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Documents
In File

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 Creek
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	.04	Use	Culinary	Period of Use: From	1-1	To	12-31
Amount	.04	Use	Stockwater	Period of Use: From	4-1	To	11-01
Amount		Use		Period of Use: From		To	
	(cfs, gpm or a/f)		(dom., irri., stock, etc.)				(both dates inclusive)

(3) Total quantity of water claimed: .08 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) 5-1-1900

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
Additional points of diversion: on Birch 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. water is collected in a 5' x 4' x 5' cement headbox and diverted to the place of use through 1500 feet of 1" & 2" diameter metal pipe

(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.

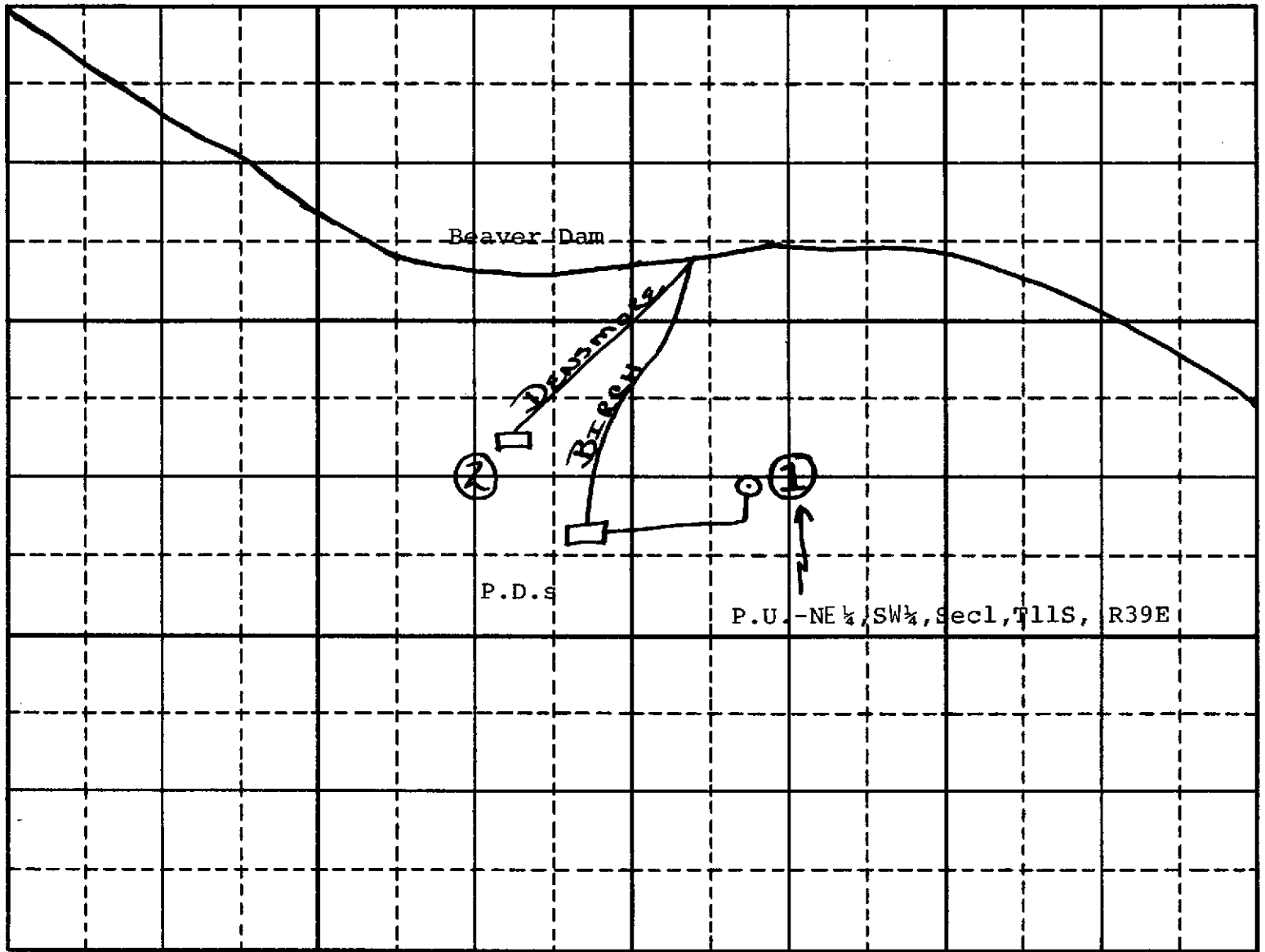
T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11S	39E	1									X								-

Total No. of acres _____

B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: Culinary water for a single family & stockwater for 250 beef cattle & five horses.

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

(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)
County of Caribou) 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 affiants knowledge.

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

Don W. Gilbert
(Claimant)

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 OW Date 2-06-78
Prelim. check by EMC Date 2-06-78
\$10.00 fee received by mb Date 12-30-77
Approved for publication by He 2-27-78
Published in Caribou County Sun
Dates February 16 & 23, 1978

Exception filed by:	Forwarded to claimant by:	Date

Affidavit of Publication

County of Caribou } ss.
State of Idaho }

FEB 27 1978

Department of Water Resources
Eastern District Office

NOTICE OF CLAIM TO A WATER RIGHT NO. 13-4065

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 0.08 cubic feet per second of water from Birch Creek tributary to Beaver Dam Creek with point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, B.M., Caribou County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic purposes for one family and from Apr. 1 to Nov. 1 for stockwater for 250 beef cattle and 5 horses, with a priority of May 1, 1900; the place of use is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 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.

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

Clarence D. Steele
Notary Public, residing
at Soda Springs, Idaho
(SEAL)

My Commission expires the
1st day of March
1978

ACT
ION

N OWNER LAST NAME - GILBERT
N OWNER LAST NAME - GILBERT
N ADDRESS LINE 1 - RT. 1
N

N SOURCE - BIRCH CREEK
N STAGE - STATRY CLM
N

N DIVERSION POINT - NESE 02 11S 39E
N FROM - 04-01 TO - 11-01 USE - STOCKWATER
N FROM - 01-01 TO - 12-31 USE - DOMESTIC
N USE - STOCKWATER PLACE OF USE - TWN 11S RNC 39E SEC 01 TRACT NESW
N NON-IRRIG USE - S/250 RANGE D/1 HOME.

FIRST NAME - DON W.
FIRST NAME - RICHARD W.

CITY - GRACE STATE - ID

TRIBUTARY OF - BEAVER DAM CREEK
PRIORITY - 05-01-1900 COUNTY - CARIBOU
WATER DIST. - 13N

TOTAL DIV. RATE - .0800CFS

USE DIV. RATE - .0400CFS
USE DIV. RATE - .0400CFS



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:CD

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

Bill submitted 2-27-78 by CW

RDC: CW

Enc: Legal Notice (5)

NOTICE OF CLAIM TO A WATER RIGHT

NO. 13-4065

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 0.08 cubic feet per second ~~XXXXXX~~
of water from Birch Creek tributary to Beaver Dam Creek
with point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, B.M.,
Caribou County

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic
purposes for one family and from Apr. 1 to Nov. 1 for stockwatering for
250 beef cattle and 5 horses,
with a priority of May 1, 1900;
the place of use is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 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
~~XXXXXXXXXXXXXXXXXXXX~~

Director

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

D. W. Gilbert

Identification No. _____
Claim No. 13 4065
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 NE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 2 Township 11 South
Range 39 East B.M. located on Birch Creek
(name of source)
tributary to Beaver Dam Creek in Caribou 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:

<u>5-1-1900</u>	amount: <u>.04</u>	c.f.s. or	acre feet
<u>5-1-1900</u>	amount: <u>.04</u>	c.f.s. or	acre feet
	amount: _____	c.f.s. or	acre feet
Total claimed <u>.08</u> 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 <u>culinary</u>	period of use from <u>January 1</u> to <u>December 31</u>	(both dates inclusive)
use <u>stockwatering</u>	period of use from <u>April 1</u> to <u>November 1</u>	(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~~ XXXXXXXXXXXXXXXXXXXX material is composed of cement headbox
_____ ; length is 5 feet; height is 4 feet;
width at bottom is 5 feet; width at top is 5 feet; explain any increase in diversion capacity since structure was first built, 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 _____

[illegible]

_____. The other users and their respective interests in the ditch are (if known) _____

Where water is used for stock watering, give number of each kind of stock watered up to 250 beef
cattle, 5 horses

Where water is used for domestic or municipal purposes give number of families served 1
name of town supplied _____

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.

Remarks: please explain any details of your claim which you feel need clarification or additional explanation

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.

(Date) 12/8/77

State of Idaho

County of Caribou } ss.

On this 8th day of DECEMBER 19 77, personally appeared before me the signer(s) of the
re instrument, who duly acknowledged to me that he (she) (they) executed the same.

are true and accurate to the best of his knowledge.

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

Richard W. Gilbert
Richard W. Gilbert

Randall C. Budge
 RANDALL C. BUDGE
 Notary Public residing at _____, Public State of Idaho

My commission expires _____

For Department Use Only

Received by id Date 12/12/71

Exception filed by:

Forwarded to
claimant by:

Date _____

Prelim. check by W.H.M. Date 1-3-78

Fee received by pub Date 12/30/77

Fee \$

Approved for publication by _____

Published in _____ Date _____

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 SW $\frac{1}{4}$ SW $\frac{1}{4}$, 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 NW $\frac{1}{4}$ NW $\frac{1}{4}$, 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

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

C. Stephen Allred
Director

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,

ERNEST 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

INTER-DEPARTMENT MEMO — 1

FROM Bill MacAllister

JAN 4 1978

DATE 1-3-78

TO Eastern

Department of Water Resources
Eastern District Office

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

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

WJMc
SIGNATURE