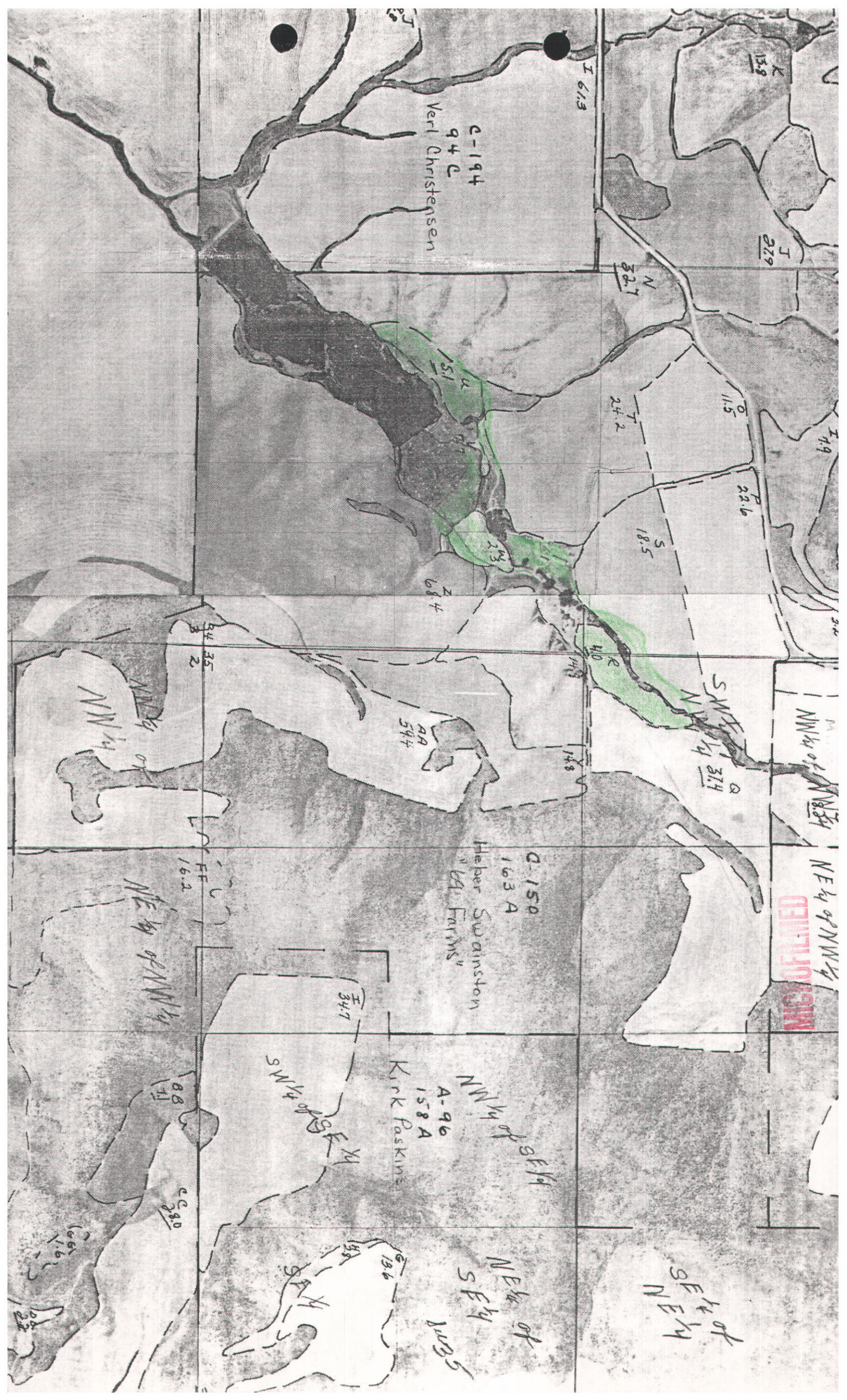




STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

CLAIM TO A WATER RIGHT

AMENDED

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 Heber &/or Geneal Swainston
(Name of Claimant)

Rt. #3, Box 203, Preston, Idaho 83263
(Mailing Address)

Telephone No. _____

(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) April 1, 1908

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)

Springs tributary to Spring 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>1.50cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>4/1</u>	To <u>11/1</u>
Quantity <u>.04cfs</u>	Use <u>Domestic</u>	Period of Use From <u>1/1</u>	To <u>12/31</u>
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____

- (4) 1.50cfs TOTAL QUANTITY USED.
(cfs, gpd, AFA)

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

NW ¼ NW ¼, Sec. 35 Twp. 13S Rge. 39E B.M., County of Franklin

Additional points of diversion: SWNW, Sec. 35, SENE, NESE, Sec. 34, T. 13S, R. 39E

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. Diversion dam for small reservoir, ditches and headgates

- (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	
13S	39E	34				1									14	10	1		21
		35						4											4

No. of acres 25

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

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

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

1. *What is the purpose of this study?*

Scale: 2 inches equal 1 mile.

Received by S.M. Date 12/1/1981 Exception filed by: _____ Forwarded to _____ Date _____
 Preliminary check by _____ Date _____ claimant by: _____
 \$200.00 fee received by N.A. Date 12-01-81
 Returned in Christen City _____
 Cases 12-01-17-1981 _____

Received by
Preliminary
\$20.00 fee
Published in
Date 11/1/00

IN THE MATTER OF:)

Claim to a Water
Right No. 13-4057)

AFFIDAVIT

State of Idaho)
County of Bonneville)

JANNETTE BOSWORTH

being first duly sworn,

deposes and says: THE WATER FROM THE SPRINGS UNDER CLAIM NO.
13-4057 HAS BEEN USED ON THE PROPERTY UNDER THE PLACE OF USE SINCE
THE PRIORITY DATE CLAIMED (1908). I HAVE LIVED AT THE LOCATION
FROM 1931 TO 1973 AND THE WATER WAS USED BEFORE I LIVED THERE AND
HAS BEEN USED CONTINUOUSLY SINCE.

Jannette Bosworth
(Signature)

Subscribed and sworn to before me this 1st day of December, 1981.

Allen Wray
(Notary Public)

Residing at Idaho Falls, Idaho
My Commission Expires 6/15/85

No 1551

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

J. Walter Ross

being duly sworn,

deposes and says:

That he is the Co-Publisher 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

Dec 10, 1981, and ending

with the issue of Dec 17, 1981.

Fee \$ 23.13

Subscribed and sworn to before me this 31st day

of Dec, 1981.

Kenn O. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 2, 1982

NOTICE OF AMENDED CLAIM TO A WATER RIGHT No. 13-4057

Notice is hereby given that Claim to a Water Right No. 13-4057 in the name of Heber and/or Geneal B. Swainston, Preston, Idaho, was filed with a priority of June 10, 1913 for the diversion and application to beneficial use of 0.50 cfs of water from unnamed springs tributary to Spring Creek thence Battle Creek with the point of diversion within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, T. 13S, R. 39E, B.M., Franklin County; the water is claimed to be used from Jan. 1 to Dec. 31 for domestic purposes and from Apr. 1 to Nov. 1 for the irrigation of 25 acres within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, T. 13S, R. 39E.

The claimant now proposes to amend Claim No. 13-4057 as follows:

AMOUNT: 1.50 cfs

PRIORITY: April 1, 1908

Any exception to any claim of water right may be filed with the Idaho Department of Water Resources, 150 Shoup, Idaho Falls, Idaho, 83402.

A. KENNETH DUNN
Director

Legal No. 1550 -37L- Publish
Dec. 10 & 17, 1981.

DECEMBER 10 1981

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

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 Heber &/or Geneal B. Swainston
(name of claimant)
of Rt. 3 Box 203 Preston, Idaho 83263, 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) unnamed springs
_____, tributary to, Spring Creek thence Battle 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>0.50 cfs</u>	Use	<u>Irrigation</u>	Period of Use:	From	<u>April 1</u>	To	<u>Nov. 1</u>
Amount	<u>0.04 cfs</u>	Use	<u>Domestic</u>	Period of Use:	From	<u>Jan 1</u>	To	<u>Dec. 31</u>
Amount	<u>(cfs, gpm or a/f)</u>	Use	<u>(dom., irri., stock, etc.)</u>	Period of Use:	From		To	<u>(both dates inclusive)</u>

- (3) Total quantity of water claimed: 0.50 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) June 10, 1913
- 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)
NW ¼ NW ¼, Sec. 35 Twp. 13 S Rge. 39 E B. M. County of Franklin
 Additional points of diversion: SW ¼ NW ¼ Sec. 35, SE ¼ NE ¼, NE ¼ SE ¼ Sec. 34 T13 S R39 E.

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. Small reservoir, ditch and headgates.

- (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.

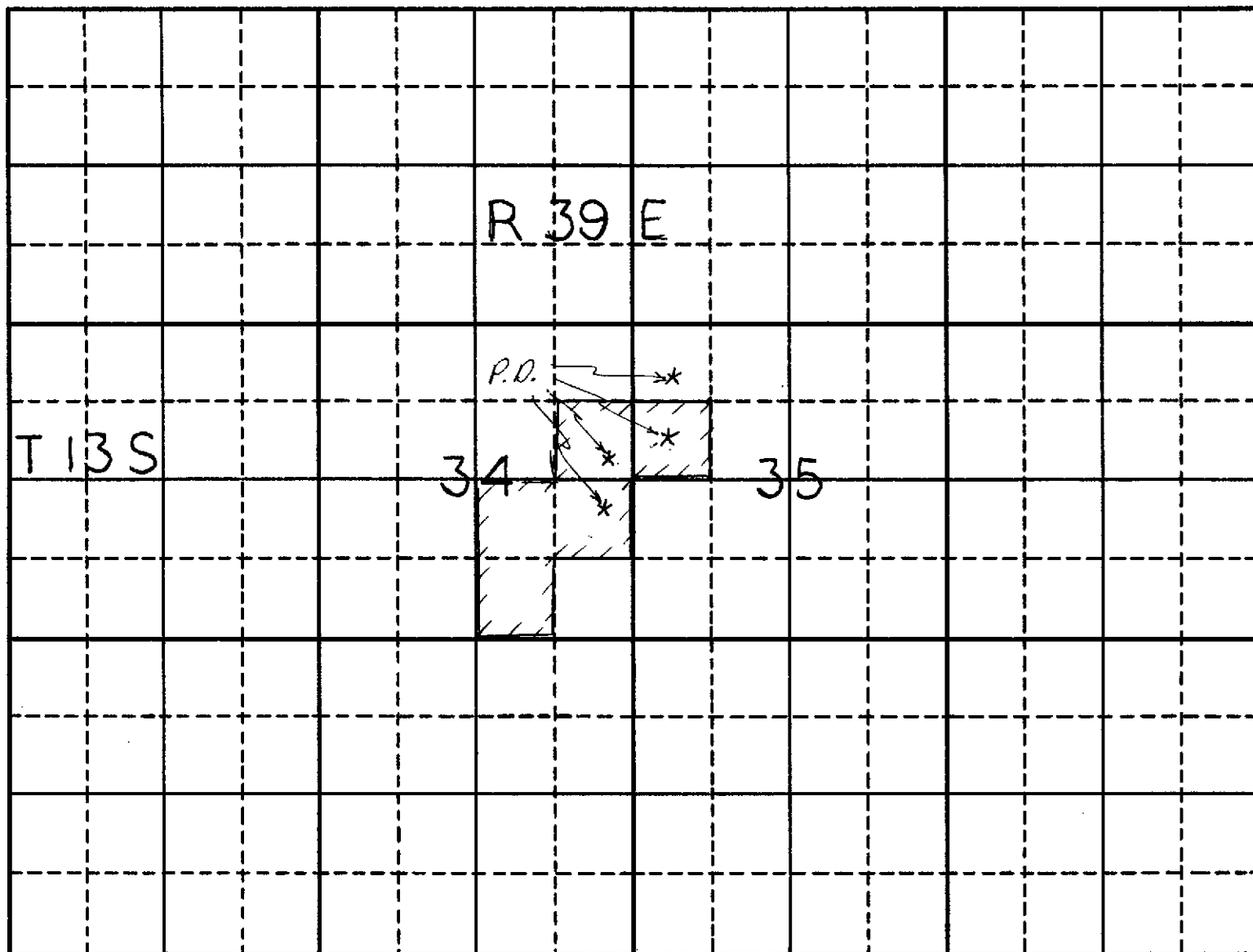
[illegible]

Total No. of acres 25

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible:** _____

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

(8) Remarks See expired application 14143.



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 Bonneville)

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.

General B. Swainston
(Claimant)

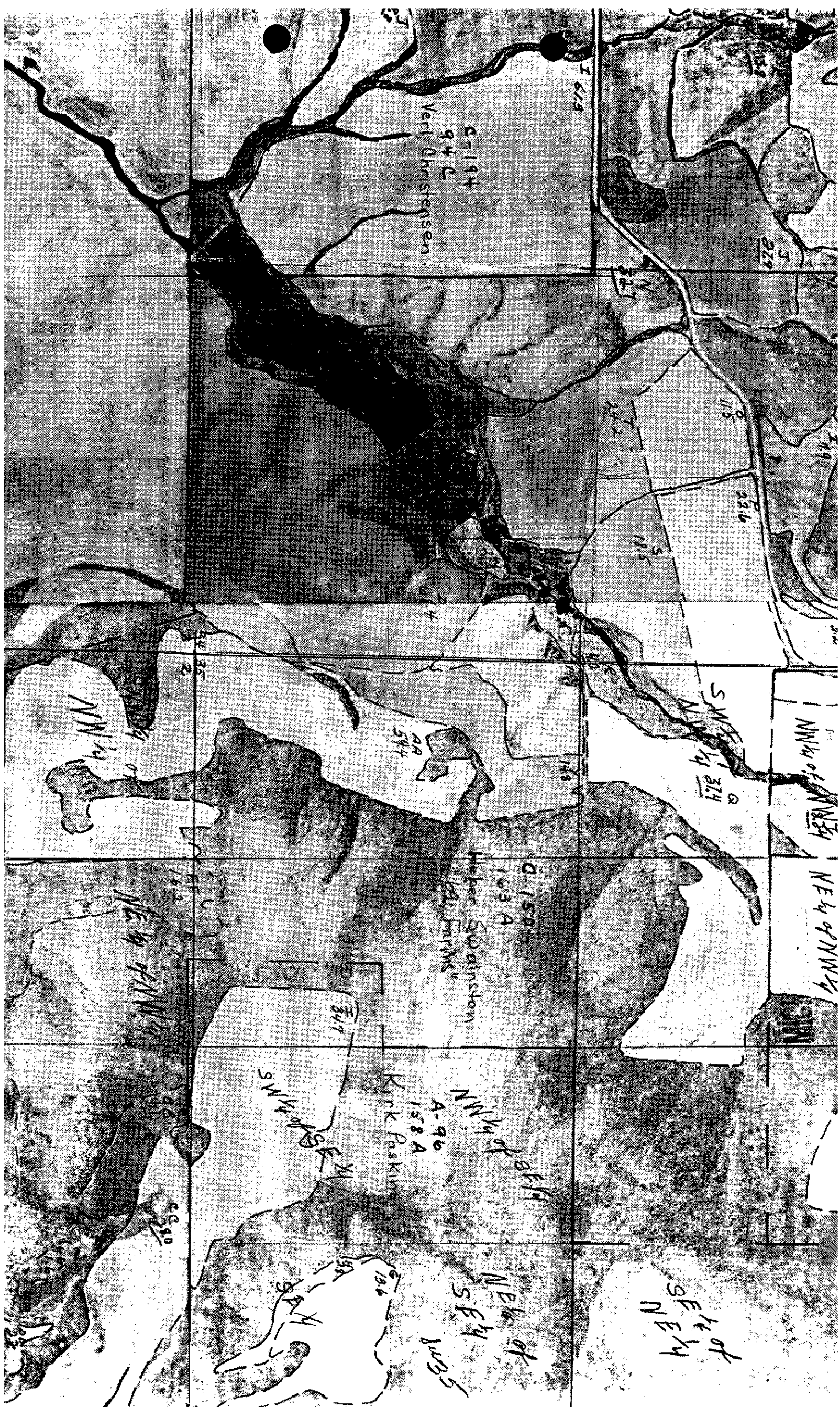
Sworn to before me this 21st day of October

Ronald P. Galt 19 77
Notary Public
Residing at Idaho Falls, Idaho

My commission expires Feb. 14, 1978

For Department Use Only

Received by <u>RDC</u>	Date <u>10/21/77</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>EMC</u>	Date <u>10/25/77</u>		claimant by:	
\$10.00 fee received by <u>RDC</u>	Date <u>10/21/77</u>			
Approved for publication by <u>TR</u>	<u>12-01-77</u>			
Published in <u>(Shoshone) (Citizen)</u>				
Dates <u>1/01-31/10-1977</u>				



A F F I D A V I T

OCT 21 1977

Department of Water Resources
Eastern District Office

STATE OF IDAHO)
County of Franklin)

I, THE UNDERSIGNED, being first duly sworn do
depose and state that WILFORD L. BOSWORTH and his wife, JANNETTE
B. BOSWORTH, used water for culinary and irrigation purposes
between the approximate years of 1931 - 1971, at the following
location:

Township 13 South, Range 39 East of the Boise Meridian

Section 34 and 35: Seepage in the W1/2 of NW1/4
Section 35 SE1/4 NE1/4 Section 34 and Spring
in the NE1/4 SE1/4 Section 34

THIS AFFIDAVIT is made from my personal knowledge
as to all of the statements contained herein.

Wilford L. Bosworth
WILFORD L. BOSWORTH
Jannette B. Bosworth
JANNETTE B. BOSWORTH

STATE OF IDAHO)
County of Franklin)

SUBSCRIBED TO IN my presence and sworn to before
me this 19th day of October, 1977.

Karen F. Child
NOTARY PUBLIC for State of Idaho
Residing at Preston, Idaho

Commission expires: Lifetime

A F F I D A V I T

RECEIVED
OCT 21 1977

Department of Water Resources
Eastern District Office

Utah
STATE OF ~~IDAHO~~)

County of ~~Franklin~~)
Utah

I, THE UNDERSIGNED, being first duly sworn do
depose and state that JAMES T. WILLIAMS and his wife, ANNETTE
S. WILLIAMS, used water for culinary and irrigation purposes
between the approximate years of 1937 - 1941 at the following
location:

Township 13 South, Range 39 East of the Boise Meridian

Section 34 and 35: Seepage in the W1/2 of NW1/4
Section 35 SE1/4 NE1/4 Section 34 and Spring
in the NE1/4 SE1/4 Section 34

THIS AFFIDAVIT is made from my personal knowledge
as to all of the statements contained herein.

James T. Williams
JAMES T. WILLIAMS
Annette S. Williams
ANNETTE S. WILLIAMS

Utah
STATE OF ~~IDAHO~~)

County of ~~Franklin~~)
Utah

SUBSCRIBED TO IN my presence and sworn to before
me this 1st day of October, 1977.

Gordon B. Swapp
NOTARY PUBLIC for State of Idaho
Residing at Provo, Utah

Commission expires:

April 10, 1981

See Rules and Regulations
enclosed herewith

05117

Wilford J. Bosworth
Name of Sender

P. O. Oxford Idaho

OCT 21 1977

Department of Water Resources
Eastern District Office
No. 14143

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

I. Name of Applicant: Wilford J. Bosworth

Postoffice address: Oxford Idaho

County: Bannock State: Idaho

II. If applicant is a corporation, give:

(a) Date and place of incorporation:

(b) The amount of capital stock:

(c) The amount paid in:

(d) Names and addresses of directors:

II. The financial resources of the applicant are:

(a) Cash on hand:

(b) Treasury stock:

(c) Bonds to be issued:

(d) Other resources:

2. The quantity of water claimed is One -Half of one foot cubic ~~foot~~ per second.

3. Source of water supply: Seepage in the W $\frac{1}{2}$ of NW $\frac{1}{4}$ Sec 35 SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 34 and Spring in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 34 Tp 13 South of range 39 about equal amount in each

4. Location of point of diversion: In the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 34 in same Tp and Range 39 E.B.M. 13.3 south

County of Bannock

5. To be used for: Irrigation and domestic use.

I. Irrigation and domestic use:

(a) Amount of land to be irrigated: Twenty Five acres

(b) In the following legal subdivisions: N $\frac{1}{2}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 34 Tp 13 S

(A list of the lands to be irrigated may be appended as a part of this application)

of Range 39 E.B.M.

II. Mining, milling power, manufacturing, transportation or other purposes:

(a) At what point:

(b) Amount of power to be generated: H. P. under ft. head.

(c) Is water to be returned to any stream:

(d) If so, name stream and locate point of return:

6. Estimated cost of works: \$315.00

7. Description of works for diversion:

I. Kind of works: Reservoir, ditch, dam and gates

(Reservoir, dam, ditch, flume, pipes or otherwise)

II. Dimensions of works:

(a) Height of dam Nine feet, length of dam at top 150 feet, length of dam at bottom 140 feet. Material used in construction Earth

(If height of dam will exceed 10 feet, send to State Engineer's Office for Regulations)

(b) Capacity of reservoir: One half acre feet.

(c) Size of headgate: Width two feet, height three feet.

(d) Conduit Ditch, width at bottom two feet, width at water line three feet, depth of water One feet, Diameter of pipe: inches. Average grade per mile is Six feet. Length of conduit is about half miles and it crosses the following quarter sections: NW 1/4 Sec 35 and part of the NE 1/4 of sec 34 Tp 13 S Range 39 E.B.M. Also a part of the SE 1/4 of Sec 34 in same tp and range.

three feet, depth of water One feet, Diameter of pipe: inches. Average

grade per mile is Six feet. Length of conduit is about half miles and it crosses the

following quarter sections: NW 1/4 Sec 35 and part of the NE 1/4 of sec 34

Tp 13 S Range 39 E.B.M. Also a part of the SE 1/4 of Sec 34 in same tp and range.

8. The time required for the completion of the construction of such work is two years.

9. Time required for the complete application of the water to the proposed use is six months only.

~~Additional facts:~~

BE IT KNOWN That the undersigned hereby makes application for a permit to appropriate the public waters of the State of Idaho as herein set forth.

Wilford J. Bosworth
Applicant.

By Agent.

Remarks: Whether the above name seepage be "SEEPAGE" or spring may be question by some.

Part of the water claimed described above is on land belonging to Jos. Thomas and wife and Daniel Thomas and wife but said parties have given their consent in writing, which was acknowledged as is required for a conveyance of real estate, to go upon their land for above purpose.

APPROVAL OF STATE ENGINEER.

The number of this permit is _____

Recorded in Book _____ Page _____ Approved _____

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of \$ _____ to be filed on or before _____

Work to begin on or before _____, and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before _____

The whole of said work to be completed on or before _____

Beneficial use of water appropriated in accordance herewith, to be made on or before _____

Witness my hand this _____ day of _____

State Engineer.

No.

PERMIT

Date of first receipt at office of State Engineer

9⁰⁰ AM

JUL 2 1913

Returned to applicant for correction

JUL 10 1913

Corrected application received

Fees, \$

100.00

AFFIDAVIT OF PUBLICATION

RECEIVED

DEC 1 1977

Department of Water Resources
Eastern District Office

STATE OF IDAHO, }
County of Franklin } ss.

RICHARD P. STOCKDALE

being duly sworn,

deposes and says:

That he is the Office Manager 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

November 3rd, 1977, and ending

with the issue of November 10th, 1977.

Richard P. Stockdale

Fee \$ 14.00

Subscribed and sworn to before me this 23rd day

of November, 1977.

Notary Public, Residing at Preston, Idaho

My Commission Expires August 11, 1988

NOTICE OF CLAIM TO A WATER RIGHT NO. 13-4057

Notice is hereby given that Heber &-or Geneal B. Swainston, Preston, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 0.50 cubic feet per second of water from unnamed springs tributary to Spring Creek thence Battle Creek with point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, T. 13S, R. 39E, B.M., Franklin County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic purposes and from Apr. 1 to Nov. 1 for the irrigation of 25 acres, with a priority of June 10, 1913; the place of use is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, T. 13S, 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 Preston Citizen, Preston, Idaho on November 3 and November 10, 1977.

Legal No. 501 — Pub. Nov. 3, 10, 1977.

January 26, 1982

RE: Claim to a Water Right No. 13-4057 Amended

Heber &/or Geneal Swainston
Rt. #3, Box 203
Preston, Idaho 83263

Dear Mr. & Mrs. Swainston:

Enclosed please find a copy of the exception filed in connection with the above referenced claim. The following is a quote from the provisions of the Idaho Code under which this claim has been filed:

42-225b. Recording of claims by department-----Corrections.-----

.....
.At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Administration (renamed Department of Water Resources July 1, 1974) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

If you have any questions regarding this matter, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

Enclosure

January 26, 1982

RE: Amended Claim to a Water Right No. 13-4057 SWAINSTON

Joseph C. Hedin, President
Strongarm Reservoir Company
Rt. #3
Preston, Idaho 83263

Dear Mr. Hedin:

We have received the exception dated January 18, 1982, filed against the above referenced claim to a water right. The following is a quote from the provisions of the Idaho Code under which this claim has been filed:

42-225b. Recording of claims by department----Corrections.----

.....
.At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Administration (renamed Department of Water Resources, July 1, 1974) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

If you have any questions regarding this matter, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: Robert Kerr, Attorney at Law

EXCEPTION TO
CLAIM FOR WATER RIGHT No. 13-405 JAN 16 1982

SWAINSTON, HEBER and/or GENEAL B.

Department of Water Resources
Eastern District Office

Preston, Idaho 83263

Source: SPRING tributary to Spring Creek, thence to Battle Creek

Published: December 10th and 17th, 1981

Amount: 1.50 CFS

Diversion Point: NWNW, SWNW, Sec. 35, SENE & NESE Sec. 34, T. 13

S, R. 39 E.B.M., Franklin County

Use: Domestic from 1-1-to 12-31

Irrigation 1.50 CFS from 4-1 to 11-1

Priority: April 1, 1908

Place of Use: SENE, N $\frac{1}{2}$ SE, SWSE, Sec. 34, SWNW, Sec. 35, T. 13 S, R. 39 E.B.M.
Franklin County

COMES NOW STRONGARM IRRIGATION DISTRICT, whose address is Route 3, Preston, Idaho, 83263, and files with the Director of Idaho Department of Water Resources, 150 Shoup Avenue, Idaho Falls, Idaho 83402, a written exception to the above mentioned claim of water right and clearly sets forth the exception as follows:

1. The So-called spring is in reality the surfacing of an intermittent stream which at places flows through the gravels in the bottom of the canyon and eventually into Battle Creek, all of whose waters, with the tributaries thereto, are covered by prior decrees and rights, including the rights of this protestant.

2. The proposed use is such that it will reduce the quantity of water under existing water rights.

3. The water supply itself is insufficient for the purpose for which it is sought to be appropriate.

4. The claim is in excess of the recognized need for and duty of water which is not to exceed one inch per acre for irrigation by gravity flow or 5/8ths inch per acre for springler irrigation.

5. Strongarm Irrigation District by flow and storage rights has a prior right to all of the waters of Battle Creek excepting an outstanding perpetual water right to irrigate two acres of land.

DATED this 18th day of January, 1982.

STRONGARM RESERVOIR IRRIGATION DISTRICT

By Joseph C. Hedin
Joseph C. Hedin, President

Robert M. Kerr, Jr.
Robert M. Kerr, Jr.
Attorney for Protestant
Residence and Mailing Address:
P.O. Box 160
Blackfoot, Idaho 83221

Obtained living on the farm
in April 1934 and lived there
until May 1938 and used
the Decided Water on the
Property

James T. Williams

EXHIBIT 1737

OCT 22 1977

MICROFILMED

November 25, 1981

RE: Claim to a Water Right No. 13-4057 SWAINSTON

Joseph C. Hedin, President
Strongarm Reservoir Company
Rt. #3
Preston, Idaho 83263

Dear Mr. Hedin:

We have received the exception dated November 16, 1981, filed against the above referenced claim to a water right. The following is a quote from the provisions of the Idaho Code under which this claim has been filed:

42-225b. Recording of claims by department----Corrections.-----

.....
At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Administration (renamed Department of Water Resources, July 1, 1974) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

If you have any questions regarding this matter, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

November 25, 1981

RE: Claim to a Water Right No. 13-4057

Heber &/or Geneal B. Swainston
Rt. #3, Box 203
Preston, Idaho 83263

Dear Mr. & Mrs. Swainston:

Enclosed please find a copy of the exception filed in connection with the above referenced claim. The following is a quote from the provisions of the Idaho Code under which this claim has been filed:

42-225b. Recording of claims by department-----Corrections.-----
.....
.At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Administration (renamed Department of Water Resources July 1, 1974) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

If you have any questions regarding this matter, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

Enclosure

RECEIVED

NOV 16 1981

Department of Water Resources
Eastern District Office

November 16, 1981

Idaho Department of Water Resources
150 Shoup Avenue
Idaho Falls, Idaho 83402

COMES NOW STRONGARM RESERVOIR IRRIGATION DISTRICT, whose address is Rt. #3, Preston, Idaho, 83263 and files an exception to Claim No. 13-4057 for the following reason:

The water from the springs and reservoir was never sold or conveyed to the claimant nor any of his predecessors, i.e., Wilford Bosworth. The only water right which was owned by the claimant or his predecessor was a perpetual right for the irrigation of two acres of land.

Joseph C. Hedin
President, Strongarm Reservoir
Irrigation District

I hereby acknowledge that Joseph C. Hedin signed in my presence
this 16th day of November, 1981.

William Wray
NOTARY PUBLIC

Residing at: Idaho Falls, ID

My commission expires: 6/15/85

RECEIVED

Wm F Armstrong et al executors

To

Elizabeth A Beam

EXCEPT

This Indenture made this 27th day of December 1904 between William F Armstrong and Isabella S Armstrong executors of and trustees under the will of Francis Armstrong, deceased, residents of Salt Lake County State of Utah parties of the first part and Elizabeth A Beam a resident of Oneida County Idaho party of the second part, WITNESSETH:

That whereas Francis Armstrong is now deceased, and said parties of the first part were duly appointed executors of and trustees under the will of said deceased, and have qualified as such and are acting in that capacity, and are authorized by the will of said deceased to sell and convey any of the property of the estate of said deceased upon such terms and conditions as to them seems to the best interest of the estate of said deceased without application to or authority from or confirmation by any court, and it seems to the best interest of the estate of said deceased that the sale hereinafter referred to be made.

Now, therefore, in consideration of the sum of \$1.00 and other valuable considerations, receipt of which is hereby acknowledged, said parties of the first part have and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, her heirs and assigns forever, the following described water rights situated in Oneida County, State of Idaho to wit:

All the right, title and interest of said estate in and to the waters of Spring Creek and what is known as Spring Creek Reservoir, excepting therefrom however, a perpetual water right of sufficient water to irrigate two (2) acres of land to be taken from said stream or reservoir and to be used wherever said parties may elect; and excepting and reserving, also, to said parties of the first part all the springs and waters arising below the dam of said Spring Creek Reservoir as now constructed, the same being situated immediately north of the north line of section 3 township 14 south range 39 east Boise meridian.

To have and to hold the dame unto said party of the second part her heirs and assigns forever.

In witness whereof the parties of the first part have signed their names the day and year first above written.

Witness

Oscar W. Hoyle

Isabella S Armstrong
William F Armstrong
Executors of and Trustees under
the will of Francis Armstrong
deceased.

RECEIVED

NOV 16 1981

Department of Resources
Office

MICROFILMED

State of Utah
County of Salt Lake ss

On this 27th day of December 1904 personally appeared before me a Notary Public in and for said County of Salt Lake, William F Armstrong and Isabella S Armstrong, each known to me to be the persons whose names are subscribed to the within instrument and each of whom acknowledged to me that they executed the same, and that they did it as executors of and trustees under the will of Francis Armstrong, deceased.

In witness whereof I have hereunto set my hand and affixed my official seal hereto the day and year in this certificate first above written.

Seal

Oscar W Moyle--Notary Public

My commission expires Sept 21st 1908

Recorded at the request of Young and Moyle March 14th 1905 at 9:12 A M

W H Richards--Co. Recorder

Reference: Book "U" page 340 Deed Record Original Oneida County Records.

ABSTRACTERS NOTE: Now found of record in Book 6 of Deeds, page 95, records of Franklin County, Idaho.

MICROFILMED

This Indenture, made this 11th day of May in the year ^{NOV 16 1938} Lord one thousand nine hundred and eight between Hugh S. Geddes and ~~Marion Geddes~~ ^{Eastern District Office} his wife, and Robert C. Geddes, and Kate Geddes, his wife of Oxford county of Oneida State of Idaho parties of the first part, and John A. Randall of Ogden county of Weber State of Utah the party of the second part, Witnesseth: That the said parties of the first part, for and in consideration of the sum of four thousand and no/100 dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do rant bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate, situated in Oneida County, State of Idaho, to-wit:

The south two thirds of the south half of the south east quarter (S $2/3$ of $S\frac{1}{2}$ of $SE\frac{1}{4}$) of section seven (7) the south two thirds of the south west quarter of the south west quarter (S $2/3$ of $SW\frac{1}{4}$ of $SW\frac{1}{4}$) of section eight (8) the west half of the north west quarter ($W\frac{1}{2}$ of $NW\frac{1}{4}$) of section seventeen (17) and the north half of the north east quarter ($N\frac{1}{2}$ of $NE\frac{1}{4}$) of section eighteen (18) all in township 14 south range 39 east of Boise Meridian.

Together with the following water right to wit:

One half of the water of Spring Creek reservoir and of Spring Creek above said reservoir excepting therefrom a perpetual water right sufficient to irrigate 2 acres of land, the same belonging to and to belong to the estate of Francis Armstrong, deceased, the dam of said Spring Creek Reservoir is located at about the north line of section 3 Twp 14 South range 39 East Boise Meridian, Idaho

All the waters and springs arising below the said dam of said spring Creek reservoir are not conveyed by this deed, but are expressly reserved therefrom, the same belonging to the estate of Francis Armstrong, deceased.

Also one half of the waste waters of Battle Creek, being the water that is not used or reasonably necessary for the filling of reservoirs belonging to the state of Francis Armstrong, deceased, and to William T. Armstrong, and for the proper cultivation of the lands now owned by the said estate and by William T. Armstrong it being understood that the grantees herein are only the right to use said waters when they are not reasonably necessary for filling of reservoirs owned by said Armstrong estate and William Armstrong and for the cultivation of their land.

Together with all and singular, the tenements, hereditaments and

RECEIVED

urtenances thereinto belonging or in anywise appertaining, and the reversion and reversions, reamainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part;

To have and to hold all and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns, forever. And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

In Witness whereof, the said parties of the first part have hereunto set their hands and seals, the day and year first above written.

Signed, sealed and delivered in presence of	Hugh S. Geddes	(Seal)
	Martena Geddes	(Seal)
	Robert C. Geddes	(Seal)
Earl Randall William Randall A. W. Hart	Kate Geddes	(Seal)

State of Idaho

County of Oneida ss. On this 11th day of May A. D. 1908, before me, Arthur W. Hart, a Notary Public in and for said county, personally appeared Hugh S. Geddes and Robert C. Geddes known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same. And on this 11th day of May in the year 1908, before me, the officer above described, personally appeared Matena Geddes and Kate Geddes known to me to be the persons whose names are subscribed to the within instrument, described as married women; wives of the said Hugh S. Geddes and Robert C. Geddes respectively and upon an examination without the hearing of their husbands, I made them acquainted with the contents of the instrument, they thereupon acknowledged to me that they executed the same, and that they do not wish to retract such execution.

In Witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

My commission expires Jan'y 10, 1912 Arthur W. Hart, Notary Public
(Seal)

Filed for record the 16 day of May A. D. 1908 at 9-20 o'clock A. M.

J. J. Evans, ex-officio recorder By B. E. Jones, deputy
REFERENCE: Book "3" of deeds at page 247 Original Oneida County Records
Now found of record in Book 8 of Deeds, page 277, records of Franklin County, Idaho.

MICROFILMED

January 18, 1982

CLAIM TO A WATER RIGHT NO. 13-4057 Amended

Heber &/or Geneal Swainston
Rt. #3, Box 203
Preston, Idaho 83263

Dear Mr. & Mrs. Swaintston:

The Department of Water Resources has completed the processing of your amended 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 amended 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 amended 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 amended 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
Eastern Regional Supervisor

RDC:cw

Enclosure

RECEIVED
JAN 19 1982

Department of Water Resources

MICROFILMED

I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

WATER RIGHT
DATA ENTRY LOG

[illegible]

NOTICE OF AMENDED CLAIM TO A WATER RIGHT

NO. 13-4057

Notice is hereby given that Claim to a Water Right No. 13-4057 in the name of Heber &/or Geneal B. Swainston, Preston, Idaho, was filed with a priority of June 10, 1913 for the diversion and application to beneficial use of 0.50 cfs of water from unnamed springs tributary to Spring Creek thence Battle Creek with the point of diversion within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, T. 13S, R. 39E, B.M., Franklin County; the water is claimed to be used from Jan. 1 to Dec. 31 for domestic purposes and from Apr. 1 to Nov. 1 for the irrigation of 25 acres within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, T. 13S, R. 39E.

The claimant now proposes to amend Claim No. 13-4057 as follows:

AMOUNT: 1.50 cfs

PRIORITY: April 1, 1908

Any exception to any claim of water right may be filed with the Idaho Department of Water Resources, 150 Shoup, Idaho Falls, Idaho, 83402.

A. KENNETH DUNN

Director

Published in the Preston Citizen, Preston, ID on Dec. 10 & 17, 1981.

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave.
Idaho Falls, Idaho 83402
(208) 525-7161

DECEMBER 3, 1981

The Preston Citizen
P. O. 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 billing to this office before DECEMBER 28, 1981.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

RECEIVED
DEC 10 1981
WATER RESOURCES
DIVISION

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, Idaho 83402 on or before DECEMBER 28, 1981.

R. KENNETH DUNN

Director

Published 12/10 & 12/17/81.

NOTED
12/17/81

WATER RIGHT NUMBER 13-4057

ACT

ION

OWNER LAST NAME - SWAINSTON
OWNER LAST NAME - SWAINSTON
ADDRESS LINE 1 - RT. 2 BOX 203FIRST NAME - HEHR
FIRST NAME - GENERAL B.

CITY - PRESTON

STATE - ID ZIP CODE - 83263

TRIBUTARY OF - SPRING CREEK

PRIORITY - 00-10-1913 COUNTY - FRANKLIN TOTAL DIV. RATE -

.5000CFS

SOURCE - SPRINGS
STAGE - STATRY CLM
DIVERSION POINT - NWNW 35 13S 39E

SWNW 35 13S 39E

DIVERSION POINT - SENE 34 13S 39E

NESE 34 13S 39E

FROM - 04-01 TO - 11-01 USE - IRRIGATION

USE DIV. RATE - .5000CFS

FROM - 01-01 TO - 12-31 USE - DOMESTIC

USE DIV. RATE - .0400CFS

USE - IRRIGATION

PLACE OF USE - TWN 13S RNG 39E SEC 34 TRACT SENE

AC 01 TRACT NESE

USE - IRRIGATION

PLACE OF USE - TWN 13S RNG 39E SEC 35 TRACT SWNW

AC 10 TRACT SWSE

USE - IRRIGATION

PLACE OF USE - TWN 13S RNG 39E SEC 35 TRACT SWNW

AC 04

AC 14

AC 01

December 1, 1977

RE: Claim to a Water Right No. 13-4057

Heber &/or General B. Swainston
Rt. #3, Box 203
Preston, ID 83263

Dear Mr. Swainston:

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:CO

Enclosure

November 21, 1977

RE: Claim to a Water Right No. 13-4056 PAGE
13-4057 SWAINSTON

Preston Citizen
Box 472
Preston, ID 83263

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application. The legal notice was to have been published in your paper on November 3, and November 10, 1977.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:CD

October 28, 1977

RE: Claim to a Water Right No. 13-4056 PAGE
13-4057 SWAINSTON

Preston Citizen
Box 472
Preston, Idaho 83263

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 12-01-77 by CW

RDC:CW

Enc: Legal Notice (2)

NOTICE OF CLAIM TO A WATER RIGHT

NO. 13-4057

Notice is hereby given that Heber &/or Geneal B. Swainston,
Preston, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 0.50 cubic feet per second ~~acre feet per annum~~ XXXXXXXXXXXXXXXXXXXX
of water from unnamed springs tributary to Spring Creek thence Battle Creek
with point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec.
34, T. 13S, R. 39E, B.M., Franklin County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic
purposes and from Apr. 1 to Nov. 1 for the irrigation of 25 acres,
with a priority of June 10, 1913 ;
the place of use is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec.
35, T. 13S, 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~~
R. KEITH HIGGINSON

Director

Published in the Preston Citizen, Preston, Idaho
on November 3 and November 10, 1977

*me - J.
me - D.*