

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: A37-04324
Date Received: 9/22/1989
Receipt No: 5009293
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ANN LOUISE ANDERSON 208-423-5493
Address: 423 WASHINGTON ST.
KIMBERLY, ID 83341

2. Date of Priority: MAY 01, 1889

3. Source: SPRING (PRIVATE) Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01S	11E	25	NE	NE	SW		ELMORE

5. Description of diverting works:
STOCK DRINK FROM NATURAL POND; INSTREAM USE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
STOCKWATER	05/01	10/31	2.000		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
S/1500 RANGE, 8000 SHEEP

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01S	11E	25	NE	SW		STOCK	

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:
NONE

14. Remarks:

SOURCE IS KNOWN LOCALLY AS OWEN'S SPRING.

CLAIM MAP SHOWS P/U AS SENW SEC. 25, NOT NENW AS CLAIMED ON THE
STATUTORY CLAIM.

THIS SPRING RISES AND SINKS ON CLAIMANT'S LAND; PRIVATE WATERS.

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 / 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): Ann Louise Anderson Date: 9-22-89

Date: _____

State of Idaho)
County of of) SS.

Subscribed and sworn (or affirmed) before me this 22nd day

of Sept 19 89

Tom White
Notary Public

Seal

Residing at of

My Commission Expires 5/94

37-4324

11/8/06
SCC

phone call:

Severt Swenson

says Lee Peterson GPS'ed the site
and should have found a correct
range for the Spring.

was 11E → should be 10E

Review of GPS:

confirmed Range 11E is correct
with GPS files.

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

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

Adjudication Claim Notes

Claim(s): 37-4324

Background Data

- Beneficial Use Claim
- Source is Spring tributary to Sinks
- Claimed for 2.0 cfs for Stockwater

Place Of Use Data

Yellow line is the draft Place of Use created by IDWR based on historical data and records.

Yellow dot is draft Point of Diversion created by IDWR based on historical data and records.

Green line is decreed/licensed POU (this may only represent the Quarter-Quarter sections of the decree/license)

1987 Aerial Photo





Photo of natural pond taken during field exam.



Photo fry outlet from natural pond taken during field exam.

Notes

T1S R11E Section 30

- Claim states that livestock drink from stream and natural pond. This is confirmed by field exam.
- Use is in-stream, so 0.02 cfs is the diversion rate.
- Data used for review: 1987, 1992, & 2004 aerial photos, Camas Co Tax Records, Idaho Ownership (idown.shp), & USGS 1:24,000 Topo

File No.

37-04324

Ann Louise Anderson
423 Washington St.
Kimberly, Id

10/17/06

I called Ann Anderson and informed her who I was and what is needed with her water right file, she told me she would contact her renter Clair Osborn and have him meet me at their ranch, which she did, while reviewing all of her rights we completed 3 of the files but this file no one knew where it is located. NOTICE to start with this file is not correct, Clair thinks the Range for this spring should be 10E not 11E and after trying to locate this spring Ann suggested that we should contact their brother-in-law, Attorney Severt Swenson in Gooding to see if he could help to find this spring, so the next day Severt & Mary [his wife] and I went up to try and locate this spring. While looking at this Range 11E in the file he said this was wrong and we went further west to a snow machine area approx 2 miles East of the State and county sheds at the Highway to Pine, then we stopped and reviewed the area south of the Highway and he told me that this Owens spring is down in this area some place, but he did not know just where it is then he suggested I talk to Pat Bennett their neighbor, he has lived in this area his whole life and would know. I then left them and went back to Pat's home and talked to him by phone and he told me Owens spring is approx. 2 1/2 miles west of his home and that he has been there a number of times, he did agree to meet me as soon as he got home from cutting timber which was not able to do.

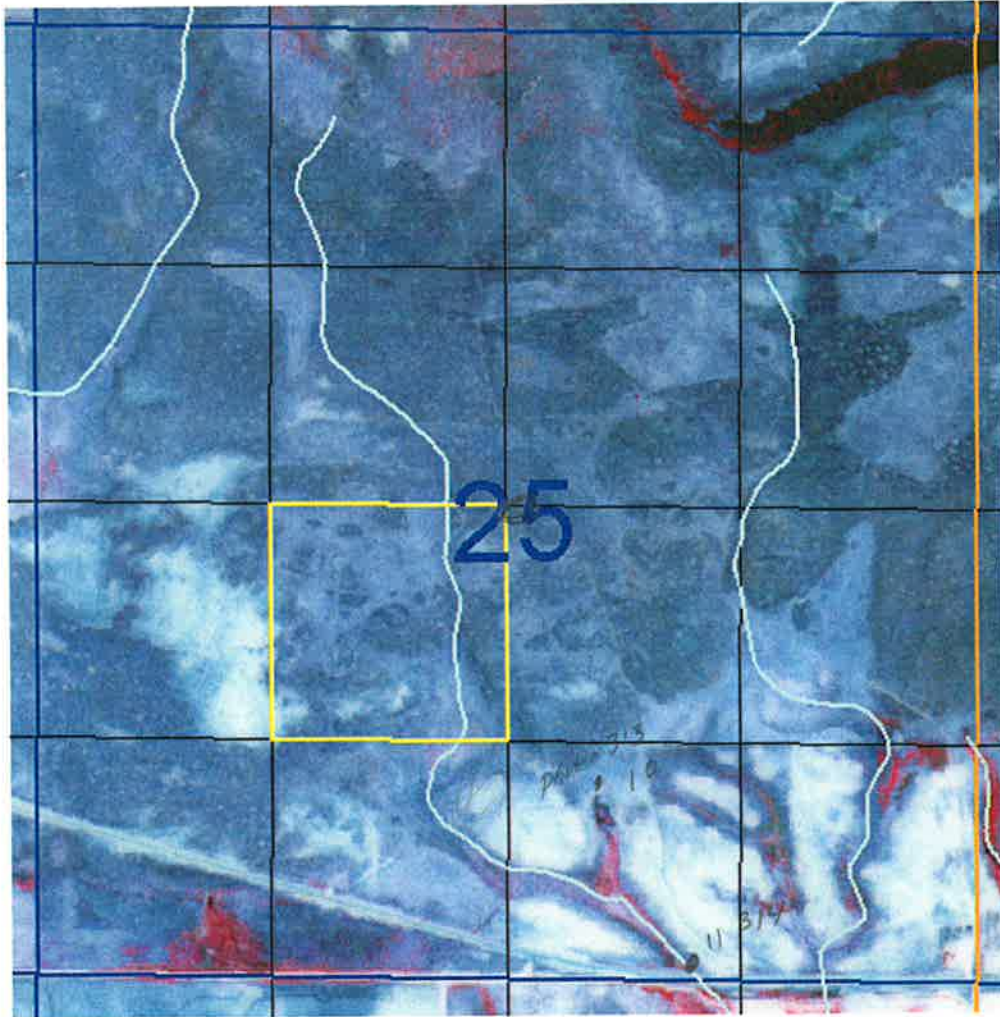
Yesterday while I was with Eldon Thompson and Tom Faulkner I ask them if they knew where Owen spring could be and they both pointed up the hill North west of their POD #1, where some trees are located on the same hill that Severt said this spring is located, they showed me the general location where this spring is. So today [like Daniel Boone] I went hunting, my drive was also very short so I proceeded on foot South and West over hill and valley until I spotted a pond of water, and this pond is the only pond I found, I did find some other small springs, some dry-some a little water but no ponds. While reviewing this location it was very close to where both guys told me, so I do think this spring and pond has to be Owen spring. This pond today is full of water with a little sub water out the outlet of the pond and wetting approx. 50-60' into the meadow, no flowing water just sub. There is no water leaving this pond area as you can see on photo 314.

Description	GPS Name & No.	Position No.	USR No.	Plate No.	Photo No.
Owen Spring	Ann 10	2402831	1346419	None	1030313
Creek out of area	" 11	2402698	1346277	"	314

See drawing on bottom of Photo #25 yellow area

Lee R. Peterson

37-4324



To do for field exam:

- 1) Outline Stockwater POU
- 2) GPS spring and pond

Pod
5

no water leaving pond area



Malcomson Ranch
423 Washington
Kimberly, ID 83341
June 21, 2005

RECEIVED

JUN 24 2005

DEPARTMENT OF
WATER RESOURCES

Steve Clelland
Senior Water Right Agent
Department of Water Resources
P O Box 83720
Boise, ID 83720-0098

RE: Water Rights for Malcomson Ranch

Dear Mr. Clellan:

Thank you for your letter of May 31, 2005, regarding water rights of 2.000 CFS (stockwater) in a source known locally as Owen's Spring located in Section 25, Range 11 E, Township 1 S. I called on my cell phone to discuss this but learned you were not in the office this week. Sharon instructed me to leave a voicemail, which I did; however, inasmuch as I was using a cell phone with sometimes poor reception I thought I'd better follow up with a letter. Your May 31, 2005 letter refers to a pamphlet entitled to "Evidence of Priority." Would you please forward me a copy of that pamphlet.

I do not know how to produce the proof you request regarding claim # 37-____. Would you please let me know what documentation is necessary.

My sisters, Mary L. Swenson and A. Sharon Malcomson, and I inherited all of the land owned by my father and mother, Oscar Frederick Malcomson (died September 1987) and Agnes Shraft Malcomson (died December 1987). We conduct business as a partnership known as "Malcomson Ranch."

My father inherited the land (including that on which Owen's Spring is located) with water rights from his father, Nels Malcomson, who died in 1949.

As there is someone is Kimberly with a similar name as mine, often we receive each other's mail and I cannot be sure I have received everything directed to me. My sisters and I own several water rights. **Are there any other water rights owned by Ann L. Anderson, A. Sharon Malcomson, and Mary L. Swenson (besides the one for Owen's Spring) that we need to "provide further proof" for?**

Thank you so much for your help in this matter.

Sincerely,

Ann L. Anderson

Ann L. Anderson, Partner
Malcomson Ranch

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 Fred Malcomson & Agnes Malcomson
(Name of Claimant)

329 Utah St. Coaling, ID 83330
(Mailing Address) (Zip Code) Telephone No. 934-5985

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) May 1, 1889

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)
Spring tributary to Sinks

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity	(cfs, af)	Use	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
				Period of Use From	To
Quantity <u>2.0</u>		Use <u>Stock water</u>		Period of Use From <u>5/1</u>	To <u>10/31</u>
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To

(4) 2.0 TOTAL QUANTITY USED.
(cfs, af)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NE 1/4 SW 1/4, Sec. 25 Twp. 15 Rge. 11E B.M., County of Elmore
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. No Diversion - Stock drink from a natural pond

(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	
15	11E	25					X												

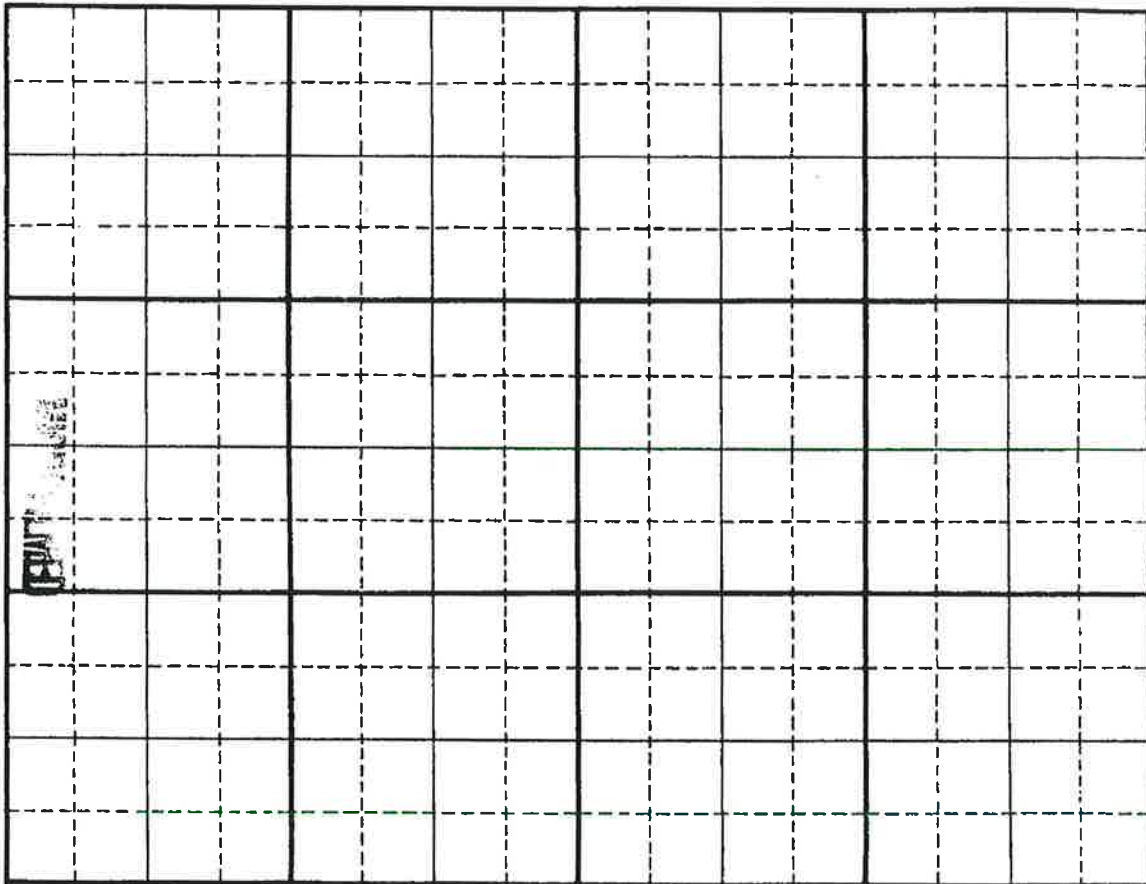
No. of acres

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

NOTE: Include here the type and number of stock watered: 8000 Sheep or 1500 Cattle

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

(B) Remarks This Spring is on Private land owned by the claimant.



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 Gooding) 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.

Fred M. Larson

Agnes M. Larson
(Claimant)

Sworn to before me this 22 day of April, 1983

Notary Public
Residing at Gooding, Idaho

My commission expires 2/10/84

FOR DEPARTMENT USE ONLY

Received by JF Jackson Date 4-22-83 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by ADK Date 5-4-83 claimant by: _____
\$30.00 fee received by JF Date 4-22-83 #27256
Published in Mountain Home News
Dates 6/30 & 7/7/83



HIGHER MED

SAWTOOTH

NATIONAL FOREST

TWP 1S R5E

NATIONAL FOREST

Spring (Bwens Spring)
Place of Use

RIVER

Horse
4

Creek

18

19

24

30

31

BOUNDARY

RM
5475

RM
5438

RM
5440

WC
5444

5438

5437



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 31, 2005

ANN LOUISE ANDERSON
423 WASHINGTON ST
KIMBERLY, ID 83341

Re: Evidence of Priority

Dear Claimant:

RESPONSE DEADLINE
JUNE 27, 2005

The Notice of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates your water usage is based on "Beneficial Use" or a "Statutory Claim." Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will, in the coming year, conduct reviews and/or field exams for the claims in your area. Since the priority date of a beneficial use water right cannot be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to the Department. If you have received this correspondence from the previous owner of the property it is required that you file a Change of Ownership form with the Department in order to receive future mailings and to continue to be a party in the adjudication.

Enclosed you will find a computer printout of your Notice of Claim and the pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

PLEASE NOTE: The Department will not recommend the court decree the notice **as claimed** if no evidence of a priority date is submitted – it may be disallowed. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement does **not** need to be in the form of a notarized affidavit as described in the brochure, but must relate first hand knowledge of the water right in question and include dates, quantities of water and extent of water use.

Submit the required evidence supporting the priority date by the date shown above, referencing all documents with the corresponding Notice of Claim number (i.e. 37-_____). If you have questions not covered by this letter or the enclosed pamphlet, please contact this office.

Sincerely,

Steve Clelland
Senior Water Right Agent

Enclosures

RECEIVED

JUN 24 2005

DEPARTMENT OF
WATER RESOURCES

Page 1

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-4324

WATER RIGHT NUMBER: 37-4324

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ANN LOUISE ANDERSON 423 WASHINGTON ST KIMBERLY, ID 83341 (208)423-5493

Priority Date: 05/01/1889
Basis: Statutory Claim
Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	5/01 to 10/31	2.000 CFS	
	<u>Total Diversion:</u>	2.000 CFS	

Location of Point(s) of Diversion

SPRING	NE1/4NE1/4SW1/4	Sec. 25, Twp 01S, Rge 11E, B.M.
ELMORE County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01S	11E	25									X								

Conditions of Approval:

1. SOURCE IS KNOWN LOCALLY AS OWEN'S SPRING.
CLAIM MAP SHOWS P/U AS SENW SEC. 25, NOT NENW AS CLAIMED ON THE STATUTORY CLAIM.
THIS SPRING RISES AND SINKS ON CLAIMANT'S LAND; PRIVATE WATERS.

Remarks:

Comments:

May 31, 2005

**ANN LOUISE ANDERSON
423 WASHINGTON ST
KIMBERLY, ID 83341**

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JUNE 27, 2005**

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Submit the required evidence supporting the priority date by the date shown above, referencing all documents with the corresponding Notice of Claim number (i.e. 37-_____). If you have questions not covered by this letter or the enclosed pamphlet, please contact this office.

Sincerely,

Steve Clelland
Senior Water Right Agent

Enclosures

SCANNED
MAY 31 2005

37-4324