 _____

Title

of _____

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 Bannock) SS.

Subscribed and sworn (or affirmed) before me this 18th day of April 19 90

SEAL

Notary Public

Carter Fritschle

Residing at

Eagle, Id

My Commission Expires

3-21-94

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 _____

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NOV 13 1992

Last Name

LEHMAN

Ident. Number

A-29-07333

Copies White-State, Yellow-Claimant

Log for claim A29-07333

Spatial Dynamics AMH

7/18/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
06s33e	22	NWSE	4	7.8	
Totals:			4	7.8	

Stage: LICENSE

POWER County

Audit: 05/17/90 DCARLSON 03/29/95 POST-STD

WATER RIGHT LICENSE

THIS IS TO CERTIFY, that Morris Lehman

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from April 1 to November 1	at 0.08 cfs and	14.0 acre feet
Domestic	from January 1 to December 31	at 0.08 cfs and	3.6 acre feet
	from _____ to _____	at _____ cfs and	

Description and location of place of use:

[illegible]

Director

Identification No. 29 7333

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

1. Name of applicant Morris Lehman Phone: 233-5138
post office address Box 55, Star Route, Pocatello, Idaho 83201
2. Source of water supply ground water which is a tributary of _____
3. a. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 22 Township 6S
Range 33E B.M. Power County; additional points of diversion if any: _____

- b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 0.10 for Domestic purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.10 for Irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 0.20 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. well, 7½ Hp. pump and pressure system

- b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
- c. Proposed well diameter is 8 inches; proposed depth of well is 250 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.
b. Estimated construction cost is \$ 6,000.00.
8. Description of proposed uses:
a. If water is not for irrigation:
(1) Give the place of use of water: NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 22 Township 6S
Range 33E B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered 2 cows, 1 horse

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water 5
(5) If water is to be used for other purposes describe: _____

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			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	
6S	33E	22														5			5

Total number of acres to be irrigated 5

c. Describe any other water rights used for the same purposes as described above. None

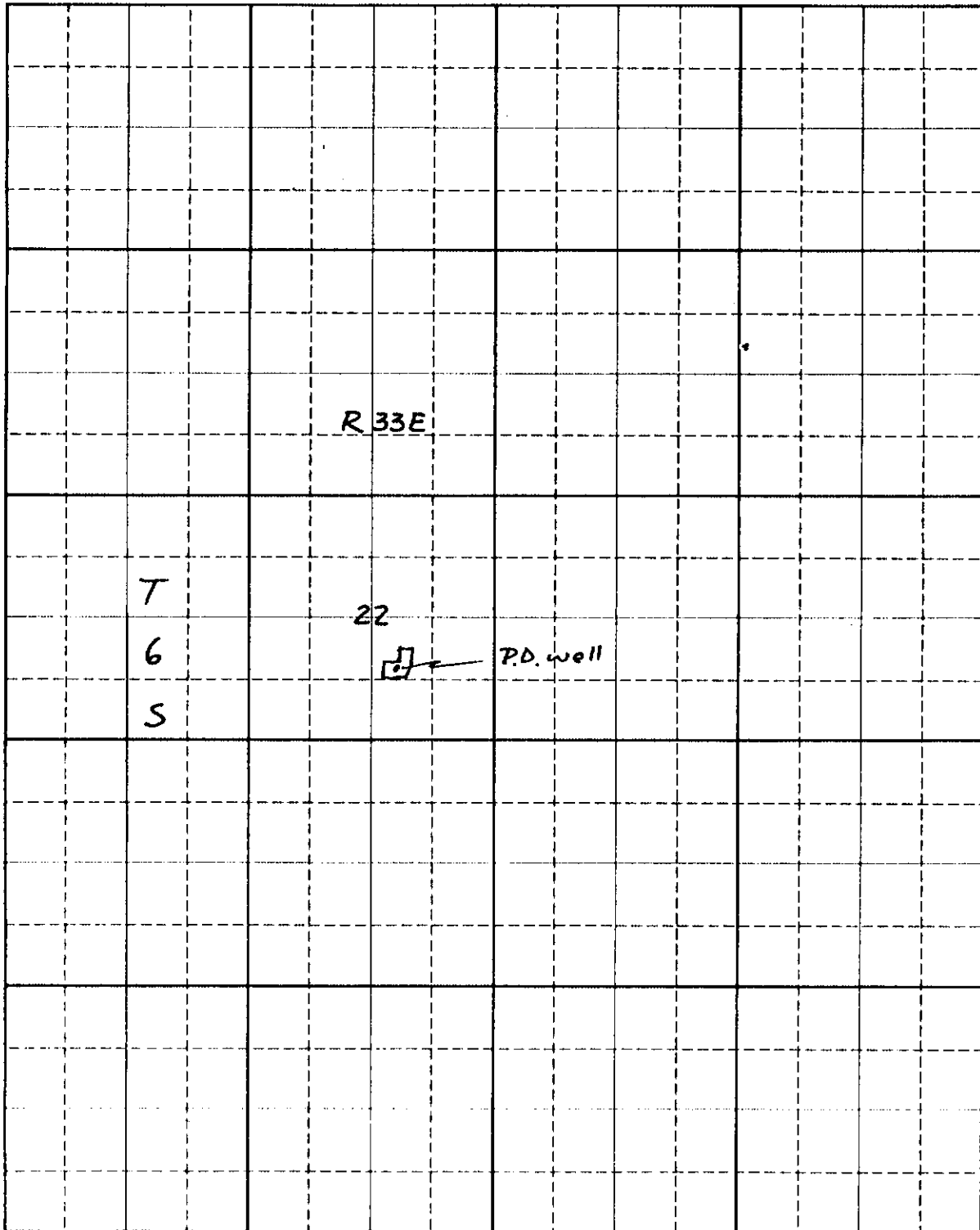
9. a. Who owns the property at the point of diversion Applicant

b. Who owns the land to be irrigated or place of use Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing.

10. Remarks

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

(Applicant)

Mario Lehman

Proposed Priority 6-24-76

Received by me Date 6-24-76 Time 11:24 a.

Preliminary check by me Fee \$0.00

Receipted by me Date 6-24-76 # 2440

Publication prepared by me Date 6-25-76

Published in Shoshone County Press

Publication dates July 1 + July 8, 1976

Publication approved me Date 7-13-76

Priority reduced to _____ Reason _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by DRT

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 29-7333, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before July 1, 1981.

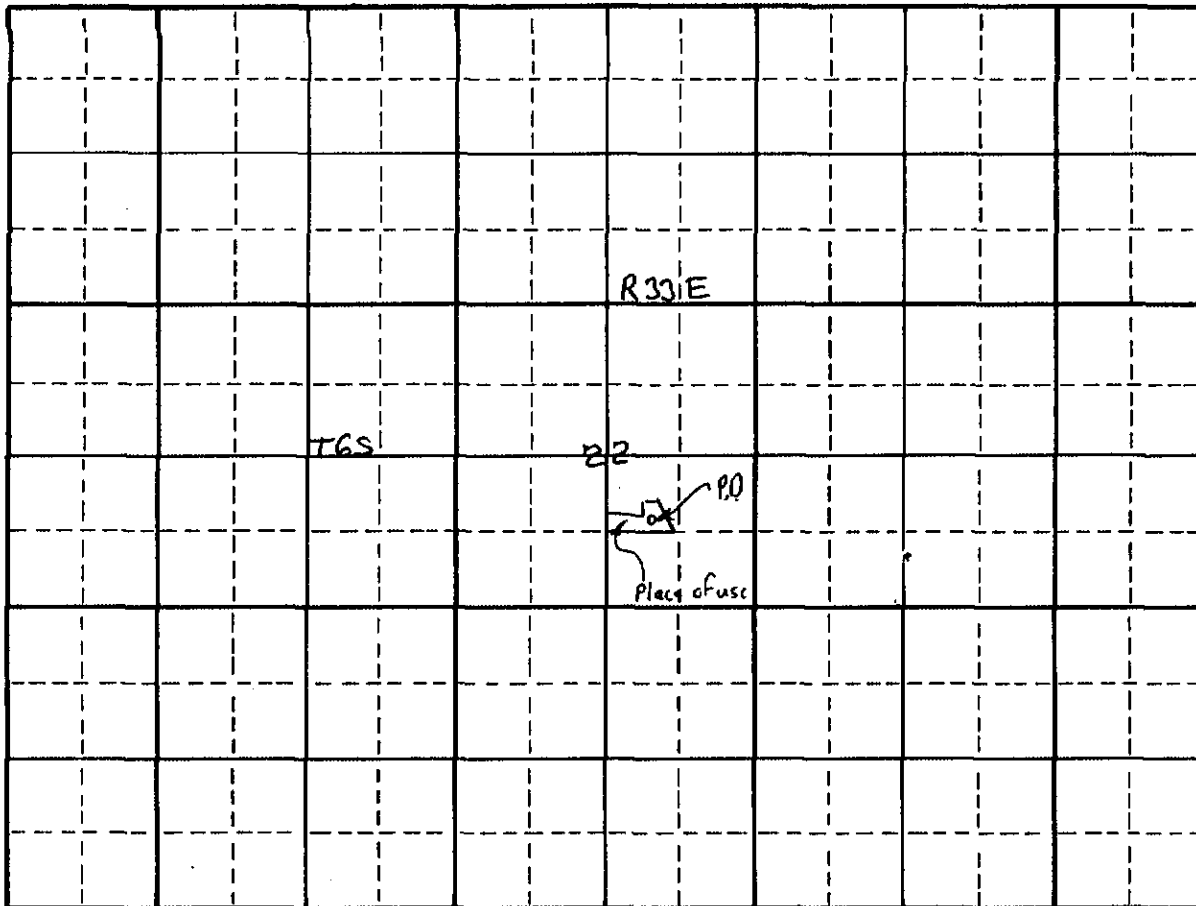
c. Other: _____

2. Denial of said application is for the following reasons: _____

Witness my hand this 23 day of July, 1976.

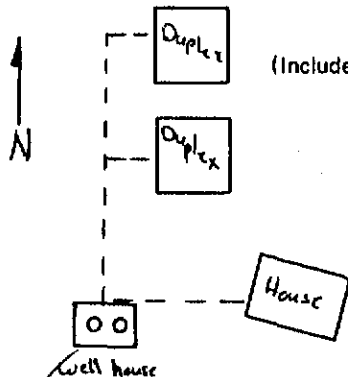

Director

MAP (Attach Aerial Photo)



SCHEMATIC DIAGRAM OF SYSTEM

(Include distance from pump to measuring device, if applicable.)



Point(s) of diversion: NW 1/4 of SE 1/4 Section 22 T6S R33E

Place(s) of Use

TWP.	RGE.	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			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	
6S	33E	22														4			4

Recommended Amendments:

- ☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

Examiner's Signature [Signature] Date 10-29-81
 Checked by [Signature] Date 11-9-81
 Approved by [Signature] Date 11-13-82

29-7535

HUT 12-7-81

B-944

Continued from

158

558

26
27

38

1325

26

480

23

27

68

21

27

698

1316

16

NOT TO SCALE

MICROFILMED

RECEIVED

83201 - APRIL 19TH FILING

RECEIVED

APR 20 1990

MAY 14 1990

State of Idaho
Department of Water Resources
REQUEST FOR EXTENSION OF TIME
TO FILE ADJUDICATION CLAIM(S)

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request by the claimant for an additional period of time in which to file claim(s) beyond the 90 days allowed by Section 42-1409(10); Idaho Code.

MORRIS &/OR CLAUDIA LEHMAN (208) 233-5138
Name of Claimant Phone Number

2174 MICHAUD CREEK ROAD POCA TELLO IDAHO 83201
Mailing Address City State Zip

PONER 4-5-90
County(s) where place of use is located Date claim originally due

LICENSE
Identify water right(s) for which extension is requested

State why an extension of time is requested explaining how a diligent effort has been made to meet the deadline:

WE WERE TOLD TO FILE BY APRIL 19TH
IF OUR MAILING ADDRESS WAS 83201
OR 83204 ZIP CODE, IN POCA TELLO.

Claimant requests an extension to APRIL 19TH, 19 90

Morris Lehman 4-18-90, 19 90
Signature Date of request

Title

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

The above request for extension of time is hereby [X] granted [] denied for the following reasons:

and if granted the filing deadline is extended to April 19, 19 90

Signed this 22 day of April, 19 90

Director of his designated agent

DAVID B. SHAW

Mail to: Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706

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NOV 13 1992

SD-56

IDADA DEPARTMENT OF WATER RESOURCES
ADJUDICATION MAILING DATA ENTRY SCREEN

DATE: 04/20/90
TIME: 16:23:31

COUNTY NO: 77 COUNTY NAME: POWER

LAST: LEHMAN FIRST: MORRIS E. ET UX
ADDRESS: 2174 S MICHAUD CREEK ROAD

CITY: POCATELLO STATE: ID ZIP CODE: 83201 SOURCE CT

Y	COMMENCEMENT	-	DOCKET SHEET	-	MONTHLY STATUS REPORT
-	WATER USER HANDBOOK	-	WATER LAW HANDBOOK	-	LONG CLAIM FORM
-	SHORT CLAIM FORM	-	FEDERAL CLAIM FORM	-	MISCELLANEOUS
-	APPLICATION				

EXPIRED YEAR: FORM MAIL DATE: / / MAIL AGAIN: _

ROUND #1 MAIL DATE: 12/15/89 ROUND #2 MAIL DATE:
CERTIFIED NUMBER:

(ENTER=CONTINUE) (GOLD2=UPDATE) (GOLD3=DELETE) (GOLD7=NAME SEARCH) (GOLD8=EXIT)

DO NOT PRINT

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No: 0016434

Date: 04/20/90
Time: 09:46:13

Received

From: LEHMAN APARTMENTS

Type of Payment	Program Acct Class	Amount
ADJUDICATION FEE	0410162 9337 6490	\$54.00

Total

\$54.00

DO NOT WRITE IN THESE SPACES

CHECK 0182

Idaho Department of Water Resources

Region: STATE

Signature:

J. Yarbrough

Morris Lehman
Star Route, Box 55
Michaud Creek Road
Pocatello, Idaho 83201
Telephone: 208-233-5138

RECEIVED
APR 20 1990

Representing myself

Department of Water Resources

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

IDAHO POWER COMPANY, a
corporation,

Plaintiff,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES, an executive agency
of the State of Idaho and others,

Defendants.

ANSWER AND DEFENSE TO SECOND
AMENDED COMPLAINT

Case No. 81375

DO NOT FILE

I, Morris Lehman hereby appear by and for myself with this Answer in defense of my water rights which are being attacked by Idaho Power Company in their Second Amended Complaint and Summons which was served on me on May 1, 1984, by an Idaho Power employee at my residence on Michaud Creek Road, Fort Hall Indian Reservation, Pocatello, Idaho.

In this Amended Complaint, Idaho Power is claiming senior water rights over my water rights which I hold to irrigate within the Fort Hall Indian Reservation. These lands which I now own were formerly Indian owned lands and my water rights date back to 1868, the date of the Shoshone-Bannock Treaty and the creation of the Indian Reservation.

I also object to the high-handed tactics used by Idaho Power in serving this summons on the Reservation, which is out of their jurisdiction, and by publishing my name in all the papers in the state. This is damaging to my reputation and business and I feel that damages should be awarded.

As to the water rights, Idaho Power asks the court to say their water right at Swan Falls Power Plant (priority date 1900), Bliss Power Plant (priority date 1947), Lower Salmon Power Plant (priority date 1908), and Upper Salmon Power Plant (priority date 1929) are senior and superior to mine. That my water rights are contrary to and in violation of Idaho Power's superior rights and that I should be stopped from exercising my water right if it would interfere with their water rights at these dams.

I reject their claim as they state it in their Complaint and defend my water rights based on the following law.

1. Colville Confederated Tribe v. Walton, 647 F.2d 42 (9th Cir.) cert. denied, 454 U.S. 1092 (1981).

"Upon careful consideration, we conclude this principle supports the proposition that an Indian allottee may sell his right to reserved water". (page 710).

"A non-Indian purchaser cannot acquire more extensive rights to reserved water than were held by the Indian seller" (page 711).

"Second, the Indian allottee's right has a priority as of the date the Reservation was created" (page 711).

"Third, the non-Indian successor acquires a right to water being appropriated by the Indian allottees at the time title passes. The non-Indian also acquires a right, with a date-of-Reservation priority date, to water that he or she appropriate with reasonable diligence after the passage of title. If the full measure of the Indian's reserved right is not acquired by this means and maintained by continuous use, it is lost to the non-Indian successor" (page 711).

2. Ray v. Hibner, 27 F.2d 909 (D. Idaho 1928).
3. United States v. Ahtanum Irrigation District, 236 F.2d 321 (1956).

I believe the above law protects my water rights in this case. My land is former Indian allottee land. The Reservation was created in 1868 by the Treaty with the Shoshone and Bannocks making my priority date the same as the Indians; 1868. This priority date preceeds any of Idaho Power's priority dates in their complaint, thereby giving me the superior water right.

By: Morris Lehman
MORRIS LEHMAN

DO NOT FILM