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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 Terry & Catherine Lininger (Name of Claimant) 753 3271 Days
P.O. Box 395 Wallace, Idaho 83873 (Mailing Address) (Zip Code) Telephone No. 786 9975 Evening

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) 1952

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) Montgomery Cr. tributary to S. Fork Coeur d'Alene River
Spring
(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity	(cfs, af)	Use	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity <u>0.04 cfs</u>		Use <u>Domestic</u>		Period of Use From <u>1/1</u>	To <u>12/31</u>
Quantity <u>0.10 cfs</u>		Use <u>Diversion To Storage</u>		Period of Use From <u>1/1</u>	To <u>12/31</u>
Quantity <u>0.10 AFA</u>		Use <u>Storage for Stock</u>		Period of Use From <u>1/1</u>	To <u>12/31</u>
Quantity <u>0.10 AFA</u>		Use <u>Storage for Recreation</u>		Period of Use From <u>1/1</u>	To <u>12/31</u>
Quantity _____		Use _____		Period of Use From _____	To _____

(4) 0.14 cfs, 0.10 AFA TOTAL QUANTITY USED.
(cfs, af)
(5) A) Point of diversion: (Location of point where water is diverted from its source)
SE 1/4 NW 1/4, Sec. 27 Twp. 49N Rge. 3E B.M., County of Shoshone
Additional points of diversion: NESW sec 27 T49N R3E

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. Gravity flow pipeline from spring to house for domestic.
Gravity flow pipeline from creek to pond for stock and recreation

(6) 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.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			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	
<u>49N</u>	<u>3E</u>	<u>27</u>									X								

No. of acres _____

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: Water horses & continuous flow into pond on property. Single family domestic Recreation for fishing.

NOTE: Include here the type and number of stock watered: 5-10 head cattle, horses, goats, pigs

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

(8) Remarks

PROOF OF PUBLICATION

County of Shoshone,)

STATE OF IDAHO)

NOTICE OF CLAIMS TO WATER RIGHTS

Notice is hereby given that the following claims to water rights have been established by diversion and application to beneficial use:

94-4082

Name: LININGER, TERRY &/or CATHERINE

Address: P.O. Box 395, WALLACE, ID 83873

Source: MONTGOMERY CREEK tributary to COEUR D'ALENE RIVER, SOUTH FK. SPRING tributary to MONTGOMERY CREEK

Priority Date: Jan. 1, 1952

Amounts: 0.14 CFS 0.1 AC-FT

Diversion Point: SENW NESW Sec. 27 T 49N R 03E, SHOSHONE Co.

Use: STOCKWATER STORAGE (0.1 AC-FT) from Jan. 1 to Dec. 31; DOMESTIC (0.04 CFS) from Jan. 1 to Dec. 31; RECREATION to Dec. 31; DIVERSION TO STORAGE (0.10 CFS) from Jan. 1 to Dec. 31.

Place of Use: NESW Sec 27 T 49N R 03E

94-4083

Name: SEATON, WILLIAM N. &/or EDNA M.

Address: P.O. BOX 252, SILVERTON, ID 83867

Source: SPRING tributary to SINKS

Priority Date: Jan. 1, 1940

Amount: 0.01 CFS

Diversion Point: NENW Sec 21 T 48N R 04E, SHOSHONE Co.

Use: DOMESTIC (0.01 CFS) from March 15 to Nov. 15.

Place of Use: NENW Sec. 21 T 48N R 04E

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 4055 Gov't Way, Coeur d'Alene, Id. 83814.

A. KENNETH DUNN

Director

7/28 - 8/4/82

y500

s/Gary A. Corbeill, being first duly sworn deposes and says:

THE KELLOGG EVENING NEWS, a daily newspaper of general circulation in said county, published in the City of Kellogg, in the County of Shoshone and the State of Idaho, and which has been published continuously in said county for a period of 78 weeks immediately prior to the publication of the notice hereinafter described, and that the _____

Notice of Claims To Water Rights -
Dept of Water Resources

of which the annexed is a true copy, was published in each regular

weekly/daily issue of said newspaper, and not in a supplement

thereto, for a period of 2 consecutive weeks/days, the

first publication thereof being in its issue dated July 28, 1982

and the last publication thereof being in the issue dated

Aug 4, 1982

Subscribed and sworn to before me this 6 day of

August, 19 82

RECEIVED
Notary Public

Department of Water Resources
Northern District Office

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: JK

Right Number 94-4082 Applicant Linninger

NOTE: IF ANY OF THE ITEMS BELOW ARE MISSING, THE CLAIM IS INCOMPLETE AND MUST BE RETURNED IMMEDIATELY TO THE CLAIMANT ALONG WITH THE APPROPRIATE COVER LETTER.

CHECK:

- ☒ Name and address.
- ☒ Date of priority. (Check for a date past the mandatory filing dates.) (One date only.)
- ☒ Source.
- ☒ Quantity, use, period.
- ☒ Point(s) of diversion.
- ☒ Location of use.
- ☒ Signature/notarization/fee.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Claim published correctly.
- ☐ Exceptions processed.

By JW Date 5/16/82

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By KW Date 8/31/82

RECEIVED
AUG 30 1982

Department of Water Resources

RECEIVED
AUG 23 1982

Department of Water Resources

Aug 17, 1982

Dear Sus;

I'm reply to the protest
to our water right application
94-7222. I am sending two
copies of affidavits from
people living in Montgomery
Sulch concerning the property
we purchased. Please add
these to our files.

We are also asking
for a written notice
of the date & time for
our hearing concerning the
matter, since the matter
has not been resolved.

RECEIVED

AUG 17 1982

Department of Water Resources
Northern District Office

Thank You
Mystery Springer
P.O. Box 395
Walker, Idaho
83873

* P.S. These affidavits also show
the length of time on our domestic
water system, that it has been in
use. Please note this & place
with other files to # 94-4082

Note

The affidavit that Mrs Elaine Bebb wrote is notarized but the stamp does not show on the copy. I have the original.

Mrs Terry Linger

RECEIVED

AUG 17 1982

Department of Water Resources
Northern District Office

RECEIVED

As Mr & Mrs Perry Linger

I moved into the old Hanger station up Montgomery Gulch in March 1958. In 1970 we bought the Bayse home, also in Montgomery Gulch, where I still reside. When I moved up Montgomery in 1958 your property was owned and occupied by Zeke & Mary Orlandini. Having known Mary prior to moving up the Gulch, and her son and mine were school friends, I visited Mary frequently. At that time the pond and yard on your property was being filled and irrigated from pumping water from Montgomery Creek. There was fish in the pond but the boys were not allowed to fish there. Zeke and his brother, Bruno, had piped water from a spring on the hill west of the house. They replaced the pipes in 1964 and only left the house on that line as it was gravity fed and not enough pressure to supply every thing. They located a spring east of the road which they piped to Marys garden but the front yard and pond was still being furnished from the creek. I have not been up there since Mary moved in the spring of 1979, but do know the house was still getting water from the spring, the pipe to the garden was still flowing, Mary was still enjoying the fish and frogs in the pond and it was still being replenished with water from Montgomery Creek.

State of Idaho
County of Shoshone
Signed by Elaine Debb this 11th
day of August 1982
Christine Brown, Notary
Shoshone, Idaho

Elaine Debb
Sunshine Star Rt.
Kellogg, Idaho
786-9082

To Mr. & Mrs. Terry Liningner,

I have been a resident of Montgomery Gulch off & on since 1948. Gaur property, fields & pond, have been actively irrigated & filled from the creek either by pump or gravity fill pipes ever since before 1948. We, as children, were all aware of the fish pond which we tried to fish in. Mary & Zeke Orlandini owned the property then. I lived in the old ranger station in 1948 & all the fields & pond were in use then.

I, Oscar J. Liningner,
Sumner, Idaho,
Telco. No. 8373-
756-1734

Shirley Webb
Kellogg, Idaho
3-11-86

94-4082

LININGER, TERRY &/or CATHERINE

P.O. BOX 395, WALLACE, ID 83873

Source: MONTGOMERY CREEK tributary to COEUR D'ALENE RIVER, SOUTH FK.
SPRING tributary to MONTGOMERY CREEK

Priority Date: 01/01/1952

Amount: 0.14 CFS 0.1 AC-FT

Diversion Point: SENW NESW Sec 27 T 49N R 03E, SHOSHONE Co.

Use: STOCKWATER STORAGE	(0.1 AC-FT)	from 01/01 to 12/31
DOMESTIC	(0.04 CFS)	from 01/01 to 12/31
RECREATION STORAGE	(0.1 AC-FT)	from 01/01 to 12/31
DIVERSION TO STORAGE	(0.10 CFS)	from 01/01 to 12/31

Place of Use: NESW Sec 27 T 49N R 03E

01/01/1952



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION

John V. Evans
Governor
A. Kenneth Dunn
Director

Suite No. 1
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6484

August 2, 1982

Mr. and Mrs. Kurt Copeland
P. O. Box 1201
Wallace, Id. 83873

Re: 94-4082 and 94-7222

Dear Mr. and Mrs. Copeland:

We hereby acknowledge receipt of your letter of July 29, 1982 taking exception to Claim No. 94-4082 and protesting Application for Permit No. 94-7222, both filed in the name of Terry &/or Catherine Lininger.

Your protest of Application for Permit No. 94-7222 will be processed after August 9, 1982, which is the last date for accepting protests against the above application.

Please be advised that a copy of your July 29th letter will be placed in the file with Claim No. 97-4082. However, in order for your letter to become an official exception the Liningers' claim, you must submit it in affidavit form and have it signed before a notary public.

If you have any questions, please contact me at this office.

Sincerely,


ROBERT G. HAYNES, P.E.
Regional Supervisor

pms



RECEIVED

AUG 3 1982

Department of Water Resources
Northern District Office

July 29, 1982

Director
Idaho Department of Water Resources
4055 Government Way
Coeur d'Alene, Idaho 83814

Dear Sir:

SUBJECT: Notice of Claim to Water Right #94-4082 and Notice of Application For Water Right #94-7220; filed by Terry &/or Catherine Lininger

On July 21, 1982 notice appeared in the Kellogg Evening News regarding an application to appropriate waters of the State of Idaho. An amount of .012 CFS to be diverted from Montgomery Creek was requested for irrigation of 6 acres.

On July 28, 1982 a notice of claims to water rights in the amounts of 0.14 CFS and 0.1 AC/FT was filed by Mr. & Mrs. Lininger. Source of this claim is a spring which is a tributary to Montgomery Creek. Priority date was established as January 1, 1952.

Water was first diverted for beneficial use in this area by Silvo Orlandini, etal. and was applied to a 160 acre division of Section 27.

In 1978 The Bunker Hill Company purchased the Orlandini homesite for timber purposes and subsequently sold off less than 7 acres to Steve Goss who in turn sold to Mr. & Mrs. Lininger. (Approximate size of area is 6.8 acres.) This year we purchased an additional 7.5 acres of the original Orlandini homesite and our property adjoins the Lininger's on the north and Bunker Hill's timber properties on the three remaining sides. This sale represents the remainder of the "usable" land for homesite purposes as the balance of the property is steep timber-covered canyon walls. We plan to develop this site for our home in the near future and will be developing a water source for domestic and irrigation purposes.

Although we consider the Lininger's claim on the spring tributary excessive as it is hard to visualize using 90,720 gallons of water a day on less than seven acres; we do not protest the validity of the claim. However, we must file a protest to the Application for Permit to appropriate an additional .12 cfs from Montgomery Creek for irrigation purposes.

Paragraph 1.c. of the Action of the Director, states "The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land." Since the water being claimed by the Lininger's (File #94-4082) is already in excess of this amount; further appropriations are unjustified and therefore should not be granted.

If you require any further information regarding our protest please contact the undersigned at your earliest convenience.

Sincerely yours,

Kurt Copeland
Susan Copeland
Kurt & Susan Copeland
P. O. Box 1201
Wallace, Idaho 83873

sgc

Telephone: 556-6391

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Northern Region

JOHN V. EVANS
Governor
A. KENNETH DUNN
Director

4055 Government Way
Coeur d'Alene, ID 83814
(208) 667-6484

AUGUST 16, 1982

TERRY LININGER
CATHERINE LININGER
P.O. BOX 395
WALLACE

ID 83873

RE: Claim No. 94-4082

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,

Robert G. Haynes, P.E.
Regional Supervisor

Enclosure