

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: ~~A31-07142~~

A32-07142

Date received: _____

Receipt No: _____

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: UNITED STATES OF AMERICA (USDA-Forest Service)
Address: 324 25th Street Phone (801) 625-5360
Ogden, Utah 84401

2. Date of Priority: 03/01/1907

3. Source: WARM SPRINGS Trib. to: WARM SPR CR

4. Point of Diversion:

Township	Range	Section	Tract	Lot	County
11 N	32 E	25	SENE		CLARK

5. Description of diverting works: NO DEVELOPMENT

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.	(or)	Elevation/ Well Depth
STOCKWATER	Apr.1	Dec.31	0.03		3.00		0

7. Total Quantity Appropriated is: 0.03 C.F.S. / 3.00 A.F.A.

8. Total consumptive use is: de minimus

9. Non-irrigation uses: CATTLE Livestock Numbers: 14

10. Place of Use:

Township	Range	Section	Tract	Lot	County
11 N	32 E	36	NENW		CLARK

Purpose of use: STOCKWATER Acres Irrigated:

11. Place of use in counties: CLARK

DO NOT FILM

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

13. Other Water Rights Used: NONE

14. Remarks: Quad No.

ADMINISTRATIVE SITE;HORSE USE 12-14;HEART MTN & SHAMROCK GULCH Q

APPLICATION DATE: 07/08/1977

15. Basis of Claim: BENEFICIAL USE/APPLICATION

Reference Information:

National Forest: TARGHEE

Priority Dates: TARGHEE NATIONAL FOREST LIVESTOCK HISTORY

Forest Service Record ID: 04 15 17040215 29 0 0035 0

IDWR Water State Filing No.: 31-07142

Allotment No.:

Notice is hereby given that the United States Department of Justice will represent the Department of Agriculture, Forest Service, in all matters pertaining to the Snake River Basin Adjudication. All notices required by law to be mailed by the Director to the Claimant should be mailed to the individuals at the address below:

Jack Haugrud
Geoffrey Garver
Daria J. Zane
U.S. Department of Justice
Environment and Natural Resources Division
General Litigation Section
P.O. Box 663
Washington, D.C. 20044-0663
202-272-4134

This form is an attachment to a letter forwarding the claims of the U.S. Department of Agriculture, Forest Service. The signature and affirmation on such letter constitutes the signature of the authorized agent representing the United States of America required for each such claim.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

August 9, 1995

KARL J. DREHER
DIRECTOR

GARY BOYLE
USDA FOREST SERVICE
324 25TH ST
OGDEN UT 844012394

Re: Snake River Basin Adjudication (SRBA)
Notices of Claim #A31-070358, #A31-07142 & #A32-02040
USDA Forest Service
Identification Number Change

Dear Gary:

The Identification Number to water right claims filed by the
USDA Forest Service referenced above have been changed as follows:

A31-07142 is now A32-07142

A32-07358 is now A31-07358

A32-07672 is now A32-02040

These changes do not affect these claims in any other way.
A copy of each Notice of Claim referenced above is enclosed for
your records. Please use the new number in future inquiries or
correspondence you may have with our Department.

Do not hesitate to contact this office if you have any
questions or concerns.

Sincerely,


Carter Fritschle
Water Rights Supervisor
Adjudication Bureau

CF:ss:region
Enclosure:

Copy of Notices of Claim Referenced Above
cc: Randy Bramer w/o Enclosures

BEFORE THE DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR PERMIT NO. 31-7142 IN THE
NAME OF NEAL W. SAVAGE

ORDER REJECTING
APPLICATION

This matter having come before the Idaho Department of Water Resources (Department) as a result of notice to the Department by the Bureau of Land Management (BLM) that Desert Land Entry (DLE) Application No. I-9019, was rejected, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On November 4, 1974, Neal W. Savage filed with the Department of Water Resources Application to Appropriate Water No. 31-7142 proposing to divert 1.6 cubic feet per second from groundwater within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T7N, R36E, B.M., Jefferson County, to be used for irrigation purposes in connection with a Desert Land Entry Application.
2. The Department delayed approval of the application until the applicant obtained authorization by BLM to commence development and establish private ownership of the land listed as the place of use under the provisions of the Desert Land Entry Act.
3. The Department received notice that the Desert Land Entry Application was rejected by BLM.
4. On September 18, 1986, the Department corresponded with the applicant stating the Application to Appropriate Water would be denied for lack of possessory interest in the land unless the applicant provided information by October 20, 1986, showing why

the application should not be denied.

5. The applicant failed to respond to the Department's request to show possessory interest in lands identified under Application to Appropriate Water No. 31-7142.

CONCLUSIONS OF LAW

1. Section 42-203A(5), Idaho Code, states:
In all applications whether protested or not protested, where the proposed use is such . . . [that] where it appears to the satisfaction of the department that such application . . . is made for delay or speculative purposes, . . . the director of the department of water resources may reject such application and refuse issuance of a permit therefor

2. An applicant who applies to appropriate water of the State of Idaho without owning or possessing the place upon which the water is to be used is speculating that ownership may be obtained.

3. Following denial of an Application for Desert Land Entry by BLM, the applicant has no possessory interest or ownership in the land, nor does he have a pending application which might establish possession or ownership in the future.

4. Application to Appropriate Water No. 31-7142 belonging to Neal W. Savage has become a speculative application in that the BLM rejected the applicant's DLE application, and the applicant is not pursuing any valid legal process to gain possession or ownership of the property proposed to be irrigated.

5. Because of the speculative nature of the application, the issuance of a permit should be refused, and the application rejected.

ORDER

IT IS HEREBY ORDERED that the issuance of a permit for

Application to Appropriate Water No. 31-7142 is refused and
FURTHER that Application to Appropriate Water No. 31-7142 is
rejected.

Dated this 30th day of March, 1987.

A handwritten signature in dark ink, appearing to read "R. Kenneth Dunn", written over a horizontal line.

R. KENNETH DUNN

Director

Identification No. 31-7142

Application No. _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

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

1. Name of applicant Neal W. Savage Phone: 662-5241
post office address Hamer, Idaho
2. Source of water supply ground water which is a tributary of _____
3. a. Location of point of diversion is SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 34 Township 7N
Range 36E B.M. Jefferson 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 1.6 for Irrig. 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)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 1.6 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 50 HP motor pump and sprinkler 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 _____ (Mo. Day) to _____ (Mo. Day) inclusive.
- c. Proposed well diameter is 16 inches; proposed depth of well is 150 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 \$ 25,000.00.
8. Description of proposed uses:
a. If water is not for irrigation: N.A.
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ 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 _____

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

MIC

XXXXXXXXXXXXXXXXXXXXXXXXX RESOURCES

November 29, 1974

RE: Application for Permit No. 31-7141 Yearsley "CORRECTIONS"
" " " No. 31-7142 Savage

The Rigby Star
P.O. Box 37
Rigby, ID 83442

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

Bill submitted _____ by _____

RDC:MB

Enc: Legal Notice (2)

RECEIVED

*not submitted by
Newspaper later!*

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NOTICE OF CORRECTION

Notice is hereby given that Application No. 31-7142 in the name of Neal W. Savage was advertised incorrectly on November 14 and November 21, 1974. The point of diversion was advertised as being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 34, T. 7N, R. 36E, B.M., Jefferson County; and the place of use was advertised as being within the N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 34, T. 7N, R. 36E, B.M.

WHEREAS, the actual point of diversion is within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 7N, R. 36E, B.M., Jefferson County; and the actual place of use is within the N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 34, T. 7N, R. 36E, B.M.

Any protests against the granting of this permit as a result of this correction must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before December 23, 1974.

R. KEITH HIGGINSON

Director

Published in the Rigby Star, Rigby, Idaho, on December 5 and December 12, 1974.

RECEIVED
BR-1
2-2-74



IN REPLY
REFER TO:

I-9019

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho Falls District
940 Lincoln Road
Idaho Falls, Idaho 83401

"Attachment A" (Proposal) Classification Decision

The following described land has been examined and is hereby classified as unsuitable for disposal under the Desert Land Entry (DLE) Act of March 3, 1877, (19 Stat. 37: 43 U.S.C. 321-323):

T. 7 N., R. 36 E., Boise Meridian
Sec. 34: N1/2SW1/4

80 Acres

Reasons supporting this Classification

Regulations contained in 43 CFR 2410.1(a) states that "The lands must be physically suitable or adaptable to the uses or purposes for which they are classified. In addition, they must have such physical and other characteristics as the law may require them to have to qualify for a particular classification." The subject tract is undulating in general profile, containing numerous scattered pockets of bedrock lava exposed at the surface with areas of lava float rock present. These characteristics would severely limit the potential of these lands for the development of irrigated agricultural crops.

The Medicine Lodge Resource Management Plan recommends disposal of certain public lands for agricultural development if they are determined to be physically suitable as a result of a detailed study. An analysis of the subject lands showed a majority of the soils to be class IV capability or higher and not suitable for DLE. Class IV soils have severe limitations for agriculture and are used primarily for hay and pasture development. The 43 CFR 2520.0-8 states that the lands must be irrigable and produce reasonably remunerative crops by the usual means or methods of cultivation.

The regulations (43 CFR 2520.0-9 (d) (3) also states that the practicability of farming the lands as an economically feasible operating unit must also be considered. Due to the farmable acres of the subject and costs associated with installing an irrigation system, the subject is not considered to be an economically feasible operating unit.