RECEIVED
FEB 27 1978
Department of Water Resources
Eastern District Office

Affidavit of Publication

County of Caribou } ss.
State of Idaho }

Mark Steele

being first duly sworn on his oath, states:

That he is Publisher of the Caribou County Sun, a newspaper of general circulation in Caribou County, Idaho, published weekly at Soda Springs in said County that said newspaper has been published in said County uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement;

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof

for 2 successive weekly issues thereof, the date of the first publication being the

16th day of

February, 1978

The date of the last publication

being the 23rd day of

February, 1978

Mark Steele

Subscribed and sworn to before me this 23rd day

of February, 1978

Wendy D. Steele

Notary Public, residing at Soda Springs, Idaho

(SEAL)

My Commission expires the

1st day of March

1980.

NOTICE OF CLAIM TO A WATER RIGHT NO. 13-4066

Notice is hereby given that Don W. Gilbert and Richard W. Gilbert, Grace, Idaho have filed a claim to a water right established by diversion and application to beneficial use of 0.04 cubic feet per second of water from Birch Creek with point of diversion within the NE¼SE¼, Sec. 2, T. 11S, R. 39E; and from Densmore Creek with point of diversion in the SW¼NE¼, Sec. 2, T. 11S, R. 39E, B.M., both tributary to Beaver Dam Creek in Caribou County.

The water is claimed to be used from Apr. 1 to Nov. 1 for stockwatering purposes for 250 beef cattle with a priority of May 1, 1947; the place of use is within the NW¼SE¼, Sec. 1, T. 11S, R. 39E, B.M.

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

C. STEPHEN ALLRED
Director

Published in the Caribou County Sun, Soda Springs, Idaho on February 16 and February 23, 1978.

MICROFILMED

Claim No. 13-4066

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

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.

Notice is hereby given that Don W. Gilbert and Richard W. Gilbert (name of claimant)

of RFD #1 Grace, Idaho (mailing address), claims a right to the diversion and beneficial use of the public water of the State of Idaho

The extent and nature of said claim is as follows:

(1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Birch & Densmore Creeks, tributary to, Beaver Dam Creek

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

	Amount (cfs, gpm or a/f)	Use (dom., irri., stock, etc.)	Period of Use: From	To (both dates inclusive)
	.04	Stockwater	April 1	Nov. 1

(3) Total quantity of water claimed: .04 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.

(4) Priority claimed: (the date water was first applied to beneficial use) 5-1-47

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 to this rule is that a claim may be filed on domestic use from a ground-water source.

(5) A) Point of diversion: (give location of point where water is diverted from its source)

NE ¼ SE ¼, Sec. 2 Twp. 11 S Rge. 39E B.M. County of Caribou

~~XXXXXXXXXXXXXXXXXXXXXXXX~~ on Birch Creek & the SW 1/4 NE 1/4 Section #2 Twp 11S Range 39 E, B.M. on Densmore Creek

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. Two cement headboxs with 2500 feet of metal 8 inch diameter mainline; A 1/2 inch plastic line taps into the mainline and runs approximately 1500 feet to the place of use.

(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	
11S	39E	1														X			-

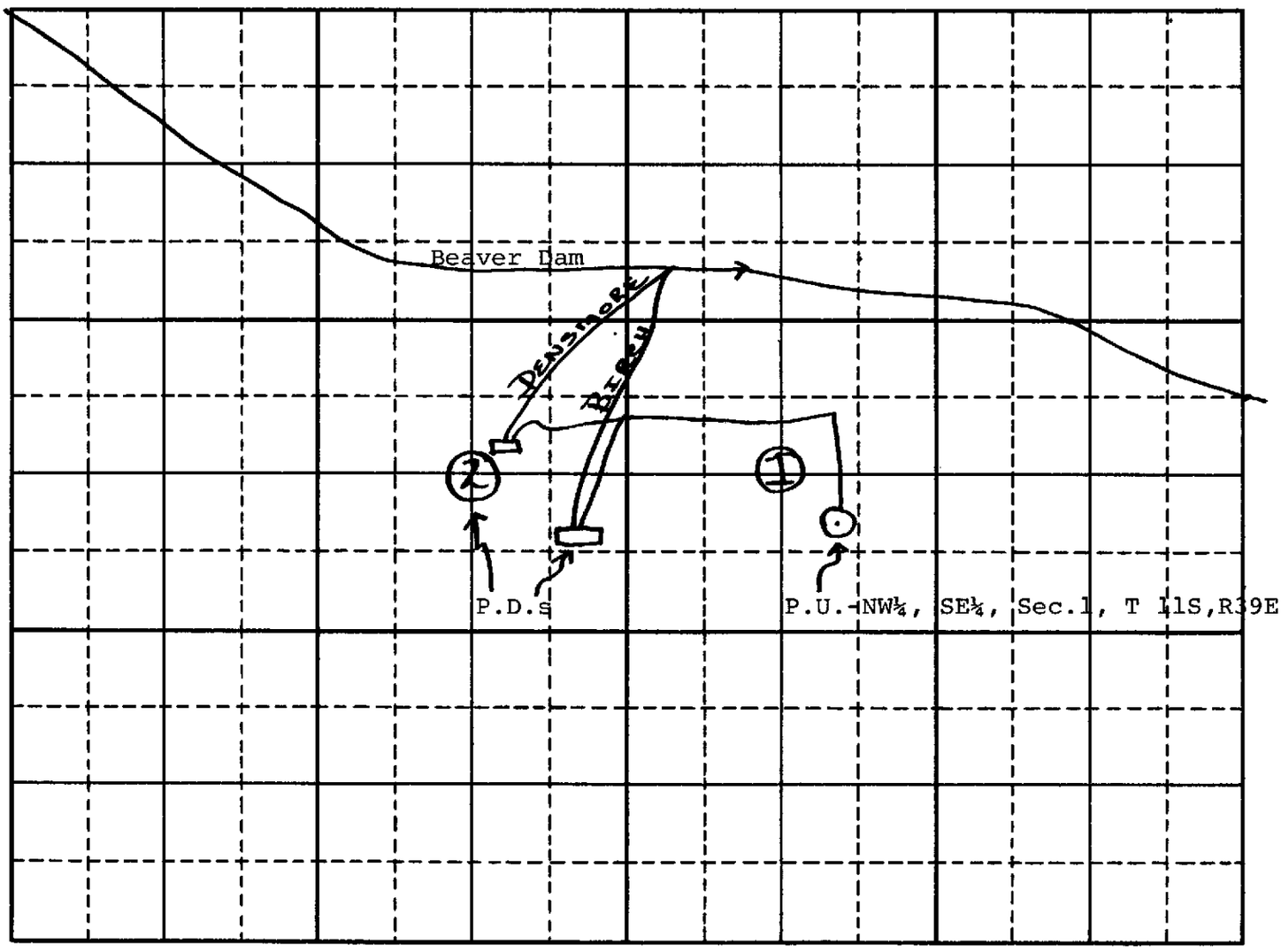
Total No. of acres -

B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: Stockwater for a maximum of 250 beef cattle

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

MICROFILMED

(8) Remarks _____



Scale: 2 inches equal 1 mile.

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)
) ss.
County of Caribou)

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 affiants knowledge.

Dons W. Gilbert
(Claimant)

Sworn to before me this 2nd day of February, 1978.

Randall C. Budge
Notary Public

Residing at RANDALL C. BUDGE
Notary Public State of Idaho
SODA SPRINGS IDAHO
Comm. Exp 10-19-80

My commission expires _____

For Department Use Only

Received by Cal	Date 2-06-78	Exception filed by:	Forwarded to claimant by:	Date
Prelim. check by EMC	Date 2-06-78			
$10.00 fee received by mlw	Date 12-30-77			
Approved for publication by Joe	2-22-78 #0239			
Published in Caribou County Sun				
Dates Feb. 16 + 23, 1978				

RECEIVED

FEB 27 1978

Department of Water Resources
Eastern District Office

NOTICE OF CLAIM TO A WATER RIGHT NO. 13-4066

Notice is hereby given that Don W. Gilbert and Richard W. Gilbert, Grace, Idaho have filed a claim to a water right established by diversion and application to beneficial use of 0.04 cubic feet per second of water from Birch Creek with point of diversion within the NE¼SE¼, Sec. 2, T. 11S, R. 39E; and from Densmore Creek with point of diversion in the SW¼NE¼, Sec. 2, T. 11S, R. 39E, B.M., both tributary to Beaver Dam Creek in Caribou County.

The water is claimed to be used from Apr. 1 to Nov. 1 for stockwatering purposes for 250 beef cattle with a priority of May 1, 1947; the place of use is within the NW¼SE¼, Sec. 1, T. 11S, R. 39E, B.M.

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

C. STEPHEN ALLRED
Director

Published in the Caribou County Sun, Soda Springs, Idaho on February 16 and February 23, 1978.

Affidavit of Publication

County of Caribou } ss.
State of Idaho }

Mark Steele

being first duly sworn on his oath, states:

That he is Publisher of the Caribou County Sun, a newspaper of general circulation in Caribou County, Idaho, published weekly at Soda Springs in said County that said newspaper has been published in said County uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement;

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof

for 2 successive weekly issues thereof, the date of the first publication being the

16th day of

February, 1978

The date of the last publication being the 23rd day of

February, 1978

Subscribed and sworn to before me this 23rd day of February, 1978

Notary Public, residing at Soda Springs, Idaho

(SEAL)

My Commission expires the 1st day of March 1980.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

March 6, 1978

RE: Claim to a Water Right No. 13-4065
13-4066

Don W. Gilbert
and Richard W. Gilbert
RFD 1
Grace, Idaho 83241

Gentlemen:

The Department of Water Resources has completed the processing of your claims to a water right and no further action is authorized under Sections 42-225a and 42-225b, Idaho Code. Your claims will be retained in our files and will be available at any time for use by you or the court.

As you are aware, the filing of your claims does not, in itself, guarantee you a water right; it only records and preserves the information and the evidence which you included in your claims.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included in your claim file, you may have that information or evidence added at any time. Please refer to your claim numbers when corresponding with this office.

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

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:ED

Enclosures: 2

February 10, 1978

RE: Application for Permit No. 29-7438 CHRISTENSEN
29-7439 WILSON
Claim to a Water Right No. 13-4065 GILBERT
13-4066 GILBERT
Application for Transfer No. 11-0624/etc WHISKEY CREEK

Caribou County Sun
P.O. Box 815
Soda Springs, Idaho 83276

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 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. 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.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enc: Legal Notice (5)

Bill submitted 2-27-78 by CW

NOTICE OF CLAIM TO A WATER RIGHT

NO. 13-4066

Notice is hereby given that Don W. Gilbert and Richard W. Gilbert, Grace, Idaho

have ~~has~~ filed a claim to a water right established by diversion and application to beneficial use of 0.04 cubic feet per second ~~XXXXXXXXXXXXXXXXXXXX~~ of water from Birch Creek with point of diversion within the NE¼SE¼, Sec. 2, T. 11S, R. 39E; and from Densmore Creek with point of diversion in the SW¼NE¼, Sec. 2, T. 11S, R. 39E, B.M., both tributary to Beaver Dam Creek in Caribou County.

The water is claimed to be used from Apr. 1 to Nov. 1 for stockwatering purposes for 250 beef cattle with a priority of May 1, 1947; the place of use is within the NW¼SE¼, Sec. 1, T. 11S, R. 39E, B.M.

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

C. STEPHEN ALLRED
~~XXXXXXXXXXXXXXXXXX~~

Director

Published in the Caribou County Sun, Soda Springs, Idaho on February 16 and February 23, 1978

MICROFILMED

Identification No. _____

Claim No. 13 4066

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 Don W. Gilbert and Richard W. Gilbert

   post office address RFD 1 , Grace, Idaho 83241

2. The point of diversion is in ____ ¼ of ____ ¼ Section ____ Township ____
   Range ____ B.M. located on (*see #9 Remarks)
   (name of source)

   tributary to ____ in ____ 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:

   5-1-1947 amount: .04 c.f.s. or ____ acre feet

   ____ amount: ____ c.f.s. or ____ acre feet

   ____ amount: ____ c.f.s. or ____ acre feet

   Total claimed .04 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 stockwatering period of use from April 1 to November 1 (both dates inclusive)

   use ____ period of use from ____ to ____ (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 ~~XXXXXXXXXXXXXXXXXXXXXXXXX~~: material is composed of cement headbox ____; length is 5 feet; height is 4 feet; width at bottom is 5 feet; with at top is 5 feet; explain any increase in diversion capacity since structure was first buil, giving dates and estimated capacities if known ____

   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 ____ ;

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_____feet; width of ditch at top is_____feet; width of bottom of ditch is_____feet; depth of water is_____feet; grade of ditch per 1000 feet is_____feet; material through which ditch passes is_____; maximum length of pipe line to first place of use is 4000 feet; diameter of pipe line is 8 and ½ inches; type of pipe cement & plastic; grade of pipe per 1000 feet is approximately 10%. ** see #9 Remarks below
Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible unknown

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.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

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

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 maximum of 250 beef cattle

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

* Two points of diversion-water diverted from cement headboxes on both Birch and Densmore Creeks into 8 inch irrigation mainline. The point of diversion on Birch Creek, a tributary to Beaver Dam Creek in Caribou County is in the Northeast ¼ of Southeast ¼, Section 2, Township 11 South, Range 39 East, BM. The point of diversion on Densmore Creek, a tributary to Beaver Dam Creek in Caribou County is in the Southwest ¼ of Northeast ¼, Section 2, Township 11 South, Range 39 East, BM.

** The conveying works consists of approximately 2500 feet of metal 8 inch mainline used for irrigation purposes. A ½ inch plastic line taps into the mainline and runs approximately 1500 feet to the place of use

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.

12/8/77
(Date)

Don W. Gilbert
(Signature of Claimant) Don W. Gilbert

Richard W. Gilbert
Richard W. Gilbert

State of Idaho
County of Caribou } ss.

On this 8th day of December 1977, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Randall C. Budge
Notary Public residing at RANDALL C. BUDGE Notary Public State of Idaho SODA SPRINGS, IDAHO Comm. Exp. 10-15-80

My commission expires _____

For Department Use Only

Received by Le Date 12/12/77	AW 1-04-77	Exception filed by:	Forwarded to claimant by:	Date
Prelim. check by Wm Date 1-3-78				
Fee received by mel Date 12/30/77 Fee $ 92.50 Total Rec'd 10239	1000			
Approved for publication by				
Published in _____ Dates _____				

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: 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

February 2, 1978

Mr. Randall C. Budge
Attorney at Law
P.O. Box 833
Soda Springs, Idaho 83276

Dear Mr. Budge:

The Department has completed the advertising of the two applications for permit submitted by you on behalf of Don Gilbert. You may recall, however, the originals were on outdated forms so on January 5, 1978, new applications were forwarded to your office for review and Mr. Gilbert's signature. One application was for domestic and stockwater within the SW¼SW¼, Sec. 20, T. 10S, R. 40E. The second application was for 3.00 c.f.s. of water from Beaver Dam Creek, with the point of diversion in the NW¼NW¼, Sec. 35, T. 10S, R. 39E, and required the completion of Item 8c. Further processing of these applications is not possible unless those forwarded to you are returned.

Your office should also have received three claims requiring additional information for Item 6 and 8. Two of these claims were for Don W. and Richard W. Gilbert for the beneficial use of water from Birch and Densmore Creeks. The third claimant was H. Wendell Smith claiming the culinary use of water from Birch Creek. Since the originals, retained in our office, did not identify a place of use the Department can not begin the advertising until those forwarded to you are completed and returned to our office.

It is hoped you will give this matter your immediate attention.

Respectfully submitted,

ERNEST M. CARLSEN
Water Resource Agent

EMC:cw

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

January 5, 1978

Mr. Randall C. Budge
Attorney at Law
P.O. Box 833
Soda Springs, Idaho 83276

Dear Mr. Budge:

Enclosed you will find departmental receipt No. 10239 and 10240 totalling $85.00, two typed applications for permit and three partially completed claims to a water right.

Unfortunately, the original applications for permit were on outdated forms, so for your convenience we have retyped the applications on forms currently in use. Both applications require Don Gilbert's signature and Item 8c on the application for irrigation water from Beaver Dam Creek should be completed.

Since the three claims were also on outdated forms we have enclosed the information contained on the original claims and three current forms. For all three claims, Item 6 must be completed indicating township, range, section, and placing an "X" in the appropriate box designating the correct 40-acre subdivision for the place of use. A map must also be completed under Item 8 on each claim. Have the claims signed in the presence of a notary and return them to our office.

For your files we are enclosing blank application and claim forms. To expedite the future processing of your client's applications and claims, send them to this office rather than the State Office in Boise.

Should you have any questions concerning the above mentioned items, please feel free to contact me at this office.

Respectfully submitted,

[redacted]ST M. CARLSEN
Water Resource Agent

Enclosures

Transtrum & Budge, Chartered
A Professional Corporation
Attorneys at Law

WALLACE M. TRANSTRUM
RANDALL C. BUDGE
A. BRUCE LARSON

240 So. Main - Suite A - Telephone 208-547-3944
P.O. Box 833 - Soda Springs, Idaho 83276

December 28, 1977

State of Idaho
Department of Water Resources
State Office, 373 W. Franklin St.
Boise, Idaho 83720
Attention: Bill MacAllister

RE: WATER RIGHT FILINGS - DON W. and RICHARD GILBERT

Enclosed are two (2) claims to water right and two (2) applications for permit which we are re-submitting together with a check in the amount of $75.00 which should be sufficient to cover the filing fees.

It is my understanding that the existing claim to a water right forms are acceptable. Thank you for the updated forms which we will be using in the future. Please direct all notices and other information in regards to these filings to this office as attorneys for the Gilberts.

Very truly yours,

Randall C. Budge

RCB/csj
Enclosures
cc: Don Gilbert

RECEIVED
JAN 4 1978
Department of Water Resources
Eastern District Office

INTER-DEPARTMENT MEMO — 1

FROM Bill MacAllister

DATE 1-3-78

TO Eastern

SUBJECT Don W. Gilbert & Richard W. Gilbert Claims.

These old forms do not show place of use for domestic & stock. I contact Mr. Budge who filed these claims for the Gilberts and he that if at all possible he would like these claims proceed as since it would be difficult to get the Gilberts together to sign new claims

WMac
SIGNATURE

FILED
JAN 4 1978
WATER RIGHTS