

N^o ¹⁵⁶⁵
~~1585~~

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Franklin

ss.

Wayne D. Bell

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 Two consecutive weeks in the regular and entire issue of said paper during the period and 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

July 10, 1967, and ending
with the issue of July 17, 1969

Fees, \$ 8.74

Subscribed and sworn to before me this 11th day
of August, 1969.

Beverly N. Mortensen

Notary Public, Residing at Preston, Idaho

My Commission Expires Feb, 1973

NOTICE OF CLAIM TO A WATER RIGHT

No. 13-4000

Notice is hereby given that J. Harold Manning, General Delivery, Preston, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of .16 cubic foot per second or 115 acre feet per annum of water from unnamed springs with point of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16; and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S, R. 39 E, B.M., Franklin County, the water is claimed to be used from April 1 to October 31 for irrigation and from January 1 to December 31 for stockwater with a priority of January 1, 1945 for .12 c.f.s. and January 1, 1945 for .04 c.f.s. or 1.5 acre feet per annum; the place of use is SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16; SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S, R. 39 E, B.M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON
State Reclamation
Engineer

Published in the Preston Citizen, Preston, Idaho on July 10, and July 17, 1969.

Legal No. 1565-Pub. July 10, 17, 1969.

RECEIVED

AUG 12 1969

Department of Reclamation

13-4000

THE PRESTON *Citizen*

RECEIVED

Phone 852-0155

Published Thursdays

PRESTON, IDAHO

JUL 7 1969

Department of Reclamation

Gentlemen:

Attached herewith is a copy of the legal notice that is currently running in The Citizen. According to our records the notice is scheduled to run until _____.

If there are any errors in the copy, would you please notify us immediately by marking this copy and returning it to the office, so that corrections can be made before the notice runs again. For your information the charge for running the notice will be _____. This is not a proof of publication.

Sincerely Yours,

The Preston Citizen

NOTICE OF CLAIM TO A WATER RIGHT No. 13-4000

Notice is hereby given that J. Harold Manning, General Delivery, Preston, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of .15 cubic foot per second or 1.5 acre feet per annum of water from unnamed springs with point of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16; and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S, R. 39 E, B.M., Franklin County, the water is claimed to be used from April 1 to October 31 for irrigation and from January 1 to December 31 for stockwater with a priority of January 1, 1945 for .12 c.f.s. and January 1, 1945 for .04 c.f.s. or 1.5 acre feet per annum; the place of use is SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16; SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S, R. 39 E, B.M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON
State Reclamation
Engineer

Published in the Preston Citizen, Preston, Idaho on July 10, and July 17, 1969.

Legal No. 1565—Pub. July 10, 17, 1969.

(Proofing only)

13-4000

Identification No. _____

Claim No. 13-4000

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 J. Harold Manning
post office address General Delivery, Preston, Idaho
2. The point of diversion is in SW $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 16 Township 15 S
Range 39 E B.M. located on unnamed springs (name of source) ***SEE REMARKS FOR
tributary to Bear River in Franklin 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:

****SEE REMARKS**

<u>January 1, 1945</u>	amount: <u>.12</u>	c.f.s. or	_____ acre feet
<u>January 1, 1945</u>	amount: <u>.04</u>	c.f.s. or	<u>1.5</u> acre feet
_____	amount: _____	c.f.s. or	_____ acre feet
Total claimed		<u>.16</u> c.f.s. or	<u>115</u> 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 irrigation period of use from April 1 to October 31 (both dates inclusive)
use stockwater 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).

4. Description of diverting works: **NOTE: Remarks Section**

a. Surface water diversion dam and/or headgate: material is composed of _____
_____ ; length is _____ feet; height is _____ feet;
width at bottom is _____ feet; width at top is _____ 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 _____
_____ ;

13-4000

attach well logs if available; has there been any change in pump or motor since well was first completed _____; if so, give dates and explain _____

c. Conveying works: length of ditch to place of use is _____ feet; width of ditch at top is _____ feet; width of bottom of ditch is _____ feet; depth of water is _____ feet; grade of ditch per 1000 feet is _____ feet; material through which ditch passes is _____; maximum length of pipe line to first place of use is _____ feet; diameter of pipe line is _____ inches; type of pipe _____; grade of pipe per 1000 feet is _____.

Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible SEE: Remarks

d. If water is stored: name of reservoir unnamed; total capacity of reservoir is 1.5 acre feet; active capacity of reservoir is 1.5 acre feet; year construction commenced 1867; year completed 1867; date first used 1867 period of storage is from January 1 to December 31; is reservoir drained each year No; is reservoir on or off stream _____ explain SEE: Remarks

if feeder canal is used give maximum carrying capacity _____ c.f.s.; if reservoir is off stream, describe location of reservoir by 40-acre subdivisions _____

has there been any enlargement of the reservoir since it was first built _____, if so, give dates and describe _____

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15 S	39E	16							25										25
		17				10													10

Total number of acres to be irrigated 35

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

NONE

b. Do you get water through a ditch owned by several users? No If yes, give the name of the ditch _____ The other users and their respective interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered 25 head dairy and beef stock

7. Where water is used for domestic or municipal purposes give number of families served _____ name of town supplied one single family dwelling

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use, and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible, giving dates and quantities NA

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation Springs located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16, are diverted by 4" tile pipe 450' into a domestic well 15' deep, 6' in diameter. Used for domestic and stockwater and irrigation by overflow from sump as well as earth ditches. The springs within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, seep into a earth-rock reservoir approximately 1.5 acre in size and approximately 1' in depth and the water used for stock purposes.

State of Idaho

County of Ada

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 24th

day of June

1969

Harold Manning
Claimant

Dr. Russell, Russell
Notary Public

Residing at Loise, Idaho

My commission expires Jan. 19, 1973

For Department Use Only

Received by RR Date 6-24-69

Exception filed by: _____

Forwarded to
claimant by: _____

Date _____

Prelim. check by RR Date 6-24-69

Fee received by RR Date 6-24-69 Fee \$ 10.00

Approved for publication by _____

Published in Puston Citizen Dates 7-10+17-69

13-4006

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:	<u>May 18, 1871</u>	amount:	<u>0.8</u> c.f.s. or	_____	acre feet
	<u>June 1, 1901</u>	amount:	<u>0.4</u> c.f.s. or	_____	acre feet
		Total claimed:	<u>1.2</u> 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.

RECEIVED
JUL 2 1969
Department of Reclamation

State of Idaho
County of Franklin

Lorenzo Jones being first duly sworn,

deposes and says: I am and have been a resident of the County of Franklin,
State of Idaho, for more than twenty (20) years last past.

During more than the last twenty (20) years I have had personal
knowledge and opportunity to observe the claimed ownership of the following
springs situated in a fraction of Section 16, Township 15 South, Range
39 East of the Boise Meridian.

That in about 1944 the said J. Harold Manning purchased the above grounds and springs.

That the said waters have been used for irrigation, culinary and livestock purposes.

That the said waters have been used continuously on the said lands.

DATED June 30, 1969.

Lorenzo Jones
(Signature)

Subscribed and sworn to before me this 30 day of June, 1999.


(Notary Public)

Residing at Preston, Idaho
My Commission Expires January 6, 1973

13-4000

JUL 2 1969

AFFIDAVIT

Department of Reclamation

LORIN A. WINGER

being first duly sworn,

deposes and says: I am and have been a resident of the County of

Franklin, State of Idaho, for more than twenty years last past.

During more than the last twenty (20) years I have had personal knowledge and opportunity to observe the claimed ownership of the following springs situated in a fraction of Section 16, Township 15 South, Range 39 East of the Boise Meridian.

That in about 1944 the said J. Harold Manning purchased the above grounds and springs.

That the said waters have been used for irrigation, culinary and livestock purposes.

That the said waters have been used continuously on the said lands.

DATED June 28, 1969

Robert A. Chingee
(Signature)

Subscribed and sworn to before me this 25 day of June, 1969

(Notary Public)

Residing at Preston, Idaho

My Commission Expires

13-4000

BEN B. JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO 83263

Aug. 7, 1969

Department of Reclamation *Deit*

Donald W. McEldowney
Appropriation Examiner
Department of Reclamation
Statehouse-Annex 2
Boise, Idaho 83707

RECEIVED

AUG 11 1969

Department of Reclamation

Re: Claim to a Water Right NO. 13-4000
J. Harold Manning

Gentlemen:

Enclosed herewith are three additional affidavits in support of the protest in the matter of Claim of water right No. 13-4000, J. Harold Manning. The affidavits are self-explanatory in that they show a non use of a Water Right for over 20 years and an abandonment of any right.

Enclosed herewith is a check for \$1.25 for forms Pursuant to this letter of July 31.

Sincerely yours,

Ben B. Johnson
Ben. B. Johnson

cc/BBJ

13-4000

PROTEST

IN THE MATTER OF:
NO. 13-4000-

STATE OF IDAHO

COUNTY OF FRANKLIN

)
ss.
)

Affidavit in support
of Contest of Water Right

MYRON DAY, being first duly sworn deposes and says that he lives next to the property (about 20 acres) owned by J. Harold Manning.

That this property is not farmed or cultivated and has not been in the past 20 years or more. That no one has lived on it in all of these years. It consists of two tracts of property. One tract is along a hollow on the west side of Highway 91 which has never been cultivated or irrigated. The other tract is along the ravine or hollow running east of Highway 91. And this ravine drains all of the area and all of the springs and water are used and have been used continuously for over forty years on the old Palmer ranch. This is one of the oldest ranches in Franklin County. The Palmer ranch is located in the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East of the Boise Meridian, owns and uses all of the waters from drainage and springs arising in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ Section 16, Township 15 South, Range 39 East of the Boise Meridian and adjoining area. Mr. J. Harold Manning has not farmed, cultivated or irrigated this property in the past 20 years on the east side of highway. It grows sage brush and willows. The tract on the west side of the highway has never been farmed or cultivated or irrigated. There has never been any beneficial use of water on the Manning property in the past 20 years.

Myron Day

Subscribed and sworn to before me this 6 day of August, 1969

Paul L. Greaves

Notary Public for the State of Idaho
Residing at Preston, Idaho

13-4000

RECEIVED

AUG 13 1969

Department of Reclamation

RECEIVED

AUG 11 1969

PROTEST

IN THE MATTER OF:

Department of Reclamation

CLAIM NO. 13-4000-

AFFIDAVIT

STATE OF IDAHO

COUNTY OF FRANKLIN

)
)
) ss.
)

ORIN V. FELLOWS, being first duly sworn deposes and says:
I have lived in Franklin County, Idaho for more than 40 years past. I live near the J. Harold Manning land in Sec. 16 Township 15 South Range 39 E.B.M., and I am well acquainted with its use. J. Harold Manning only has 2 small tracts of less than 20 acres. For over 20 years the land has not been farmed, cultivated or irrigated. There has not been any beneficial use of the springs and seepage and drainage water running through this land. All of the springs and seepage and drainage water in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 16, Township 15 So, Range 39 E.B.M. has been continuously used on the old Palmer ranch in the NE $\frac{1}{4}$ of Sec. 17 Township 15 So. Range 39 E.B.M. for over 40 years. This Palmer ranch has the first and prior right to these waters, and has a record of a continuous use of the waters on cultivated land as well as for use of livestock on a year round basis. All the springs and waters are claimed and used on the old Palmer ranch in the NE $\frac{1}{4}$ Sec 17 Township 15 So. Range 39 E.B.M.

Joseph R. Fellows

Subscribed and sworn to before me this 6 day of August, 1969.

Maie L. Greaves
Notary Public
Residing at Preston, Idaho

13-4000

BEN B. JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO 83263

July 18, 1969

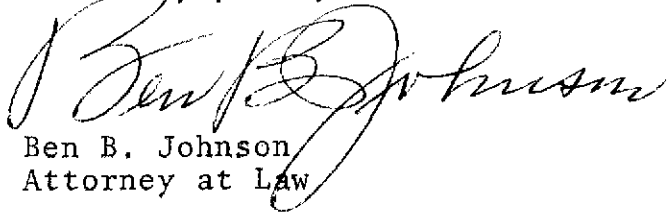
RECEIVED
JUL 22 1969
Department of Reclamation
DOW

R. Keith Higginson
State Reclamation Engineer
Department of Reclamation
Boise, Idaho 83700

Dear Mr. Higginson:

Enclosed herewith is the original and copy of protest that is self-explanatory filed in protest of application no. 13-4000. We invite you to inspect the area.

Sincerely yours,


Ben B. Johnson
Attorney at Law

BBJ/smb

Enclosures: 2

13-4000

PROTEST BY BEN B. JOHNSON AND J. LEO PALMER

TO: R. Keith Higginson
State Reclamation Engineer
State of Idaho
Boise, Idaho

IN RE: Application - J. Harold Manning to appropriate .16 cubic foot per second or 115 acre feet per annum of water from unnamed springs with point of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 15; and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S, R. 39 E, BM., Franklin County, the water is claimed to be used from April 1 to October 31 for irrigation and from January 1 to December 31 for stockwater with a priority of January 1, 1945 for .12 C.F.S. and January 1, 1945 for .04 C.F.S. or 1.5 acre feet per annum; the place of use is SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16; SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S, R. 39 E, BM. Application No. 13-4000

Your protestants, Ben B. Johnson and J. Leo Palmer of Preston, Idaho as and for a protest to the application as filed by J. Harold Manning, states:

I.

That we are the owners of and holders of and have utilized the waters of and at all times applied the waters from the unnamed springs located in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 16, and springs in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 17 and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East of the Boise Meridian, as well as waters that run into said creek channel that are used on the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East of the Boise Meridian, and that such waters therefrom have been utilized and applied to beneficial use on the protestants land and that the use so made by your said protestants is based upon their application and beneficial use on the lands of said protestants.

II.

That the lands of the protestants where said waters have been beneficially used for crops and pasture is located in the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East, Boise Meridian. That all of said waters arises in said immediate area and that said water percolates or runs in said unnamed stream and has been utilized and used by the said protestants and their predecessors. That even high waters have been utilized as well as winter waters to irrigate meadow lands and pasture. That the waters in said unnamed stream are

limited in amount and there are no excess or nonappropriated waters therein, as all of said waters are beneficially used on the lands of the protestants. That all of said waters so used by the protestants which use is prior to any other users and your protestants are entitled to not only the waters so used by the protestants, but to all waters arising and percolating and seeping and running into said unnamed stream as said unnamed stream has been the source of irrigation water and stock water and domestic water for the lands of the protestants for over 40 years. That the lands where said waters are beneficially used are located on one of the oldest ranches in Franklin County, Idaho with a water location dated in 1883 in Book "A" of Water Locations at page 38 Original Oneida County Records. That one of the oldest orchards is located on said unnamed streams located on the lands of the protestants which shows the early settlement and utilization of said waters. That the ranch owned by the protestants is known as the old Palmer place and prior thereto as the old Jenkins place and prior thereto as the old Winn place.

III.

That there is not now any amount of water that has not been used and applied beneficially on the lands of the protestants and there is no water of any type or kind that is subject to be filed upon under application no. 13-4000. That the land owned by the applicant, Mr. Manning consists of two hollows or gulleys and comprises less than 20 acres of land. That such land is non-cultivated, non-farmed, and no waters have been beneficially applied thereon, and if they have, they are junior and inferior to the rights of the protestants. That all waters and springs arising in the general area run downhill and into the lands owned by the protestants.

IV.

That your protestants allege that if the application no. 13-4000 is granted, it would cause great and irreparable damage to the protestants, as there is not sufficient nor adequate water to fill the rights and needs of the protestants, who have used and utilized all of said waters from said unnamed springs and unnamed creek on the ranch which has been farmed for more than 30 years.

V.

That if said applicant, J. Harold Manning ever had any right or claim of right, that the same has been abandoned from non-use for over

ten years, as the lands of the applicant have been non-cultivated, non-farmed and no waters have been beneficially applied thereon and the lands of the applicant, Manning, consists of two hollows or gulleys. That the Applicant, Mr. Manning, has lived in California for many years.

VI.

That the applicant, Manning, does not own the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East of the Boise Meridian, but on the contrary, the same is owned by the protestants. The only land owned by the applicant, Manning, consists of two small tracts located in two hollows or gulleys in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 16, Township 15 South, Range 39 East, Boise Meridian, and is uphill and up stream from the lands of the protestants.

VII.

That in addition to the waters that arise from unnamed springs there is water that is termed spring runoff and your protestants have utilized the said spring runoff waters; that the water has been applied beneficially as the lands are arid in character and need the water for the production of crops and irrigated pasture. That the said waters are not only used for the production of crops, but are used and utilized for raising irrigated pasture and for the rearing of livestock and watering of the same.

VIII.

That seasons vary and there has been a shortage of water in these unnamed springs and from the seepage and drainage into the unnamed stream, but all of said waters and the whole thereof during the irrigation season and all times set forth herein have been applied to beneficial use upon the lands of the protestants and no water has been permitted to go to waste nor has been wasted and the headworks and diversion works of the protestants is efficient and proper for taking the waters from said unnamed stream and applying them to the lands of the protestants located in the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East, Boise Meridian.

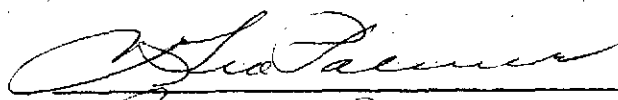
IX.

That the lands of the protestants are arid in character and have utilized all of said waters from said unnamed springs and

unnamed creek for over 40 years. That any claims of the applicant are junior and inferior to the rights of the protestants. That the said protestants claim all of said waters from said unnamed stream and from said unnamed springs and drainage area, and that even by using all of said waters beneficially upon the lands of the protestants are still not adequate for the needs of the lands of the protestants.

WHEREFORE, Your protestants pray that the application to appropriate the waters as set forth in the application of said J. Harold Manning be denied and that your petitioners herein be allowed its water as heretofore appropriated and the waters as heretofore applied to the lands of the protestants and declared to be the owners of said waters, as well as all new waters arising in said drainage area and running in said unnamed stream and from said unnamed springs as well as high water spring runoff and winter water as herein set forth and that any right granted to even the high flow or high water right to be junior and inferior to the rights of your said protestants herein.

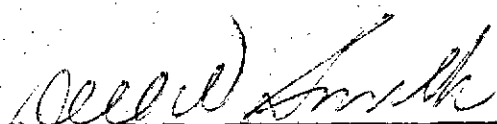
DATED this 18th day of July, 1969.




STATE OF IDAHO)
 : SS.
COUNTY OF FRANKLIN)

On this 18th day of July, 1969, before me, the undersigned, Notary Public in and for said county and state, personally appeared Ben B. Johnson and J. Leo Palmer, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.


Notary Public for Idaho
Residing at Preston, Idaho

PROTEST BY BEN B. JOHNSON AND J. LEO PALMER

TO: R. Keith Higginson
State Reclamation Engineer
State of Idaho
Boise, Idaho

IN RE: Application - J. Harold Manning to appropriate .16 cubic foot per second or 115 acre feet per annum of water from unnamed springs with point of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 15; and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S, R. 39 E, BM., Franklin County, the water is claimed to be used from April 1 to October 31 for irrigation and from January 1 to December 31 for stockwater with a priority of January 1, 1945 for .12 C.F.S. and January 1, 1945 for .04 C.F.S. or 1.5 acre feet per annum; the place of use is SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16; SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S, R. 39 E, BM. Application No. 13-4000

Your protestants, Ben B. Johnson and J. Leo Palmer of Preston, Idaho as and for a protest to the application as filed by J. Harold Manning, states:

I.

That we are the owners of and holders of and have utilized the waters of and at all times applied the waters from the unnamed springs located in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 16, and springs in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 17 and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East of the Boise Meridian, as well as waters that run into said creek channel that are used on the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East of the Boise Meridian, and that such waters therefrom have been utilized and applied to beneficial use on the protestants land and that the use so made by your said protestants is based upon their application and beneficial use on the lands of said protestants.

II.

That the lands of the protestants where said waters have been beneficially used for crops and pasture is located in the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East, Boise Meridian. That all of said waters arises in said immediate area and that said water percolates or runs in said unnamed stream and has been utilized and used by the said protestants and their predecessors. That even high waters have been utilized as well as winter waters to irrigate meadow lands and pasture. That the waters in said unnamed stream are

limited in amount and there are no excess or nonappropriated waters therein, as all of said waters are beneficially used on the lands of the protestants. That all of said waters so used by the protestants which use is prior to any other users and your protestants are entitled to not only the waters so used by the protestants, but to all waters arising and percolating and seeping and running into said unnamed stream as said unnamed stream has been the source of irrigation water and stock water and domestic water for the lands of the protestants for over 40 years. That the lands where said waters are beneficially used are located on one of the oldest ranches in Franklin County, Idaho with a water location dated in 1883 in Book "A" of Water Locations at page 38 Original Oneida County Records. That one of the oldest orchards is located on said unnamed streams located on the lands of the protestants which shows the early settlement and utilization of said waters. That the ranch owned by the protestants is known as the old Palmer place and prior thereto as the old Jenkins place and prior thereto as the old Winn place.

III.

That there is not now any amount of water that has not been used and applied beneficially on the lands of the protestants and there is no water of any type or kind that is subject to be filed upon under application no. 13-4000. That the land owned by the applicant, Mr. Manning consists of two hollows or gulleys and comprises less than 20 acres of land. That such land is non-cultivated, non-farmed, and no waters have been beneficially applied thereon, and if they have, they are junior and inferior to the rights of the protestants. That all waters and springs arising in the general area run downhill and into the lands owned by the protestants.

IV.

That your protestants allege that if the application no. 13-4000 is granted, it would cause great and irreparable damage to the protestants, as there is not sufficient nor adequate water to fill the rights and needs of the protestants, who have used and utilized all of said waters from said unnamed springs and unnamed creek on the ranch which has been farmed for more than 30 years.

V.

That if said applicant, J. Harold Manning ever had any right or claim of right, that the same has been abandoned from non-use for over

ten years, as the lands of the applicant have been non-cultivated, non-farmed and no waters have been beneficially applied thereon and the lands of the applicant, Manning, consists of two hollows or gulleys. That the Applicant, Mr. Manning, has lived in California for many years.

VI.

That the applicant, Manning, does not own the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East of the Boise Meridian, but on the contrary, the same is owned by the protestants. The only land owned by the applicant, Manning, consists of two small tracts located in two hollows or gulleys in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 16, Township 15 South, Range 39 East, Boise Meridian, and is uphill and up stream from the lands of the protestants.

VII.

That in addition to the waters that arise from unnamed springs there is water that is termed spring runoff and your protestants have utilized the said spring runoff waters; that the water has been applied beneficially as the lands are arid in character and need the water for the production of crops and irrigated pasture. That the said waters are not only used for the production of crops, but are used and utilized for raising irrigated pasture and for the rearing of livestock and watering of the same.

VIII.

That seasons vary and there has been a shortage of water in these unnamed springs and from the seepage and drainage into the unnamed stream, but all of said waters and the whole thereof during the irrigation season and all times set forth herein have been applied to beneficial use upon the lands of the protestants and no water has been permitted to go to waste nor has been wasted and the headworks and diversion works of the protestants is efficient and proper for taking the waters from said unnamed stream and applying them to the lands of the protestants located in the NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 39 East, Boise Meridian.

IX.

That the lands of the protestants are arid in character and have utilized all of said waters from said unnamed springs and

unnamed creek for over 40 years. That any claims of the applicant are junior and inferior to the rights of the protestants. That the said protestants claim all of said waters from said unnamed stream and from said unnamed springs and drainage area, and that even by using all of said waters beneficially upon the lands of the protestants are still not adequate for the needs of the lands of the protestants.

WHEREFORE, Your protestants pray that the application to appropriate the waters as set forth in the application of said J. Harold Manning be denied and that your petitioners herein be allowed its water as heretofore appropriated and the waters as heretofore applied to the lands of the protestants and declared to be the owners of said waters, as well as all new waters arising in said drainage area and running in said unnamed stream and from said unnamed springs as well as high water spring runoff and winter water as herein set forth and that any right granted to even the high flow or high water right to be junior and inferior to the rights of your said protestants herein.

DATED this 18th day of July, 1969.

J. Leo Palmer
Ben B. Johnson

STATE OF IDAHO)
 : SS.
COUNTY OF FRANKLIN)

On this 18th day of July, 1969, before me, the undersigned, Notary Public in and for said county and state, personally appeared Ben B. Johnson and J. Leo Palmer, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Robert Smith
Notary Public for Idaho
Residing at Preston, Idaho

1565
N^o 1585

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Franklin

ss.

Wayne E. Bell

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 two consecutive weeks in the regular and entire issue of said paper during the period and 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

July 10, 1967, and ending
with the issue of July 17, 1969

Fees, \$ 8.74

Subscribed and sworn to before me this 11th day
of August, 1969.

Beverly N. Martensen

Notary Public, Residing at Preston, Idaho

My Commission Expires Feb, 1973

NOTICE OF CLAIM TO A WATER RIGHT No. 13-4000

Notice is hereby given that J. Harold Manning, General Delivery, Preston, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of .16 cubic foot per second or 115 acre feet per annum of water from unnamed springs with point of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16; and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S, R. 39 E, B.M., Franklin County, the water is claimed to be used from April 1 to October 31 for irrigation and from January 1 to December 31 for stockwater with a priority of January 1, 1945 for .12 c.f.s. and January 1, 1945 for .04 c.f.s. or 1.5 acre feet per annum; the place of use is SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16; SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S, R. 39 E, B.M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON
State Reclamation
Engineer

Published in the Preston Citizen, Preston, Idaho on July 10, and July 17, 1969.

Legal No. 1565-Pub. July 10, 17, 1969.

13-4000

ACT
ION

N OWNER LAST NAME - MANNING

FIRST NAME - J. HAROLD

N ADDRESS LINE 1 - GEN. DEL.

N
N SOURCE - SPRINGS

CITY - PRESTON

STATE - ID

TRIBUTARY OF - BEAR RIVER

N STAGE - STATRY CLM

PRIORITY - 01-01-1945 COUNTY - FRANKLIN TOTAL DIV. RATE - .1600CFS

N TOTAL DIV. VOLUME - 115.00 AFA

N DIVERSION POINT - SWNW 16 15S 39E

SENE 17 15S 39E

N FROM - 04-01 TO - 10-31 USE - IRRIGATION

USE DIV. RATE - .1200CFS

USE DIV. VOLUME - 115.00 AFA

N FROM - 01-01 TO - 10-31 USE - STOCKWATER

USE DIV. RATE - .0400CFS

USE DIV. VOLUME - 1.50 AFA

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

N USE - IRRIGATION

PLACE OF USE - TWN 15S RNG 39E SEC 16 TRACT SWNW

AC 25

N USE - IRRIGATION

PLACE OF USE - TWN 15S RNG 39E SEC 17 TRACT SENE

AC 10

N NON IRRIG USE - S/25 RANGE & DAIRY D/1 HOME.

3/79

IDENT. NO. 13-4000

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]

WATER RIGHT ANALYSIS FORM

- DATA ENTRY -

Identification No. 1 ~~11-7001~~ 13-4000
 OTd No. New No.

Record

1. Original Owner: J. Harold Manning

Present Owner: _____

2. Address: Gen. Del.

3. City: Preston State: ID Zip: _____

4. A. Source of Water: springs

B. Tributary of: Bear River

5. A. Stage (A,P,L,D,S,J): S

B. Status (D,L,R,C,A,I,F - leave blank if valid):

C. Priority Date: 1-1-1945

D. County: 41

E. Total Diversion Rate: .16

F. Total Diversion Volume: 115.

G. Transfer/Amendment (P,T of A or blank):

H. Water District:

I. DLE/Carey Act (D,C or blank):

J. Right Basis (for adjudication claims A,B,C only):

	Tract	Sec.	Twp.	Rge.	Gov't Lot	Rediv.
6. A. Point of Diversion	<u>SWNW</u>	<u>16</u>	<u>15S</u>	<u>39E</u>		
	<u>SENE</u>	<u>17</u>	<u>15S</u>	<u>39E</u>		

7. Period of Use, Use, Diversion Rate/Volume:

from 4-1 to 10-31 for A purposes. Amount .12 / 115 - AFA
 (cfs or AG-FT/yr)

from 1-1 to 10-31 for S purposes. Amount .04 / 1.5 AFA

from 1-1 to 12-31 for D purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

70
R. KEITH HIGGINSON
STATE RECLAMATION ENGINEER
STATE OF IDAHO -
BOISE, IDA.

JUN 18 1967
Department of Water Resources

I JUST PURCHASED A PIECE OF
PROPERTY, IN THE PRESTON, IDA-
AREA. AND WAS TOLD WHEN I
BOUGHT IT THAT AN UNNAMED
SPRING WITH WATER RIGHT ~~AT~~
13-4000 MADE BY J. HAROLD
MANNING. IN 1945- WENT
WITH THE PROPERTY. I WROTE
TO THE DEPT. OF WATER RESOURCES
AND THEY SENT BACK A COPY
OF PROTEST, MADE BY BEN B.
JOHNSON AND J LEO PALMER IN
1969 TO YOU - BUT I STILL
DON'T KNOW WHAT THE RULING
WAS OR IF THERE WAS ONE,
WOULD YOU PLEASE LET ME
KNOW IF YOU WOULD PLEASE, ALSO
I PLAN TO BUILD 2 HOMES ON

THE. PROPERTY, AND USE
THE SPRING FOR CULINARY
PURPOSE'S. PLEASE LET ME
KNOW WHAT I CAN DO -

THANK YOU

ALVIN D BURNS

83 N 4 W

PRESTON, IDA-

83263

MR. A. D. BURNS
83 NORTH 4TH W.
PRESTON, IDA.
83263



R. KEITH HIGGINSON
STATE RECLAMATION ENGINEER
STATE OF IDAHO
BOISE, IDAHO

June 23, 1975

RE: Claim No. 13-4000

Alvin D. Burns
83 N 4 W
Preston, Idaho 83263

Dear Mr. Burns:

In reference to your June 19th letter, enclosed is a copy of Claim No. 13-4000. The validity of the water right evidenced by this claim can only be determined by the District Court. The information contained in this claim file is preserved by this office, until it is requested for use by the court in making a determination of the water rights. If the water has been continuously used since May 20, 1971, then a water right would exist for the extent of that use.

In answer to your question concerning the use of the spring for culinary purposes, if you will check lines 7 and 9 on the enclosed copy you will see that domestic purposes are already listed.

If we can be of further assistance to you please feel free to contact us..

Very truly yours,

(Mrs.) ELEANOR J. WOODS
Records Supervisor

EJW:e

Enclosure

June 6, 1974

Re: Claim No. 13-4000

Mr. Grant Jones
Route #3, Box 48
Preston, ID 83263

Dear Mr. Jones:

The validity of the water right evidenced by Claim No. 13-4000 can only be determined by the District Court.

The information contained in that claim file is preserved by this office, until it is requested for use by the court in making a determination of the water rights. This file contains conflicting affidavits, as you can see from the copies we previously forwarded to you.

We can only say that if the water has been continuously used since May 20, 1971, then a water right would exist for the extent of that use.

We hope this will provide you with the information you requested in your telephone conversation.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:jg

June 3, 1974

Re: Claim to a Water Right No. 13-4000
J. Harold Manning

Mr. Grant Jones
Route 3, Box 48
Preston, Idaho 83263

Dear Mr. Jones:

Pursuant to your request of this date, we are enclosing a copy of the above referenced claim to a water right.

Also enclosed are copies of the exceptions filed against this claim.

If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

D. DARLENE REICH
Water Rights Supervisor

DDR:jfr

Enclosures

September 9, 1969

Re: Claim to a Water Right No. 13-4000

Mr. J. Harold Manning
1200 Grand Ave., Box 94
Spring Valley, California

Dear Mr. Manning:

We wish to thank you for your response of August 21, 1969. As of this date we have no additional information in the matter, Mr. Johnson's original statement is the only thing we have. As you may be aware, under the claim provisions your claim no. 13-4000 is just that - your claim to a water right. Under the provisions of Section 42-225 a and b of the Idaho Code, claims are allowed to be filed as long as the notice is published stating what is claimed. This allows anybody who disagrees with the claim to file an exception. This exception is filed with your claim and a copy is forwarded to you. The legislature did not institute any further action other than those we have outlined. We cannot confirm your water right by means of a claim, nor disallow your claim. All you are doing is preparing a document that will eventually be submitted to court.

We hope that if things can be straightened out with Mr. Johnson, you can enter additional information in your claim withdrawing Mr. Johnson's exception. If not, it will be left on record and allow the courts of the State of Idaho to eventually evaluate the discrepancy.

Please feel free to contact us if you have any questions on the matter.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

13-4000

1200 Grand Ave., Box 94
Spring Valley, California
September 1, 1969

Mr. Donald W. McEldowney
Department of Reclamation
Statehouse, Annex 2
Boise, Idaho

RECEIVED
SEP 3 1969
Department of Reclamation

Dear Sir:

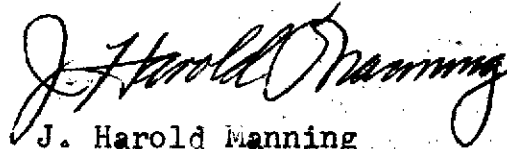
I received your letter of August 19, 1969, which was stamped by the local postoffice on August 30, 1969, the day it was delivered to me. It contains three exceptions to a water claim I am making to water THAT HEADS AND ORIGINATES ON MY PROPERTY IN IDAHO. This claim is on file at the Department of Reclamation in Boise, No. 13-4000.

The allegations made in part by one or all of these contestants are in error; however, I'm still hoping this matter can be resolved without legal involvement. I am also waiting patiently for an answer to a letter I wrote to Mr. Ben B. Johnson sometime ago offering a solution to the water question in point.

If you need any additional information from me or if I need to file anything in the way of amended claims, please let me know exactly what is needed.

I wish to thank you for your letter, I am,

Yours truly,


J. Harold Manning

13-4000

1200 Grand Ave., Box 94
Spring Valley, California
September 1, 1969

Mr. Donald W. McEldowney
Department of Reclamation
Statehouse, Annex 2
Boise, Idaho

Dear Sir:

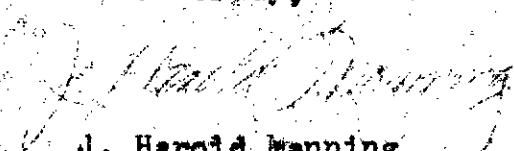
I received your letter of August 19, 1969, which was stamped by the local postoffice on August 30, 1969, the day it was delivered to me. It contains three exceptions to a water claim I am making to water THAT HEADS AND ORIGINATES ON MY PROPERTY IN IDAHO. This claim is on file at the Department of Reclamation in Boise, No. 13-4000.

The allegations made in part by one or all of these contestants are in error; however, I'm still hoping this matter can be resolved without legal involvement. I am also waiting patiently for an answer to a letter I wrote to Mr. Ben B. Johnson sometime ago offering a solution to the water question in point.

If you need any additional information from me or if I need to file anything in the way of amended claims, please let me know exactly what is needed.

I wish to thank you for your letter, I am,

Yours truly,


J. Harold Manning

13-4000

RECEIVED

AUG 25 1969

Department of Reclamation

1200 Grand Ave, Box 94

Spring Valley, Calif.

Aug. 21, 1969

Donald W. McElbourney
Appropriation Examiner
Boise, Idaho.

Dear Sir:-

I received your letter dated Aug. 5, 1969 in regard to a protest filed by Ben B. Johnson & Leo Palmer against an application I had previously filed on water originating on my farm in Idaho. My property is located near the town of Preston Idaho.

I am at a loss to know what further action I can take to establish this claim. I have written to both protestants and as yet have received no reply. Most of the water they are trying to claim is waste water and is finally run into Bear river. If there is further information you can furnish I shall appreciate it. If I need amended claim forms please send them to me, will you? Thanking you in advance I am

Yours Truly,
D. Harold Bremner

13-400

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

September 5, 1969

Re: Claim to a Water Right No. 13-4000

J. Harold Manning
General Delivery
Preston, Idaho

Dear Mr. Manning:

Please be advised that the Department of Reclamation has received and processed your claim to a water right. The information in your claim has been filed under claim no. 13-4000, please refer to this number when you add or change information in your claim.

You should be aware that the filing of the claim completes the Department's work in processing the claim. Under Idaho Statutes no further processing is pending at this time. Your claim will merely be filed on record with the Department until such time you or a court may be in need of the information.

Enclosed is departmental receipt #3193 in the amount of \$10.00 covering the filing fee.

If we may be of help at any time, please feel free to contact the Department.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR
Enc: Receipt #3193

13-4000

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

August 19, 1969

Re: Claim to A Water Right No. 13-4000

Mr. J. Harold Manning
General Delivery
Preston, Idaho

Dear Mr. Manning:

In reference to the above claim, the enclosed is a copy of an exception filed by Myron Day and a copy of an exception by Orin V. Fellows and an exception filed by Joseph R. Fellows in connection with the claim under the provisions of Chapter 2, Section 42-225b of the Idaho Code which states the following:

"At anytime 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 reclamation 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 reclamation. 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 final censorship or conformation of the described rights.

If we may be of further assistance, please contact us.

Very truly yours,

A handwritten signature in cursive script, reading "Donald W. McEldowney".
Donald W. McEldowney
Appropriation Examiner

DWM:tg

Enc: copy of exception

13-4000

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

August 19, 1969

Re: Claim to A Water Right No. 13-4000

Mr. Orin V. Fellows
Preston, Idaho

Dear Mr. Fellows:

We are in receipt of your correspondence concerning the above referenced claim to a water right. The following is a quote from the provisions under which the above referenced claim has been filed (Idaho Code, Section 42-225b):

"At anytime 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 reclamation 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 reclamation. 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 we can be of further assistance, please contact us.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Donald W. McEldowney".
Donald W. McEldowney
Appropriation Examiner

DWM:tg

Enc: none

13-4000

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

August 18, 1969

Re: Claim to A Water Right No. 13-4000
J. Harold Manning

Mr. Ben B. Johnson
First Security Bank Building
Preston, Idaho 83262

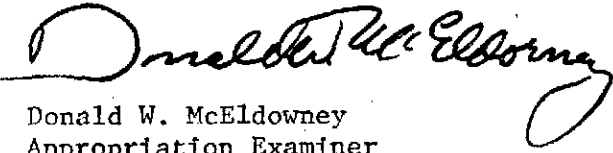
Dear Mr. Johnson:

We have enclosed a copy of an affidavit of exception forwarded by your office to this Department. You will note on this copy that the line at the top of the body indicates the name to be Orin V. Fellows and the signature as being Joseph R. Fellows. We have brought this fact to your attention as there is some doubt in the Department's mind as to the validity of this affidavit. Please inform the Department in writing so that we will have the authority to change the affidavit as to the correct name.

We have forwarded to all three of the gentlemen letters informing them of the conditions of Section 42-225 b of the Idaho Code.

We have enclosed receipt no. 3478 for \$1.25 for copies. Please contact us if we may be of further assistance.

Very truly yours,


Donald W. McEldowney
Appropriation Examiner

DWM:TG

Enc: copy of affidavit
Receipt No. 3478 for \$1.25

13-4000

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

July 31, 1969

Re: Claim to A Water Right No. 13-4000
J. Harold Manning

Mr. Ben B. Johnson
First Security Bank Building
Preston, Idaho 83263

Dear Mr. Johnson:

Thank you for your letter of July 12, 1969.

Pursuant to your request, we are enclosing a copy of the Claim to A Water Right No. 13-4000 and supporting documents. As the claim has been filed under Section 42-225a of the Idaho Code, we wish to advise you that if you disagree with the contents and intent of the claim, you may file an exception to the claim as outlined under Section 42-225a and b of the Idaho Code. Upon receipt of the exception, we will forward a copy directly to Mr. Manning and file the original with the claim.

You may wish to file your own claim to a water right if you have a water right in connection with the springs and do not have a previous water right under the statutory method.

We are enclosing claim forms for your use in this matter. Please remit the fee of \$1.25 to the Department for the copies we are enclosing, and contact us if we may be of further assistance.

Very truly yours,

A handwritten signature in cursive script, reading "Donald W. McEldowney".

Donald W. McEldowney
Appropriation Examiner

DWM:tg

Enc: Claim No. 13-4000
supporting documents
claim to a water right form

RECEIVED

JUL 31 1969

Department of Reclamation

RECEIVED

JUL 31 1969

Department of Reclamation

13-4000

August 8, 1969

Re: Claim to a Water Right No. 13-4000
J. Harold Manning

Preston Citizen
P.O. Box 389
Preston, Idaho

Gentlemen:

We are returning the affidavit of publication along with the certified bill received in our office July 30, 1969, as it is not ours.

Enclosed you will find a copy of the tear sheet for the above referenced you submitted on July 7th. We need the affidavit and certified bill for this notice.

Your immediate attention to this matter will be appreciated.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

Enc: Affidavit and bill

13-4000

August 6, 1969

Re: Claim to a Water Right No. 13-4000
J. Harold Manning

Preston Citizen
Preston, Idaho

Gentlemen:

Please be advised that as of this date, we have not yet received the affidavit of publication nor the certified bill of publication for the above referenced claim to a water right. Please forward these articles to the Department by return mail so that we may proceed with processing this claim.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:TC

Enc: none

13-4000

August 5, 1969

Re: Claim to A Water Right No. 13-4000

Mr. Ben B. Johnson and Mr. J. Leo Palmer
First Security Bank Building
Preston, Idaho 83263

Dear Mr. Johnson:

We are in receipt of your correspondence concerning the above referenced claim to a water right. The following is a quote from the provisions under which the above referenced claim has been filed (Idaho Code, Section 42-225b):

"At anytime 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 reclamation 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 reclamation. 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 we can be of further assistance, please contact us.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:tg

13-4000

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

August 5, 1969

Re: Claim to A Water Right No. 13-4000

Mr. J. Harold Manning
General Delivery
Preston, Idaho

Dear Mr. Manning:

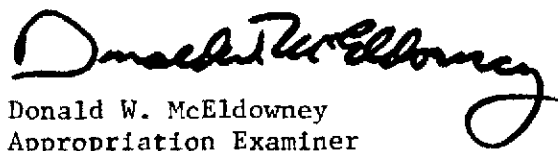
In reference to the above claim, the enclosed is a copy of an exception filed by Ben B. Johnson and J. Leo Palmer in connection with claim under the provisions of Chapter 2, Section 42-225b of the Idaho Code which states the following:

"At anytime 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 reclamation 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 reclamation. 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 final censorship or conformation of the described rights.

If we may be of further assistance, please contact us.

Very truly yours,


Donald W. McEldowney
Appropriation Examiner

DWM:tg

Enc: copy of exception

13-4000

August 5, 1969

Re: Claim to A Water Right No. 13-4000
J. Harold Manning

Preston Citizen
Preston, Idaho

Gentlemen:

Please be advised that as of this date, we have received neither the affidavit of publication nor the certified bill of publication for the above referenced. Please submit these articles to the Department as soon as possible.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:TG

Enc: none

13-4000

July 31, 1969

Re: Claim to A Water Right No. 13-4000
J. Harold Manning

Mr. Ben B. Johnson
First Security Bank Building
Preston, Idaho 83263

Dear Mr. Johnson:

Thank you for your letter of July 12, 1969.

Pursuant to your request, we are enclosing a copy of the Claim to A Water Right No. 13-4000 and supporting documents. As the claim has been filed under Section 42-225a of the Idaho Code, we wish to advise you that if you disagree with the contents and intent of the claim, you may file an exception to the claim as outlined under Section 42-225a and b of the Idaho Code. Upon receipt of the exception, we will forward a copy directly to Mr. Manning and file the original with the claim.

You may wish to file your own claim to a water right if you have a water right in connection with the springs and do not have a previous water right under the statutory method.

We are enclosing claim forms for your use in this matter. Please remit the fee of \$1.25 to the Department for the copies we are enclosing, and contact us if we may be of further assistance,

Very truly yours,

Donald W. McElDowney
Appropriation Examiner

DWM:tg

Enc: Claim No. 13-4000
supporting documents
claim to a water right form

13-4000

BEN B. JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO 83263

July 12, 1969

R. Keith Higginson
State Reclamation Engineer
Boise, Idaho 83700

Dear Mr. Higginson:

Would you kindly mail me a copy of the application that was filed with you by J. Harold Manning in connection with his notice of claim of water right no. 13-4000. Would you also send any plats that he has filed along with this. I intend to file a notice of protest in this matter with your office and I would appreciate a copy of the papers that he has filed. Mr. Manning does not have any land that is farmed, cultivated or irrigated, and none has been farmed, cultivated or irrigated. All of the waters in this area have been used upon the ranch that I run adjoining this property. Please send me a copy of your rules and regulations.

Sincerely,



Ben B. Johnson
Attorney at Law

BBJ/smb

13-4000

July 28, 1969

Re: Claim to A Water Right No. 13-4000

Preston Citizen
Preston, Idaho

Gentlemen:

Please be advised that as of this date, we have not received the affidavit of publication nor the certified bill of publication for the above referenced claim to a water right. We shall appreciate your forwarding these articles to the Department by return mail.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:TG

Enc: None

13-4000

THE PRESTON *Citizen*

Phone 852-0155

Published Thursdays

PRESTON, IDAHO

Gentlemen:

Attached herewith is a copy of the legal notice that is currently running in The Citizen. According to our records the notice is scheduled to run until _____.

If there are any errors in the copy, would you please notify us immediately by marking this copy and returning it to the office, so that corrections can be made before the notice runs again. For your information the charge for running the notice will be _____. This is not a proof of publication.

Sincerely Yours,

The Preston Citizen

NOTICE OF CLAIM TO A WATER RIGHT No. 13-4000

Notice is hereby given that J. Harold Manning, General Delivery, Preston, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of .15 cubic foot per second or 115 acre feet per annum of water from unnamed springs with point of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16; and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S., R. 39 E., B.M., Franklin County, the water is claimed to be used from April 1 to October 31 for irrigation and from January 1 to December 31 for stockwater with a priority of January 1, 1945 for .12 c.f.s. and January 1, 1945 for .04 c.f.s. or 1.5 acre feet per annum; the place of use is SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 13; SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, T. 15 S., R. 39 E., B.M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON
State Reclamation
Engineer

Published in the Preston Citizen, Preston, Idaho on July 10, and July 17, 1969.

Legal No. 1565—Pub. July 10, 17, 1939.

(Proofing only)

13-4000

July 7, 1969

C
Re: Claim to a Water Right No. 13-4000

O
Mr. J. Harold Manning
General Delivery
Preston, Idaho

Dear Mr. Manning:

P
The Department is in receipt of the affidavits you have submitted as evidence substantiating your claim to a water right. Please be advised that the Department has no authority to take any further action on these affidavits.

Very truly yours,

Y
Donald W. McEldowney
Appropriation Examiner

DWM:TC

13-4000

June 27, 1969

Re: Claim to a Water Right No. 13-⁴000-J. Harold Manning

Preston Citizen
Preston, Idaho

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 ample 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 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 of Reclamation, along with the publication bill. In order to receive payment, the following certification must appear on the bill:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of same has been paid,

Signature of claimant

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:tg
Enc: Legal Notice (1)

13-4000

NOTICE OF CLAIM TO A WATER RIGHT

No. 13-4000

Notice is hereby given that J. Harold Manning, General Delivery, Preston,
Idaho has filed a claim to a water right

established by diversion and application to beneficial use of .16 cubic foot per second or 115 acre feet per annum of water from
~~// cubic feet per second/acre feet of water from~~ unnamed springs

_____ with point of diversion in the SW 1/4, Sec. 16;
County
and SE 1/4, Sec. 17, T. 15 S., R. 39 E., B. M. Franklin; the water is

claimed to be used from April 1 to October 31 for irrigation and from
stockwater
January 1 to December 31 for / with a priority of January 1, 1945 for .12
.04 c.f.s. or 1.5 acre feet per annum;
c.f.s and January 1, 1945 for/ ; the place of use is

the place of use is SW¹/₄NW¹/₄, Sec. 16; SE¹/₄NE¹/₄, Sec. 17, T. 15 S., R. 39 E., B. M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the Preston Citizen, Preston, Idaho
on July 10, and July 17, 1969.

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13-4000