

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: A37-12849
Date Received: 8/08/1988
Receipt No: S006301
Received By: R. V. St

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JANSS FARMS
Address: BOX 99
BLISS, ID 83314
208-352-4657
2. Date of Priority: DEC 31, 1971
3. Source: GROUNDWATER Trib. to:
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05S	12E	3	NE	NE			GOODING
5. Description of diverting works:
HOT ARTESIAN WELL, 1070' DEEP, 18" PIPE.
6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
STOCKWATER	11/01	05/01	0.220		
7. Total Quantity Appropriated is:
0.220 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
S/6000 EWES/LAMBS.
10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	12E	3	NE	NE		STOCK	
11. Place of use in counties: GOODING

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: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A37-12849Date Received 8-31-1988Receipt Number 5006301NOTICE OF CLAIM
TO A
WATER RIGHT

RECEIVED

AUG 31 1988

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day. Filing fee \$25

Department of Water Resources
Southern Region Office

Please type or print clearly

1. Name of Claimant (s) JANSS FARMS Phone (808) 352-4657Mailing Address Box 79 Bliss IDAHO Zip 83314✓ 2. Date of Priority (Only one (1) per claim) 19713. Source of water supply (a) GROUNDWATER
which is tributary to (b) _____4. Location of point of diversion is: Township 550 Range 12ESection 3, NE 1/4 of NE 1/4 of _____ 1/4, Govt. Lot _____, B.M.,County of GOODING

Additional points of diversion if any: _____

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. HOT ARTESIAN 1070', 18" PIPE

6. Water is claimed for the following: (Limited to Domestic and/or Stockwater only. See Instructions)

(Both dates are inclusive)

(cfs)

For STOCKWATER purposes from JAN 1 to DEC 31 amount .22For _____ purposes from NOV 1 to MAY 1 amount _____7. Total quantity claimed .22 (cfs)8. Total consumptive use claimed is de minimus9. Non-irrigation uses. Describe fully. (Domestic: give number of households served; Stockwater: type and number of
livestock) 6000 SWES/LAMBS

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MAR 21 1993
Copies: When State or Now Claimant

10. Place a "D" for domestic and "S" for stockwater use in the corresponding place of use below.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4			
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4
530	12E	3	S															

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

12. Do you own the property listed above as place of use? Yes ☒ 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 (☒)

14. Remarks: _____

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

If applicable provide IDWR Water Right Number _____
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) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am MANAGING PARTNER
Title

of JANSS FARMS, that I have signed the foregoing
Organization

document in the space below as MANAGING PARTNER of JANSS FARMS
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature]

Title and Organization JANSS FARMS / MANAGING

Date Feb. 13, 1988

State of Idaho/or _____)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 13th day of Feb 19 89

SEAL

Notary Public Low-White

Residing at TF

My Commission Expires _____

Last Name _____ Ident No. _____

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MAR 01 1993

White-300 Yellow-Claimant

After lengthy negotiations with the U.S. Department of Justice, the Idaho Department of Water Resources (IDWR) has initiated a special procedure for the adjudication of small domestic and stockwater rights (small DSW rights) in the Snake River Basin Adjudication (SRBA). IDWR sought and obtained approval of this special procedure from the district court in the SRBA. The special procedure relieves owners of small DSW water rights from the requirement to file a notice of claim for such water rights in the SRBA at this time. The purpose of this brochure is to:

1. describe the water rights concerns that make the owners of small DSW rights ineligible for the special procedure, and
2. advise the owners of small DSW rights of the way to file a notice of claim to the court in the SRBA at this time. It is the recommendation of IDWR that the best and cheapest way to assure the security of your small DSW water right is to file a notice of claim at this time.

THE SPECIAL PROCEDURE FOR SMALL DOMESTIC AND STOCKWATER RIGHTS

[illegible]

A small boat water right will not be forfeited if a notice of trial is not filed in the court at the time set for trial. The owner of a small boat water right may file a motion with the court to have the water right adjudicated when the need arises. ("Adjudicated" means determined by the district court and included in the district court's decree of water rights). The procedure for adjudicating a small boat water right is not substantially different from the procedure for adjudicating a riparian water right. The supplemental adjudication procedure set forth at Idaho Code §42-109, if a motion to have a small boat water right adjudicated is filed at a later date, the claimant will be required to bear the cost of serving notice of the motion (which includes publication of notice of the motion) and the cost of local newspaper advertising a report of the water right claimed. These costs are likely to be more than \$15.00.

small OES water rights will not be subject to distribution by a watermaster in a water district unless all of the small OES water rights have been adjudicated, or unless the director of IDWR determines that distribution of small OES water rights by the watermaster is necessary. ("not subject to distribution by a watermaster")

"waterwater" means that the waterwater will not shut off small bill water right to prevent rights to provide water for a service call bill water right; if the director determines that distribution of small bills water rights in a water district is necessary, then the owner of a small bill water right that was not been adjudicated will be required to have the water right adjudicated in order to have it distributed by the metermaster. Also, the owner of a small bill water right that has not been adjudicated will be required to have the water right adjudicated in order to be eligible for a change of the water right (such as a change in point of diversion, change in place of use, change in nature of use, etc.)

There are two limitations that will apply when the owner of a seal DSA water right files a motion with the district court to establish the water right owner's priority. First, the water right owner will only be allowed to claim a water right that is within the definition of seal DSA water, as defined by the adjudication statute. The definition of seal DSA water is discussed further below. Second, the extent of a seal DSA water right is limited by actual beneficial use. There is no presumption that a seal DSA water right entitled the full 13,000 acre-feet of water that was permitted to be released at a seal DSA water right.

All potential claimants of water rights in the SRA will continue to be joined in the adjudication ("joined" means served with the Subsequent Notice) and will be bound by any decrees entered in the adjudication. This includes owners of small but water rights, whether or not a notice of claim is filed for the small rights, as well as at this time.

The special privilege is available for water rights used solely for domestic and stockwater use, as those terms are defined by statute in the Code §2-1401(1), provides that domestic use includes the use of water for homes, organization camps, public assemblies, livestock, and any other purposes in connection with the including irrigation of up to 4 acre of land. If the total use is not in excess of 1,000 gallons per day, water rights for such use, domestic use, does not include water for irrigation, stockwater, or any other use by the commercial or business establishments. Rule 41.2 of the Regulations rules and regulations adopted by IDWR provides that domestic use includes single-ownership, multiple-family domestic use, as long as the total amount of water diverted does not exceed 1,000 gallons per day. Idaho Code §2-1401(2) defines "domestic use" as the use of water daily of 12,000 gallons per day, where the total use does not exceed 12,000 gallons per day. Domestic use can include stockwater use as long as the total use does not exceed 12,000 gallons per day, or the

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“Light is not stored in a paper or on a photograph.”

A typical domestic use is a well used for a single family residence, including up to 1/2 acre of lawn and garden. This type of use would qualify for the special procedure, but since water rights are almost infinite in their valley and since the definition is fairly complicated, further explanation of the definition at domestic use is provided below.

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DOMESTIC USE - CAMPGROUND USE

Based on the statute and the rules, there are five prerequisites that must be met for a campground use to be eligible for the special procedure:

1. The total amount of water claimed to be diverted cannot exceed 13,000 gallons per day.

2. The total amount of land claimed to be irrigated cannot exceed 4 acre per claim, and must be in connection with the

3. The use must be for a campground or organization camp-
ground. This is not limited to "park and camp" campgrounds, but also may
include campgrounds with trailer hook-ups and/or cabins, or
picnic/rest areas.

4. The campground must be in single-ownership, but can be multiple-tenancy. Single ownership means that the entire campground for which a water right is claimed must be owned by the same person or group of people. Water for several vacation cabins, each of which is owned by a different person or group of people, does not qualify as one domestic water right, but each vacation cabin may qualify as a separate domestic water right.

(Note that "owned by a group of people" means that each member in the group is an owner of the entire facility. Individual membership of individual parents is not the same thing, even though all of them together can be said to own all of the facility.)

parcels.

-1-

and each in its separate ownership, even if Corporation A is wholly owned by A, because a corporation is its own legal entity separate from the people that own the corporation's stock. In simple terms, the two lots can be considered one parcel, even if the lots were separately acquired or separately designated in county records, because they are owned by the same persons. . . .

5. The campground must not be a commercial or business establishment. In other words, a campground owned by a non-profit organization or public agency qualifies. A campground operated for profit or established by a for-profit business does not qualify. However, a campground that otherwise qualifies may claim a deduction for an office used for the campground.

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Again, there are five procedures for how we to qualify

1. The total amount of water charged to the various departments of the city for the year 1901 was \$1,000,000.

2. The total amount of land claimed to be irrigated cannot exceed 4 acres, and must be in connection with the home. The acre limitation is a per-acre limitation, not a per residence.

3. The use must be for a home, where people live, or a use in connection with a home. A suburban residence used solely for a day-care center is not a home, even though the building may look just like the homes around it.

4. The residence or residential facility must be in single ownership, but it may be multiple family. For example, domestic use may include two houses owned by the same person or group of people, if the use meets the other four requirements. (See Item 6 under campground use for a discussion of "owned by the same person or group of people".)

3. The use cannot be for a commercial or business purpose. This is the element of the definition that usually causes the most difficulty. It includes many claims that include whether residential rental property is a commercial property used for a business-related activity in a commercial use, whether water for farm related activities is a commercial use, whether water for a farm operated out of the owner's home is a commercial use, etc. The focus is whether the use is intrinsically residential, even if it has some aspects that are commercially oriented. Some examples are provided below. The following examples are not intended to be exhaustive, but they are intended to illustrate the principle that the sample meets the other four requirements for a domestic use.

3. **Single family houses:** A house used at a home by a single family is a domestic use, whether or not the house is a rental. A house used only for a business (such as sees day-care

↓

entertainers and some offices) is a commercial use. If the house is used as a home, but the resident uses part of the house as a business (such as a beauty shop in the basement or a lawn-mower-repair shop in the garage), the use is domestic.

b. Multiple family buildings (apartments, multiunits, apartment buildings): A multiple family residence can be a domestic use if it meets the other four requirements, even if some or all of the units are rental.

c. Non-profit boarding houses are domestic uses (because they are primarily residential), but boarding houses operated for profit are commercial uses (because they are primarily commercial), regardless of whether the owner resides there or not.

d. Mobile home parks and motels are commercial uses, regardless of whether the owner lives there or not.

g. "Farmstead" use is domestic use. For example, if the claimant uses water for a hose, plus an outbuilding for tractor maintenance, plus another building for storing crops, etc. - the use is domestic so long as it meets the other test requirements.

"I DON'T HAVE TO FILE A NOTICE OF CLAIM, BUT I MAY. SO SHOULD I?"

Some Considerations

1. The claimant of a small dam were right must pay a \$350.00 fee to file a notice of claim to a water right in the SBA at this time. If the water right is not in the SBA, the fee will be required to have the water right adjudicated before the water will be required to pay the cost of serving the nation and incur the cost of investigating and preparing a report of the water right claimed. It will almost certainly cost more to do it later than to do it now.

[illegible]

3. If the small bus water user has not filed any notices of claim in the SBA, then the water user will not be on the list of claimants who will receive the notice of filing the Director's Report, which will include notice of the opportunity to file and deadline for filing objections to the recommendations to the district court in the Director's report. To state such that the user.

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small 516 water user does receive the notice of filing the Director's Report, the water user can either file the notice of claim (\$25.00) or get a subscription to the docket sheet (there is an annual subscription fee for the docket sheet, which is \$7.50 for calendar year 1983, and may go up slightly for subsequent years.)

4. If it is not clear whether the use is within the definition of small DMS water, then the water user may benefit from the definition of small DMS water. The water user will be deemed not to fit at this time, and it is later determined that the use exceeds the definition of small DMS water right, then the water user will be liable to a claim that it is within the definition. The water user will still be able to claim that portion of the use, if any, that is within the definition of small

THE BEST (AND CHEAPEST) WAY TO ASSURE THE SECURITY OF YOUR

SMALL FOR WAGON MOUNT IS TO FILE A SUITS OF CLAIM AT THIS TIME.

-6-



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

RE: SRBA Claim

Dear Claimant:

Please find enclosed your claim and your check # 11747 for \$ 80 which you submitted to our office. I am returning these pursuant to Rule 10,4 of the Department's Adjudications Rules and Regulations. In checking your claim it appears that the following items need clarification:

- [] Item #2 Priority
- [] Item #4 Point of Diversion Legal Description
- [] Item #6 Uses descriptions
- [] Item #9 Description of Non-irrigation Uses
- [] Item #10 Place of Use Legal Description
- [] Item #16 Signature & Notorization *needs notarized*
- [] Improper fee (THE CORRECT FEE IS \$ _____)
- [] Other or Remarks

~~If you wish to continue to press your claim please find enclosed instructions and another claim form to use.~~ If you will make the necessary corrections and return your claim with the correct fee and a copy of this letter within 30 DAYS of the date of this letter, your filing will be considered timely and will not be assessed an additional late fee of \$ 50.00.

BEFORE RETURNING THE CLAIM PLEASE READ THE ENCLOSED DRAFT TEXT FOR D&S BROCHURE. Due to recent rulings by the court you may defer filing the claim if you so desire but it is recommended by the Department that you continue to press your claim. If you have any questions contact our office.

Sincerely,

Allen Merritt
Allen Merritt, P.E.
Water Rights Supervisor

ADM:adm
Enclosures:

MICROFILMED

MAR 01 1993

COURT REPORT FILING	-	00/00/0000	FIELD INSPECTION MADE	-	00/00/0000	CIVIL CASE NUMBER	-	39576
OBJECTION FILED DATE	-	00/00/0000	FIELD INSPECTION FLAG	-		OLD CASE NUMBER	-	
RESPONSE FILED DATE	-	00/00/0000	VERIFIED DATE	-	00/00/0000	OLD JUDICIAL DISTRICT	-	
CLAIM RECEIVED DATE	-	02/15/1989	LAST AMENDED DATE	-	00/00/0000	TEMPORARY RIGHT	-	P
PROOF DUE DATE	-	00/00/0000	PROOF MADE DATE	-	00/00/0000	WATER DISTRICT	-	
LICENSED DATE	-	00/00/0000	RECEIPT NUMBER	-	S006301	FEDERAL/STATE INDICATOR	-	S
CLAIMS TAPE ERROR FLG	-		POU OWNERSHIP FLAG	-	Y	PRESUMPTION FLAG	-	
FEE EXEMPT FLAG	-		NAME CONNECTOR	-		NOTICE OF ERROR FLAG	-	

CERTIFIED
JUN 18 1992
WATER EXAMINER