### IDAHO DEPARTMENT OF WATER RESOURCES Proof Report

#### Water Right 71-4054

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

Priority Date: 9/23/1942 Basis: Decreed Status: Disallowed

STANLEY CREEK

# Tributary

VALLEY CREEK

Beneficial Use	<u>From</u>	<u>To</u>	<b>Diversion Rate</b>	<u>Volume</u>
MINING	1/01	12/31	1.000 CFS	
	<u>Total Di</u>	version	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** 

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

#### **Conditions of Approval:**

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.

1.MERRITT7/8/1993COPIED FROM REMARKSP/U IN S11, 14, 15, 16, 21, & 22 T11N R13E. SEE ATTACHED MAP. THIS CLAIMREPLACES CLAIM 72-4039. REDUCED TH ORIGINAL 3.0 CFS TO 1.0 CFS.IDWR NOTE: CORRECTED TRIB TO VALLEY CREEK11/03/92ADM FIELD REVIEW ON



7/2/2020

### IDAHO DEPARTMENT OF WATER RESOURCES Proof Report

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	<b>RE-EVALUATION</b>
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

<u>SubCase:</u> N/A

Water Supply Bank: N/A

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SEPORT SOURCES



Claim No. 72-4039 AMENDED

# STATE OF IDAHO

### DEPARTMENT OF WATER RESOURCES

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

## Section 42-225a, Idaho Code

### CLAIM TO A WATER RIGHT

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

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A2 4039-71-4054

(8) Remarks

# Map attached. below.

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Scale: 2 inches equal 1 mile.

\$10.00 fee received by \_

Dates

Approved for publication by Published in ustu (t)

KTU

Date

3,

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 OFFICIAL SEAL ) RUBY L. DAVIS ) ss. NOTARY PUBLIC -NOTARY PUBLIC - CALIFORNIA SAN FRANCISCO COUNTY My comm. expires AUG 13, 1978 County of San Francisco )

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 $3$	rd day of	y Julie Notary Public	(Claimant) , 19	<u>78</u> ;
My commission expires	st 13, 1978	Residing at 13	<u>40 Girandesco, ca</u>	51 94102
	For Departm	nent Use Only	j	
Received by <u><u><u></u><u></u><u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u></u></u></u>	Date $\frac{2-10-78?}{2}$	Exception filed by:	Forwarded to claimant by:	Date

#9270

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

JUN

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:

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We are filing an exception to <u>Notice of Amended Claim to Water Right</u> <u>No. 72-4039</u> 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,

alton

/ VERN HAMRE Regional Forester

Enclosures

### IN THE MATTER OF:

State of Idaho

County of

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

Custer

AFFIDAVIT

I, Vern Hamre, being first duly sworn. deposes and says: \_\_\_\_\_ The reasons for this exception are: The water would be transported from the Stanley Creek drainage to Kelly 1. 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.

Transferring water from one drainage and placing it into another would 2. 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.

udul (signature) VERN HAMRE, Regional Forester

1978

Subscribed and sworn to before me this

Notary Public

day of

the post

Residing at My commission expires



# STATE OF IDAHO

DEPARTMENT OF SOUTHERN REGION

# WATER RESOURC

1041 Blue Lakes Blvd. North Twin Falls, Idaho 63301 (208) 734-3576

John V. Evans Governor

C. Stephen Allred Director

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,

erry & Blan

Terry G. Blau Acting Southern Region Supervisor

TGB:sm

Enclosure

cc: State Office - Boise



# STATE OF IDAHO

DEPARTMENT OF SOUTHERN REGION

# WATER RESOURCES

1041 Blue Lakes Divd. North Twin Falls, Idaho 83301 (208) 734-3576

John V. Evans Governor

C. Stephen Allred Director

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 <u>Idaho Code</u> 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 <u>Idaho</u> <u>Code</u> 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,

erry & Blan

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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 <u>Idaho Code</u> 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



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

L

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 enbankments. 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

6200-11 (1/69)



# STATE OF IDAHO

DEPARTMENT OF SOUTHERN REGION

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

WATER RESOURCES

John V. Evans Governor

C. Stephen Allred Director

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,

Blau nn

Terry G. Blau Acting Southern Region Supervisor

TGB:dj

enc: