

**STARTING
LEFT
SIDE OF
FILE**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5167

WATER RIGHT NO(S). 36-02233G/36-02410D/36-02653N/36-07042/36-07580D
36-08069N/36-08251E/36-08404/36-08775/36-08776/36-02058C/36-15366C
36-02075E/36-08068E/36-02454B/36-07007B/36-07021A/36-08274A/36-08275B
36-02530A/36-07795A/36-15456A/36-02191/36-07391/36-07041/36-11340
36-02653P/36-08069P/36-02591/36-02653B/36-08777/36-02075F/36-08068F
36-02058B/36-02233D/36-15366B/36-02075B/36-08068B/36-02653Q/36-08069Q
36-08778/36-07021C/36-08274B/36-07580B/36-02530B/36-07795B/36-15456B
36-02058D/36-15366D/36-02075D/36-08068D/36-02193/36-11290/36-02410C
36-07580C/36-02619/36-02620/36-04006

This is to certify that: YOUNG & YOUNG PARTNERSHIP
300-A EAST 1600 NORTH
RUPERT ID 83350

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 36-02233G : IRRIGATION Priority: 08/13/1953	04/01 to 10/31	0.20 CFS	48.0 AF
Right No. 36-02410D : IRRIGATION Priority: 12/08/1959	04/01 to 10/31	0.20 CFS	40.0 AF
Right No. 36-02653N : IRRIGATION Priority: 09/12/1966	04/01 to 10/31	0.05 CFS	16.0 AF
Right No. 36-07042 : IRRIGATION Priority: 10/15/1968	04/01 to 10/31	5.12 CFS	1260.0 AF
Right No. 36-07580D : IRRIGATION Priority: 11/21/1975	04/01 to 10/31	0.32 CFS	62.8 AF
Right No. 36-08069N : IRRIGATION Priority: 03/04/1982	04/01 to 10/31	0.03 CFS	12.5 AF
Right No. 36-08251E : IRRIGATION Priority: 09/10/1984	04/01 to 10/31	8.31 CFS	2256.0 AF

MICROFILMED

JUN 25 1998

*See 36-02058B for Complete transfer approval *

Identification No. _____
Claim No. 36-4006
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 William Kerbs and Clarence H. Mayall
post office address P.O. Box 425, Rupert, Idaho 83350
2. The point of diversion is in NW $\frac{1}{4}$ SE $\frac{1}{4}$ of NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33 Township 6 S
Range 23 E. B.M. located on subterranean wells
(name of source)
tributary to _____ in Lincoln 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:

South - May, 1965 amount: 6.2 c.f.s. or _____ acre feet
North - May, 1966 amount: 6.2 c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
Total claimed 12.4 c.f.s. or _____ 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 (south) period of use from May, 1965 to Oct. 1968 (both dates inclusive)
use irrigation (north) period of use from May, 1966 to Oct. 1968 (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 _____
_____ North 5 ft.; Sq. - 8ft.
_____ length is _____ feet; height is _____ feet;
width at bottom is _____ feet; width at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known All ditch carries a classification of 16 in. each and is a concrete ditch. The points where the water is used is immediately out of the South well and within 8 ft. from the North well.

- b. Underground water diverting works: is well flowing or pumped _____; depth of well is NW $\frac{1}{4}$ NE $\frac{1}{4}$ 522 ft.
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 503 feet; diameter of well is 20" inches; type of pump is General Electric pumps
capacity of pump is 2800 g.p.m.; name and address of well driller is Strasser Drilling Co,
Rupert, Idaho 83350;

36-4006

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 _____

[illegible]

b. Do you get water through a ditch owned by several users? No 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 None

7. Where water is used for domestic or municipal purposes give number of families served None
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 None

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
The Northwestern Mutual Life Insurance Company has brought an action to
foreclose a mortgage against the property in which the wells are located as
well as the lands that are cultivated. William Kerbs and Clarence Mayall,
through a power of attorney, gave to the undersigned as representative of
Northwestern Mutual Life Insurance Co. the power to submit this application.
(Power of attorney attached to this application)

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 1, 1970

(Date)

State of Idaho

County of Cassia

} ss.

Norman H. Nielson
(Signature of Claimant) Norman H. Nielson

On this 1st day of April 19 70, personally appeared before me the signer(s) of the
above instrument, who duly acknowledged to me that he (she) (they) executed the same.

N. H. Nielson
Notary Public residing at Burley, Idaho

My commission expires Feb. 20, 1974

For Department Use Only

Received by ef Date 4-15-70

Exception filed by: _____

Forwarded to
claimant by: _____

Date _____

Prelim. check by Duer Date 4-15-70

Fee received by ef Date 4-23-70

Fee \$ 10.00

Approved for publication by ef

Published in County Journal

Dates 6-25 and 7-2, 1970

36-4006

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 that you initiated each new use of the water. List separately the dates and amounts of water involved 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:	<u>May 18, 1871</u>	amount:	<u>0.8 c.f.s. or</u>	<u> </u> acre feet
	<u>June 1, 1901</u>	amount:	<u>0.4 c.f.s. or</u>	<u> </u> acre feet
		Total claimed:	<u>1.2 c.f.s. or</u>	<u> </u> 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.

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That we, William Kerbs and Colleen Kerbs, husband and wife of Rupert, Minidoka County, Idaho, and Clarence H. Mayall and Diane Mayall, husband and wife, of Burley, Cassia County, Idaho, do hereby appoint NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY and its agent as our attorney in fact to make proof of beneficial use of water under Application No. G-40623 and Permit No. G-32469 for the sum of 12.8 cfs of water with diversion points located in the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) and the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 33, Township 6 South, Range 23 East, Boise Meridian. The land to which this water is to be applied is in the Northwest Quarter (NW $\frac{1}{4}$) and the Northeast Quarter (NE $\frac{1}{4}$) of Section 32, Township 6 South, Range 23, East, Boise Meridian, and the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 33, Township 6 South, Range 23, East, Boise Meridian, which property is located in Lincoln County, Idaho.

That this power of attorney is a limited power of attorney and is given only for the purpose of making proof on the said water above outlined, but that the Northwestern Mutual Life Insurance Company and its agent shall have the same rights and privileges to make proof as we ourselves may have; said proof to be made in the name of William Kerbs and Colleen Kerbs, husband and wife, and Clarence H. Mayall and Diane Mayall, husband and wife, doing business as Lost Lake Land and Livestock Co.

IN WITNESS WHEREOF we have hereunto set our hands and seals
this 30 day of January, 1970.

Clarence H. Mayall
Diane Mayall

William Kerbs
Colleen Kerbs

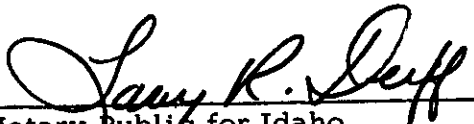
NIELSON, NIELSON & NIELSON
ATTORNEYS AT LAW
P. O. Box 367
BURLEY, IDAHO 83318

36-4006

STATE OF IDAHO)
County of Minidoka) ss.

On this 30th day of January, 1970, before me, the undersigned, a Notary Public in and for said State, personally appeared WILLIAM KERBS and COLLEEN KERBS, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

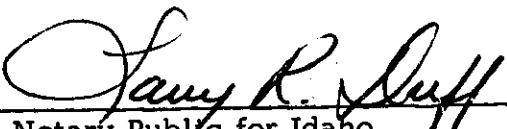

Notary Public for Idaho

My Commission Expires: 9-1-70

STATE OF IDAHO)
County of Minidoka) ss.

On this 30th day of January, 1970, before me, the undersigned, a Notary Public in and for said State, personally appeared CLARENCE H. MAYALL and DIANE MAYALL, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Notary Public for Idaho

My Commission Expires: 9-1-70

NOTICE

OF CLAIM TO A WATER RIGHT

No. 38-4006

Notice is hereby given that William Kerbs and Clarence H. Mayall, P.O. Box 425, Rupert, Idaho, have filed a claim to a water right established by diversion and application to beneficial use of 12.4 cubic feet per second of water from a ground water source with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33, T. 6S, R. 23E, B. M., Lincoln County; the water is claimed to be used from May 1 to October 31 for irrigation with a priority of May, 1965 and May, 1966; the place of use is within the N $\frac{1}{2}$ of Sec. 32 and N $\frac{1}{2}$ of Sec. 33, T. 6S, R. 23E, B. M.

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

R. KEITH HIGGINSON
State Reclamation
Engineer

(Je 25-Jy2)

AFFIDAVIT of PUBLICATION

LINCOLN COUNTY JOURNAL

SHOSHONE, IDAHO

being first duly sworn, says that he is the

Business Manager of the Lincoln County Journal, a newspaper published weekly at Shoshone, Idaho, having legal publication rights within the State of Idaho, and that the notice, a true copy of which is hereto attached, was published in said newspaper for

2 consecutive weeks, beginning with the issue of

June 25 19*74*

and ending with the issue of

July 2 19*74*

Subscribed and sworn to before me this

25th day of *July* 19*74*

Yella M. Love
Notary Public, Shoshone, Idaho

36-4006

RECEIVED
JUL 8 1970
Department of Water Administration

AFFIDAVIT of PUBLICATION

LINCOLN COUNTY JOURNAL

SHOSHONE, IDAHO

Helen Love

being first duly sworn, says that she is the

Business Manager of
the Lincoln County Journal, a newspaper published weekly at Shoshone, Idaho, having legal publication rights within the State of Idaho, and that the notice, a true copy of which is hereto attached, was published in said newspaper for

2 consecutive weeks, beginning with the issue of

June 25, 19*70*

and ending with the issue of

July 2, 19*70*

Helen Love

Subscribed and sworn to before me this

2nd day of *July*, 19*70*

Zella Mae Larson
Notary Public, Shoshone, Idaho

**NOW
STARTING
RIGHT
SIDE OF
FILE**

MEMORANDUM

TO: Young & Young Water Right Files

FROM: Pam Skaggs²⁸/State Office

SUBJECT: Transfer 5167

DATE: May 6, 1998

Transfer 5167 changes and adds points of diversion, and creates an 8,574.0 acre permissible place of use. The applicant is combining multiple groundwater rights, wells & pivots in a single large interconnected system.

The rights involved have been previously transferred under Transfers 4829, 4830, 4831 and 4895, and additional rights recently purchased. 77 rights or parts of rights were on the original application. 30 of these rights, unencumbered by limiting conditions, have been combined by common priority into 12 new rights. 59 rights appear on the final approval document.

Region staff identified possible errors in a couple of the past approvals referring only to previous file information. I researched the rights and files in question and did not find supporting information to modify the previous approvals. I have attached an overlap of all the original rights, table of combined rights and a draft of rights for the final approval.

Recommended conditions include drilling permit requirements, annual measuring & reporting, irrigation overlap, permissible place of use, combined limits, trust water conditions (36-08251E), enlargement right condition where applicable and standard transfer conditions.

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JUN 25 1998

	PRIORITY	CFS	ACRES	P.P/U.	DIV.VOL.	Conditions/Limits/Information
✓ 36-02233G	8131953	0.20	12.0	8574.0	48.0	
36-02410D	12081959	0.20	10.0	"	40.0	
✓ 36-02653N	9121966	0.05	4.0	"	16.0	
36-07042	10151968	5.12	315.0	"	1260.0	
36-07580D	11211975	0.32	15.7	"	62.8	
✓ 36-08069N	3041982	0.03	4.0	"	12.5	
✓ 36-08251E	9101984	8.31	564.0	"	2256.0	Trust Conditions/R55/R56/R57
36-08404	3011989	2.10	131.0	"	524.0	
✓ 36-08775	4011953	23.11	1632.0	"	6528.0	
✓ 36-08776	2251953	6.10	560.0	"	2240.0	
36-02058C	2021948	5.13	374.0	"	1496.0	
36-15366C	3151958	2.31	200.0	"	800.0	
		6.62				6.62 cfs
36-02075E	8041948	7.11	461.6	"	1846.4	
36-08068E	3041982	2.17	584.0	"	916.8	
			584.0		2336.0	584.0 acres/2336.0 afa
36-02454B	12081960	0.45	30.0	"	120.0	
36-07007B	9111967	1.32	66.0	"	264.0	
36-07021A	4091968	0.42	21.0	"	84.0	
36-08274A	7041985	0.28	14.0	"	56.0	
36-08275B	5091985	2.46	123.0	"	492.0	
		3.45	254.0		1016.0	3.45 cfs
36-02530A	12061961	5.27	275.1	"	1100.4	
36-07795A	5261978	1.58	79.0	"	316.0	
36-15456A	4011951	1.93	455.0	"	815.4	
		6.19	455.0		1820.0	6.19 cfs/455.0 acres/1820.0 afa
36-02191	2251953	2.56	160.0	"	640.0	
36-07391	10121973	0.11	"	"	46.5	
		2.67	160.0		640.0	160.0 acres/640.0 afa
36-07041	10151968	4.40	282.0	"	1128.0	
36-11340	4011972	1.06	90.0	"	360.0	
		4.40	372.0		1488.0	4.40 cfs
✓ 36-02653P	9121966	6.75	495.0	"	1980.0	
✓ 36-08069P	9121966	3.34	557.0	"	1400.8	
		10.09	557.0		2228.0	557.0 acres/2228.0 afa
36-02591	6031964	2.90	159.0	"	636.0	
36-02653B	9121966	0.68	50.0	"	200.0	
✓ 36-08777		1.12	253.5	"	473.1	
		4.70	253.5		1014.0	253.5 acres/1014.0 afa
36-02075F	8041948	0.16	10.4	"	41.6	
36-08068F	3041982	0.05	13.0	"	21.1	

✓ Combined Rrs.

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Page 1

JUN 25 1998

Transfer Draft

T 511.7

		0.21	13.0		52.0	13.0 acres/52.0 afa
36-02058B	2021948	0.11	12.0	"	46.5	
36-02233D	8131953	0.01	12.0	"	4.2	
36-15366B	3151958	0.05	12.0	"	21.1	
		0.17	12.0		48.0	12.0 acres/48.0 afa
36-02075B	8041948	0.16	13.0	"	52.0	
36-08068B	3041982	0.05	13.0	"	21.1	
		0.21	13.0		52.0	13.0 acres/52.0 afa
✓ 36-02653Q	9121966	0.09	7.0	"	28.0	
✓ 36-08069Q	3041982	0.05	7.0	"	21.1	
		0.14	7.0		28.0	7.0 acres/28.0 afa
✓ 36-08778	4011953	0.67	49.0	"	196.0	
36-07021C	4091968	0.54	27.0	"	108.0	
36-08274B	7041985	2.04	102.0	"	408.0	
36-02058B	36-08274B	3.28	210.0		840.0	3.28 cfs/210.0 acres
36-02410B	12081959	0.05	2.5	"	10.0	
36-07580B	11211975	0.07	3.5	"	14.0	
		0.09	6.0		24.0	0.09 cfs
36-02530B	12061961	0.19	9.9	"	39.6	
36-07795B	5261978	0.06	3.0	"	12.0	
36-15456B	4011951	0.07	16.0	"	29.6	
		0.22	16.0		64.0	0.22 cfs/16.0 acres/64.0 afa
36-02058D	2021948	0.36	26.0	"	104.0	
36-15366D	3151958	0.16	14.0	"	56.0	
		0.46	40.0		160.0	0.46 cfs
36-02075D	8041948	0.12	8.0	"	32.0	
36-08068D	3041982	0.04	10.0	"	16.9	
		0.16	10.0		40.0	10.0 acres/40.0 afa
36-02193	2251953	4.26	315.0	"	1260.0	36-11290 Enlargement of this rt.
36-11290	5011985	0.06	3.0	"	12.0	42-1426 w/36-02193
		4.26	318.0		1272.0	4.26 cfs
36-02410C	12081959	2.23	111.5	"	446.0	
36-07580C	11211975	3.53	172.8	"	691.2	
		4.24	284.0		1136.0	4.24 cfs/284.0 acres/1136.0 afa
36-02619	10161965	12.80	640.0	"	2560.0	36-04006 Enlargement of this rt.
36-02620	8061965	7.13	440.0	"	1760.0	" " " " "
36-04006	7141977	1.70	1240.0	"	718.2	42-1426 w/36-02619 & 2620
		13.15	1240.0		4960.0	13.15 cfs/1240.0 acres/4960 afa
TOTAL	T5167	119.01	8593.0	8574.0	34372.0	119.01 cfs/8574 acres/34296 afa

✓ Combined Rts.

77 Original - (30-12) = 59 rights on approval.

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JUN 25 1998

MEMORANDUM

TO: FILE 36-04006

FROM: PAM SKAGGS

RE: TRANSFER # 5167

DATE: 1-9-98

Original Transfer Application, Form and correspondence
regarding the above referenced Transfer is located within
file # 36-02058.

MICROFILMED

JUN 25 1998

March 15, 1983

Norman H. Nielson
Nielson, Nielson & Nielson
Box 367
Burley, ID 83318

Re: Claim No. 36-4006 - William Kerbs and Clarence H. Mayall

Dear Mr. Nielson:

This office is currently reviewing existing claims to water rights throughout the state. We note that the above-referenced claim, copy enclosed, shows dates of priority of May 1965 and 1966. Please be advised that if the first use of the claimed right was 1965 or 1966, you must establish the water right with an Application for Permit, since the last date on which a beneficial use right could be developed was March 25, 1963.

Enclosed we are sending to you an Application for Permit with instructions, as well as a blank Claim to a Water Right form. If the dates of priority shown on the claim are wrong, please complete the Claim to a Water Right form and return it to this office. No filing fee is required for an amended claim to a water right. If the dates shown on the claim are correct, you will need to fill out and file the Application for Permit.

If you have any questions about this matter, please feel free to contact our Eastern Regional office located at 150 Shoup Ave., Suite 15, Idaho Falls. The telephone number is 525-7161.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

cc: Eastern Region

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JUN 7 5 1988

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215



R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

August 24, 1970

Re: Permit Nos. G-32468/36-2619
G-32469/36-2620

Claim No. 36-4006

Mr. Norman H. Nielson
NIELSON, NIELSON, & NIELSON
P.O. Box 367
Burley, Idaho 83318

Dear Mr. Nielson:

We have attempted on several occasions to call you concerning this matter, but we have been unsuccessful. Please forgive our tardiness in responding to several of your inquiries.

Claim no. 36-4006 is now referenced in the name of the Northwest Mutual Life Insurance Co., and the evidence is apparently satisfactory to show their interest instead of Kerbs and Mayall. Permit nos. G-32468/36-2619 and G-32469/36-2620 are now both under the name of the Northwest Mutual Life Insurance Co. The assignments are recorded. Enclosed are copies of the permits and assignments for these permits.

The amendment and the affidavit of beneficial use for permit no. G-32469/36-2620 have been received and are acceptable. Please find enclosed a copy of the amendment and departmental receipt no. 5019. As there is no requirement for the application for extension of time, we are returning it to you under this cover.

The legal notice for permit no. G-32469/36-2620 is being published in the Lincoln County Journal of Shoshone, Idaho on September 3 and September 10, 1970. An affidavit of publication must be submitted to this department. The affidavit may be obtained from the Lincoln County Journal upon payment of the bill of publication.

Also be advised that permit no. G-32468/36-2619 automatically lapsed on August 6, 1970. A notice of lapsing will be sent to you in September. You will have sixty

36-4006

Page 2

August 24, 1970

Re: Permit Nos. G-32468/36-2619
G-32469/36-2620

Claim No. 36-4006

(60) days from that date to submit proof of application of the water to beneficial use. We are enclosing a beneficial use form for your use in this matter.

If you have any questions, please contact us.

Very truly yours,

Dorian Clay,
Appropriation Examiner

DC/DG

Enc: beneficial use form
extension of time
copies of permit nos. G-32468/36-2619 and G-32469/36-2620
copy of assignments
copy of amendment
receipt no. 5019

36-4006

NIELSON, NIELSON & NIELSON

ATTORNEYS AND COUNSELORS AT LAW

P. O. BOX 367

BURLEY, IDAHO 83318

July 21, 1970

ADONIS H. NIELSON
NORMAN H. NIELSON
GORDON S. NIELSON

AREA CODE 208
TELEPHONE 678-5574

Mr. Donald W. McEldowney
Appropriation Supervisor
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Re: Claim to Water Right No. 36-4006
William Kerbs & Clarence H. Mayall

Dear Mr. McEldowney:

We received your letter of July 20, 1970 regarding the above claim to a water right. As you are aware Mr. and Mrs. Kerbs and Mr. and Mrs. Mayall have assigned all of their rights, and had assigned all of their rights, in and to said claim to Northwestern Mutual Life Insurance Company. Will this assignment be made a part of this water right so that the water right will actually stand in the name of Northwestern Mutual Life Insurance Company instead of in the names of the Kerbs' and Mayalls?

If not, would you please send us the necessary forms to make this transfer from the Kerbs' and Mayalls to Northwestern Mutual Life Insurance Company.

Very truly yours,

NIELSON, NIELSON & NIELSON

By:

Norman H. Nielson

NHN:mm

36-4006

July 20, 1970

Re: Claim to a Water Right No. 36-4006 - William Kerbs & Clarence H. Mayall

Nielsen, Nielson & Nielson
Norman H. Nielson
P. O. Box 367
Burley, Idaho 83318

Dear Mr. Nielson:

The Department of Water Administration has completed the processing of your claim to a water right, and no further action is authorized under Section 42-225 of the Idaho Code. Your claim will remain in our files and will be available at any time for your or the courts use.

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 evidence that you would like to have included in your claim file, you may add that information at any time. Please refer to your claim number when corresponding with this office.

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

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:dr
Enclosures: Copy of claim and Receipt No. 4533

cc: William Kerbs
Clarence H. Mayall

36-4006

June 17, 1970

Re: Claim to a Water Right No. 36-4006 - William Kerbs & Clarence H. Mayall

Lincoln County Journal
119 West A
Shoshone, Idaho 83352

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 the same has been paid.

(Signature of the claimant)

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:DR
Enc: Legal notice

*Bill submitted
7-7-70
dw*

36-4006

NOTICE OF CLAIM TO A WATER RIGHT

No. 36-4006

Notice is hereby given that William Kerbs and Clarence H. Mayall,
P.O. Box 425, Rupert, Idaho, have filed a claim to a water right
established by diversion and application to beneficial use of 12.4
cubic feet per second ~~acre/foot~~ of water from a ground water source
with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and
SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33, T. 6S, R. 23E, B.M., Lincoln County ; the water is
claimed to be used from May 1 to October 31 for irrigation
with a priority of May, 1965 and
May, 1966 ; the place of use is within the N $\frac{1}{2}$ of Sec. 32
and N $\frac{1}{2}$ of Sec. 33, T. 6S, R. 23E, B.M.

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

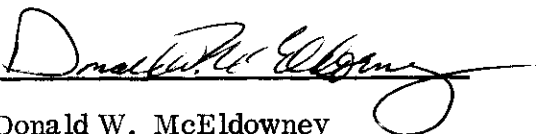
R. KEITH HIGGINSON
State Reclamation Engineer

Published in the Lincoln County Journal, Shoshone, Idaho,
on June 25 and July 2, 1970.

MEMO

Re: Claim to a Water Right No. 36-4006

On April 15, 1970, Mr. & Mrs. William Kerbs and Mr. & Mrs. Clarence H. Mayall filed a Claim to a Water Right claiming a priority of May 1965. Whereas, in the case of Carl Tappan vs. Clyde and Bonnie Smith the Supreme Court of the State of Idaho found that all ground-water diversion after March 25, 1963, must have been developed under the permit system and could not have been developed under the constitutional method by diversion and use. Since the claim is after the March 25, 1963 date, the Department of Reclamation feels that no such right could have been developed as described under Claim No. 36-4006 unless a right was developed by a valid permit thereby receiving a water license.


Donald W. McEldowney
Appropriation Supervisor

CSA:DWM:kh

36-4006

June 16, 1970

Re: Permit Nos. 36-2619 & 36-2620
Claim No. 36-4006

Nielson, Nielson & Nielson
Mr. Norman H. Nielson
P.O. Box 367
Burley, Idaho 83318

Dear Mr. Nielson:

Pursuant to our telephone conversation, we are transmitting the enclosed copies of the above referenced permits and claim.

As we now understand the situation, the holders of the above referenced permits have defaulted and the permits are to be assigned to the Northwest Mutual Life Insurance Company. We will require that a formal assignment of the water permits be submitted to the department before we can change the ownership on our records. The assignment must identify the permits by number. We are enclosing documents for your use in this matter. What is required under these permits is that evidence of beneficial use be submitted to the department on or before August 6, 1970.

We also understand that Claim to a Water Right No. 36-4006 executed on April 1, 1970, was for the purpose of establishing beneficial use on the N $\frac{1}{2}$ Sections 32 & 33, Twp. 6 S., Rge. 23 E., B.M. We feel that the claim under Section 42-225a of the Idaho Code may not have been what you desired to do, in as much as, the claim is used to record water rights established by diversion and application to beneficial use. In the case of Carl Tappan - vs - Clyde and Bonnie Smith, the Supreme Court of the State of Idaho found that all ground-water rights developed after March 25, 1963 must have been developed under

36-4006

Page 2
Norman H. Nielson

the permit system and could not have been developed under the constitutional or use right method.

From the claim it appears that there has been no development in the S $\frac{1}{2}$ Sections 32 & 33, Twp. 6 S., Rge. 23 E., B.M., as covered by Permit No. 36-2619. If this is not correct, include this land on the beneficial use affidavit. It is required by law that notice of existence of a permit be published in a newspaper when beneficial use is submitted.

Should Permit No. 36-2620, which covers N $\frac{1}{2}$ Sections 32 & 33, be the only permit you are going to submit beneficial use evidence on you will be required to file an amendment to this permit to change the points of diversion. We are enclosing a partially completed amendment form for your use. The amendment fee is \$5.

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

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:kh

Enclosures

36-4006

NIELSON, NIELSON & NIELSON

ATTORNEYS AND COUNSELORS AT LAW

P. O. BOX 367

BURLEY, IDAHO 83318

ADONIS H. NIELSON
NORMAN H. NIELSON
GORDON S. NIELSON

AREA CODE 208
TELEPHONE 878-5574

April 3, 1970

Department of Reclamation
Statehouse
Boise, Idaho 83701

Re: Claim to Water Right

Gentlemen:

Enclosed you will find a Claim to Water Right which we are submitting to you in the name of William Kerbs and Clarence Mayall which we would like to have you process. I am signing this as the attorney for Northwestern Mutual Life Insurance Company who has a mortgage against the property to which the water is appurtenant, also for William Kerbs and Clarence Mayall through a power of attorney, of which we are enclosing a copy. Whatever fees that may be involved would you please forward the same to us and we will see that they are paid.

If there is any question in regard to this matter, please let us know.

Very truly yours,

NIELSON, NIELSON & NIELSON

By:



NHN:mm
Enc.

36-4006

April 10, 1970

Re: Claim for William Kerbs & Clarence H. Mayall

Mr. Norman H. Nielson
Nielson, Nielson & Nielson
P.O. Box 367
Burley, Idaho 83318

Dear Mr. Nielson:

We are returning your Claim to a Water Right and Power of Attorney filed in behalf of William Kerbs and Clarence H. Mayall.

Under Item 2, you have not indicated the source of water supply, however, we would assume it to be ground-water. If this claim is filed to cover a ground water appropriation, we would suggest that your interests would be better served by filing an Application for Permit, in as much as, the priority dates you have claimed are well after the mandatory appropriation date for ground-water in the State of Idaho. The mandatory appropriation went into effect March 26, 1963. We are enclosing an application form and instructions, should you desire not to file a claim and instead want to file an Application for Permit.

We also did not receive the required \$10 filing fee for the claim you submitted, therefore, we have not processed the claim.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:kh
Enclosures

36 - 4006

NIELSON, NIELSON & NIELSON

ATTORNEYS AND COUNSELORS AT LAW

P. O. BOX 367

BURLEY, IDAHO 83318

ADONIS H. NIELSON
NORMAN H. NIELSON
GORDON S. NIELSON

AREA CODE 208
TELEPHONE 678-5574

April 13, 1970

Mr. Donald W. McEldowney
Department of Reclamation
State of Idaho
Statehouse - Annex 2
Boise, Idaho 83707

Re: Claim for William Kerbs and Clarence Mayall

Dear Mr. McEldowney:

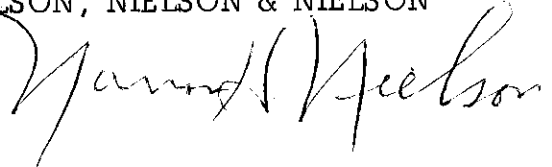
In regard to the application which was sent to your office in claim to water right established by diversion, this application covers two wells. Under the application for permit which was granted by the State of Idaho, Mr. Kerbs and Mr. Mayall had until August 6, 1970, within which to make proof of beneficial use of water appropriation which we have sent in. As long as this was granted under this permit and under the law granting it, which permit was granted in 1965, we are unable to see why we have to again file for a permit.

Our check in the amount of \$10.00 is enclosed together with the application.

Very truly yours,

NIELSON, NIELSON & NIELSON

By:



NHN:mm
Enc.

36-4006

PERIOD ENDING

GROSS

F.I.C.A.

F. W-H

S. W-H

NET PAY

\$ 10.00

NET CHECK

Kerbs May

FOR: Application - Claim to a Water Right

DETACH THIS STUB BEFORE CASHING