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Documents
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RECEIVED

JUL 8 1976

Department of Water
Eastern District Office
EXCEPTION OF

SHERWIN NIELSEN
Route 1
Preston, Idaho

IN THE MATTER OF CLAIM TO A WATER RIGHT NO. 11 4049

FILED BY LEE C. REAM

TO APPROPRIATE WATER FROM LYONS SPRING
(Name of Source)

IN BEAR LAKE COUNTY, IDAHO

STATE OF IDAHO)

COUNTY OF FRANKLIN)

Comes now Sherwin Nielsen

Whose Address is Route 1, Preston Idaho

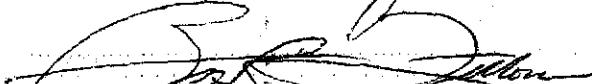
and makes exception to the above-numbered claim on the following grounds, to-wit:

That Sherwin Nielsen and his predecessors at interest, Clinton Hayes have owned and occupied land adjacent to that of applicant and have owned and occupied the land upon which LYONS SPRING arises, that at all time heretofore and at all time pertinent to the claim of Lee C. Ream, that being claim No. 11 4049, Sherwin Nielsen and/or Clinton Hayes have diverted said water subject of claim beneficially and to a use adverse to that of applicant and claim rights adverse to applicant by prescriptive use, legal ownership and equitable right.

WHEREFORE, SHERWIN NIELSEN makes exception to the claim and prays that this affidavit be entered into the permanent record.


Protestant
Sherwin Nielsen

Personally appeared before me Sherwin Nielsen, a person known to me and did execute this document in my presence this 21 day of June, 1976.


Notary Public

Residing at: Preston, Idaho
My commission expires: Lifetime

MICROFILMED Reel

NOV 18 2002

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that Lee C Ream
(name of claimant)
of Dingle Idaho
(mailing address), claims a right to the diversion and beneficial use of
the public water of the State of Idaho

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Lyons Spring
tributary to, None
- (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>.015</u> | Use <u>Stock water</u> | Period of Use: From <u>Jan 1</u> To <u>Dec 31</u> |
| Amount <u>.007</u> | Use <u>Domestic</u> | Period of Use: From <u>Jan 1</u> To <u>Dec 31</u> |
| Amount _____ | Use _____ | Period of Use: From _____ To _____ |
| (cfs, gpm or a/f) | (dom., irri., stock, etc.) | (both dates inclusive) |

- (3) Total quantity of water claimed: _____ cubic feet per second, or _____ acre feet per annum, and/or .022 10 gallons per minute.

- (4) Priority claimed: (the date water was first applied to beneficial use) April 6 1900

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
NE 1/4 SE 1/4, Sec. 24 Twp. 14 S Rge. 44 E B. M. County of Bear Lake
Additional points of diversion: None

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. Approximate 100 feet of underground pipe + a stock water trough

- (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.

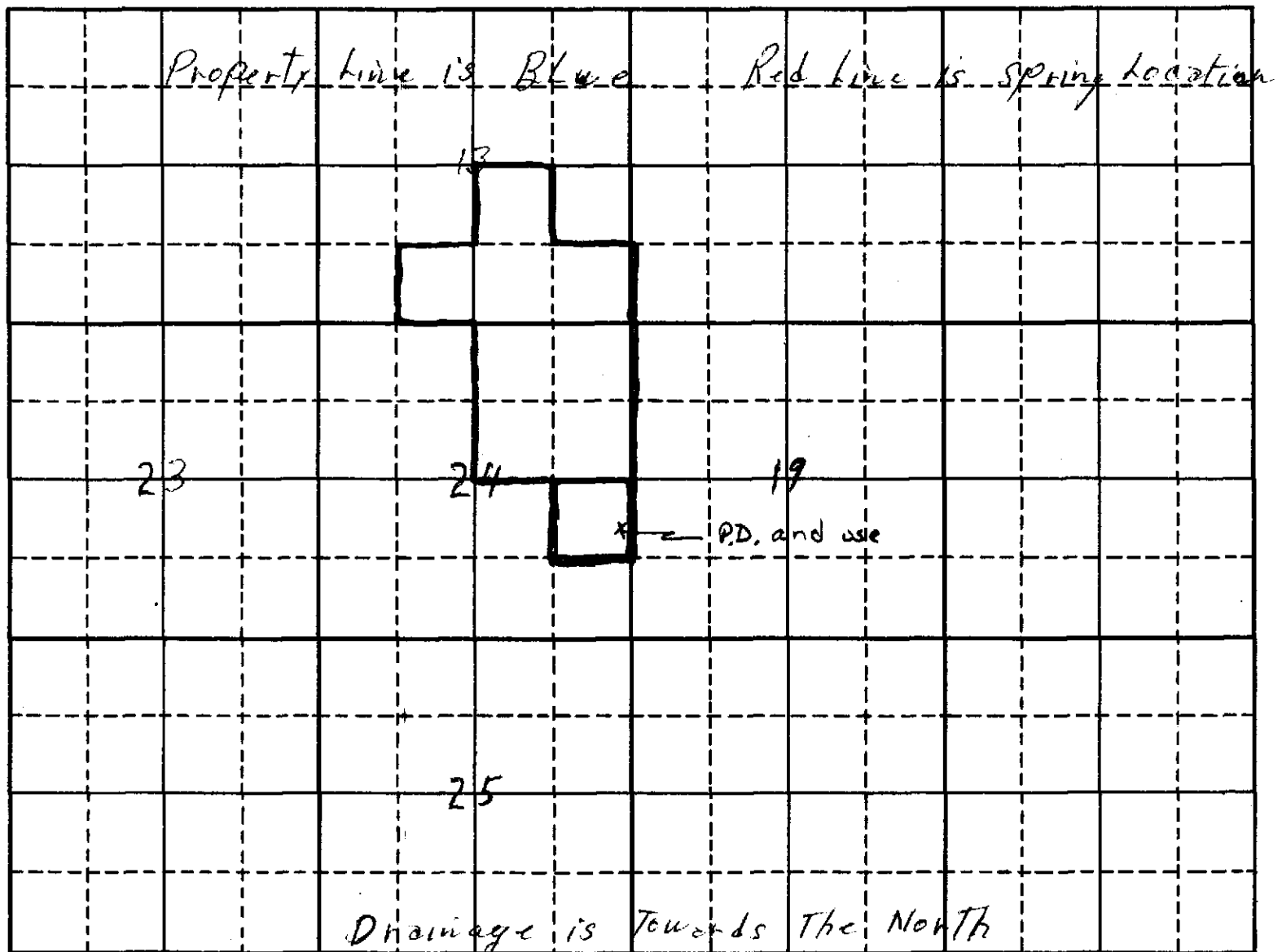
T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
<u>14</u>	<u>44</u>	<u>24</u>													X				

Total No. of acres _____

B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: To water live stock while pasturing near by land + for domestic use should I move in a cabin.

- (7) If you are claiming water as a member of an organization, list name of organization: None

- (8) Remarks I Bought The outlined property in 1973 + put The water into a Trough for Stock in 1975
Attached in receipt of a water right claimed by Roy Lyons and Recorded at The Bear Lake County Court House in 1900



Scale: 2 inches equal 1 mile. Elevation is up To The West, South, East.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Bear Lake) 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 17 day of May

Lee C. Beaird (Claimant)
Stephen D. Felt
Notary Public
Residing at Montpelier

My commission expires Sept

For Department Use Only

Received by <u>aw</u>	Date <u>6-02-76</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>Indy</u>	Date <u>6/4/76</u>		claimant by:	
\$10.00 fee received by <u>aw</u>	Date <u>6-02-76</u>			
Approved for publication by <u>aw</u>	<u>7-9-76 #2424</u>	<u>Sherrin Nielson</u>	<u>aw</u>	<u>7-09-76</u>
Published in <u>Times & Tribunes</u>				
Dates <u>June 10 & 12, 1976</u>				

Notice of Water Rights

Notice is hereby given: 1st That Roy Lyons of Dingle, Bear Lake County, Idaho, claims the use of all the waters in, and flowing from the two forest springs in what is known as "Cherry Hollow" in Bear Lake County, Idaho. The first spring as you go up the hollow from Dingle is on the North East quarter of the North East quarter of Section 24. the one farthest at the hollow is located on the South East quarter of Section 25 both of said Springs in Township 14 South of Range 44 East of Boise Meridian.

2nd It is intended to divert said water at or near the point where copies of this notice are posted, that is to say from the springs above described.

3rd The purpose for which said water is intended to be used is to water stock and for culinary purposes, and garden.

The place of intended use shall be at any place where desired on the N.E. 1/4 S.E. 1/4 S.E. 1/4 N.E. 1/4 S.E. 1/4 of Section 24 in Township 14 South of Range forty four East of Boise Meridian.

4th It is intended to divert said water by means of a ditch 18 inches wide and 12 inches deep. The course of the proposed ditch will be in a North westerly direction. The length thereof will be from a mile to a mile and a half. It is intended that the said ditch will be completed in or before the 7th of June A.D. 1900.

Witness my hand at Dingle, Idaho, This 6th day of April A.D. 1900
Roy Lyons (Claimant.)

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Bear Lake

ss.

Loren W. Thompson

being duly sworn,

deposes and says:

That he is the *publisher* of THE NEWS-EXAMINER, a weekly newspaper published at Montpelier, in the County of Bear Lake and State of Idaho; and said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Montpelier; 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

June 10, 19*76*, and ending with the issue of *June 17*, 19*76*

Loren W. Thompson
Fees, *13.50*

Subscribed and sworn to before me this *16th* day of *July*, 19*76*

Frank L. Thompson

Notary Public, Residing at Montpelier, Idaho

My Commission Expires *March 13, 1979*

NOTICE OF CLAIM TO A WATER RIGHT

NO. 11-4049

Notice is hereby given that Lee C. Ream, ~~Dingle~~, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 0.22 cubic feet per second of water from Lyons Spring with point of diversion in the NE 1/4 SE 1/4, Sec. 24, T. 14S, R. 44E, B.M., Bear Lake County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic purposes for one family and stockwatering purposes with a priority of April 6, 1900; the place of use is within the NE 1/4 SE 1/4, Sec. 24, T. 14S, R. 44E, 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.

R. Keith Higginson
Director

Published in the News-Examiner, Montpelier, Idaho on *June 10* and *June 17*, 1976.

RECORDED
JUL 8 1976
Department of Water Resources
Eastern District Office

01 WATER RIGHT NUMBER - 11-4049

02 OLD (CD) NUMBER -

LAST NAME

03001 - REAM

04001 - LEE C. FIRST NAME

05001 - C ORIG. OWNER

06 ADD LINE 1 -

07 ADD LINE 2 -

08 ADD LINE 3 -

09 CITY - DINGLE

10 STATE - ID 11 ZIP - 832330000

12 STAGE - S STATUTORY CLAIM

13 STATUS -

SOURCE
14001 - LYONS SPRING

TRIBUTARY OF
15001 - SINKS

16 DIVERSION MEANS -

17 COUNTY - 07 BEAR LAKE

18 DIVERSION CAPACITY - .000

19 TOTAL DIVERSION RATE - .020

20 TOTAL DIVERSION VOLUME - .00

21 WATER DISTRICT -

TRACT	SEC	TWN	RNG	LOT	DIVERSION POINTS	STREAM	INDEX	FIELD S
-------	-----	-----	-----	-----	------------------	--------	-------	---------

22001 -	NESE	23001 - 24	24001 - 14S	25001 - 44E	26001 - 27001 -	28001 -	0	100.0	172.0	7.4	0.0	0.0	0.0	0	0	6.8
---------	------	------------	-------------	-------------	-----------------	---------	---	-------	-------	-----	-----	-----	-----	---	---	-----

29 NON-IRRIGATION USE -

USE CODE / USE	TWN	RNG	SEC	TRACT	ACRES	LOT
----------------	-----	-----	-----	-------	-------	-----

30001 - 04 STOCKWATER	31001 - 14S	32001 - 44E	33001 - 24	34001 - NESE	35001 -	36001 -
TOTAL ACRES: 0						

PERIOD FROM	PERIOD TO	USE CODE / USE	WATER USE	DIVERSION RATE	DIVERSION VOLUME
-------------	-----------	----------------	-----------	----------------	------------------

37001 - 0101	38001 - 1231	39001 - 04 STOCKWATER	40001 -	0.020	41001 - 0.00
37002 - 0101	38002 - 1231	39002 - 43 DOMESTIC	40002 -	0.010	41002 - 0.00

42 DECREE PLAINTIFF NAME -

43 DECREE DEFENDANT NAME -

REMARKS
44001 -

APPROVAL CONDITIONS: 45001 -

46 OTHER RIGHTS FOR SAME USE -

DATE S	DATE S	FLA G S
47 PRIORITY - 6-APR-1900	55 LICENSE	63 TRANSFER/AMENDED
48 PROOF DUE -	56 APPL RECEIVED	64 DLE/CAREY ACT
49 PROOF MADE -	57 FIELD EXAM MADE	65 FLAG_1
50 APPROVE/DENIED -	58 DECREE	66 FLAG_2
51 PROTESTED -	59 START WORK	67 FLAG_3
52 HEARING -	60 ORDER SHOW CAUSE	
53 VERIFIED -	61 DATE_1	

WRR100
11-4049

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS PROOF READING REPORT

PAGE 2
25-MAR-1986 19:51:20

54 LAST UPDATE - 18-MAR-1986

62 DATE_2

D A T E S

D A T E S

F L A G S

38/02/2

VERIFIED JKN

NYT CELESTIA

- DATA ENTRY -

OTd No.

New No.

1. Original Owner: Lee C. Ream

Present Owner: _____

3. City: Dingle State: Id Zip:

4. A. Source of Water: Lyons Spring

B. Tributary of:

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: 4-6-1900

D. County: 07

E. Total Diversion Rate: .02

F. Total Diversion Volume:

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):

6. A. Point of Diversion

<u>Tract</u>	<u>Sec.</u>	<u>Twp.</u>	<u>Rge.</u>	<u>Gov't Lot</u>	<u>Rediv.</u>
NESE	24	14S	44E		

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

from 1-1 to 12-31 for 5 purposes. Amount .02
(cfs or AC-FT/yr)

from 1-1 to 12-31 for ☐ purposes. Amount 101

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from to for purposes. Amount

from to for purposes. Amount

8. Use Code: S

9. A. Decree Name:
B. Decree Date:

10. Remarks: A.
B.
C.
D.
E.

11. Other Uses (Non-irrigation explanatory information):

12. Other Rights for Same Use:

12. Other Rights for Same Use:

13. A. Proof Due Date:

B. Date Permit Approved or Denied:

C. Protested Date:

D. Hearing Date:

E. Old Number:

F. Proof Made (P or blank):

G. Field Exam Made (P,R,F or blank):

H. Conditions of Approval:

14. Diversion Means (brief narrative):

July 9, 1976

RE: Claim to a Water Right No. 11-4049

Mr. Lee C. Ream
Dingle,
Idaho 83233

Dear Mr. Ream:

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

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:CW

Enc: Copy of Claim

July 9, 1976

RE: Claim to a Water Right No. 11-4049 REAM

A. W. Lauritzen
Attorney at Law
P.O. Box 171
Logan, Utah 84321

Dear Mr. Lauritzen:

We have received the exception dated June 21, 1976, filed in behalf of Sherwin Nielsen 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
Supervisor, Eastern Region

RDC:CW

July 9, 1976

RE: Claim to a Water Right No. 11-4049

Mr. Lee C. Ream
Dingle,
Idaho 83233

Dear Mr. Ream:

Enclosed please find a copy of the exception filed by Attorney A. W. Lauritzen, in behalf of Sherwin Nielsen in connection with your Claim No. 11-4049. 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
Supervisor, Eastern Region

RDC:CW

Enc: Copy of Exception

June 28, 1976

RE: Claim to a Water Right No. 11-4049 REAM

The News-Examiner
P.O. Box 278
Montpelier, Idaho 83254

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 June 10 and June 17, 1976.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

cc: IDWR - State Office

*Checked
7-6-76
CW*

June 17, 1976

Mr. A.W. Lauritzen
Attorney at Law
P.O. Box 171
Logan, Utah 84321

Dear Mr. Lauritzen:

Please find enclosed your exception to a water right claimed by Mr. Nielson. Referring to the marked copy, please prepare in duplicate ^{and} affidavit form, new exceptions, which must be notarized.

If you have any questions, please feel free to contact this office.

Very truly yours,

LOY H. JOHNSON
Senior Water Resource Agent

LHJ:ME

Enclosures

RECEIVED

JUN 17 1976

IDAHO DEPARTMENT OF WATER RESOURCES

IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF IDAHO
Department of Water Resources
Eastern District Office

(Must be submitted in duplicate)

IN THE MATTER OF APPLICATION NO. 11 4049)
FILED BY LEE C. REAM)
TO APPROPRIATE WATER FROM LYONS SPRING)
(Name of Source))
EXCEPTION OF
SHERWIN NIELSEN
Route 1
Preston, Idaho
IN BEAR LAKE COUNTY, IDAHO)

STATE OF IDAHO)
COUNTY OF FRANKLIN)
* * * * *

Comes now Sherwin Nielsen
Whose Address is Route 1, Preston, Idaho

and excepts to the approval of the above-numbered Application on the following grounds, to-wit:

That Sherwin Nielsen and his predecessors at interest Clinton Hayes have owned and occupied land adjacent to that of applicant and have owned and occupied the land upon which LYONS SPRING arises, that at all times heretofore and at all time pertinent to the application of Lee C. Ream that being Application No. 11 4049, Sherwin Nielsen and/or Clinton Hayes have diverted said water subject of application beneficially and to a use adverse to that of applicant and claim rights adverse to applicant by prescriptive use, legal ownership and equitable right.

WHEREFORE, Protestant excepts to the Application and prays that it be rejected.

by the Director, as the case may be.)

Sherwin Nielsen
Protestant

June 4, 1976

RE: Claim to a Water Right No. 11-4049

Mr. Lee C. Ream
Dingle,
Idaho 83233

Dear Mr. Ream:

Attached herewith is departmental receipt No. 2424 in the amount of \$10.00 for the above referenced claim.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Attachment

June 4, 1976

RE: Claim to a Water Right No. 11-4049 REAM

The News-Examiner
P.O. Box 278
Montpelier, Idaho 83254

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 7-04-76 by CW

RDC:CW

Enc: Legal Notice (1)

NOTICE OF CLAIM TO A WATER RIGHT

NO. 11-4049

Notice is hereby given that Lee C. Ream,

Dingle, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 0.22 cubic feet per second ~~XXXXXXXXXXXXXXXXXXXX~~
of water from Lyons Spring

with point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, T. 14S, R. 44E, B.M.,
Bear Lake County

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic
purposes for one family and stockwatering purposes

with a priority of April 6, 1900 ;
the place of use is within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, T. 14S, R. 44E, 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.

R. KEITH HIGGINSON

Director

Published in the News-Examiner, Montpelier, Idaho

on June 10 and June 17, 1976

*me - J.
me - R.*

May 29, 1976

State of Idaho
Department of Water Resources
Ronald D. Carlson
Idaho Falls, Idaho 83401

Dear Mr. Carlson:

I am re-submitting this application for claim to a water right.

You will find enclosed a copy of the water rights that was filed in 1900 by Roy Lyons. On checking the descriptions it is evident the recorder has written a wrong discription. Upon checking the physical evidences plus personal knowledge and that of family members, I believe the above to be true. The correct discription is NE $\frac{1}{4}$ SE $\frac{1}{4}$ rather than NE $\frac{1}{4}$ NE $\frac{1}{4}$. This land was Lyons homestead, later sold to a Mr. Roy Forsberg, now owned by myself.

Hope this will be sufficient to establish priority to the water rights. The other spring claimed is farther south and on other property.

Sincerely,



Lee C. Ream
Dingle, Idaho
83233