

No Color
Documents
In File

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 Morgan Butters (Name of Claimant)
Weston, Idaho 83286 (Mailing Address) Telephone No. 747-3248 (Zip Code)

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

(1) Date of priority: (When was the water first applied to a beneficial use) October, 1883

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)
Pest House Creek tributary to Weston Creek

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

(cfs, gpd, AFA)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity	<u>4.00 cfs</u>	Use	<u>Irrigation</u>	Period of Use From <u>4/1</u>	To <u>11/1</u>
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To

(4) 4.00 cfs TOTAL QUANTITY USED.
(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NE ¼ NW ¼, Sec. 30 Twp. 15S Rge. 38E B.M., County of Franklin
Additional points of diversion:

1960 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. Historically, water was diverted by headgates constructed along Pest House Creek. Around 1960, a storage reservoir was constructed, with a screw gate for for regulating water diversion into open ditches.

(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.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15S	38E	30					10			38	20			35					103

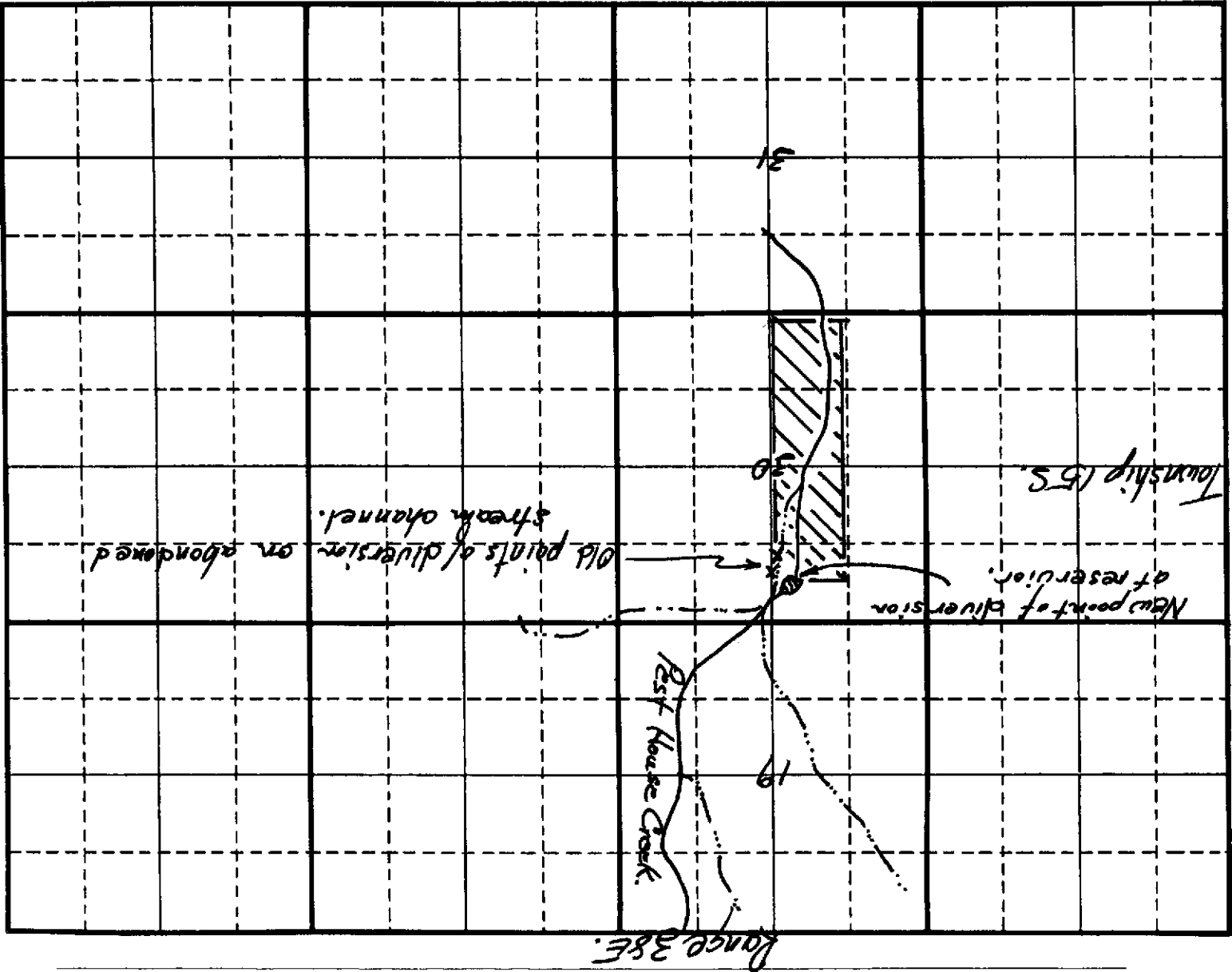
No. of acres 103

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: N/A

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

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

(8) Remarks This filing is based upon a court case dated October, 1883 and recorded July 18, 1892 in Book A, Page 170 of Judgements Original Oneida County Records.



Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Bonneville) ss.
Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 28th day of February, 1979.
(Claimant) *[Signature]*

Notary Public
Residing at Idaho Falls, Idaho
My commission expires 6/15/81

FOR DEPARTMENT USE ONLY
Received by *dh* Date 2-28-79 Exception filed by: Forwarded to Date
Prelim. check by *ENC* Date 2-28-79
\$20.00 fee received by *dh* Date 2-28-79 #12927
Published in Preston Citizen
Dates March 8 & 15, 1979

Territory of Idaho
County of Oneida.

In the District Court of the
Third Judicial District.

October term therefor 1883

Anchor Kofford, Rasmus Neilson, C.B. Jensen, E.C.E. Schvaneveldt, H. Jensen, Neils Georgeson
J. Smith, William Dees, Hans Larsen, Nels Jensen, H.C. Hansen, Noah Lindsay, John Coburn, J.H. Clark
John Maughan Sen. Henry Casman Sen, Adam Sanberg, C.M. Christensen, T.L. Neilson, Urich
Loosley, J.P. Andersen, Henry Jensen, J. Mickelsen, C. Olsen, Neils Christensen, C.C. Goodwin,
Elizabeth Gill, James W. Leonard, C. Christensen, J. Koffard, J. Sanberg, J.L. Harmisen, Loren
Lauretson, L. Petersen, A. Simonds, Charles Goodwin and William Goodwin under firm name of
Goodwin Bros. J.L. Jergensen Peter Mickelsen Henry Rose A.A. Allen James Harmisen Sen. Warren
Gifford, Neils Neilson, Mrs. J. Jensen, Thomas Hull John Evans Fredrick Coburn, W.C. Robbins
John H. Campbell, Torq. Koffard Theodore Linguist James Rose Joseph Coburn, Hannah Benson
John Dees, H.E. Fifield and C.B. Fifield

Plaintiffs.

Hoopes against.

Warner Hopps, David Lapray Wm. Coburn Henry McCulloch, John Palmer Joseph Knudsen Charles
Norton Wm. Bell Ferdinand Fredrickson Samuel Preston and Richard Campbell.

Defendants.

And now this cause coming on to be heard in vacation, it having been agreed by and

and in said case, the law pertaining thereto and the agreements of counsel and being fully advised in the premises, it is ordered adjudged and decreed that the following named persons are entitled under the law and the facts in this case to the amount of water of Western Creek aforesaid as are set opposite their names respectively, and estimated according to the customs in force in the community and that the said water by the number of acres which each of said persons is entitled to irrigate with one or two exceptions therein named, to wit:

A. Rose	Twenty nine acres	T. Gill	Twenty seven acres
A. Lindsay	Seventeen "	H. Jensen	Fifteen "
J. Larsen	Twenty four "	C. B. Jensen	Twenty seven "
J. Mickelson	Twenty seven "	C. Olson	Thirty three "
C. Christensen	Sixteen "	Goodwin Bros	Thirty $\frac{1}{2}$ "
A. Cassman	Twenty seven "	N. Jorgensen	One hundred & twenty two
J. Lemmon	Thirty one "	J. Coburn	Twenty three "
L. Peterson	Thirty eight "	R. Neilson	Thirty seven "
J. P. Anderson	Twenty two "	L. Lauritsen	Twenty "
A. Sandberg	Thirty six & $\frac{2}{3}$ "	John Neugman	Fifty eight & $\frac{2}{3}$
A. Simmons	Twenty five & $\frac{1}{2}$ "	Petar Mickelsen	Eleven $\frac{2}{3}$ "
N. Wensen	Twenty six "	M. P. Fifield	Forty & $\frac{1}{2}$ "
J. Sandberg	Five & $\frac{1}{4}$ "	J. H. Clark	Seventeen "

	1. 2/3	A. Koford	Six & 2/3	"
J. Harneson	Fourteen & 1/2	J. Smith	Six & 2/3	"
C. C. Goodwin	Six & 1/2	C. B. Fifield	Fifteen	"
C. M. Christensen	Forty three	F. Campbell	Nine & 2/3	"
H. C. Hansen	Forty four & 1/6	N. Christensen	Five & 1/2	"
E. C. E. Schvaneveldt	Forty seven	S. Preston	Ten	"
Wm. Dees	Twenty two	Warner Hoopes	Forty five	"
J. Kofford	Nine & 2/3	Willam Coburn	<u>Fifteen acres and the waters of Pest House Creek</u>	
A. Larsen	Seventeen	C. Norton	Twenty two acres	
F. L. Nelson	Twenty six & 1/3	David Lapray	Fifteen	"
A. McCulloch	thirty one & 2/3	R. Campbell	Sixty three	"
T. Kofford	thirty six	J. Knudsen	Thirty two & 1/2	"
M. Loosley	Sixty two	F. Erickson	Fifty five	"

It is further ordered adjudged and decreed that the town of Weston is entitled to one irrigating stream for irrigating and domestic purposes.

That P. Mickelsen & J. Mickelsen are entitled to the waters of Black Canon Creek.

that if at any time the waters of Weston Creek are not sufficient to properly irrigate the above amt. of land the said waters are to be divided pro rata as above set forth, under the direction of the water master according to the respective rights of the parties as above set forth as to quantity.

It is further ordered, adjudged and decreed that the distribution of the said water in Weston Creek shall be under the direction and control of a water master, to be appointed in accordance with the Act regulating the distribution of water approved Feb. 7, 1881, with such assistants as may be necessary for each of the respective ditches the whole distribution to be under the control and direction of such water master for Weston Creek as aforesaid.

RECORDED

It is further ordered and decreed that the injunction heretofore ordered and issued in this cause be and the same is hereby dissolved.

It is further ordered adjudged and decreed that the costs in this action taxed at one hundred and seventy four and 50/100 Dollars together with the sum of forty eight dollars due J.O.Caldwell Special Commissioner be equally divided as near as may be between the parties Plaintiff and Defendants and that unless said costs are paid in full within the next sixty days that executors shall issue therefor as in other cases.

John T.Morgan

Judge 3rd Dis. Court I.T.

Recorded at the request of Joseph Coburn July 18th 1892.

C.T.Koons

Clerk.

Reference: Book "A" page 170 of Judgments Original Oneida County Records.

MICROFILMED

Territory of Idaho } In the District Court of the
County of Oneida } Third Judicial District

October term Therefor 1883

Anchor Kofford, Rasmus Neilson C.B. Jensen
E.C. Schoanewaldt H. Jensen Neils Georgeson
J. Smith William Dues Hans Larsen Neils Jensen
H.C. Hansen Noah Lineday John Coburn
J.H. Clark John Maughan Sen. Henry Gasman Sen.
Adam Sanberg M. Christensen T. Maken
Mich. Soosley J. Andersen Henry Jensen J. Mickelsen
Allen Neils Christensen C. Goodwin Elizabeth Gill
James W. Leonard, Christensen J. Kofford, J. Sanberg
J. Harmon, Loren Sandetson L. Petersen,
A. Simonds Charles Goodwin and William
Goodwin under firm name of Goodwin Bros.
J. Jergensen Peter Mickelsen Henry Rose
A. Atten James Harmon Sen. Warren Gifford
Neils Neilson Mrs J. Jensen, Thomas Hull
John Evans Frederick Coburn, W. Robins
John A. Campbell, Tary Kofford Theodore
Singuist James Rose Joseph Coburn Hannah
Benson John Dues M. P. Fifield and C. B. Fifield
Plaintiffs against Warner Kapps, David
Lapray Wm. Coburn Henry McCalloch, John
Palmer Joseph Knudsen Charles Boston
Wm. Bell Ferdinand Fredrickson Samuel
Boston and Richard Campbell

Defendants

And now his cause coming on to
be heard in vacation, it having been
agreed by and between the attorneys for
the respective parties that the same
should be decided in vacation as of
the last term ^{the said} of Court and the Court
having fully considered the evidence in
said cause, the law pertaining thereto and
the agreement of counsel and being fully
advised in the premises, it is ordered

adjudged and decreed that the following named persons are entitled under the law and the facts in this case to the amount of the water of Weston Creek aforesaid as are set opposite their names respectively, and estimated according to the custom in force in the community, and that the said water by the number of acres which each of said persons is entitled to irrigate with one or two exceptions therein named, to wit:

A. Rose	Twenty nine acres
A. Lindsey	Seventeen "
J. Larson	Twenty four "
J. Mickelson	Twenty seven "
C. Christensen	Sixteen "
A. Gassman	Twenty seven "
J. Limmon	Thirty one "
L. Peterson	Thirty Eight "
J. B. Anderson	Twenty two "
A. Sandberg	Thirty six $\frac{2}{3}$ "
A. Simmons	Twenty five $\frac{3}{4}$ "
N. Jensen	Twenty six "
J. Sandberg	Five $\frac{1}{4}$ "
James S. Anderson	Five $\frac{1}{4}$ "
J. Harrison	Fourteen $\frac{1}{2}$ "
C. C. Goodwin	Six $\frac{1}{2}$ "
C. M. Christensen	Forty three "
H. C. Hansen	Forty four $\frac{1}{2}$ "
E. C. Schoenewaldt	Thirty seven "
Wm. Dees	Twenty two "
J. Kofford	Nine $\frac{3}{4}$ "
A. Larsen	Seventeen "
F. L. Nelson	Twenty six $\frac{1}{2}$ "
A. M. C. Culbick	Thirty one $\frac{2}{3}$ "
J. Kofford	Thirty six "
M. Soorley	Sixty two "
H. Jensen	Fifteen "
C. B. Jensen	Twenty seven "

Edgill	Twenty seven Acres
Olson	Thirty three "
Goodwin Bros	Thirty $\frac{1}{2}$ "
N. Jorgensen	One hundred & twenty two "
J. Coburn	Twenty three "
R. Nielson	Twenty seven "
S. Lauritsen	Twenty "
John Maughan	Fifty Eight $\frac{2}{3}$ "
Peter Michelsen	Eleven $\frac{2}{3}$ "
M. R. Fifield	Forty $\frac{1}{2}$ "
J. H. Clark	Seventeen "
A. Hofer	Six $\frac{2}{3}$ "
J. Smith	Six $\frac{2}{3}$ "
C. B. Fifield	Fifteen "
F. Campbell	Nine $\frac{2}{3}$ "
M. Christensen	Five $\frac{1}{2}$ "
S. Preston	Ten "
Warner Hoopes	Forty five "
X William Coburn	Fifteen acres & the waters of ^{Butt Lake Creek}
C. Morton	Twenty two Acres
David Lapras	Fifteen "
R. Campbell	Thirty three "
J. Knudsen	Thirty two $\frac{1}{2}$ "
F. Fredericksen	Fifty five "

It is further ordered & adjudged and decreed that the town of Preston is entitled to one irrigating stream for irrigating and domestic purposes.

That P. Michelson & J. Michelson are entitled to the waters of Black Canon Creek.

That if at any time the waters of Preston Creek are not sufficient to properly irrigate the above amt of land the said waters are to be divided pro rata as above set forth, under the direction of the water master according to the respective rights of the parties as above set forth as to

quantity.

It is further ordered, adjudged and decreed that the distribution of the said waters of Weston Creek shall be under the direction and control of a water Master, to be allotted in accordance with the Act regulating the distribution of water ~~in~~ approved Feb'y 1881., with such assistants as may be necessary for each of the respective ditches the whole distribution to be under the control and direction of such water master for Weston Creek as aforesaid.

It is further ordered and decreed that the injunction heretofore ordered and issued in this cause be and the same is hereby dissolved.

It is further ordered, adjudged and decreed that the costs in this action taxed at one hundred and seventy four & $\frac{20}{100}$ dollars together with the sum of forty eight dollars due J. O. Caldwell Special Commissioner be equally divided as near as may be between the parties Plaintiff and Defendants and that unless said costs are paid in full within the next sixty days that executors shall issue therefor as in other cases.

John T. Morgan
Judge 3rd Dis Court
J. T.

Recorded at the request of Joseph Caburn
July 18th 1892

C. T. Woods
Clerk x

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
 County of Franklin } ss.

KATHIE GOLIGHTLY

being duly sworn,

deposes and says:

That he is the Personal Secretary of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of said paper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

MARCH 8

1979, and ending

with the issue of MARCH 15, 1979.

KATHIE GOLIGHTLY

Fee \$ 31.08

Subscribed and sworn to before me this 29th day

of June, 1979.

Kevin D. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 1982

NOTICE TO CLAIMS TO WATER RIGHTS

Notice is hereby given that the following claim(s) to water right(s) have been established by diversion and application to beneficial use:

13-4101

BUTTARS, MORGAN
 WESTON, ID 83286

Source: PEST HOUSE CREEK tributary to WESTON CREEK

Priority Date: 10/01/1883

Amount: 4.00 CFS

Diversion Point: NENW Sec 30 T 15S R 38E, FRANKLIN CO.

Use: IRRIGATION (4.00 CFS) from 04/01 to 11/01

Place of Use: NENW SENW NESW SESW Sec 30 T 15S R 38E FOR 103 ACRES

Diversion Means: ON-STREAM RESERVOIR, SCREW GATE, OPEN DITCHES

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401.

C. STEPHEN ALLRED
 Director

Published 3/8 & 3/15/79.

Legal No. 841-25L — Pub. March 8 and 15, 1979.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

1515 Lincoln Road
Idaho Falls, ID 83401
(208) 523-7186

MARCH 26, 1979

MORGAN BUTTARS
WESTON

ID 83286

RE: Claim No. 13-4101

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,

RONALD D. CARLSON
Eastern Region Supervisor

Enclosure



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

1515 Lincoln Road
Idaho Falls, ID 83401
(208) 523-7186

MARCH 2, 1979

Preston Citizen
Box 472
Preston, Idaho 83263

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review 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 along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billings to this office before MARCH 26, 1979.

Yours truly,

RONALD D. CARLSON
Supervisor

Encl.

RECEIVED
MARCH 11 1979

NOTICE OF CLAIMS TO WATER RIGHTS

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Diversion Means: ON-STREAM RESERVOIR, SCREW GATE, OPEN DITCHES

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401.

C. STEPHEN ALLRED

Director

Published 3/8 & 3/15/79.

RECORDED

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: RP

Right Number _____ Applicant BUTARS

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. NONE.

Not in file - Return to Region
5/31/79

By Ernest Carlson Date 7/10/79

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By Juni Date 7/20/79

RECEIVED