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Documents
In File

Decreed in court case
of St. Charles Irr. Co.
vs. Keith Higginson
dated January 3, 1974
see File 11-M

Identification No. 11-4000
Claim No. 42111
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 Wayne J. Translums
post office address St Charles Idaho
2. The point of diversion is in _____ $\frac{1}{4}$ of _____ ^{Section} Section _____ Township 15 S
Range 43 east B.M. located on Little Creek
(name of source)
tributary to St Charles Big Creek in Bear Lake 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:
The water is diverted through ditches which contain enough
water to irrigate about 30 acre land amount: _____ c.f.s. or _____ acre feet
amount: _____ c.f.s. or _____ acre feet
Dec 10, 1887 amount: 0.30 c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or _____ acre feet.

- b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:

use irrigation period of use from May 1st to October 15 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive).

4. Description of diverting works:

a. Surface water diversion dam and/or headgate: material is composed of steel and wood
dirt; length is 14 feet; height is 9 feet;
width at bottom is 14 feet; width at top is 16 feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known none 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 _____

b. Do you get water through a ditch owned by several users? Yes If yes, give the name of the ditch Stewart damm ditch The other users and their respective interests in the ditch are (if known) 50% by Patience Clark Payne

6. Where water is used for stock watering, give number of each kind of stock watered _____
7. Where water is used for domestic or municipal purposes give number of families served _____ name of town supplied _____
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 _____

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation (May 1st to October 1st)
This dam is placed in operation May 1st October 1st when spring runoff is high It was constructed and recorded in 1887 or before and has been in continuous yearly operation since that time

BE IT KNOWN that the undersigned hereby makes claim to a water right as described above together with all attached information and certifies that all statements are true and accurate to the best of his knowledge.

Oct 4 - 1967 (Date) Wayne J. Transtum (Signature of Claimant)
State of Idaho }
County of Bear Lake } ss.
On this 7th day of October 1967, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Stephen Shuster
Notary Public residing at Paris Idaho
My commission expires Oct 10 - 1970

For Department Use Only

Received by <u>ef</u>	Date <u>10-11-67</u>	Exception filed by:	Forwarded to claimant by:	Date
Prelim. check by <u>DMC</u>	Date <u>10-27-67</u>			
Fee received by	Date	Fee \$ <u>10.00</u>		
Approved for publication by <u>JS Nov 2 1967</u>				
Published in <u>Paris Post</u>	Dates <u>Nov 14 1967</u>			

11-4000

INSTRUCTIONS

Your claim should set forth all necessary information to describe your claimed right. Failure to give enough information may make your claim of little value. Some of the items in the form may not apply to your situation. Please use additional sheets if space provided is not sufficient to fully answer the questions.

Paragraph No.

1. Give full name and post office address of person or company making the claim.
2. Describe the point of diversion by 40-acre subdivision. Give the name of the source, the drainage to which it is tributary if surface water, and the county in which the point of diversion is located. If there is more than one point of diversion, list others in the remarks section.
3. Give the priority dates and the quantities of water that you claim. You should accurately list the dates that you initiated each new use of the water. List separately the dates and amounts of water involved in each enlargement of the diversion. (Example: if you diverted 0.8 c.f.s. of water for irrigation on May 18, 1871, for the first time for use on 40 acres of land, and then later you enlarged the diversion by diverting an additional 0.4 c.f.s. of water to irrigate an additional 20 acres of land on June 1, 1901, your right should be described as follows:

Date of priority claimed:	May 18, 1871	amount:	0.8 c.f.s. or	acre feet
	June 1, 1901	amount:	0.4 c.f.s. or	acre feet
Total claimed:	1.2 c.f.s. or			acre feet

Since the water was used for irrigation between April 1 and October 31 on that particular farm, part b. would be completed as follows:
 use irrigation period of use from April 1 to October 31 (both dates inclusive). If the water had been used for any other purpose, you would have described the priority date, amount, use, and period of use in a similar manner.

4. Describe the diversion works and explain any changes since the right was first initiated.
5. If the water is used for irrigation, give the total acreage and list the lands irrigated by 40-acre subdivisions and complete the other questions.
- 6, 7, & 8. Describe any other uses of water.

9. In the remarks section, give any information or details that you feel are not fully covered or that need clarifying. You might explain your operation, where the water is returned to if for an industrial or non-consumptive right, the condition and temperature of the returned water, and any other information to help explain your claim.

You may wish to include as a part of your claim, affidavits of witnesses who are familiar with your right and who have a personal knowledge of the circumstances which you have described in your claim. You may submit maps, drawings, certified copies of posted notices which may have been filed in the county courthouse, water measurement records, or any other document which you feel will support your claim.

Your claim will be advertised in a county newspaper for two weeks. Exceptions to your claim which dispute the water right that you have described may be received by the Department of Reclamation and you will be provided a copy of such exceptions.

The fee for filing this claim with the Department of Reclamation, Room 107, Statehouse, Boise, Idaho 83701, is \$10.00.

AFFIDAVIT

Charles E. Hulme, Bloomington, Idaho being first duly sworn,
deposes and says: I have been acquainted with the irrigation
of lands under the Stewart Dam diversion on the
St. Charles Little Creek for the past twenty years. I have
helped Mr. Leon Swenson put the dam in and since the
purchase of the Swenson property by Wayne Branstetter I
have helped each year. I have leased property adjacent
to the Branstetter property which is also irrigated from
this diversion dam. I presently lease and operate
land owned by Utah Power & Light Company as well as
the lands above mentioned which is owned by Mrs. Patricia C.
Payne part of which is watered through this ditch referred
to. I have also talked to many neighbors who have
told me of the use by prior owners. Some of these
men over seventy years of age have had continuous
knowledge of the use of the water from this dam. One
man who is now over 90 years of age told me
that he helped build the dam at its present location
when he was about 17 or 18. He said that previously the
diversion dam was at a different location, but that the
change made it more favorable although the same
lands were being irrigated from the previous dam. He is
still living in Montpelier, Idaho.

Subscribed and sworn to before me this 6th day of October 1967.

Residing at Paris, Idaho
My commission expires Oct 10-1970

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being first duly sworn,

deposes and says: I live in St. Charles, Benton Co., Idaho. I am seventy one years old and have lived in St. Charles all of my life. I know personally the dam called Stewart Dam, in Little Creek, a tributary of St. Charles Big Creek. And to my personal knowledge E. C. Ketch, who proved up on property, then sold to Leon Swenson, who sold to Hayden J. Nason. They have all maintained and used the water from this dam, ever the years as long as I can remember.

(signature)

Subscribed and sworn to before me this 6th day of October 1967.

L. Hugh Shepard
(Notary Public)

Residing at Sunnyvale
My commission expires Oct 10-1970

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J. Whitney & Translators being first duly sworn,

deposes and says: I live in St Charles Bears Lake County.

I am seventy two years old and have lived on and
later owned the property adjacent to the property and
diversion of water used to irrigate a certain portion of the
property now owned by Wayne J. Truettman and watered
from the dam known as the Stewart dam on St Charles
Little Creek a tributary of St Charles Big Creek.

I personally know that the water from this dam known as Stewart dam was used by E.C. Ketch who entered and proved upon this property. Leon Swensen who purchased the property from Ketch and Wayne J. Transtrum who purchased the property from Swensen and has been used continuously as long as I can remember.

I have helped each one of these owners to put in this dam at various times, and personally know this water has been used to irrigate this property.

10. Walter E. Franström
(signature)

Subscribed and sworn to before me this 6th day of October 1967.

L. Keith Shepherd
(Notary Public)

Residing at *Paris Idaho*

My commission expires Oct 10-1970

St. Charles, Idaho
October 3, 1965

State Reclamation Department
007 State House
Boise, Idaho 83701

Oct 10 1965
Department of Reclamation

Dear Sirs:

Below is a copy of a record of dam constructed for irrigation on my property which is record in the Bear Lake County Court House.

Notice

Notice is hereby given that the undersigned, citizens of the United States, hereby claim and appropriate so much of the waters of Little Creek in Bear Lake County, Idaho Territory, as will flow through a ditch of the following dimensions, to wit:

Ten (10) feet wide in the bottom; Twelve (12) feet wide on top and Two (2) feet deep with a fall of $\frac{1}{2}$ of an inch to the rod.

This appropriation is made by means of a dam thrown across said Little Creek about ten rods above the lower ford, being the point of diversion and the place where this notice is posted and a monument of wood 4 feet high erected, the waters of said Little Creek being thence conducted through the ditch of Little Creek and West of the Outlet of Bear Lake, being Section 17 in Township 15 South of Range 43 East of Boise Meridian.

This Appropriation is made for irrigating and agricultural purposes.

Dated this 20th day of May A. D. 1887.

(signed)

John C. Stewart
Andrew Jensen
Lorenzo D. Young
Jacob Michaelson

DECEASED

Territory of Idaho)
County of Bear Lake) ss.

0)

This is to certify that I did on the 20th day of May A. D. 1887 at the point indicated in within notice post up a Notice of which the within is a true and correct copy.

J. C. Stewart Jr.

Filed for record Dec. 10, 1887 at the request of----- and
recored July 17th 1889.

I. L. Mantonya, County Recorder

Recorded in Book 1 of Miscellaneous Records at page 275. (copy of original)

*These men have all since deseased but I checked the county records and this form is still on recored.

Wayne J. Transtrum
St. Charles, Idaho

11-4000

The Paris Post

IDAHO'S OLDEST WEEKLY NEWSPAPER . . . ESTABLISHED IN 1880

Thomas E. Preston, Publisher

Corner Main and Center Streets
PARIS, IDAHO 83261

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
County of Bear Lake) ss.

I, Thomas E. Preston, publisher
and manager of THE PARIS POST, a weekly
newspaper published weekly at Paris, Bear
Lake County, State of Idaho, do solemnly
swear that a copy of the attached notice,
(as per clipping), was published weekly
in the regular and entire issue of said
newspaper, and not in any supplement there-
of, for 2 consecutive weeks, commencing
with the issue dated November 16, 1967,
and ending with the weekly issue dated
November 25, 1967.

Thomas E. Preston
Publisher

Subscribed and sworn to before me this
2nd day of December, 1967.

(SEAL)

S. M. Shippers
Notary Public

My commission expires Oct 10th 1970.

NOTICE OF CLAIM TO A WATER RIGHT No. 11-4000

Notice is hereby given that
Wayne Transum, St. Charles,
Idaho has filed a claim to a
water right established by div-
ersion and application to bene-
ficial use of .30 (cubic feet per
second) of water from Little
Creek, tributary of Big Fork of
St. Charles Creek with point of
diversion in Sec. 17, T. 16 S,
R. 42 E, B.M., Bear Lake Coun-
ty; the water is claimed to be
used for irrigation purposes
from May 1st to October 15 with
a priority of December 10, 1887
(30 a.s.); the place of use is
E 1/2 Sec. 17, T. 16 S, R. 42 E,
B.M.

Any exception to this claim
of water right may be filed
with the Department of Re-
clamation.

R. KETH HIGGINSON
State Reclamation Engineer

Published in The Paris Post,
Paris, Idaho on November 16
and November 23.

11-4000

RECEIVED

Statement

The Paris Post

Department of Reclamation
IDaho's OLDEST NEWSPAPER

PARIS, IDAHO

November 30, 1967

Department of Reclamation
107 State House
Boise, Idaho 83701

Legal publication Nos 16 and 23

Claim 11-4000 (30 li) Transstream	\$6.90
Claim 11-4001 (32 li) C. Arnell	7.36
Claim 11-4003 (30 li) Banderson	6.90
Claim 11-4004 (31 li) TLP & L	7.13
Total Due	\$28.29

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.

Your Patronage is Appreciated

Thomas E. Croston
Published

11-4000

December 5, 1967

Re: Claim No. 11-4000, 11-4001, 11-4003, and 11-4004

The Paris Post
Paris,
Idaho 83261

Gentlemen:

Returned herewith is the bill of publication for the above referenced claims to water rights. Before a State Warrant may be issued for this amount, we must be in receipt of a signed, and certified bill.

Please have the publisher sign this bill and return it to this department for our remittance.

Very truly yours,

Donald W. McElowney
Water Rights Clerk

DWM:ks

Enclosure: Bill of publication

11-4000

**NOTICE OF CLAIM TO A
WATER RIGHT
No. 11-4000**

Notice is hereby given that Wayne Transtrum, St. Charles, Idaho has filed a claim to a water right established by diversion and application to beneficial use of .30 (cubic feet per second) of water from Little Creek, tributary of Big Fork of St. Charles Creek with point of diversion in Sec. 17, T. 15 S., R. 43 E., B.M., Bear Lake County; the water is claimed to be used for irrigation purposes from May 1 to October 15 with a priority of December 10, 1887 (.30 c.f.s.); the place of use is E $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 13, T. 15, R. 43 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 Paris Post,
Paris, Idaho, on November 16
and November 23.

11-4000

November 7, 1967

Re: Claim No. 11-4000

The Paris Post
Paris,
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 can not 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.

(Do not sign letter)

Signature of claimant

Very truly yours,

Donald W. McEldowney
Water Rights Clerk

DWM:ks

Enclosure: legal notice

Form 3

11-4000

NOTICE OF CLAIM TO A WATER RIGHT

No. 11-4000

Notice is hereby given that Wayne Transtrum, St. Charles, Idaho
has filed a claim to a water right established
by diversion and application to beneficial use of .30 (cubic feet per second)
(~~3000 feet~~) of water from Little Creek, tributary of Big Fork of St. Charles Creek
with point of diversion
in Sec. 17, T. 15 S, R. 43 E, B.M., ~~XXXXXX/XXXX~~ Bear Lake County ;
the water is claimed to be used for irrigation
purposes from May 1 to October 15 with a priority of
December 10, 1887 (.30 c.f.s.) the place of use is E₂SE₄, Sec. 13, T. 15 S, R. 43 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 Paris Post Paris,
Idaho, on November 16 and November 23.

11-4000

December 5, 1967

Re: Claim No. 11-4000

Wayne J. Transtrum
St. Charles,
Idaho 83272

Dear Mr. Transtrum:

Your claim to a water right has been received and processed by the Department of Reclamation. The information in your claim is filed under Claim No. 11-4000.

Enclosed is your receipt for the filing fee. Please contact us if we may be of further assistance.

Very truly yours,

Donald W. McElowney
Water Rights Clerk

DWM:ks

Enclosure: Receipt No. 122 for \$10.00

11-4000