

STATE OF IDAHO DEPARTMENT OF
WATER RESOURCES

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APR 16 2013

Department of Water Resources
Eastern Region

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed.** Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that Bear River Meadows, LLC
(Name of Claimant)

Mailing Address: 2920 W Directors Row, Salt Lake City, UT 84104

Telephone No: (801) 540-4044 Email: chuckhrl@aol.com

claims a right to the diversion and beneficial use of surface or ground water. The extent and nature of said claim is as follows:

1. Date of Priority: (When the water was first applied to beneficial use) April 15, 1947
A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Bailey Creek tributary to Bear River

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 or af)	(Irrigation, Domestic, Stock, Etc.)	(Both dates inclusive) (MM/DD)	(MM/DD)
Quantity <u>0.95 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>4/15</u>	to <u>10-30</u>
Quantity <u>0.05 cfs</u>	Use <u>Stockwater</u>	Period of Use From <u>1/1</u>	to <u>12/31</u>
Quantity _____	Use _____	Period of Use From _____	to _____
Quantity _____	Use _____	Period of Use From _____	to _____

4. 1.00 cfs TOTAL QUANTITY USED.
(cfs or af)

5. A) Location of point of diversion is NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Govt. Lot _____
Sec. 29 Township 09S Range 42E B.M., Caribou County; additional points
of diversion, if any: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.

Open channel ditch, see attached photo of ditch heading. Ditch extends about three quarters (3/4) of a mile in a north westerly direction along the toe of a hill. Numerous lateral ditches distribute water throughout the place of use.

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.

D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	42E	29							6.3	4.1	20.9	10.5		2.2		1.6	2.1		47.7
									S	S	S	S		S		S	S		

TOTAL ACRES 47.7

B) If water is used for purposes other than irrigation, fully describe the use. Be specific.

Ditch is used to provide drinking water for up to 200 head of livestock.

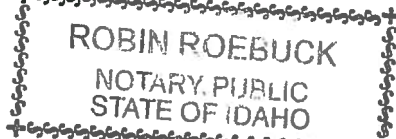
NOTE: Include here the type and number of stock watered: 200 head of range cattle.

7. Remarks: The lower end of Bailey Creek at the point of diversion is a perennial stream. During the irrigation season when all decreed irrigation rights are being filled, water has historically been diverted for the above uses.

8. **Map** – Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an **aerial photograph** of the place of use if available.

State of Idaho)
) ss.
County of Bannock)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing 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.



Randall C. Budge, Attorney for Claimant, POA on file.
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 15th day of April, 2013

Robin Roebuck
Notary Public

Residing at: Postville, Idaho

My commission expires: 8/18/2018

FOR DEPARTMENT USE ONLY

Received by Km Date 4-17-13
Prelim. check by _____ Date _____
Fee \$500.00 Receipt # E038606
Receipt prepared by Km Date 4-17-13

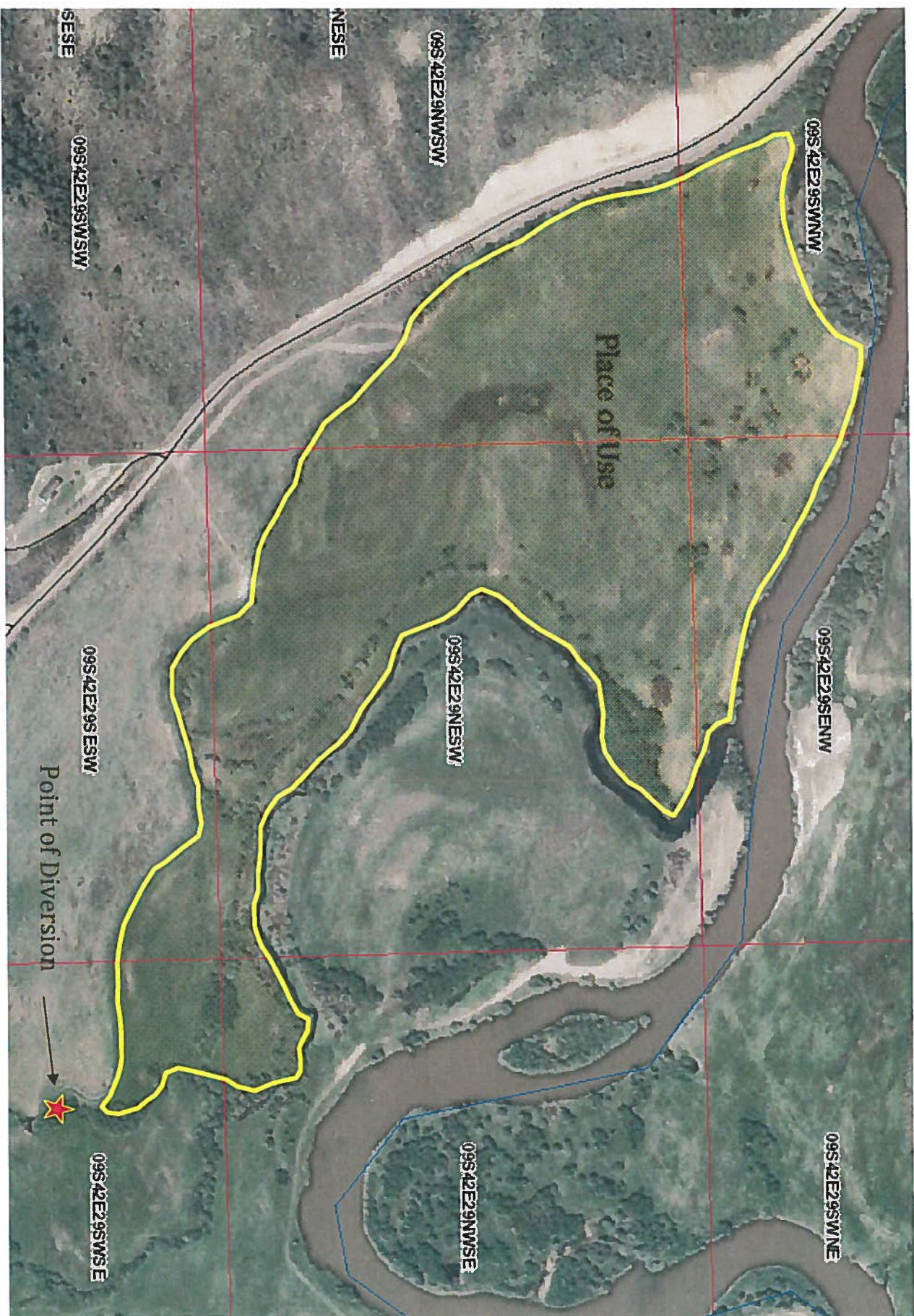
Published in _____
Publication dates _____
Publication checked by _____ Date _____
Exceptions filed by _____

Item 5. B). Picture of ditch heading.

Ditch heading is in center of photograph with Bailey Creek in the lower right corner of photo. Photo was taken from east bank of Bailey Creek looking north west.



Item 8. Map



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Department of Water Resources
Eastern Region

AFFIDAVIT OF DARRELL JAMES MOORE

STATE OF IDAHO)
 :SS
COUNTY OF CARIBOU)

DARRELL JAMES MOORE , being first duly sworn under oath, deposes and states that the following facts are true and correct to the best of my knowledge, information and personal belief:

1. My name is Darrell James Moore, I am 72 years old and my address is 2866 Moore Lane, Soda Springs, Idaho, 83276.
2. I was born February 19, 1941, and lived on the family farm located in the Bailey Creek drainage 4 miles south of Soda Springs, Idaho until 1959 when I joined the Air Force.
3. In the spring of 1964, I returned home after being honorably discharged from military service. I have lived in the drainage of Bailey Creek continuously since then.
4. Family records show that in the early 1920s my grandfather purchased from Edmund Beus a tract of land situated on the south side of the Bear River in Township 09 South, Range 42 East, Section 29, S1/2NW, N1/2SW, SESW, W1/2SE.
5. As far back as I can remember, the property was irrigated with water diverted from Bailey Creek through a ditch with a heading in the Township 09 South, Range 42 East, Section 29, NWSWSE.
6. My earliest memory of the property and main irrigation ditch took place in the summer of 1947 when I six years old. My brother and I got a wheel on an Oliver Dump Rake stuck in the ditch while raking meadow hay on the property.
7. The ditch, which is still used, parallels the toe of a hill for about three quarters (3/4) of a mile along the southern edge of the roughly 48 acres that are irrigated. To the north this land is bounded by Bailey Creek and Bear River.

8. The ditch diverts water at the lower end of Bailey Creek and is the last ditch diverting water from the creek before the creek flows into the Bear River. Decead water rights from Bailey Creek are all diverted through ditches upstream from this ditch.

9. Bailey Creek is a perennial stream where the ditch heads and to my knowledge the use of this ditch has never been regulated by the Watermaster for Water District 11A, Eightmile Creek Bailey Creek.

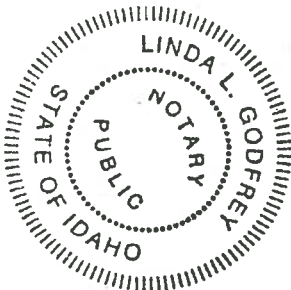
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 3 day of MARCH, 2013.

Darrell J Moore

DARRELL J. MOORE

SUBSCRIBED AND SWORN TO before me this 3 day of March, 2013.



Linda L Godfrey

NOTARY PUBLIC OF IDAHO

Residing at: Soda Springs, Id 83276

My Commission Expires: 10-24-2018

Affidavit of Darrell J Moore

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Department of Water Resources
Eastern Region

AFFIDAVIT OF RANDALL C. BUDGE

STATE OF IDAHO)
 : SS
COUNTY OF BANNOCK)

Randall C. Budge, being first duly sworn, under oath deposes and states that the following facts are true and correct to the best of my knowledge, information and personal belief:

1. My name is Randall C. Budge. I was born May 29, 1951, am currently 61 years of age and reside at 6258 Old Ranch Road, Pocatello, Idaho 83204. I am now and have been continuously since 1976 a duly-licensed and practicing attorney in the State of Idaho in good standing, holding Idaho State Bar License No. 1949.

2. The real property currently owned by Bear River Meadows, LLC, located generally south of the Bear River and east of the Bailey Creek Road which includes the place of use identified in the Claim to a Water Right of Bear River Meadows, LLC, was acquired by my parents, Reed W. Budge and Gweneth S. Budge in 1962 and owned and operated by them continuously until approximately 1966, at which time it was sold. During that time I lived with my parents and four other siblings on the property and was actively engaged in the raising of crops and livestock on a year-round basis which was full-time work during the summer months.

3. I have reviewed the Claim to a Water Right filed by Bear River Meadows, LLC with the Idaho Department of Water Resources and am familiar with the described source, point of diversion and place of use as identified on the attached map, Item 8. The property identified as the place of use as flood-irrigated every year from water diverted from Bailey Creek to raise meadow hay which was cut in late summer, raked, baled, stacked and used to feed livestock in the winter months. After the hay was removed the property was used to pasture livestock in the fall. Water was also diverted from Bailey Creek for stock watering purposes and I would estimate we had up to 200 head of range cattle on the property at times in the fall.

4. After we sold and moved from the property in approximately 1965, I regularly observed the property driving along the Bailey Creek Road adjacent on the west from 1965 until 1969 when I graduated from Soda Springs High School and thereafter while I was home from college working during the summer months from 1969 through 1976, and also later from 1980

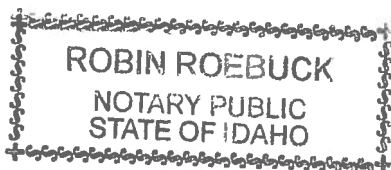
through 1984, during which time I practiced law in Soda Springs until moving to Pocatello in the fall of 1980. During those periods I recall observing flood irrigation of the property from Bailey Creek for the raising of meadow hay and grazing of livestock. During the first few years after we moved off the property, I recall that the subsequent owners continued to bale the hay during the late summer and graze the property in the fall, much as we did. In the later years my observations were that they continued to irrigate the property but primarily used it for pasture to graze livestock rather than raise hay.

5. To irrigate the property water was diverted from Bailey Creek at the point of diversion described in the Claim to a Water Right and identified on the map and transported from there via an open ditch some distance along the southerly edge of the property to the irrigated acres. As reflected on the map, the place of use is bounded on the west by what is commonly known as the Bailey Creek Road and on the north by the Bear River. I don't have any memory of the water delivery being regulated by a water master. When we operated the property my recollection is that we diverted and utilized most if not all water that was available in Bailey Creek at the point of diversion during the periods of time that we needed it for irrigation purposes. Depending on weather conditions, my recollection is that we would begin irrigating sometime between May 1 and June 1 and would irrigate up until late July when we would cease irrigating to allow it to dry out to permit the harvest of the hay. Once the hay was removed we would resume irrigation with whatever water remained available in the creek in order to produce hay for fall grazing of the livestock through the late fall.

FURTHER YOUR AFFIANT SAYETH NAUGHT.


RANDALL C. BUDGE

SUBSCRIBED AND SWORN TO before me this 15th day of April, 2013.




NOTARY PUBLIC FOR IDAHO,
Residing at Pocatello.
My Commission Expires 8/18/2018

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

The undersigned hereby appoints the law firm of RACINE OLSON NYE BUDGE & BAILEY, CHARTERED, 201 E. Center Street, Post Office Box 1391, Pocatello, Idaho 83204, my/our true and lawful attorney for the purpose of dealing with the Idaho Department of Water Resources relative to the management and transaction of water rights, and to allow them to receive all information, opinions, and records regarding water rights, and to sign and submit applications and other filings on my/our behalf.

DATED this 29th day of March, 2012.

EAST OFFICE LC:


(Signature)

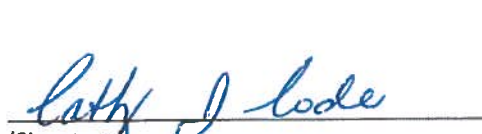
Chuck Schvanaveldt, Manager/Member

(Printed name)

2920 W. Directors Row

(Address)

Salt Lake City, Utah 84104


(Signature)

Cathy Code, Manager/Member

(Printed name)

2920 W. Directors Row

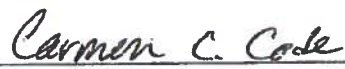
(Address)

Salt Lake City, Utah 84104

STATE OF UTAH)
)
County of Cache)
)

On this 29th day of March, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Chuck Schvanaveldt, known to me to be the person whose name is subscribed to the foregoing and acknowledged to me that he executed the same.

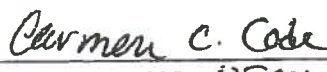



NOTARY PUBLIC FOR UTAH
Commission expires: 10/20/2014

STATE OF UTAH)
)
County of Cache)
)

On this 29th day of March, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Cathy Code, known to me to be the person whose name is subscribed to the foregoing and acknowledged to me that she executed the same.




NOTARY PUBLIC FOR UTAH
Commission expires: 10/20/2014