

RECEIVED

MAR 13 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 circula-
tion 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 sev-
enty-eight consecutive weeks,
prior to the first publication of
the annexed notice or advertise-
ment;

That the annexed notice was
published as per clipping at-
tached 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

23rd day of
February, 1978

The date of the last publication
being the 2nd day of
March, 1978

Subscribed and sworn to be-

fore me this 17th day
of March, 1978

Wendy N. Steele
Notary Public, residing
at Soda Springs, Idaho
(SEAL)

My Commission expires the

1st day of March
1980

NOTICE OF CLAIM TO TO A WATER RIGHT NO. 13-4064

Notice is hereby given that H.
Wendell Smith, Grace, Idaho has
filed a claim to a water right
established by diversion and appli-
cation to beneficial use of 0.04
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
with a priority of 1911; the place
of use is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$,
Sec. 2, T. 11S, R. 39E, B.M.

Any exception to this claim of
water right may be filed with the
Idaho Department of Water Re-
sources, 1515 Lincoln Road, Ida-
ho Falls, Idaho, 83401.

C. STEPHEN ALLRED
Director

Published in the Caribou Coun-
ty Sun, Soda Springs, Idaho on
February 23 and March 2, 1978.

MICROFILMED

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 H. Wendell Smith (name of claimant)
of Star Route, Grace, Idaho 83241, claims a right to the diversion and beneficial use of
(mailing address)
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 | <u>.04 cfs</u> | Use | <u>Culinary</u> | Period of Use: From | <u>Jan. 1</u> | To | <u>Dec. 31</u> |
| Amount | <u></u> | Use | <u></u> | Period of Use: From | <u></u> | To | <u></u> |
| Amount | <u></u> | Use | <u></u> | Period of Use: From | <u></u> | To | <u></u> |
| | (cfs, gpm
or a/f) | | (dom., irri.,
stock, etc.) | | (both dates inclusive) | | |
- (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) 1911

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. 39 E B. M. County of Caribou
 Additional points of diversion: _____

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. existing cement headbox with
eight (8) inch pipeline

- (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.

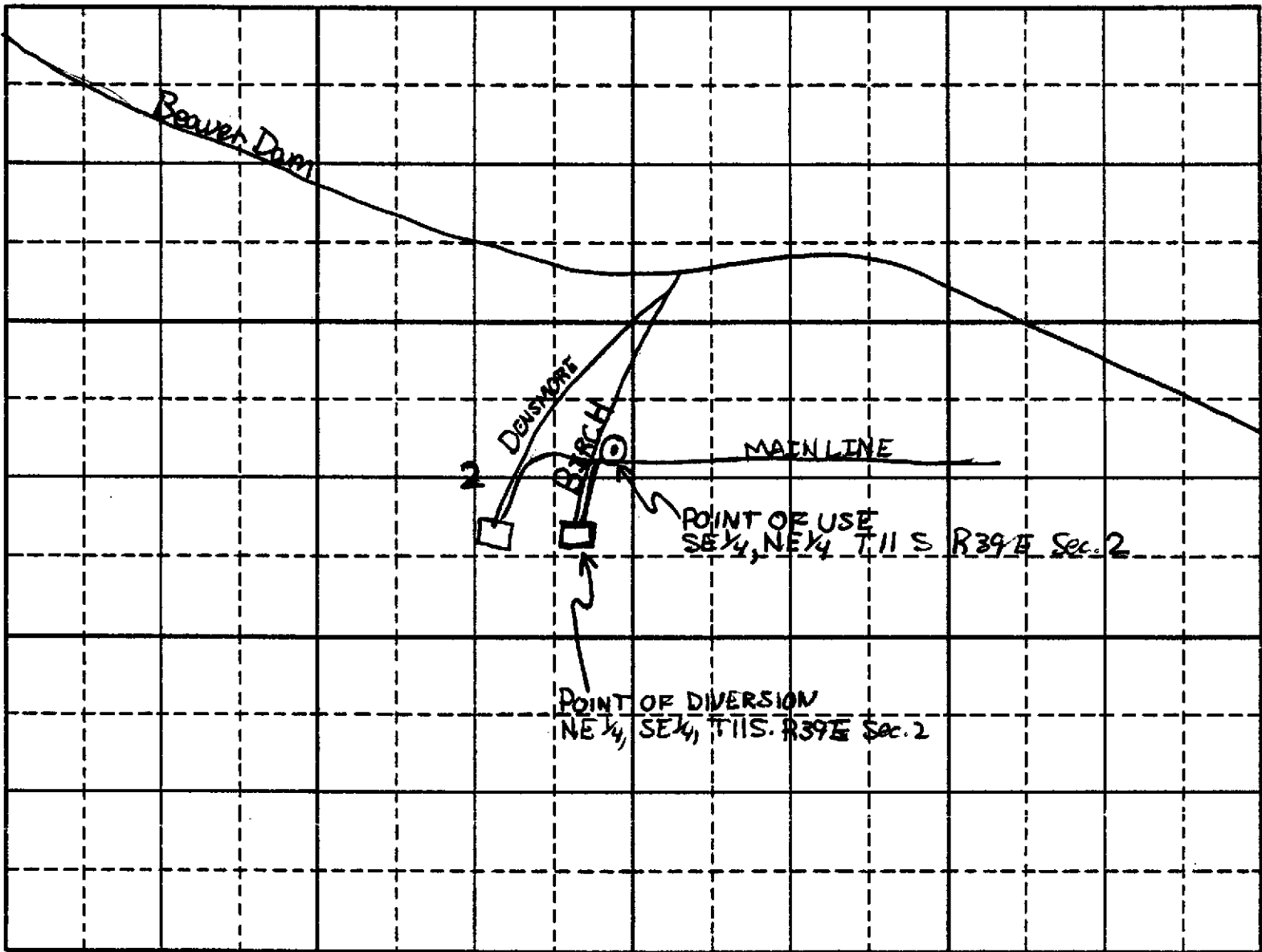
[illegible]

Total No. of acres

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: Culinary - Single Family Domestic Use

- (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 Utah)
Idaho) ss.
County of Salt Lake)

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 7th day of February, 1978
H. Wendell Smith (Claimant)

[Signature]
Notary Public
Residing at Salt Lake City, Utah

My commission expires 9-14-79

CW	2-13-78	For Department Use Only		
CW		1-04-78		
Received by	mr	Date	12-30-77	Exception filed by:
Prelim. check by	WHM EME	Date	1-03-78 2-13-78	Forwarded to claimant by:
\$10.00 fee received by	mb	Date	12/30/77	#10240
Approved for publication by	3-13-78 CW			
Published in	Carshaw County Sun			
Dates	Feb. 22 & March 24 1978			

RECEIVED

MAR 13 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:

NOTICE OF CLAIM TO TO A WATER RIGHT NO. 13-4064

Notice is hereby given that H. Wendell Smith, Grace, Idaho has 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 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 with a priority of 1911; the place of use is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, 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 23 and March 2, 1978.

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

23rd day of
February, 1978

The date of the last publication

being the 2nd day of
March, 1978

Subscribed and sworn to be-

fore me this 11th day
of March, 1978

(Signature)
Notary Public, residing
at Soda Springs, Idaho
(SEAL)

My Commission expires the

1st day of March
1980

RECEIVED

APR 21 1978

April 20, 1978

Department of Water Resources

Commissioner of Reclamation
Boise, Idaho

Dear Sir:

In May, 1934 we wrote to you regarding the rights of water from the Birch Spring and the Densmore Spring and Densmore Creek. This water was used on the property belonging to H. Wendell Smith and G. Sivell Smith, both of Grace, Idaho. Mr. Grover Hogan and Howard Thatcher were trying to claim rights to the water to use it on land below the Smith property.

*find water rights
on these areas & for the
names, please*

After some controversy over the water, Mr. H. Wendell Smith wrote and received a letter from the Bureau of Reclamation stating that the Hogans and Thatchers could not take the water, that it rightfully belonged to the Smiths.

A few years ago the home of Mr. H. Wendell Smith was broken into and this ^{letter} is missing. Would you still have a copy of this letter in your files, and if so, would you be kind enough to send a copy of same to Mr. Smith. Another controversy over the water has arisen and we would appreciate any help you can give him because there is a court proceeding on May 3, 1978.

Mr. Smith's address is R.F.D. 1, Box 111, Grace, Idaho 83241. Thank you for your effort in his behalf.

Sincerely,

Mrs. Leola S. Nielsen
(Daughter of Mr. Smith)
4150 South 2700 East
Salt Lake City, Utah 84117

*Sent one
copy of 13-4064*

File

4/25/78

ENCLOSURE



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 13, 1978

RE: Claim to a Water Right No. 13-4064

H. Wendell Smith
Star Route
Grace, ID 83241

Dear Mr. Smith:

The Department of Water Resources has completed the processing of your claim to a water right and no further action is authorized under Sections 42-225a and 42-225b, Idaho Code. Your claim 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 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 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 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,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:CD

Enclosure

cc: Randall Budge, Attorney

February 15, 1978

RE: Claim to a Water Right No. 13-4064 SMITH

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 2-13-78 by CW

RDC:CW

Enc: Legal Notice

NOTICE OF CLAIM TO A WATER RIGHT

NO. 13-4064

Notice is hereby given that H. Wendell Smith,
Grace, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 0.04 cubic feet per second ~~acres feet per annum~~
of water from Birch Creek tributary to Beaver Dam Creek
with point of diversion in the NE~~1~~SE~~1~~, 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
with a priority of 1911;
the place of use is within the SE~~1~~NE~~1~~, Sec. 2, 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 Spring, Idaho
on February 23 and March 2, 1978

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Transtrum & Budge, Chartered

WALLACE M. TRANSTRUM

FEB 13 1978

A Professional Corporation

RANDALL C. BUDGE

Attorneys at Law

Department of Water Resources

A. BRUCE LARSON

Eastern District Office

240 So. Main - Suite A - Telephone 208-547-3944

P.O. Box 833 - Soda Springs, Idaho 83276

State of Idaho
Dept. of Water Resources
1515 Lincoln Rd.
Id. Falls, Id. 83401

Date: 2/10/78

Re: Claim

ENCLOSED ARE:

Claim to a Water Right — H. Wendell Smith

() For your file () Sign () Notarize () Return () Record
() Obtain signature of _____
() Send to _____

COPY: () Conform () Certify () File () Return
() Send to _____

REMARKS:

Being resubmitted on updated form.
Filing fees paid previously.

Very truly yours,

Randy Budge

RECEIVED

Identification No. 13 4064
Claim No. _____
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 H. Wendell Smith,
post office address Star Route, 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:

May 1, 1911 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 Culinary period of use from January 1 to December 31 (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 ~~diversion data and/or headgate~~ 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 _____
_____ ;

ME

_____, if so, give dates and explain _____

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 300 feet; diameter of pipe line is 1 inches;

type of pipe _____ metal _____; grade of pipe per 1000 feet is approximately 10%.

Please explain any changes or increase in size of conveying system since water was first appropriated, giving-

ing date and dimensions if possible

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 _____

Table 1 Demographic characteristics of study population

if feeder canal is used give maximum carrying capacity.

location of reservoir by 40-acre subdivisions

[illegible]

Age Group	Total (%)	Male (%)	Female (%)	Male (%)	Female (%)
18-24	15	10	20	15	25
25-34	25	20	30	25	35
35-44	30	25	35	30	40
45-54	20	15	25	20	30
55-64	10	5	15	10	20
65+	5	2	10	5	15

:saibp ipioi aaiG nup suoisaiipnos aibp-ot yd nairiguii nair aaiupsan 'uouiriguii ioi neso si iairm aiaum

[illegible]

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 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

MIC



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,

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

RECEIVED

DEC 30 1977

Department of Water Resources

State of Idaho
Department of Water Resources
State Office, 373 W. Franklin St.
Boise, Idaho 83720

RE: CLAIM TO A WATER RIGHT - H. WENDELL SMITH

Enclosed for filing is a claim to a water right submitted on behalf of H. Wendell Smith, together with our trust check in the amount of \$10.00 for filing fees.

Thank you for your time and cooperation in this regard. Please direct all inquiries to this office.

Very truly yours,


Randall C. Budge

RCB/csj
Enclosure