



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

February 2, 1982

John O. Nye
Malta,
Idaho 83342

Re: Claim to a Water Right No. 43-4115

Dear Mr. Nye:

We are enclosing a copy of an affidavit in Opposition to your claim to a water right, submitted by Art Ward, Elba, Idaho 83326.

The following is a quote from the provisions under which this claim has been filed (section 42-243b, of the Idaho Code):

42-243b. 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 contemplated by the Idaho Legislature and we are not authorized to hold hearing or evaluate for confirmation or final censorship of the described rights.

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

Sincerely,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya



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C. Stephen Allred
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February 2, 1982

Art M. Ward
Elba,
Idaho 83326

Re: Claim to a Water Right No. 43-4115

Dear Mr. Ward:

We are in receipt of your exception to a Claim to a Water Right filed by John O. Nye.

The following excerpt from Section 42-243b of the Idaho Code explains what has been done and what will be done in regards to the exception you have filed:

42-243b. 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 contemplated by the Idaho Legislature and we are not authorized to hold hearing or evaluate for confirmation or final censorship of the described rights.

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

Very truly yours,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya
Encl:

RECEIVED

FEB 2 1982

Department of Water Resources
Southern District Office

Elba, Idaho
Jan. 31, 1982

Director of the Idaho Dept. of Water Resources
1041 Blue Lakes Blvd, North
Twin Falls, Idaho 83301

Dear Sir:

I would like to protest the approval of application of permit No. 43-4115 filed by O. John Nye, for the use of a Spring (tributary of Cassia Creek) on the grounds that if it is allowed it would deprive prior water right users the use of water rightfully belonging to them. This Spring has not been put to beneficial use prior to the filing of this application. Therefore I reccomend that this permit be denied.

Sincerely,

Art M. Ward

Art M. Ward
Elba, Idaho 83326

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

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

FEBRUARY 8, 1982

JOHN O. NYE
MALTA

ID 83342

RE: Claim No. 43-4115

Dear Claimant:

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve 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 with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,

LOREN O. HOLMES
Southern Region Supervisor

Enclosure

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 John O. Nye
(Name of Claimant)
Malta, Idaho 83342 Telephone No. 638-5528
(Mailing Address) (Zip Code)

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) April 1, 1935

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)
Unnamed spring tributary to Cassia Creek

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

	(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
			(Mo., Day)	(Mo., Day)
Quantity	<u>.04 cfs</u>	Use <u>domestic</u>	Period of Use From <u>1-1</u>	To <u>12-31</u>
Quantity	<u>.8</u>	Use <u>irrigation</u>	Period of Use From <u>3-15</u>	To <u>11-15</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

(4) .84 cfs TOTAL QUANTITY USED.
(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
SW ¼ NE ¼, Sec. 28 Twp. 13S Rge. 25E B.M., County of Cassia
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. An irrigation ditch running in a northeasterly direction from the spring, all of which is located on claimant's property. Water for domestic use is diverted by a ram and pipeline running from the spring in a south-

(6) westerly direction to claimant's residence.
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.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13S	25E	21															20		20
13S	25E	22											15						15
13S	25E	28	20	20	15X														55

No. of acres 90

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: Water from this manmade spring is used for household purposes including the irrigation of a lawn and garden connected with claimant's household.

NOTE: Include here the type and number of stock watered:

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

43-4115

A hand-drawn map on a grid background. The map shows a water system. A line labeled 'CASSIA CREEK' enters from the bottom left. It branches into a 'RESIDENCE' and a 'Spring'. A 'PIPELINE (DOMESTIC)' is shown connecting the 'Spring' to the 'RESIDENCE'. A shaded area is labeled with handwritten notes: '8.9A', '15A', '20A', '21A', and '22A'. The grid has numbers '21' and '22' at the top, and '28' near the center. A note at the bottom right says 'SITCH - ALSO USED FOR CASSIA CREEK WATER'.

Received by marpa Date 11/16/81 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by marpa Date 12-16-81 claimant by: _____
\$20.00 fee received by marpa Date 11/17/81 - 20 461
Published in 11/16/81 (Mar 3/82) _____
Dates 11/16/81 - 11/17/81 _____