

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

7/2/2020

Water Right 71-4054

Owner Type **Name and Address**
Current Owner VIOLA WEIDMAN EVANS
 AKA VIOLA C EVANS
 FOX PLAZA APT 2028
 1390 MARKET ST
 SAN FRANCISCO, CA 94102
 (415) 863-6137

Priority Date: 9/23/1942

Basis: Decreed

Status: Disallowed

Source
STANLEY CREEK

Tributary
VALLEY CREEK

Beneficial Use	From	To	Diversion Rate	Volume
MINING	1/01	12/31	1.000 CFS	
	Total Diversion		1.000 CFS	

Source and Point(s) of Diversion

STANLEY CREEK SENE Sec. 16, Twp 11N, Rge 13E, CUSTER County

Place Of Use

MINING within CUSTER County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	13E	14							X	X		X							
11N	13E	15												X	X	X	X	X	
11N	13E	16				X									X			X	
11N	13E	21	X	X	X		X			X									
11N	13E	22		X			X	X	X	X		X							

Conditions of Approval:

1. RECOMMENDED AS RIGHT NO. 71-02056.
2. P16 RECOMMENDED AS RIGHT NO. _____: This is included for a claim that is PROPOSED to be disallowed because the right claimed is recommended pursuant to another right. The remark indicates the water right number of the OTHER right that is proposed to be recommended. If you are not mailed a notice of the recommendation of the OTHER right, then the OTHER right is recommended in another claimants name.

Comments:

1. MERRITT 7/8/1993 COPIED FROM REMARKS
P/U IN S11, 14, 15, 16, 21, & 22 T11N R13E. SEE ATTACHED MAP. THIS CLAIM REPLACES CLAIM 72-4039. REDUCED TH ORIGINAL 3.0 CFS TO 1.0 CFS. *****
IDWR NOTE: CORRECTED TRIB TO VALLEY CREEK 11/03/92 ADM FIELD REVIEW ON

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

7/2/2020

6/28/93 I VISITED THE SITE AND FOUND THAT OLD DITCHES FROM STANLEY CREEK AND A TRIB TO STANLEY CREEK HAD BEEN USED IN THE PAST FOR HYDROLIC MINING OF THE AREA. IT WAS EVIDENT THAT THIS USE WAS A LONG TIME IN THE PAST AND IT WAS OBSERVED THAT THE DITCHES WERE WASHED OUT AND NOT MAINTAINED. ON 7/8/93 A LETTER WAS WRITTEN TO MS EVANS TO SEE IF SHE COULD DOCUMENT THE USE OF THE WATER OVER THE LAST 10 YEARS. ON THE DAY OF THE FIELD REVIEW I TALKED TO MIKE MCGOWEN, A LOCAL. HE WAS DOING SOME HIKING, ECT IN THE AREA AND I ASKED IF HE KNEW OF ANY USE OF THE WATER FOR MINING IN THE AREA. HE INDICATED THAT HE HAD LIVE IN THE AREA FOR THIRTY YEARS AND SAID THAT DURING THAT PERIOD TO HIS KNOWLEDGE THE WATER HAD NOT BEEN USED. ON 6/29/93 I TALKED WITH PIERO PIVA, A LOCAL RANCHER AND HE SAID THAT THE OLD MINING CLAIMS HAD NOT BEEN ACTIVE IN THE STANLEY CREEK AND KELLY CREEK DRAINAGES FOR AT LEAST 30 YEARS. ON 7/6/93 ON RETURN TO THE OFFICE I TALKED WITH RAY NEIWERT OF THE SNRA AND HE INDICATED THAT ACTIVE MINING OF THE CLAIMS HAD NOT OCCURED IN THE LAST 2 YEARS BUT HE ASKED THAT I CONTACT JEFF JONES, RETIRED SNRA. I PHONED MR. JONES AND HE INDICATED BASED ON HIS OBSERVATIONS THAT THE MINING AND USE OF THE WATER HAD NOT BEEN ACTIVE FOR AT LEAST 30 YEARS. HE INDICATED THAT MAYBE OCCASIONALLY THERE MAY BE SOME PANNING FOR ASSESSMENT WORK BUT NO SUBSTANCIAL USE OF WATER HAS OCCURED.

2. MERRITT 11/8/1993 RE-EVALUATION
SEE MEMO DATED 11/8/93 BY ADM.
3. mciscell 5/12/2010 POD
Bulk Generate Shape From PLS

Dates and Other Information

Decreed Date: 3/15/1999
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: TBD
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A



71-4054

WRR100
71-4054

IDAH0 DEPARTMENT OF WATER
WATER RIGHTS PROOF READ:

01 Water Right Number - 71-4054
02 Old (D) Number -
LAST NAME

03001 - EVANS
06 Add Line 1 - AKA VIOLA C. EVANS
08 Add Line 3 - 1390 MARKET PLACE
12 Stage - S STATUTORY CLAIM
SOURCE
14001 - STANLEY CREEK
16 Diversion Means -
18 Diversion Capacity - .000
21 Water District -

19 Total Diversion Rate - 3.000
21 Water District -
TRACT
22001 - SENE 23001 - 16 24001 - 11N 25001 - 13E 26001 -
27001 -
28001 - 0 272.0 93.
Non-Irrigation Use - X/PLACER MINING
Use Code / Use

30001 -
31001 -
32001 -
33001 -
Period From
Period To
Use Code / Use
37001 - 0101
38001 - 1231
39001 - 13 MINING
42 Decree Plaintiff Name -
REMARKS
44001 - P/U IN S11, 14, 15, 16, 21, & 22 T11N R13E.
Approval Conditions: 45001 -
46 Other Rights for Same Use -

47 Priority
48 Proof Due
49 Proof Made
50 Approve/Denied
51 Protested
52 Hearing
55 License
56 Appl Received
57 Field Exam Made
58 Decree
59 Start Work
60 Order Show Cause -
- - - - - D A T E S - - - - -
- - - - - D A T E S - - - - -

43 Decree
46 Other Rights for Same Use -
Approval Conditions: 45001 -
44001 - P/U IN S11, 14, 15, 16, 21, & 22 T11N R13E.
REMARKS
42 Decree Plaintiff Name -
37001 - 0101
38001 - 1231
39001 - 13 MINING
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57 Field Exam Made
58 Decree
59 Start Work
60 Order Show Cause -
- - - - - D A T E S - - - - -
- - - - - D A T E S - - - - -

53 Veri
54 Last

63 Transfer/amended
64 DLE/Carey Act
65 E1a9-1
66 E1a9-2
67 E1a9-3

----- F L A G S -----

----- Defendant Name -----

40001 - 3.000 41001 - 0.00

----- Diversion Rate -----
----- Diversion Volume -----

4001 - 35001 - 36001 -
Total Acres: 0

----- Tract -----
----- Acres -----
----- Lot -----

446.0 9.0 0.0 0.0 0.0 0.0 0.0 0.0

----- S I R E A M I N D E X -----
----- F I E L D S -----

20 Total Diversion Volume = .00

17 County = 37 CUSTER

DE

18CO 10 State - CA 11 ZIP - 94102

PLAZA, Apt. 1905

1 NAME ORIG. OWNER 05001 - C

19. Flag Translation: STANDARD WATER RIGHT NUMBER

(Reference: Prior Water
Permit No. 19346,
dated 9/29/42)

CLAIM TO A WATER RIGHT

Notice is hereby given that VIOLA WEIDMAN EVANS (aka Viola C. Evans)
Fox Plaza, Apt. 1905, 1390 Market Street (name of claimant)
of San Francisco, California 94102, claims a right to the diversion and beneficial use of
(mailing address)
the public water of the State of Idaho

(1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Stanley Creek
, tributary to, Salmon River

Amount	<u>3.0 cu.ft.</u>	Use	<u>mining</u>	Period of Use:	From	<u>Jan. 1</u>	-	To	<u>Dec. 31</u>	-
Amount	<u> </u>	Use	<u> </u>	Period of Use:	From	<u> </u>		To	<u> </u>	
Amount	<u> </u>	Use	<u> </u>	Period of Use:	From	<u> </u>		To	<u> </u>	
	(cfs, gpm or a/f)		(dom., irri., stock, etc.)						(both dates inclusive)	

(4) Priority claimed: (the date water was first applied to beneficial use) September 23, 1942

(5) A) Point of diversion: (give location of point where water is diverted from its source)
SE ¼ NE ¼, Sec. 16 Twp. 11N Rge. 13E B. M. County of Custer
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. Headgate: use of gravitational ditches already constructed. This supplements water right previously filed on and diverted farther up the stream. Applicant asks for right under this filing, providing water is not pumped into high ditch to take water out of Stanley Creek at this diversion and use it through gravity ditch onto claims along Stanley Creek where claims are located.
A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is

Placer mining purposes:

[illegible]

Total No. of acres _____

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

(8) Remarks _____
Map attached. below.

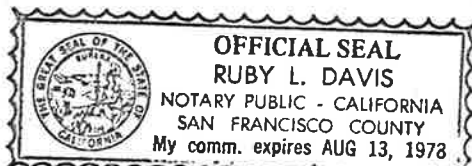
Township 11N, Range 13 E - Custer Co.



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~~ - California)
County of San Francisco) 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 affiants knowledge.

Sworn to before me this 3rd day of February

(Claimant)

19 78

Notary Public

Residing at 1390 Market St
San Francisco, Ca 94102

My commission expires August 13, 1978

For Department Use Only

Received by J.G. Stanton Date 2-10-78
Prelim. check by KTW Date 7-16-77 #9270
\$10.00 fee received by KTW Date 4/18/78
Approved for publication by Custer Publishing Co.
Published in 4/6 + 4/13/78
Dates

Exception filed by: _____ Date _____
Forwarded to claimant by: _____ Date _____

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
324 25th Street
Ogden, Utah 84401

Department of Water Resources
Southern District Office

2540

June 7, 1978



C. Stephen Allred, Director
Idaho Department of Water Resources
1041 Blue Lakes Boulevard N
Twin Falls, Idaho 83301

Dear Mr. Allred:

We are filing an exception to Notice of Amended Claim to Water Right No. 72-4039 involving a claim by Viola Weidman Evans. The enclosed exception is filed in duplicate in affidavit form and is accompanied by supporting evidence that we feel is sufficient proof to request denial of the amended claim.

Sincerely,

Vern Hamre
for VERN HAMRE
Regional Forester

Enclosures

IN THE MATTER OF:)

Exception to Notice)
of Amended Claim to Water)
Right No. 724039 -)
Viola Weidman Evans)
_____)

AFFIDAVIT

State of Idaho)
County of Custer)

I, Vern Hamre,

being first duly sworn,

deposes and says: The reasons for this exception are:

1. The water would be transported from the Stanley Creek drainage to Kelly Creek via an old abandoned ditch. This ditch hasn't been used for many years and has vegetation, including trees in excess of four feet in height, growing in and on the embankments. This ditch has numerous "blowouts" along its length and, in one area, is crossed by a road built in the mid-1960's in which no culvert was installed. Apparently, no water has been transferred through this ditch since 1963.

2. Transferring water from one drainage and placing it into another would cause severe channel erosion, as Kelly Creek is a small drainage. This fact has been well studied and documented in past years.

3. The entire Stanley Creek drainage near the point of diversion does not contain 3 second-feet of water except possibly during periods of snowmelt.

4. Taking all or a significant portion of water from Stanley Creek, via a tributary, would have a detrimental effect on the excellent Eastern Brook Trout population present.

5. Sluice mining operations in Kelly Creek would cause severe erosion and place silt into Basin Creek which is a very important Salmon spawning stream. Any silt deposit on spawning beds prevents oxygenation of the eggs and they die.

(signature)

VERN HAMRE, Regional Forester

Subscribed and sworn to before me this 7th day of June 1978.

(Notary Public)

Residing at Ogden, Utah

My commission expires 6/19/79



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

June 16, 1978

Ms. Viola Weidman Evans
Fox Plaza, Apt. #1905
1390 Market Street
San Francisco, CA 94102

Re: Claim to a Water Right No. 72-4039

Dear Ms. Evans:

We are enclosing a copy of an affidavit in opposition to your Claim to a Water Right, submitted by U. S. Dept. of Agriculture, Forest Service. The following is a quote from the provisions under which this Claim has been filed (Section 42-225b, of the Idaho Code):

42-225b. RECORDING OF CLAIMS BY DEPARTMENT --- CORRECTIONS ---

At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Resources and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the Department the same as the original and for which no additional filing fee shall be required.

Only the above action has been delegated by the Idaho Legislature and we are not authorized to hold hearing or evaluate for confirmation or final censorship of the described rights.

Any action to determine the status of your water right must be initiated by the judicial system.

Ms. Viola Weidman Evans
June 16, 1978
Pg. 2

If you have any questions regarding this matter, please contact us.

Sincerely,

A handwritten signature in dark ink, appearing to read "Terry G. Blau". The signature is written in a cursive, flowing style.

Terry G. Blau
Acting Southern Region Supervisor

TGB:sm

Enclosure

cc: State Office - Boise



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

June 16, 1978

Mr. Vern Hamre, Regional Forester
U.S. Department of Agriculture
Forest Service
324 25th. Street
Ogden, UT 84401

Re: Amended Claim to a Water Right No. 72-4039 - Viola Weidman Evans

Dear Mr. Hamre:

We are in receipt of your exception to the above-referenced Claim. The following excerpt from Section 42-225b of the Idaho Code explains what has been done and what will be done in regards to the exception you have filed.

Section 42-225b. RECORDING OF CLAIMS BY DEPARTMENT --- CORRECTIONS -

At any time after the filing of a claim under the previous section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Resources and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the Department the same as the original and for which no additional filing fee shall be required.

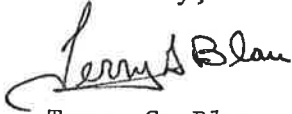
Only the authority to take the above action has been delegated by the Idaho Legislature and we are not authorized to hold hearing or evaluate for confirmation or final censorship of the described rights.

Section 42-222(2) of the Idaho Code outlines the provisions by which a right may be forfeited through non-use. Action to have this right declared abandoned must be initiated through judicial proceedings. The authority to declare claimed rights as abandoned does not rest with the Department of Water Resources.

Mr. Vern Hamre, Regional Forester
June 16, 1978
Page 2

If you have further questions, please feel free to contact this office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Terry G. Blau". The signature is written in a cursive style with a large, stylized "T" and "B".

Terry G. Blau
Acting Southern Region Supervisor

TGB:sm

June 2, 1978

Mr. Vern Hamre, Regional Forester
U.S. Department of Agriculture
Forest Service
324 25th. Street
Ogden, UT 84401

Re: Amended Claim to a Water Right No. 72-4039 - Viola Weidman Evans

Dear Mr. Hamre:

Enclosed please find the exception you filed to the above-referenced Claim which was received in this office on May 24, 1978.

Section 42-225b of the Idaho Code requires exceptions to claims to be filed in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate.

If you have any questions concerning this matter, please feel free to contact me.

Sincerely,

Terry G. Blau
Acting Southern Region Supervisor

TGB:sm

Enclosure

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
324 25th Street
Ogden, Utah 84401

2540

May 22, 1978

RECEIVED



C. Stephen Allred, Director
Idaho Department of Water Resources
1041 Blue Lakes Boulevard N
Twin Falls, Idaho 83301

Dear Mr. Allred:

We are filing an exception to Notice of Amended Claim to a Water Right No. 72-1039 involving a claim by Viola Weidman Evans.

The reasons for this exception are:

1. The water would be transported from the Stanley Creek drainage to Kelly Creek via an old abandoned ditch. This ditch hasn't been used for many years and has vegetation, including trees in excess of four feet in height, growing in and on the embankments. This ditch has numerous "blowouts" along its length and, in one area, is crossed by a road built in the mid-1960's in which no culvert was installed. Apparently, no water has been transferred through this ditch since 1963.

2. Transferring water from one drainage and placing it into another would cause severe channel erosion, as Kelly Creek is a small drainage. This fact has been well studied and documented in past years.

3. The entire Stanley Creek drainage near the point of diversion does not contain 3 second-feet of water except possibly during periods of snowmelt.

4. Taking all or a significant portion of water from Stanley Creek, via a tributary, would have a detrimental effect on the excellent Eastern Brook Trout population present.

5. Sluice mining operations in Kelly Creek would cause severe erosion and place silt into Basin Creek which is a very important Salmon spawning stream. Any silt deposit on spawning beds prevents oxygenation of the eggs and they die.

For these reasons, we request denial of the amended claim.

Sincerely,

VERN HAMRE
Regional Forester



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

April 27, 1978

Ms. Viola Weidman Evans
Fox Plaza, Apt. #1905
1390 Market Street
San Francisco, California 94102

Re: Claim to a Water Right No. 72-4039 - Viola Weidman Evans

Dear Ms. Evans:

The Department of Water Resources has completed the processing of your Claim to a Water Right, and no further action is authorized under Sections 42-225a and 42-225b of the Idaho Code. Your claim will be retained in our files and will be available at any time by you or the Court.

As you are aware, the filing of your claim does not, in itself guarantee you a water right; it only records and preserves the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included in your claim file, you may have that information or evidence added at any time. Please refer to your claim number when corresponding with this office.

We are enclosing a copy of the claim for your records. If you have any questions or if we can be of further assistance, please feel free to contact us.

Sincerely,

Terry G. Blau
Acting Southern Region Supervisor

TGB:dj

enc: