

12/11/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-13934

NAME AND ADDRESS: MILTON D USHER
39 GIBBONSVILLE RD
GIBBONSVILLE ID 83463

LES USHER
39 GIBBONSVILLE RD
GIBBONSVILLE ID 83463

SOURCE: ANDERSON CREEK

TRIBUTARY: DAHLONEGA CREEK

QUANTITY: 0.040 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/01/1933

POINT OF DIVERSION:

T26N R21E S25 NESW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

DOMESTIC

1/01 12/31

0.040 CFS

PLACE OF USE: DOMESTIC in LEMHI County

T26N R21E S25 SESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
RP F00520000280A



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 19, 2006

Milton and Les Usher
39 Gibbonsville Rd
Gibbonsville, Idaho 83463

Re: Claim 75-13934

Gentlemen:

Enclosed is a new claim recommendation with the new address as per your request. On the Notice of Error Reply you indicated you should have irrigation rights with this claim. The original claim, filed by Les Usher in 1990, was for domestic use only. A domestic right allows for the irrigation of up to ½ acre of land. If you would like to expand the claim to include irrigation over ½ acre, you will have to file an amendment with the adjudication court.

Attached is Standard Form # 4 that will allow you to file a motion with the District Court of the Fifth Judicial District of the State of Idaho in Twin Falls County to amend the Notice of Claim. Please complete the form, sign it before a Notary Public and send the original to the Clerk of the District Court with copies to IDWR Document Depository, Chief, Natural Resources Division and United States Department of Justice as outlined on the back of page #6. The fee for amending the claim will be \$100.00 plus \$2.00 per acre claimed for irrigation. All checks should be made out to the IDWR.

If you should have any questions, don't hesitate to give me a call.

Sincerely,

Keith E. Franklin
Water Resources Agent

Encl/kf

10/30/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-13934

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7 OLD GIBTOWN RD
GIBBONSVILLE ID 83463

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GIBBONSVILLE ID 83463

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TRIBUTARY: DAHLONEGA CREEK

QUANTITY: 0.040 CFS

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GALLONS PER DAY.

PRIORITY DATE: 01/01/1933

POINT OF DIVERSION:

T26N R21E S25 NESW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

DOMESTIC

1/01 12/31

0.040 CFS

PLACE OF USE:

DOMESTIC Within LEMHI County

T26N R21E S25

SESW

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EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

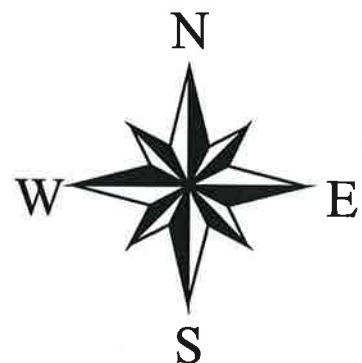
RP F00520000280A

Void

75-13934



-  Lemhi taxlots
-  GCDB26N21E GCDB
-  Application POD
-  Pou.shp
-  Pod.shp
-  Administrative BasinsAdminbas.shp



In Re SRBA	)	Subcase _____
	)	(Insert water right number)
	)	
Case 39576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE:
	)	☐ LATE NOTICE OF CLAIM
	)	☐ AMENDED NOTICE OF CLAIM

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in ***SRBA Administrative Order 1, Rules of Procedure*** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

I have attached:

- ☐ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____
(Insert Date and Time)
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

VERIFICATION (Must be completed)

State of _____

County of _____

_____, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on _____
(Insert Date)

Notary Public for _____
Residing at: _____
My Commission expires: _____

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

11/20/2006

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: 12/13/2006

Water right number: 75-13934

MILTON D USHER
7 OLD GIBTOWN RD
GIBBONSVILLE ID 83463
Telephone Number: (208)865-2254

LES USHER
7 OLD GIBTOWN RD
GIBBONSVILLE ID 83463
Telephone Number: (208)865-2254

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

We feel we should have irrigation rights

2. Describe the changes you wish to make in the proposed recommendation:

*Change of address
39 Gibbonsville Rd.
Gibbonsville, Idaho 83463*

3. Give a brief explanation as to why you disagree with these portions:

 I AGREE with this proposed recommendation: no changes need to be made.

DATE:

12/6/06

SIGNATURE:

Sue Usher

Please print your name:

SUE USHER

IDWR Regional Office, 7600 Mineral Drive, Suite 100, Coeur D' Alene, ID 83815, 2087622800

SEP 05 11

Renumbered

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

to
A75-13934
JAN 11-17-98

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

Identification No. A75-04470B
Date Received 1/18/90
Receipt Number E011777

NOTICE OF CLAIM TO A WATER RIGHT

RECEIVED

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day.

JAN 18 1990

Department of Water Resources
Eastern District Office

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) Milton D. and/or Les Usher Phone (208) 865-2254
Mailing Address 7 Old Gibtown Road, Gibbonsville, ID Zip 83463

A7513934

2. Date of Priority (Only one per claim) January 1, 1933 Month/Day/Year

3. Source of water supply (Check one) () Groundwater or Other ☒ (a) Anderson Creek
which is tributary to (b) Dahlonga Creek Name or kind of source

4. Location of point of diversion is: Township 26N Range 21E
Section 25 , NE 1/4 of SW 1/4 of 1/4 Govt. Lot 1 B
County of Lemhi

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. 2' x 2' headgate, open ditch

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

For domestic purposes from Jan 1 ^{Month/Day} to Dec. 31 ^{Month/Day} amount 0.04 ^(cfs)
(Both dates are inclusive)
For _____ purposes from _____ to _____ amount _____

7. Total quantity claimed 0.04 (cfs)

8. Total consumptive use claimed is de minimus

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) Domestic One

MICROFILMED
DEC 15 1992

10. Place of use is: Township: 26N Range 21E
Section 25, NE 1/4 of SW 1/4, Govt. Lot , B.M.,
for (Circle One) Domestic Stock Domestic and Stock
Additional places of use, if any

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

12. Do you own the property listed above as place of use? Yes Milton No Les
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.
() None or None

14. Remarks: Milton D. Usher owns property, 14921 Rolling Ridge Dr., Chino Hills
CA, 91709, and Les Usher is the lessee.
Gibbonsville Townsite, lots J, K, L.

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree
Court Decree Date Plaintiff vs Defendant
If applicable provide IDWR Water Right Number 75-4470

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read and understood 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 do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) *Les Usher* Date 16 Jan 90
 Date

For Organizations: I do solemnly swear or affirm that I am

of Title
 Organization that I have signed the foregoing
document in the space below as of
 Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Date

Title and Organization

State of Idaho/or)

County of LEMHI) SS.

NOTARIZATION REQUIRED FOR EACH CLAIM

Subscribed and sworn (or affirmed) before me this 16th day of JANUARY 19 90

SEAL

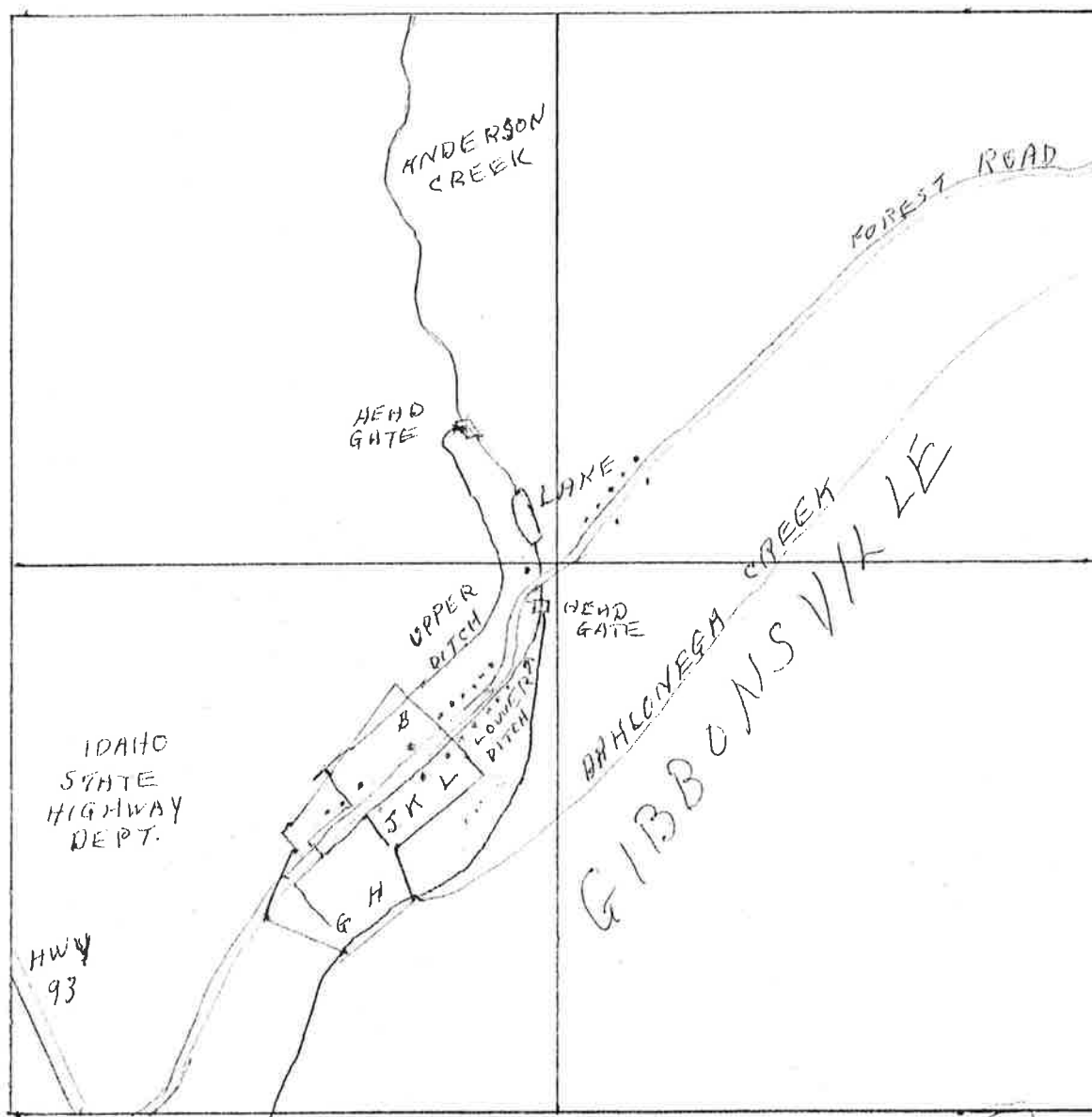
Notary Public *Laurie M. Santee*
LAURIE M. SANTEE
Residing at SALMON, ID

My Commission Expires 6-19-1995

Last Name USHER, Les or Milton D. Ident No.

Copies: White-State, Yellow-Claimant **MICROFILMED DEC 15 1992**

TOWNSHIP 26N
RANGE 21E
SECTION 25



3 1/2 MILES SOUTH
TO SALMON, ID.

USHER

MICROFILMED

DEC 15 1992

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

A75-13934

Ident. Number: ~~A75-04470B~~

Date Received: 1/19/1990

Receipt No: E011777

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MILTON D. USHER 208-865-2254
Address: 7 OLD GIBTOWN RD
GIBBONSVILLE, ID 83463

OR

Name: LES USHER 208-865-2254
Address: 7 OLD GIBTOWN RD
GIBBONSVILLE, ID 83463

2. Date of Priority: JAN 01, 1933

3. Source: ANDERSON CREEK Trib. to: DAHLONEGA CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
26N	21E	25	NE	SW			LEMHI

5. Description of diverting works:
HEADGATE AND OPEN DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
D/ ONE HOME

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
26N	21E	25	NE SW		DOMEST	

11. Place of use in counties: LEMHI

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

13. Other Water Rights Used:
NONE

14. Remarks:
MILTON D. IS THE OWNER. LES IS THE LESSEE.

15. Basis of Claim: BENEFICIAL USE

~~A75-04470B~~

Page 2

Date: 01/19/90

A75-13934

MICROFILMED
DEC 15 1992

4/11/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME

Usher

CLAIM IDENT. NO.

A75-13934
A75-04470B

DATE RECEIVED

1/18/90

CK #

AMOUNT \$

1. Is the name and address complete with zip code? ☐ YES ☐ NO ☐ Required Info? *
2. Is a priority date entered? ☐ YES ☐ NO ☐ Required Info? *
- Is the priority date acceptable in view of mandatory filing dates? ☐ YES ☐ NO ☐ Required Info? *
- See Adjudication Memos #1 and #4 to determine if a Permit is required.
3. (a) Is a source entered? ☐ YES ☐ NO ☐ Required Info? *
- (b) Is a tributary to entered? (if required) ☐ YES ☐ NO ☐ Required Info? *
4. Is the legal description of the p.d. sufficient? ☐ YES ☐ NO ☐ Required Info? *
5. Is there a description of the diverting works? ☐ YES ☐ NO ☐ Required Info? *
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. ☐ YES ☐ NO ☐ Required Info? *
- Is the period of use included? ☐ YES ☐ NO ☐ Required Info? *
- Is a quantity claimed for each use? ☐ YES ☐ NO ☐ Required Info? *
7. Is a total quantity claimed entered? ☐ YES ☐ NO ☐ Required Info? *
8. If required is a consumptive use entered? ☐ YES ☐ NO ☐ Required Info? *
- Is the consumptive use correct? ☐ YES ☐ NO ☐ Required Info? *
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. ☐ YES ☐ NO ☐ Required Info? *
10. Is (are) the place(s) of use and purpose(s) indicated? ☐ YES ☐ NO ☐ Required Info? *
11. Is (are) the county(ies) entered? ☐ YES ☐ NO ☐ Required Info? *
12. Is the ownership of p.u. checked? ☐ YES ☐ NO ☐ Required Info? *
13. Are other water rights listed or "none" indicated? ☐ YES ☐ NO ☐ Required Info? *
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) ☐ YES ☐ NO ☐ Required Info? *
15. Is the basis of the claim indicated? ☐ YES ☐ NO ☐ Required Info? *
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) ☐ YES ☐ NO ☐ Required Info? *
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. ☐ YES ☐ NO ☐ Required Info? *
18. Has the claim been signed, sealed, and dated by a notary? ☐ YES ☐ NO ☐ Required Info? *
19. Was this claim filed on time, or was an extension granted? ☐ YES ☐ NO ☐ Required Info? *
20. Is the fee enclosed correct? ☐ YES ☐ NO ☐ Required Info? *
21. If this claim is based on an existing water right, has the identification number been entered? ☐ YES ☐ NO ☐ Required Info? *
22. Should this claim be data entered? ☐ YES ☐ NO ☐ Required Info? *

Claim checked by:

DC

Date:

1/19/90

Claim must be returned to claimant:

(Yes) ☒ (No) ☐

Claimant must be notified of modifications:

(Yes) ☒ (No) ☐

Receipt Prepared by:
Claim data entered by:
Sent to claimant by:

DC

Date:

Date:

Date:

1/19/90

Checked by:

MICROFILMED

Date:

Comments:

DEC 15 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 17, 1998

MILTON & LES USHER
7 OLD GIBTOWN RD
GIBBONSVILLE ID 83463

RE: RENUMBERED NOTICE

Dear Messrs. Usher:

The Department has changed the identification number for Notice of Claim A75-04470B. The new number is A75-13934. We have also modified receipt E011777 to reflect the new number.

A copy of the receipt and the claim are enclosed for your records.

Respectfully submitted,

Jennifer Hoagland
Technical Records Specialist

Enclosures