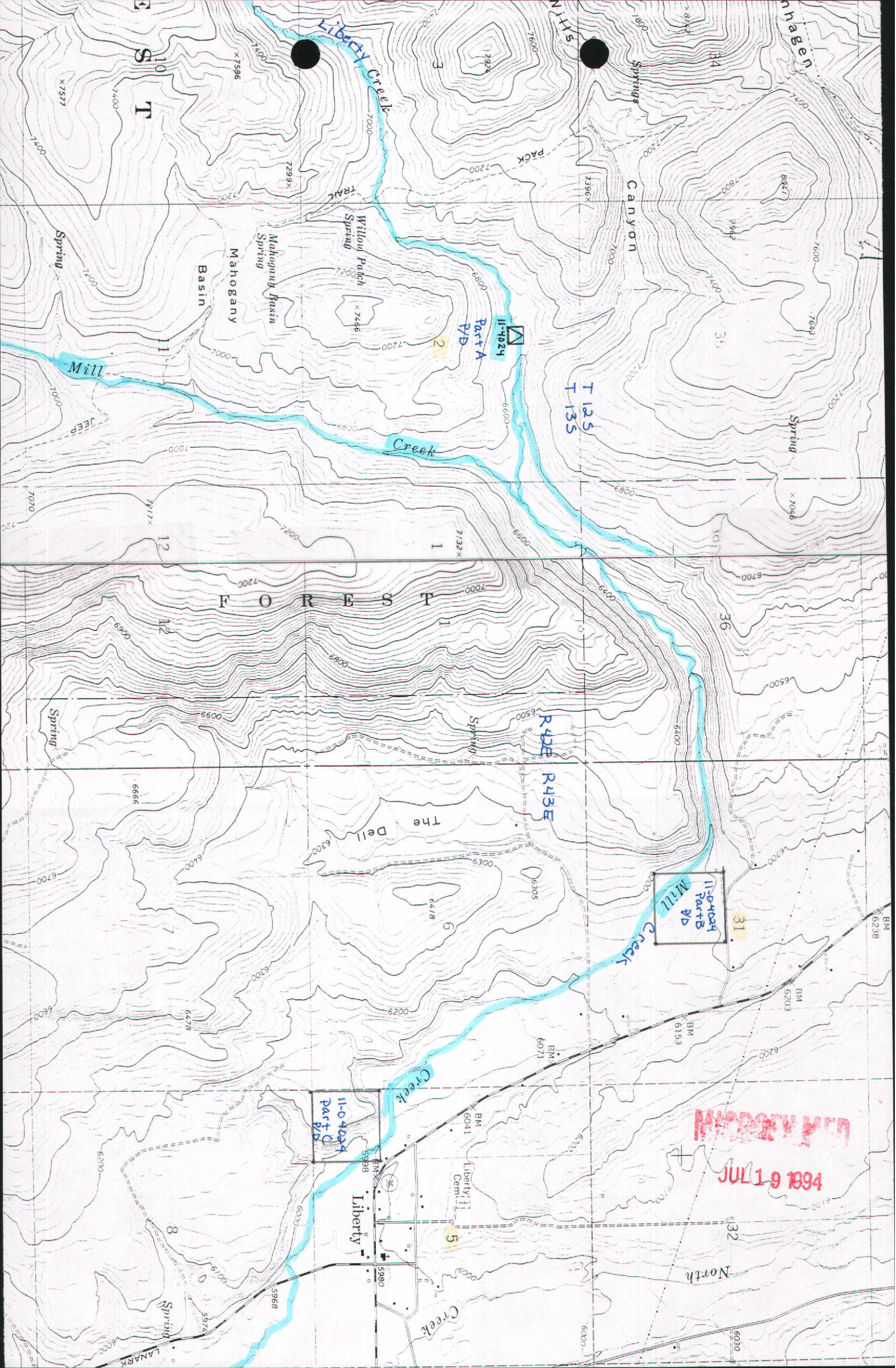




WATER RIGHT SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
Original Claim	11-04024	Mill Canyon North Canal Company	36.00

SPLIT INTO PARTS A, B & C TO ACCURATELY REFLECT RIGHT

Partial Assignment	11-04024A	Mill Canyon North Canal Company	27.40
Partial Assignment	11-04024B	Liberty Hillside Canal Company	5.76
Partial Assignment	11-04024C	Liberty Town Canal Co.	2.84

RECEIVED

JUL 19 1994

PART A

PART B

PART C

Identification No. 11-4024

Claim No. _____

Map No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

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.

(Please refer to the instructions on the back of this form)

1. Name of claimant Mill Canyon North Canal Co. and affiliated ditches: Liberty Hill-
post office address Ovid, Idaho (Side and Liberty Town.

2. The point of diversion is in N.E. $\frac{1}{4}$ of N. W. $\frac{1}{4}$ Section 2 Township 13 south
Range 42 E B.M. located on Mill Creek
(name of source)
tributary to Ovid Creek (Bear River) in Bear Lake County.

3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed:

1890 amount: _____ c.f.s. or 36 cfs * see letter of acre feet 4-22-69
amount: _____ c.f.s. or _____ acre feet
amount: _____ c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or 36 acre feet.

b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:

use Irrigation period of use from April 15 to Oct. 15 (both dates inclusive)
use Stock water period of use from Oct. 15 to Apr. 15 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive).

4. Description of diverting works:

a. Surface water diversion dam and/or headgate: material is composed of wood
_____ ; length is 16 feet; height is 3 feet;
width at bottom is 5 feet; with at top is 5 feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known _____
Liberty Hillside: natural channel flow Liberty Town, concrete 1ft. high and
14 ft. wide

b. Underground water diverting works: is well flowing or pumped _____ ; depth of well is _____ feet; diameter of well is _____ inches; type of pump is _____
capacity of pump is _____ g.p.m.; name and address of well driller is _____

JUL 19 1964

11-4024

attach well logs if available; has there been any change in pump or motor since well was first completed

; if so, give dates and explain

c. Conveying works: length of ditch to place of use is 7730 feet; width of ditch at top is 10 feet;

width of bottom of ditch is 8 feet; depth of water is 1 1/2 feet; grade of ditch per 1000

feet is _____ feet; material through which ditch passes is mountain soil

maximum length of pipe line to first place of use is _____ feet; diameter of pipe line is _____ inches;

type of pipe _____; grade of pipe per 1000 feet is _____

Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible Liberty Hillside Point of diversion is N. 1/4 of

S. W. 1/4 Sec. 31 T. 8. N. 12 S. R. 43

Liberty Town; S. W. 1/4 of S. W. 1/4 Sec. 5 T. S. 13 S. R. 43

d. If water is stored: name of reservoir _____

total capacity of reservoir is _____ acre feet; active capacity of reservoir is _____ acre feet;

year construction commenced _____; year completed _____; date first used _____

period of storage is from _____ to _____; is reservoir drained each year _____;

is reservoir on or off stream _____ explain _____

if feeder canal is used give maximum carrying capacity _____ c.f.s.; if reservoir is off stream, describe

location of reservoir by 40-acre subdivisions _____

has there been any enlargement of the reservoir since it was first built _____, if so, give dates and

describe _____

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			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	
12 S	43E	25	40	40	40	40			30					40	40	40	40	350	
		29								20	25	20						65	
		30	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640	
		31	35	15		12	35	40	30	40				40	30	15	30	322	
		32						40	40	40	30	10	35		20	10		295	
		36	40	40	40	40												160	
13 S	43E	5	15	20	40			20	20	35	40	35		30	20	35	35	370	
		6	45			35								10				90	
		8	40	10		20												70	
		9																30	
		4																15	

Total number of acres to be irrigated 2407

Explain any significant increase in area irrigated since first use, give dates and acreages if known

JUL 19 1994

b. Do you get water through a ditch owned by several users? _____ If yes, give the name of the ditch
_____. The other users and their respective
interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered 250

7. Where water is used for domestic or municipal purposes give number of families served _____
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible,
giving dates and quantities _____

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
This filing is made by Mill Canyon North Canal Co. and the two affiliated ditches
in order to follow the distribution of the Mill Creek water according to the
parts we have followed for the past 80 years.

BE IT KNOWN that the undersigned hereby makes claim to a water right as described above together with
all attached information and certifies that all statements are true and accurate to the best of his knowledge.

April 17, 1969

(Date)

State of Idaho

County of Bear Lake. } ss.

Albert Miller, President
(Signature of Claimant)
MILL CANYON NORTH CANAL CO.

On this 17th day of April 1969, personally appeared before me the signer(s) of the
above instrument, who duly acknowledged to me that he (she) (they) executed the same.

(SEAL)

Dean H. Frank
Notary Public residing at Montpelier, Idaho

My commission expires 9-12-69

For Department Use Only

Received by KH Date 4-18-69

Exception filed by:

Forwarded to
claimant by:

Date

Prelim. check by OKM Date 4-21-69

Fee received by ej Date 4-21-69 Fee \$ 10.00

Approved for publication by JD Date 5-15-69

Published in Newspaper Date 5-22-69
5-29-69

JUL 15 1969

11-4024

INSTRUCTIONS

Your claim should set forth all necessary information to describe your claimed right. Failure to give enough information may make your claim of little value. Some of the items in the form may not apply to your situation. Please use additional sheets if space provided is not sufficient to fully answer the questions.

Paragraph No.

1. Give full name and post office address of person or company making the claim.

2. Describe the point of diversion by 40-acre subdivision. Give the name of the source, the drainage to which it is tributary if surface water, and the county in which the point of diversion is located. If there is more than one point of diversion, list others in the remarks section.

3. Give the priority dates and the quantities of water that you claim. You should accurately list the dates in each enlargement of the diversion. (Example: if you diverted 0.8 c.f.s. of water for irrigation on May 18, 1871, for the first time for use on 40 acres of land, and then later you enlarged the diversion by diverting an additional 0.4 c.f.s. of water to irrigate an additional 20 acres of land on June 1, 1901, your right should be described as follows:

Date of priority claimed:		May 18, 1871	amount:	0.8 c.f.s. or	acre feet
		June 1, 1901	amount:	0.4 c.f.s. or	acre feet
Total claimed:		1.2 c.f.s. or	acre feet		

Since the water was used for irrigation between April 1 and October 31 on that particular farm, part b. would be completed as follows:

use irrigation period of use from April 1 to October 31 (both dates inclusive). If the water had been used for any other purpose, you would have described the priority date, amount, use, and period of use in a similar manner.

4. Describe the diversion works and explain any changes since the right was first initiated.
5. If the water is used for irrigation, give the total acreage and list the lands irrigated by 40-acre subdivisions and complete the other questions.
6, 7, & 8. Describe any other uses of water.

9. In the remarks section, give any information or details that you feel are not fully covered or that need clarifying. You might explain your operation, where the water is returned to if for an industrial or non-consumptive right, the condition and temperature of the returned water, and any other information to help explain your claim.

You may wish to include as a part of your claim, affidavits of witnesses who are familiar with your right and who have a personal knowledge of the circumstances which you have described in your claim. You may submit maps, drawings, certified copies of posted notices which may have been filed in the county courthouse, water measurement records, or any other document which you feel will support your claim.

Your claim will be advertised in a county newspaper for two weeks. Exceptions to your claim which dispute the water right that you have described may be received by the Department of Reclamation and you will be provided a copy of such exceptions.

The fee for filing this claim with the Department of Reclamation, Room 107, Statehouse, Boise, Idaho 83701, is \$10.00.

JUL 19 1994

STATE OF IDAHO

Department of Reclamation

No 2931

Boise, Idaho, 4-21, 1969

RECEIVED
FROM

Mill Canyon North Canal Co. \$ 10.00
Ten & no/100

DOLLARS

FOR

<u>Claim app.</u>	\$	<u>10.00</u>
	\$	
	\$	
	\$	
	\$	
TOTAL . . .	\$	<u>10.00</u>

JUL 19 1994

E. J. Woods
STATE RECLAMATION DEPARTMENT

11-4024

THE NEWS+EXAMINER

MONTPELIER, IDAHO

Advertising & Commercial Printers

Statement: Account of Department of Reclamation

No. 11-4024

Date June, 1969

May 22

30 Line Notice of Claim
published 2 issues

\$6.90

I hereby certify that the foregoing
account is just and correct, that the
amount claimed is legally due, after
allowing all just credits, and that no
part of same has been paid.

Ruth J. [Signature] JUL 19 1969
Signature of claimant

submitted 6-17-69

11-4024

THE NEWS+EXAMINER

MONTPELIER, IDAHO

Advertising & Commercial Printers

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published 2 issues

\$6.90

I hereby certify that the foregoing
account is just and correct, that the
amount claimed is legally due, after
allowing all just credits, and that no
part of same has been paid.

Beth Taylor JUL 19 1969
Signature of claimant

11-4024

THE NEWS-EXAMINER

MONTPELIER, IDAHO

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,)
County of Bear Lake,) ss.

W. Jerome Taylor

being first duly sworn, deposes and says
he is Publisher and Foreman of the
News-Examiner; that the said News-Examiner
is a weekly newspaper published at Montpelier,
County of Bear Lake, State of Idaho, of general
circulation in said County and State.

That the notice attached was published in
the said News-Examiner, and not in a
supplement, for two
successive weeks, commencing with the issue
dated May 22, 1969,
and ending with the issue

dated May 29, 1969

W. Jerome Taylor
Publisher and Foreman.

Subscribed and sworn to before me this 13th day of June, 1969

Dary Williams
Notary Public.

NOTICE OF CLAIM TO A WATER RIGHT

No. 11-4024

Notice is hereby given that Mill Canyon North Canal Company and affiliated ditches: Liberty Hill-Side and Liberty Town, Ovid, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 36 cubic feet per second of water from Mill Creek tributary of Ovid Creek (Bear River) with point of diversion in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 2, T. 18 S, R. 42 E, B. M., Bear Lake County; the water is claimed to be used from April 15 to October 15 for irrigation and from October 15 to April 15 for stock water with a priority of 1890; the place of use is portions of Sections 25, 29, 30, 31, 32, and 36, T. 12 S. R. 43 E, B. M. and portions of Sections 5, 6, 8, 9 and 4, T. 13 S. R. 43 E, B. M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON

State Reclamation Engineer

Published in The News-Examiner, Montpelier, Idaho on May 22 and May 29, 1969.

m22/29)

11-4024

PART C

WR0749NP
No. 11-04024C

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/02/94
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	LIBERTY TOWN CANAL CO C/O RAO D HYMAS 186 HYMAS LANE LIBERTY ID 83260	06/01/1890	IRRIGATION STOCKWATER	04-15 10-15 10-15 04-15	2.84 CFS	
TOTAL DIVERSION:					2.84 CFS	

Water Source: MILL CREEK

Tributary to: OVID CREEK

Stage: STATUTORY CLAIM

Point(s) of Diversion: T13S R42E S05 SWSW BEAR LAKE County

Place of use Legal Description for: IRRIGATION

NE										NW				SW				SE											
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
13S	43E	5	:									:									:							:	90.0
13S	43E	8	:	40		10			20			:									:							:	70.0
13S	43E	9	:									:	20		10						:							:	30.0
																									TOTAL ACRES		190.0		

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

Pou County: BEAR LAKE

Other Water Rights Listing Overlapping Place(s) of use:
11-04313 11-07357

Dates:	App. Received:	Priority Date:	06/01/1890
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc: Water District Number: Field Exam Fee:

Comments: Date: 05/27/1994 User-ID: SKAGGS Subject: SPLIT RIGHT 11-04024
Right No. 11-04024 was originally filed by "Mill Canyon North Canal Co. and affiliated ditches: Liberty Hillside and Liberty Town". In order for the right to more accurately reflect each entity's specific portion of the claim, the right was split into parts A, B and C according to the description provided by the President of Liberty Hillside Canal Co. with the knowledge of Mill Canyon North and Liberty Town Canal Companies. (See File)

Audit: 05/26/94 SKAGGS 05/27/94 SKAGGS

2011

WR0749NP
No. 11-04024B

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/02/94
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	LIBERTY HILLSIDE CANAL CO C/O LYNN BROWER 134 LIBERTY RD LIBERTY ID 83260 (208) 945-2208	06/01/1890	IRRIGATION STOCKWATER	04-15 10-15 10-15 04-15	5.76 CFS	
TOTAL DIVERSION:					5.76 CFS	

Water Source: MILL CREEK

Tributary to: OVID CREEK

Stage: STATUTORY CLAIM

Point(s) of Diversion: T12S R43E S31 NESW BEAR LAKE County

Place of use Legal Description for: IRRIGATION

NE												NW				SW				SE															
T	R	S	NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		NESW		NWSW		SWSW		SESW		NESE		NWSE		SWSE		SESE		SUM
			Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac			
13S	43E	4	:		:		:		:		:		:		:		:		:		:		:		:		:		:		:		:	15.0	
13S	43E	5	:	15	:	20	:	40	:		:	20	:	20	:	35	:	40	:	35	:		:	20	:	35	:		:		:		280.0		
13S	43E	6	:	01-45	:		:		:	35	:		:		:		:		:		:		:	10	:		:		:				90.0		
TOTAL ACRES																												385.0							

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

Pou County: BEAR LAKE

Other Water Rights Listing Overlapping Place(s) of use:

11-00055 11-04313 11-07357

Dates: App. Received: Priority Date: 06/01/1890
Proof Due Date: Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: Field Exam Fee:

Comments: Date: 05/26/1994 User-ID: SKAGGS Subject: SPLIT RIGHT 11-04024
Right No. 11-04024 was originally filed by "Mill Canyon North
Canal Co. and affiliated ditches: Liberty Hillside and Liberty
Town". In order for the right to more accurately reflect each
entity's specific portion of the claim, the right was split into
parts A, B and C according to the description provided by the
President of Liberty Hillside Canal Co. with the knowledge of

WR0749NP
No. 11-04024B

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/02/94
PAGE: 2

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Comments: Date: 05/26/1994 User-ID: SKAGGS Subject: SPLIT RIGHT 11-04024
Mill Canyon North and Liberty Town Canal Companies. (See File)

Audit: 05/26/94 SKAGGS 06/02/94 SKAGGS



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 2, 1994

Liberty Hillside Canal Co.
C/O Lynn Brower
134 Liberty Rd.
Liberty, ID 83260

RE: Water Right No. 11-04024

Dear Mr. Brower:

Thank you for your prompt response to my original letter and the clarification you provided both by phone and letter.

Enclosed you will find a computer generated report that reflects the current updated status of Right No. 11-04024A, B and C. Your name has been entered as the contact person for Liberty Hillside Canal Company, and Rao D. Hymas as contact person for both Mill Canyon North and Liberty Town Canal Companies.

I have sent a copy of the updated report to Mr. Hymas also for his records. If you require any further assistance, please contact me directly at 327-7943 and I will be happy to help you.

Sincerely,

A handwritten signature in cursive script that reads 'Pamela Skaggs'.

PAMELA SKAGGS
Water Resource Agent

Enclosure

LIBERTY HILLSIDE CANAL COMPANY

Liberty, Idaho

May 31, 1994

RECEIVED
JUN 2 1994
Department of Water Resources

PAMELA SKAGGS
Water Resource Agent
Department of Water Resources
1301 North Orchard
Boise, ID 83706

Re: Water Right #11-04024

Dear Ms. Skaggs:

Pursuant to your letter of May 27, 1994, I am writing to clarify my position with the three canal companies listed with water right #11-04024. I am presently serving as the President and Watermaster for only the Liberty Hillside Canal Company. The President of the Mill Canyon North Canal Company and contact person for the Liberty Town Canal Company would be:

Rao D. Hymas
186 Hymas Lane
Liberty, ID 83260

If you could make these changes on the data base and forward to me a new report, it would be greatly appreciated. I am forwarding a copy of your letter of May 27, 1994, and a copy of the computer generated report that you sent me to Mr. Hymas with a copy of this letter as well.

Thanking you for your assistance in this matter, I remain

Respectfully yours,



Lynn Brower

cc: Mill Canyon North Canal Company
Liberty Town Canal Company

RECEIVED

MAY 24 1994

Department of Water Resources

LIBERTY HILLSIDE CANAL COMPANY

Liberty, Idaho

May 23, 1994

JIM JOHNSON
Allocation Supervisor
1301 North Orchard
Boise, ID 83706

Re: Water Right #11-04024

Dear Mr. Johnson:

I am writing pursuant to my phone conversation with Carolyn Andregg, regarding the addition of information to your data base relating to water right #11-04024. As you can see from the original filing of the statutory claim, one claim form was filed for three different irrigation companies: Mill Canyon North Canal Company, Liberty Hillside Canal Company and Liberty Town Canal Company. However, your data base will only pick up on requests for the Mill Canyon North Canal Company. Any requests for Liberty Hillside Canal Company or for Liberty Town Canal Company result in no information. Therefore, after reviewing the matter with Carolyn, as well as discussing it with Nicholas B. Spencer, Deputy Attorney General, it was determined that the best way to add the other two canal companies to your data base would be to make that request to you.

While the original statutory claim filed in 1969, provided for the type of diversion for each canal company as well as the point of diversion for each canal company, it simply stated all of the land to be irrigated by the entire claim without differentiating which land would be irrigated by which company. Therefore, I was instructed to also include the division of land which is irrigated by each canal company, so that you would have this information for your records as well. This division would be as follows:

Mill Canyon North Canal Company: All acres as originally claimed in Sections 25, 29, 30, 31, 32 and 36 of Township 12 South Range 43 East. Total acres: 1832.

Liberty Hillside Canal Company: All acres as originally claimed in Sections 4 and 6 of Township 13 South Range 43 East, as well as those acres as originally claimed in Section 5, Township 13 South Range 43 East as follows: NE1/4; NW1/4; NE1/4 of the SW1/4; NW1/4 of the SW1/4; NE1/4 of the SE1/4; and the NW1/4 of the SE1/4. Total acres: 385.

Liberty Town Canal Company: All acres as originally claimed in Sections 8 and 9 of Township 13 South Range 43 East, as well as those acres as originally claimed in Section 5, Township 13 South Range 43 East as follows: SE1/4 of the SW1/4; SW1/4 of the SE1/4; and the SE1/4 of the SE1/4. Total acres: 190.

If there is any other information that you need to add the two other canal companies to your data base for water right #11-04024, please let me know. Thanking you in advance for your assistance in this matter, I remain

Respectfully yours,



Lynn Brower
President
134 Liberty Road
Liberty, Idaho 83260

cc: Mill Canyon North Canal Company
Liberty Town Canal Company

PART A

Part A

WR0749NP
No. 11-04024A

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/02/94
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MILL CANYON NORTH CANAL CO C/O RAO D HYMAS 186 HYMAS LANE LIBERTY ID 83260	06/01/1890	IRRIGATION STOCKWATER	04-15 10-15 10-15 04-15	27.40 CFS	
TOTAL DIVERSION:					27.40 CFS	

Water Source: MILL CREEK

Tributary to: OVID CREEK

Stage: STATUTORY CLAIM

Point(s) of Diversion: T13S R42E S02 NENW BEAR LAKE County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE						
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM	
12S	43E	25	:	40		40		40		40								40		40		350.0
12S	43E	29	:													20		25		20		65.0
12S	43E	30	:	40		40		40		40		40		40		40		40		40		640.0
12S	43E	31	:	35		15				12		35		40		30		40		40		322.0
12S	43E	32	:									30		40		40		10		35		295.0
12S	43E	36	:	40		40		40		40												160.0
																				TOTAL ACRES		1832.0

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

Pou County: BEAR LAKE

Other Water Rights Listing Overlapping Place(s) of use:

11-00045 11-01101 11-02149 11-04018 11-04044 11-04047 11-04232 11-04300 11-04301

Dates: App. Received: Priority Date: 06/01/1890
Proof Due Date: Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: Field Exam Fee:

Comments: Date: 05/26/1994 User-ID: SKAGGS Subject: SPLIT RIGHT 11-04024
Right No. 11-04024 was originally filed by "Mill Canyon North
Canal Co. and affiliated ditches: Liberty Hillside and Liberty
Town". In order for the right to more accurately reflect each
entity's specific portion of the claim, the right was split into

WR0749NP
No. 11-04024A

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/02/94
PAGE: 2

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Comments: Date: 05/26/1994 User-ID: SKAGGS Subject: SPLIT RIGHT 11-04024
parts A, B and C according to the description provided by the
President of Liberty Hillside Canal Co. with the knowledge of the
Mill Canyon North and Liberty Town Canal Companies. (See File)

Audit: 05/26/94 SKAGGS 06/02/94 SKAGGS



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 2, 1994

Mill Canyon North Canal Co.
Liberty Town Canal Co.
C/O Rao D. Hymas
186 Hymas Lane
Liberty, ID 83260

RE: Water Right No. 11-04024

Dear Mr. Hymas:

I have been in contact with Mr. Lynn Brower, President of Liberty Hillside Canal Company, who has provided specific information both by phone and letter in an effort to clarify the above referenced water right. He stated that he has provided you with copies of the correspondence in this matter.

Enclosed you will find a computer generated report that reflects the current updated status of Right No. 11-04024A, B and C. Your name has been entered as the contact person for both Mill Canyon North and Liberty Town Canal Companies, and Lynn Brower as contact person for Liberty Hillside Canal Company.

I have sent a copy of the updated report to Mr. Brower also for his records. Please review the report and if you have any questions, please contact me directly at 327-7943 and I will be happy to assist you.

Sincerely,

A handwritten signature in cursive script that reads 'Pamela Skaggs'.

PAMELA SKAGGS
Water Resource Agent

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 27, 1994

Mill Canyon North Canal Co.
Liberty Hillside Canal Co.
Liberty Town Canal Co.
C/O Lynn Brower
134 Liberty Rd.
Liberty, ID 83260

RE: Water Right No. 11-04024

Dear Mr. Brower:

Enclosed you will find a computer generated report that reflects the current status of Right No. 11-04024. The right has been split into parts A, B and C per the original claim form with the place of use for each canal company as described in your letter.

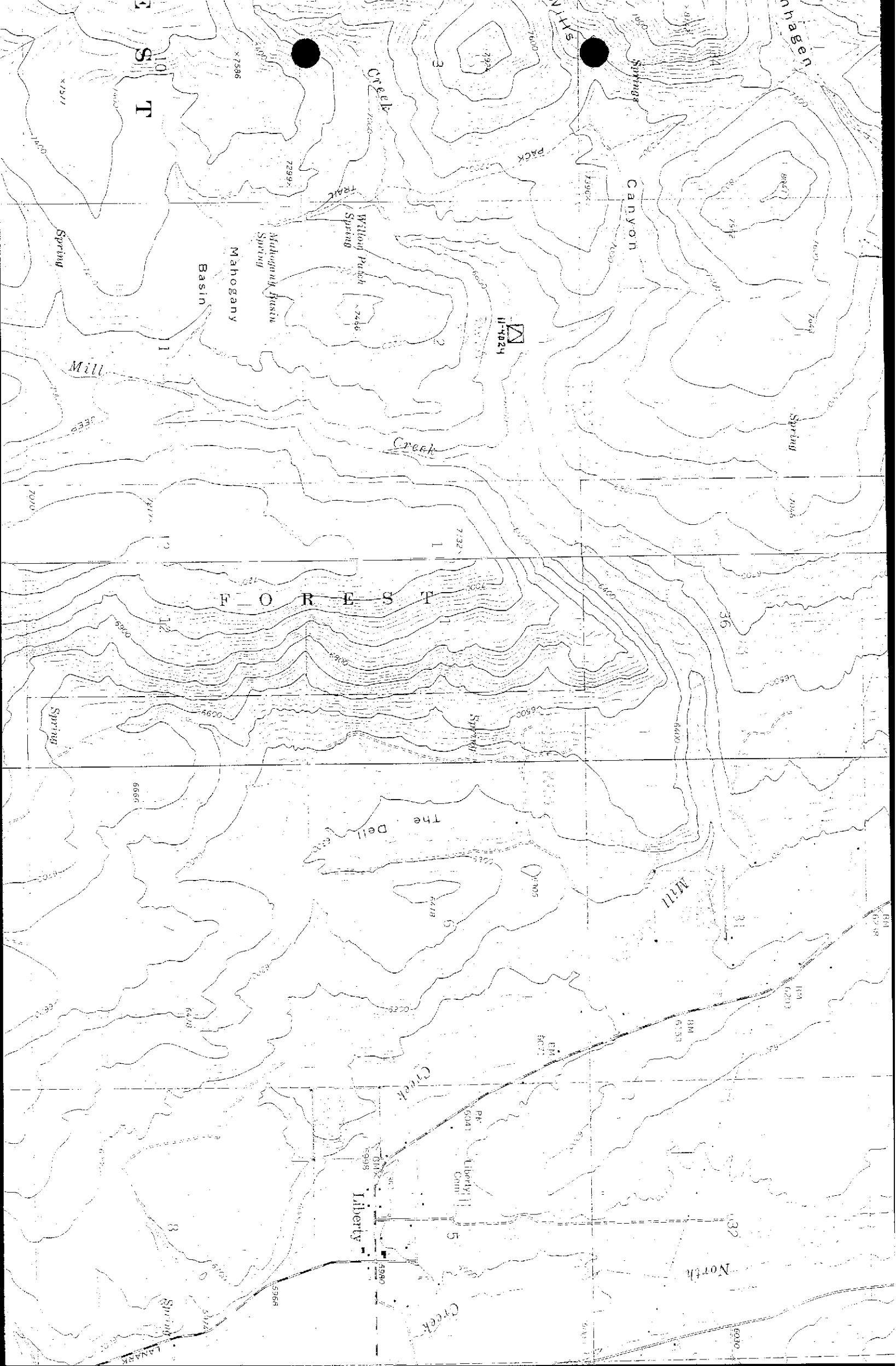
You provided no address except for Liberty Hillside Canal Company. Through phone contact with your office, it was noted that you are the watermaster for all three companies, so you have been designated as the contact person on these rights. Please provide copies of this letter and report to each canal company for their records.

I hope I have answered all your questions regarding this matter. If you require any further assistance, please contact me directly at 327-7943 and I will be happy to help you.

Sincerely,

PAMELA SKAGGS
Water Resource Agent

Enclosure





State of Idaho

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CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 22, 1994

VIA FACSIMILE TRANSMISSION

Hon. O. Lynn Brower
Judge of the Magistrate Division
Bear Lake County Courthouse
Paris, Idaho
FAX NO. (208) 945-2780

Re: Inquiry Regarding Mill Canyon North Canal Co., et al.

Dear Judge Brower:

Per your telephone inquiry of April 18th I have had staff in the Water Allocations Bureau of this department search the bureau's records for information regarding water rights held by the Mill Canyon North Canal Company, the Liberty Hillside Canal Company, and the Liberty Town or Townsite canal or ditch company. It appears that we have no significant information over and above what you yourself already have.

Our records do contain the original of the statutory claim for water right no. 11-04024, of which you already have a copy. The only additional information of substance in that file is a two sentence letter, dated April 19, 1969, from Albert Miller, the individual who signed the statutory claim, requesting the department to correct an error in the claim by substituting 36 cfs for 36 acre feet as the amount of water claimed. I note that that correction was made in section 3 a. of the statutory claim by handwritten notation.

The department has no other information that the Water Allocations Bureau could find regarding Mill Canyon North Canal Company. The department has no record of any other water rights claimed by it. The fact that Mill Canyon submitted a statutory claim to the department indicates that this water right has never been decreed in a water rights adjudication. There is no record that the department has ever issued a permit or licence for it. Essentially it is a water right that was established pursuant to what is generally referred to as the old doctrine of "constitutional" appropriation, by which one could establish a water right simply by diverting the water and putting it to beneficial use. However, if the water right was so created, and

Hon. O. Lynn Brower
April 22, 1994
Page 2

if it has not subsequently been abandoned, or forfeited by five years of continuous nonuse, it is likely still a valid existing right.

The Water Allocations Bureau could find no information about the "Liberty Town" listed as a claimant on the statutory claim. The only information it has regarding the Liberty Hillside Canal Company is the following reference in the bureau's list of water user organizations:

Liberty Hillside Canal Co.
c/o Glade Hymas
123 Church Rd.
Ovid, Idaho 83260

As a contact person, Mr. Hymas presumably ought to have additional information about the organization. The department has no record regarding any other water rights either Liberty Town or Liberty Hillside may possess.

The Water Allocation Bureau did check for other water rights from the same source as is claimed for no. 11-04024 (Mill Creek) and other water rights overlapping the claimed place of use of no. 11-04024. Attached is a copy of that overlap report. This is a computer generated report enumerating all other water rights listing a place of use within the same 40 acre quarter quarter section as contains acres listed as the place of use for No. 11-04024. For each of the rights found, allocations staff particularly checked the name of the claimant. No claimant listing for either Liberty Hillside or Liberty Town or Townsite was found. Likewise a general computer name search through the department records turned up no reference to either one, other than the listing mentioned in the previous paragraph. On the overlap report you will see some handwritten notations: The allocation agent who did the record search listed the claimant name and place of address for each overlap right that listed Mill Creek or Mill Canyon as the source of water.

The department's records list only three water rights having Mill Creek as the source: no. 11-04021, a statutory claim listing South Liberty Irrigation and Mfg. Co. as the claimant; no. 11-04024, the Mill Canyon North Canal Co. statutory claim; and no. 11-04067, a statutory claim in the name of Lee Hotchkiss. The department also has record of a statutory claim filed by Liberty Pipeline Inc., listing as its source a spring tributary to Mill Creek. Since the South Liberty Irrigation and Mfg. Co. claim lists a priority date (1885) that is senior to that of Mill Canyon North (1890), and since the Liberty Pipeline claim contains the word "Liberty" in it, I am enclosing a water right profile describing each of these two rights, as well as a profile

Hon. O. Lynn Brower
April 22, 1994
Page 3

for the Mill Canyon North water right. The information on the profile is identical to that contained in the notice of statutory claim itself.

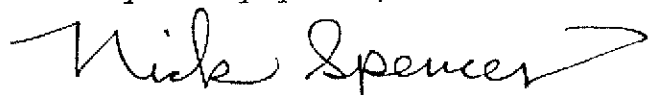
Regarding the fact that Liberty Hillside and Liberty Town were listed, apparently, as additional claimants on the Mill Canyon North statutory claim, the claim itself does not necessarily establish them as co-owners of that water right. The language of Idaho Code §§ 42-244 and 42-246 assigns very limited legal effect to statutory claims.

On the other hand, there is no law of which I am aware that precludes Liberty Hillside or Liberty Town from owning an undivided interest in the water right. Therefore, the fact that they are listed as additional claimants on the statutory claim indicates that they could be co-owners.

Since the department has no record of any of the three entities in question (Mill Canyon North, Liberty Hillside, and Liberty Town) owning any other water rights, the department would take the legal position that there are no other water rights in existence that they, or any of them, could own other than small domestic rights. Idaho Code §42-245 provides in essence that any unlicensed or undecreed water rights for which a statutory claim was not filed by June 30, 1990, is conclusively deemed to have been waived and relinquished. This provision has been superceded for water rights located within the geographic area encompassed in the Snake River Basin Adjudication; but Basin 11, the area in question here, is outside of the Snake River Basin. Therefore, the department would take the position that any other unlicensed or undecreed rights that might be claimed by any of the three have been relinquished by operation of that statute. You should be aware, however, that the constitutionality of Idaho Code §42-245 has never been tested in court, and there are both due process issues and concerns about whether it may violate provisions of Art. 15 of the Idaho Constitution that could be raised in a court challenge. Therefore it is uncertain at this time whether the department's position would prevail.

I recognize that all of this adds up to very little information that I am in fact providing you. However, it does appear to be all the information that the department has. Should you have any further questions please feel free to contact me.

Very truly yours,



NICHOLAS B. SPENCER
Deputy Attorney General

ORIGINAL

June 17, 1969

Re: Claim to a Water Right No. 11-4024

Mill Canyon North Canal Co.
Ovid, Idaho

Gentlemen:

Your claim to a water right has been received and processed by the Department of Reclamation. The information in your claim is filed under Claim No. 11-4024. Please refer to this number when adding or changing the information in your claim.

Enclosed is Receipt No. 2931 in the amount of \$10.00 which covers the filing fee for the claim.

You should be advised that the filing of this claim completes the processing procedure by the Department of Reclamation. No further action is authorized under Section 42-225 a and b of the Idaho Code. Your claim will be filed and will remain of public record until such time as you or the court needs the information.

If we may be of further assistance, please contact us.

Very truly yours,

Donald W. McElldowney
Appropriation Examiner

DWM:tg

Enc: receipt no. 2931

11-4024

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

June 9, 1969

Re: Claim to a Water Right No. 11-4024
Mill Canyon North Canal Co.

News-Examiner
Montpelier, Idaho

Gentlemen:

As of this date, we have recieved neither the affidavit of publication nor the certified bill of publication for the above referenced claim to a water right. Please forward these articles to the Department as soon as possible so that we may continue to process this claim.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Donald W. McEldowney".

Donald W. McEldowney
Appropriation Examiner

DWM:DRR:TG
Enc: none

A small, handwritten mark or initials, possibly "X" or "L".

11-4024

June 9, 1969

Re: Claim to a Water Right No. 11-4024
Mill Canyon North Canal Co.

News-examiner
Montpelier, Idaho

Gentlemen:

As of this date, we have recieved neither the affidavit of publication nor the certified bill of publication for the above referenced claim to a water right. Please forward these articles to the Department as soon as possible so that we may continue to process this claim.

Very truly yours,

Donald W. McElldowney
Appropriation Examiner

DWM:DRR:TG
Enc: none

11-4024

**NOTICE OF CLAIM TO A
WATER RIGHT**

No. 11-4024

Notice is hereby given that Mill Canyon North Canal Company and affiliated ditches: Liberty Hill-Side and Liberty Town, Ovid, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 36 cubic feet per second of water from Mill Creek tributary of Ovid Creek (Bear River) with point of diversion in NE 1/4 NW 1/4, Sec. 2, T. 12 S., R. 43 E., B. M., Bear Lake County; the water is claimed to be used from April 15 to October 15 for irrigation and from October 15 to April 15 for stock water with a priority of 1890; the place of use is portions of Sections 25, 29, 30, 31, 32, and 36, T. 12 S. R. 43 E., B. M. and portions of Sections 5, 6, 8, 9 and 4, T. 13 S. R. 43 E. B. M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH WIGGINSON

State Reclamation Engineer

Published in The News-Examiner,
Montpelier, Idaho on May 24 and
May 29, 1969.

(222,231)

11-4024

May 15, 1969

Re: Claim to a Water Right No. 11-4024-Hill Canyon North Canal Company

News-Examiner
Montpelier, Idaho

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you cannot publish the notice on the proposed dates please contact us immediately.

An affidavit of publication must be submitted to the Department of Reclamation, along with the publication bill. In order to receive payment, the following certification must appear on the bill:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of same has been paid.

Signature of claimant

Very truly yours,

Donald W. McElldowney
Appropriation Examiner

DWM:tg
Enc: Legal Notice (1)

11-4024

NOTICE OF CLAIM TO A WATER RIGHT

No. 11-4024

Notice is hereby given that Mill Canyon North Canal Company and affiliated
ditches: Liberty Hill Ditch and Liberty Town,

Ovid, Idaho has filed a claim to a water right

established by diversion and application to beneficial use of 36

cubic feet per second ~~acre/feet~~ of water from Mill creek tributary of Ovid

Creek (Bear River) with point of diversion in

Adams, Sec. 2, T. 13 S. R. 42 E. S. 11, Bear Lake County; the water is

claimed to be used from April 15 to October 15 for irrigation and from

October 15 to April 15 for stockwater with a priority of _____

1890 _____; the place of use is ~~portions of Sections~~

~~25, 29, 30, 31, 32, and 36, T. 12 S., R. 43 E., S. R., and portions of Sections~~

~~5, 6, 8, 9, and 4, 5, 13 S, R. 49 E, S, 14.~~

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the News-Examiner, Montpellier, Idaho

on May 22 and May 25, 1969

24.

11-4024

Cvid, Idaho

April 19, 1969

Dept. of Reclamation

Dear Sirs:

In our claim to a water right that we mailed a few days ago for Mill Canyon North canal Co. and affiliated ditches, on page one under a. of no. 3 it should be 36 second feet instead of acre feet, Would you please make this correction?

Sincerely,

Albert Miller

11-4024