

DECEIVED

JUN 4 1973

Affidavit of Publication

STATE OF IDAHO
County of Benewah, ss.

Department of Water Administration
Northern District Office

JoJane Hammes, being first duly sworn on oath, deposes and says that she is co-publisher and business manager of the St. Maries Gazette Record, a weekly newspaper printed and published at St. Maries, Benewah County, State of Idaho; the St. Maries Gazette Record is a newspaper having general circulation in Benewah county, State of Idaho, and has been continuously and uninterruptedly published in Benewah County, State of Idaho, during a period of more than seventy-eight consecutive weeks prior to the first publication of the notice of advertisement hereon.

That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of two issues, the first publication being on the 24th day of May, 1973 and the last on the 31st day of May, 1973.

That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

Subscribed and sworn to before me this 1st day of June, 1973

Ora Lyon
Notary Public in and for Benewah County, Idaho
Residing at St. Maries, Idaho

NOTICE OF CLAIM
TO A WATER RIGHT

NO. 95-4083

Notice is hereby given that H. William Morris, Box 160, Plummer, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 0.2 cubic feet per second of water from an Unnamed Stream, tributary to Chatcolet Lake with point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 18, T. 46N, R. 3W, B.M., Benewah County.

The water is claimed to be used from Jan. 1 to Dec. 31 for stockwatering purposes; and from June 1 to Nov. 1 for the irrigation of 12 acres with a priority of Sept., 1910 the place of use is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 18, T. 46N, R. 3W, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, 401 Front Avenue, Coeur d'Alene, Idaho 83814.

R. KEITH HIGGINSON
Director

Published in the St. Maries Gazette Record, St. Maries, Idaho on May 24 and May 31, 1973.

No. 2641 - May 24 - May 31

95 4083

CLAIM TO A WATER RIGHT

Notice is hereby given that H. William Morris
(name of claimant)

ground water or surface water tributary to Chatcolet Lake;

(1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Unnamed Stream

Amount 0.1 Use Irrigation Period of Use: From June 1 To Nov. 1

Amount 0.1 Use Stockwater Period of Use: From Jan. 1 To Dec. 31

Amount Use Period of Use: From To
(cfs, ~~acre~~ ~~feet~~) (dom., irri., stock, etc.) (both dates inclusive)

(4) Priority claimed: (the date water was first applied to beneficial use) Sept., 1910

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

NE ¼ NE ¼, Sec. 18 Twp. 46N Rge. 3W B. M. County of Benewah

Additional points of diversion: _____

B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. Earth diversion dam, 40' in length, 4' in height, width at bottom 16' and width at top 12' into ditch 2' wide at top, 1' at bottom, approx. 133' to first place of use.

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

Total No. of acres 12

B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: _____
Stockwater for 100 cows, 100 calves, 3 bulls, and 3 horses.

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

Received by	CP	Date	5-11-73
Prelim. check by	76	Date	5-14-73
\$10.00 fee received by	76	Date	5-14-73
Approved for publication by	O.K. 76	Date	5-14-73
Published in	ST. MARIES GAZETTE RECORD		
Dates	5-23 & 5-30-73		

For Department Use Only

Exception filed by:	Forwarded to
Date	claimant by:

Any commission expires

Dec 24, 1973

Sworn to before me this 11 day of _____

the athletes knowledge.

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

State of Idaho
County of Blaine
ss.

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.

Scale: 2 inches equal 1 mile.

3M

46N

(8) Remarks

Affidavit of Publication

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Gra. Lopez
Notary Public in and for Benewah County, Idaho
Residing at St. Maries, Idaho

**NOTICE OF CLAIM
TO A WATER RIGHT**

NO. 95-4083

Notice is hereby given that H. William Morris, Box 160, Plummer, Idaho has filed a claim to a water right established by diversion and application for beneficial use of 0.2 cubic feet per second of water from an unnamed Stream, tributary to Chatcolet Lake with point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 18, T. 46N, R. 3W, B.M., Benewah County.

The water is claimed to be used from Jan. 1 to Dec. 31 for stockwatering purposes; and from June 1 to Nov. 1 for the irrigation of 12 acres with a priority of Sept. 1910 the place of use is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 18, T. 46N, R. 3W, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, 401 Front Avenue, Coeur d'Alene, Idaho 83814.

R. KEITH HIGGINSON
Director

Published in the St. Maries Gazette Record, St. Maries, Idaho on May 24 and May 31, 1973.

No. 2041 - May 24 - May 31

June 12, 1973

Mr. Robert D. Dellwo
DELLWO, RUDOLF & GRANT
Attorneys for Coeur d'Alene Tribe
1016 Old National Bank Building
Spokane, Washington 99201

Re: Application No. 92-7013 - Floyd J. Thompson
Application No. 93-7004 - Milford C. Manes
Claim Nos. 95-4083 and 95-4084 - William Morris

Dear Mr. Dellwo:

This acknowledges the receipt of your letter dated June 1, 1973, relative to Application Nos. 92-7013 and 93-7004 and Claim Nos. 95-4083 and 95-4084. I assume that you wish the objection of the Coeur d'Alene Tribe to be made a matter of record and that you desire a hearing to be held concerning the two applications for permit. You should understand that there is no hearing in connection with claims to water rights, since they are filed for record purposes only and no action is required by this office. In connection with your letter, there are several items with which this office cannot agree.

- (1) You indicate that it is a "fact that the water rights of the tribe to the waters involved are superior to and prior in time to any jurisdiction of the State of Idaho." We do not know and you do not know it to be a fact that the tribe does have any water right to the waters involved. We therefore cannot act upon your contention that the tribe has any claim at all on the waters in question.
- (2) You suggest that we direct the attention of the applicants to the extent and nature of the Indian water rights. I would be most happy to do so if anyone could tell me what the extent and nature of such rights were. Until such time as the rights have been identified and quantified by the court, we are not in a position to direct anyone's attention to them.
- (3) You suggest that we confer with the Attorney General's Office and obtain his advice, which you believe will show that whatever right the tribe has will in no way be affected by administrative action of this office. I am happy to advise you that I have conferred with the Attorney General's Office and am advised that the actions of this office cannot be controlled or affected by any claim of water right by the Indian tribe, no matter how ridiculous or inflated that claim may be.

Mr. Robert D. Dellwo

Page 2

June 18, 1973

What I'm trying to say, Mr. Dellwo, is that just because the Indians claim a particular right does not establish the fact that such a right exists. I would hasten to add that the State of Idaho and this office recognizes that the Indians are entitled to water use with a priority as of the date of the reservation. However, it is our understanding that that right is only for the purpose for which the reservation was created. Since a major portion of the original reservation lands have now passed out of tribal trust status, it is our contention that no reservation water right can now exist, except on the remaining portion of the land.

Please advise us if you wish a formal hearing to be held concerning the Thompson and Manes applications for permit.

Very truly yours,

R. KEITH HIGGINSON
Director

RKH:mjl

P
Y

4/19/83

Dept. of Water Resources
4055 Government Way
Coeur d'Alene, Idaho 83814

95 4083
~~4084~~

Dear Sirs;

In your files are two claims to a water right, in the above name, and concerning our ranch in sections 17 & 18, TWP 46 N, R3 WBM, Benewah County.

One or both of these claims are inaccurate in certain details. Our home and copies of the claims burned in 1982. I would be very thankful if you could make me a photocopy of each of them so that I can arrange to file an amended claim and/or additional claims.

Thank you in advance.

Sincerely,

H. Wm Morris

Get copies of 2 clms.
& forms & inst.
& note on platting
4/22/83
J

RECEIVED

APR 21 1983

Department of Water Resources
Northern District Office

MICROFILMED

June 12, 1973

*File Claim 120
95-4083*

Mr. Robert D. Dellwo
DELLWO, RUDOLF & GRANT
Attorneys for Coeur d'Alene Tribe
1016 Old National Bank Building
Spokane, Washington 99201

Re: Application No. 92-7013 - Floyd J. Thompson
Application No. 93-7004 - Milford C. Manes
Claim Nos. 95-4083 and 95-4084 - William Morris

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RECORDED

Mr. Robert D. Dellwo

Page 2

June 18, 1973

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Please advise us if you wish a formal hearing to be held concerning the Thompson and Manes applications for permit.

Very truly yours,

R. KEITH HIGGINSON
Director

RKH:mjl

LAW OFFICES
DELLWO, RUDOLF & GRANT

ROBERT D. DELLWO
KERMIT M. RUDOLF
WILLIAM J. GRANT
RICHARD J. SCHROEDER
JOSEPH A. ESPOSITO

1016 OLD NATIONAL BANK BUILDING
SPOKANE, WASHINGTON 99201
(509) 624-4441

June 1, 1973

R. Keith Higginson, Director
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Higginson: Re: Application 92-7013 - Floyd J. Thompson
Application 93-7004 - Milford C. Manes,
Claims 95-4083 & 4084 - William Morris

As attorneys for the Coeur d'Alene Tribe of Idaho we wish to make a record of the Tribe's objection and protest to the granting of the permits applied for in each of the foregoing cases.

In making this objection we want your office to assume that we have set out in detail the summaries and briefs we have already sent you in previous cases. These relate to the Winters doctrine rights of the Coeur d'Alene Tribe and the fact that the water rights of the Tribe to the waters involved are superior to and prior in time to any jurisdiction of the State of Idaho to govern and to any right that the State of Idaho, through your Department, might grant to applicants or anyone else.

We hope that your office does more than merely recite that the "permit will be subject to all prior water rights" and will actually direct the attention of the applicant and, if granted, the permittee to the extent and nature of the prior and superior tribal and Indian water rights to the same waters.

As you may know, the Tribe is actively engaged in a comprehensive water inventory, both legal and hydrological, and in due course will take whatever legal action is necessary to protect its water resources. Each of your permittees will be joined in that action or actions. I am sure that the State Attorney General's office will advise your office that whatever rights the tribe has to these same waters will in no way be affected or controlled by the administrative action your office takes in each of the referenced applications or in any other.

Very truly yours,
DELLWO, RUDOLF & GRANT

Robert D. Dellwo
By: Robert D. Dellwo

Attorneys for Coeur d'Alene Tribe

RDD:fb

May 18, 1973

Re: Application No. 92-7013 - Floyd J. Thomason
Claim No. 95-4083 - H. William Morris
" " 95-4084 - " " "

St. Maries Gazette Record
P.O. Box 367
St. Maries, ID 83861

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. 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. 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 the same has been paid."

(signature of claimant)

Very truly yours,

Fredd Eisenbarth
Northern District Manager

FE:CR

Enc: Legal Notices (3)

Bill submitted 6-4-73 by cl

95 4083

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
NORTHERN DISTRICT OFFICE



Cecil D. Andrus
Governor
R. Keith Higginson
Director

401 Front Ave., Rm. 209
Coeur D'Alene, Idaho 83814
(208) 667-6484

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

June 13, 1973

Re: Claim to a Water Right No. 95-4083
" " " " " " 95-4084

H. William Morris
Box 160
Plummer, ID 83861

Dear Mr. Morris:

The Department of Water Administration has completed the processing of your claims to a water right, and no further action is authorized under Section 42-225a and 42-225b, Idaho Code. Your claims 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 a claim does not, in itself, guarantee you a water right; it only records and preserves the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included in your claim files, you may have that information or evidence added at any time. Please refer to your claim numbers when corresponding with this office.

We are enclosing, for your records, copies of your claims. If you have any questions, or if we may be of further assistance, feel free to contact us.

Very truly yours,

Fred Eisenbarth
Northern District Manager

FE:CR

Enc: copy of claims

95 4083

NOTICE OF CLAIM TO A WATER RIGHT

NO. 95-4083

Notice is hereby given that H. William Morris,
Box 160, Plummer, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 0.2 cubic feet per second ~~acre feet per annum~~
of water from an Unnamed Stream, tributary to Chatcolet Lake
with point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 18, T. 46N, R. 3W, B.M.,
Benewah County

The water is claimed to be used from Jan. 1 to Dec. 31 for stockwatering
purposes; and from June 1 to Nov. 1 for the irrigation of 12 acres
with a priority of Sept., 1910;
the place of use is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 18, T. 46N, R. 3W, B.M.

Any exception to this claim of water right may be filed with the Idaho
Department of Water Administration, 401 Front Avenue, Coeur d'Alene, Idaho
83814.

R. KEITH HIGGINSON

Director

Published in the St. Maries Gazette Record, St. Maries, Idaho
on May 23 and May 30, 1973

95 4083

May 18, 1973

Re: Claim to a Water Right No. 95-4083
" " " " " " 95-4084

H. William Morris
Box 160
Plummer, ID 83851

Dear Mr. Morris:

Attached is your receipt No. 10664 in the amount of \$20 for the filing fees on the above referenced claims, which were received in this office.

Very truly yours,

Fred Eisenbarth
Northern District Manager

FE:CR

Enc: Receipt

95 4083

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

NORTHERN DISTRICT OFFICE



Cecil D. Andrus
Governor

R. Keith Higginson
Director

401 Front Ave., Rm. 209
Coeur D'Alene, Idaho 83814
(208) 667-6484

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

April 19, 1973

H. William Morris
Box 160
Plummer, ID 83851

Dear Mr. Morris:

We are returning your Claim to a Water Right form. Whereas you are claiming two separate sources of water supply with two priorities, it will be necessary to file a claim for each source.

We have taken the liberty of transferring the information on to our new Claim forms for your convenience. Please review all items, and if you believe that the information adequately describes your water right, have them notarized once again and return them to our office located in Coeur d'Alene.

There is a required filing fee of \$10 per claim to cover the advertisement. Please submit the fees with the claims and we will begin their processing.

If you have any questions, or if we may be of any further assistance, feel free to contact this office.

Very truly yours,

Fred Eisenbarth
Northern District Manager

FE:cr

Enclosures

Dear Sirs;

I have deleted (and initialed) part of the description of means of diversion from the hand dug well. This would apply to 2 other sources, which I will make claim to after we have established these two.

I believe that one mistake has been made on the enclosed forms. The map on the reverse side of the 1st page of each application form, shows diversion and use in the NW $\frac{1}{4}$, NW $\frac{1}{4}$ ----and it should be the NE $\frac{1}{4}$, NE $\frac{1}{4}$. I will let you change it there.

Thank you,

H. William Morris

95 4083