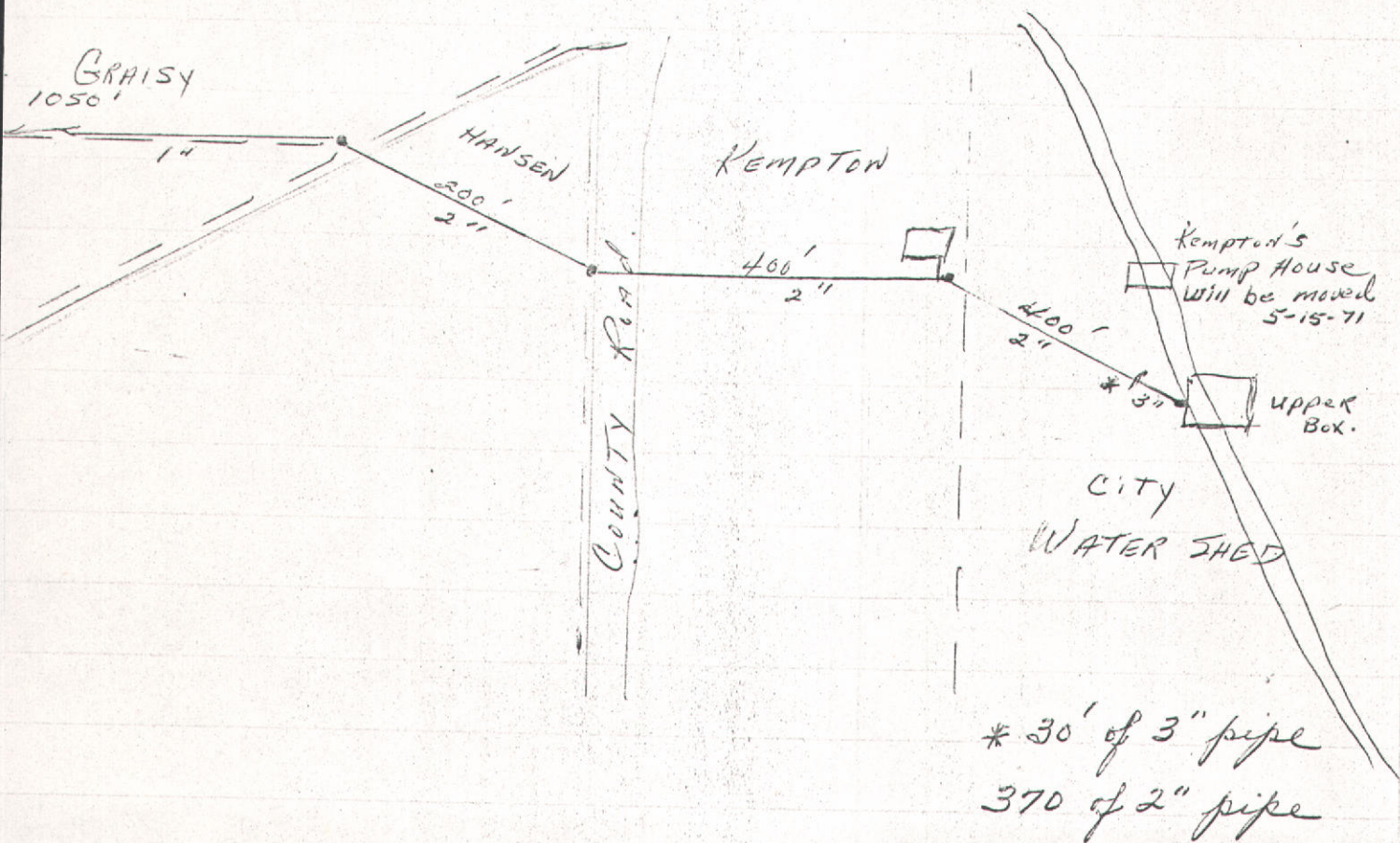
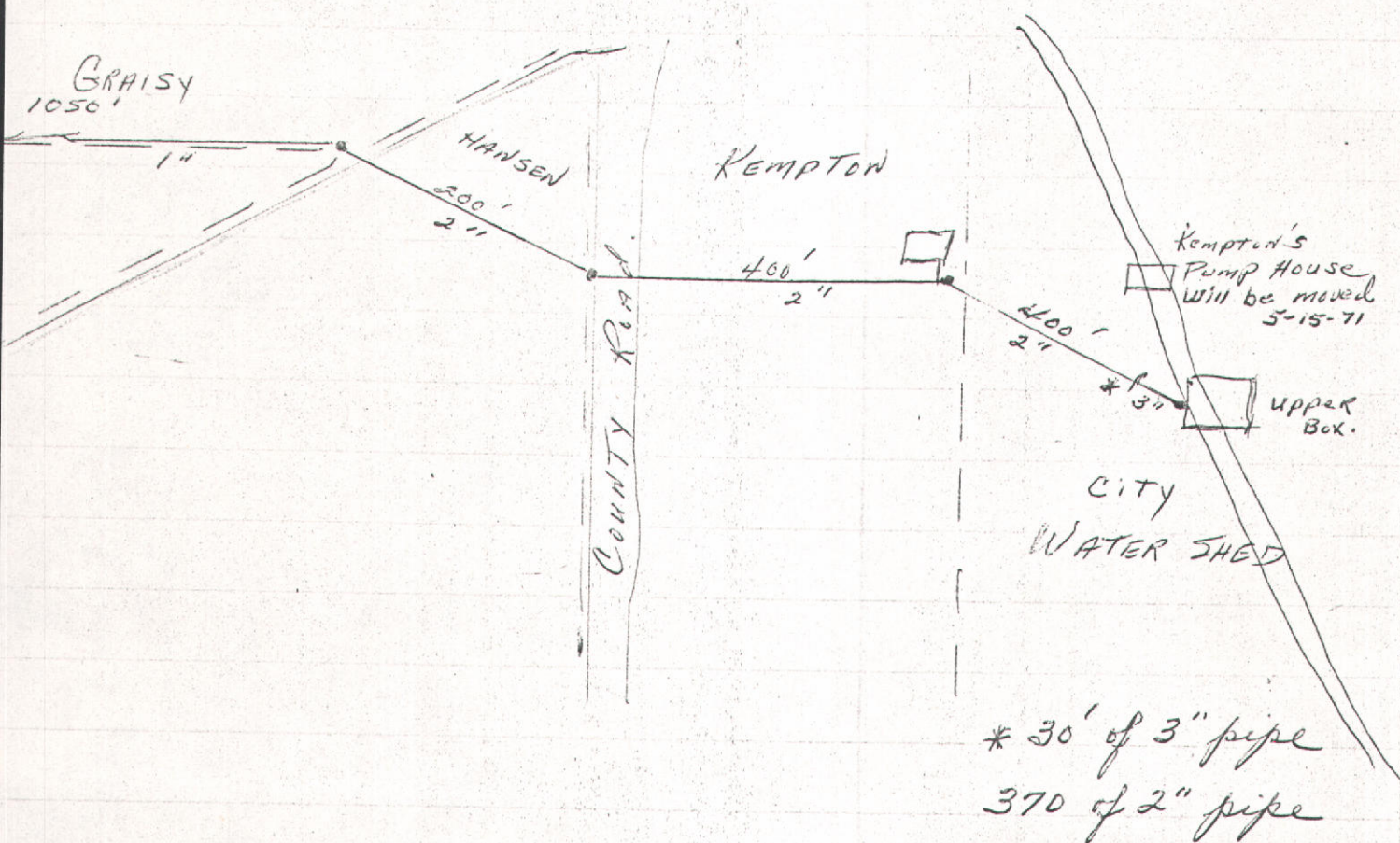


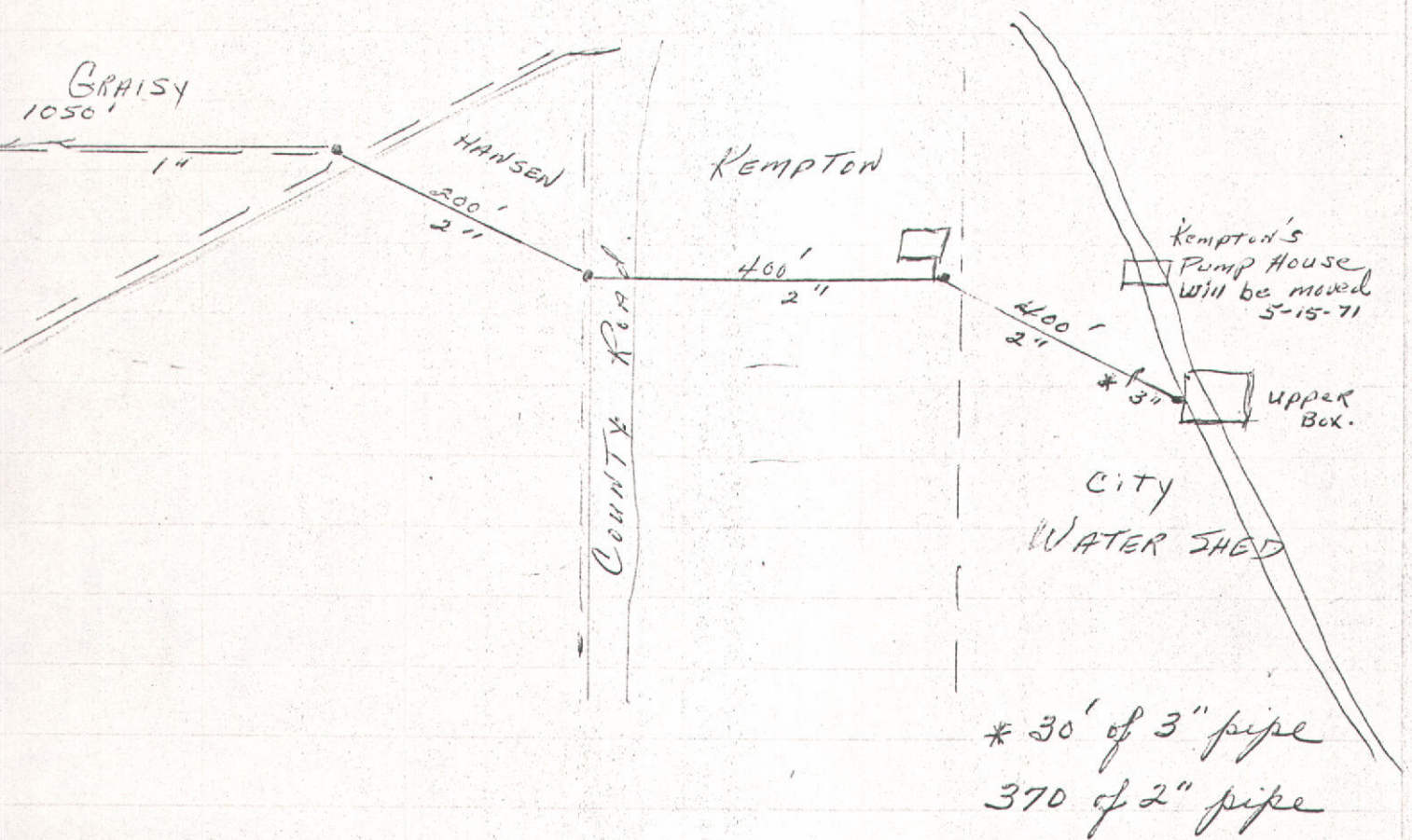
PROPOSED gravity Flow line



Proposed Gravity Flow line



Proposed Gravity Flow line



RECEIVED

AUG 22 1972

AFFIDAVIT OF PUBLICATION

Department of Water Administration
County of Kootenai } ss.
STATE OF IDAHO }

RECEIVED

AUG 21 1972

NOTICE OF CLAIM TO A WATER RIGHT No. 95-4043

Notice is hereby given that Ray Kempton, Box 339, Rathdrum, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 0.03 cubic feet per second of water from North Fork of Spring Creek, tributary to Spring Creek with point of diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 25, T. 52N, R. 5W, B. M., Kootenai County.

The water is claimed to be used from Jan. 1 to Dec. 31, for domestic purposes with a priority of July 15, 1969, the place of use is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 25, T. 52N, R. 5W, 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 Post Falls Tribune, Post Falls, Idaho, on Aug. 10 and Aug. 17, 1972.

8-10 2tc

JEANNETTE S. ROSIN, being first duly sworn, deposes and says that she is the publisher of THE POST FALLS TRIBUNE, a newspaper published weekly at Post Falls, Kootenai County, Idaho, and of general circulation therein.

That the Claim to a Water Right No. 95-4043

Ray Kempton a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for two consecutive issues, commencing

with the issue dated August 10, 1972

and ending with the issue dated August 17, 1972

Subscribed and sworn to before me, this 17th

day of August, 1972

C. Agnes Luckini

Notary Public for the State of Idaho
Residing at Post Falls, Idaho

Publication Fee \$ 12/58

95 4043

Identification No. 95-4043

Claim No. _____

Map No. _____

**STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION**

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 RAY KEMPTON
post office address BOX 339, RATHBURN, ID 83858
2. The point of diversion is in SW $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 25 Township 52N
Range 5W B.M. located on NORTH FORK SPRING CK
(name of source)
tributary to SPRING CK in KOOTENAI 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: JULY 15, 1969 amount: 0.03 c.f.s. or _____ acre feet
 _____ amount: _____ c.f.s. or _____ acre feet
 _____ amount: _____ 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 DOMESTIC period of use from JAN 1 to DEC 31 (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 CONCRETE
DIVERSION DAM; length is 10 feet; height is 2 1/2 feet;
 width at bottom is 6 INCHES feet; with at top is 6 INCHES 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 _____

95 4043

PIPELINE

PIPELINE

b. Do you get water through a ditch owned by several users? YES If yes, give the name of the ditch

CITY OF KATHARUM DISCONTINUED USE OF 1000 FT OF SYSTEM The other users and their respective

interests in the ditch are (if known) FIRST 1000 FT TOM McLAUGHLIN, EARL HANSEN, MARY GRAISY. EARL HANSEN AND MARY GRAISY HAVE INTERESTS IN THE REMAINING 405 FT

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 ONE
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

#40 METAL PIPE FEED CARRIES WATER FROM POINT OF DIVERSION TO A CLEAN OUT BOX. THEN CARRIED BY 30 FT 3" PLASTIC PIPE, THEN 370 FT OF 2" PLASTIC PIPE, THEN SET OF 1" PLASTIC PIPE, THEN 18" OF 3/4" GALVANIZED PIPE TO PLACE OF USE

State of Idaho

County of KOOTENAI 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 31st day of July, 1972

Notary Public for the State of Idaho
My commission expires Feb. 25, 1976

Residing at _____

My commission expires _____

For Department Use Only

Received by FE Date 7/31/72 Exception filed by: _____ Forwarded to claimant by: _____ Date _____

Prelim. check by FE Date 7/31/72 _____

Fee received by FE Date 7/31/72 Fee \$ 10.00 _____

Approved for publication by FE _____

Published in POST FALLS TRIBUNE Dates 8-10-72-17-72 _____

95 4043

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 Water Administration, Statehouse, Annex 2, Boise, Idaho, 83707, is \$10.00.

BEFORE THE IDAHO DEPARTMENT OF WATER ADMINISTRATION, STATE
OF IDAHO

In the Matter of the Claim To	)	OBJECTION TO CLAIM
a Water Right:	)	OF WATER RIGHT
	)	
Ray Kempton - No. 95-4043	)	

TO THE IDAHO DEPARTMENT OF WATER ADMINISTRATION:

COMES NOW the CITY OF RATHDRUM, by and through
its attorney, and objects to the above referred to claim,
as follows:

I.

The proposed point of diversion is property of
the City of Rathdrum.

II.

That the City of Rathdrum has never granted
permission to the applicant to enter upon the property of
this objector to initiate a water right.

III.

That the applicant would necessarily have to
travel over property of the objector to carry water to his
premises; that no permanent easement has ever been given
to do so and any attempt would be a trespass.

IV.

That the City of Rathdrum has a good and valid
existing water right on the entire contents and supply of
Spring Creek.

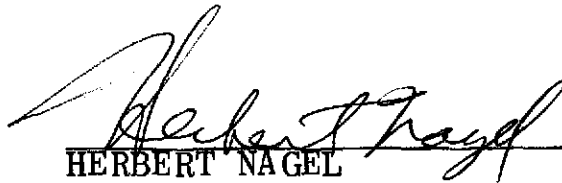
V.

That the claimant's only right to use the system of
the City of Rathdrum is by virtue of an agreement, copy of

which is attached hereto; that the pond and point of diversion, the metal pipe and the settling pond referred to in the claim is the property of the City of Rathdrum, and has been for fifty (50) years, and used by the City of Rathdrum as a source of water supply for the residents of said city.

WHEREFORE, the City of Rathdrum requests that said claim for water right be denied.

DATED this 15th day of August, 1972.



HERBERT NAGEL
Attorney for CITY OF RATHDRUM
P. O. Box 907
Coeur d' Alene, Idaho 83814

A G R E E M E N T

THIS AGREEMENT made and entered into by and between CITY OF RATHDRUM, a municipal corporation, hereinafter referred to as CITY, and MARY L. GRAISY, OSCAR EARL HANSON, and RAY KEMPTON, hereinafter referred to as USERS, WITNESSETH:

WHEREAS, the City is the owner of certain lands near Rathdrum, Idaho, commonly known as the Rathdrum Water Shed; and,

WHEREAS, on said property there exists a natural stream known as Spring Branch Creek; and

WHEREAS, the City is not now using said creek; and

WHEREAS, the Users are in need of a further water supply; and,

WHEREAS, the parties have agreed upon certain terms and conditions upon which said water may be used;

NOW, THEREFORE,

IT IS HEREBY COVENANTED AND AGREED by and between the parties hereto, as follows:

1. That the City does allow the Users the right to place a retaining box in the creek known as Spring Branch Creek and to take and draw therefrom by gravity flow only, water through a three inch (3") pipe. Said 3" pipe shall be for a distance of thirty feet (30') only, and thereafter shall be reduced to a two inch (2") pipe. That the said Users herein shall agree between themselves and provide each other with the necessary easements from and after the time and place that said pipeline leaves the City property. That each of said parties shall be entitled to use said water from said pipeline in equal amounts.

2. 1 That the City herein shall not be constituted in any way to be providing water and/or supplying water to any of said users and the City is hereby and herein giving the right to the parties to maintain said pipeline as herein provided only. The City does not make any representations as to the quality of the water and shall not be held liable in any way to any person using said water.

3. The City, at any time, by giving ten days (10) written notice, shall have the right to demand the discontinuance of use of said water and the removal of said pipeline. The Parties hereto are using said water at the will and by permission of the City only, which will and permission may be cancelled, rescinded and annulled at any time as herein provided. The Users shall not acquire any rights in and to the water adverse to the City herein.

4. That attached hereto is a sketch setting forth the area and describing the location of the proposed pipeline.

IN WITNESS WHEREOF the parties have executed this agreement at the times and places set forth.

CITY OF RATHDRUM

ATTEST:

Mayor

City Clerk

Address: _____

Mary L. Graisy

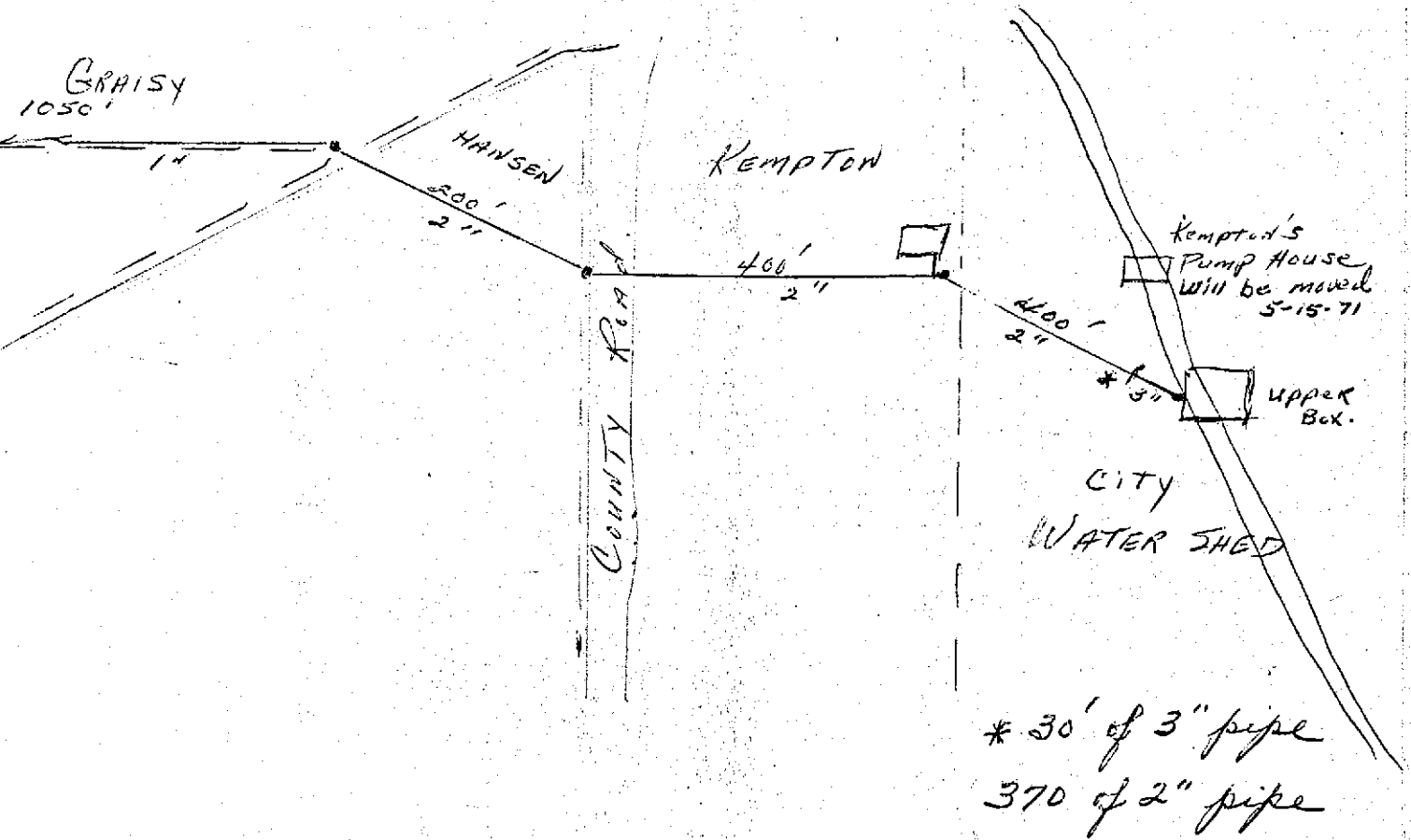
Address: _____

Oscar Earl Hanson

Address: _____

Ray Kempton

PROPOSED GRAVITY FLOW line



BEFORE THE IDAHO DEPARTMENT OF WATER ADMINISTRATION, STATE
OF IDAHO

In the Matter of the Claim To	)	OBJECTION TO CLAIM
a Water Right:	)	OF WATER RIGHT
Ray Kempton - No. 95-4043	)	

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Attorney for CITY OF RATHDRUM
P. O. Box 907
Coeur d' Alene, Idaho 83814

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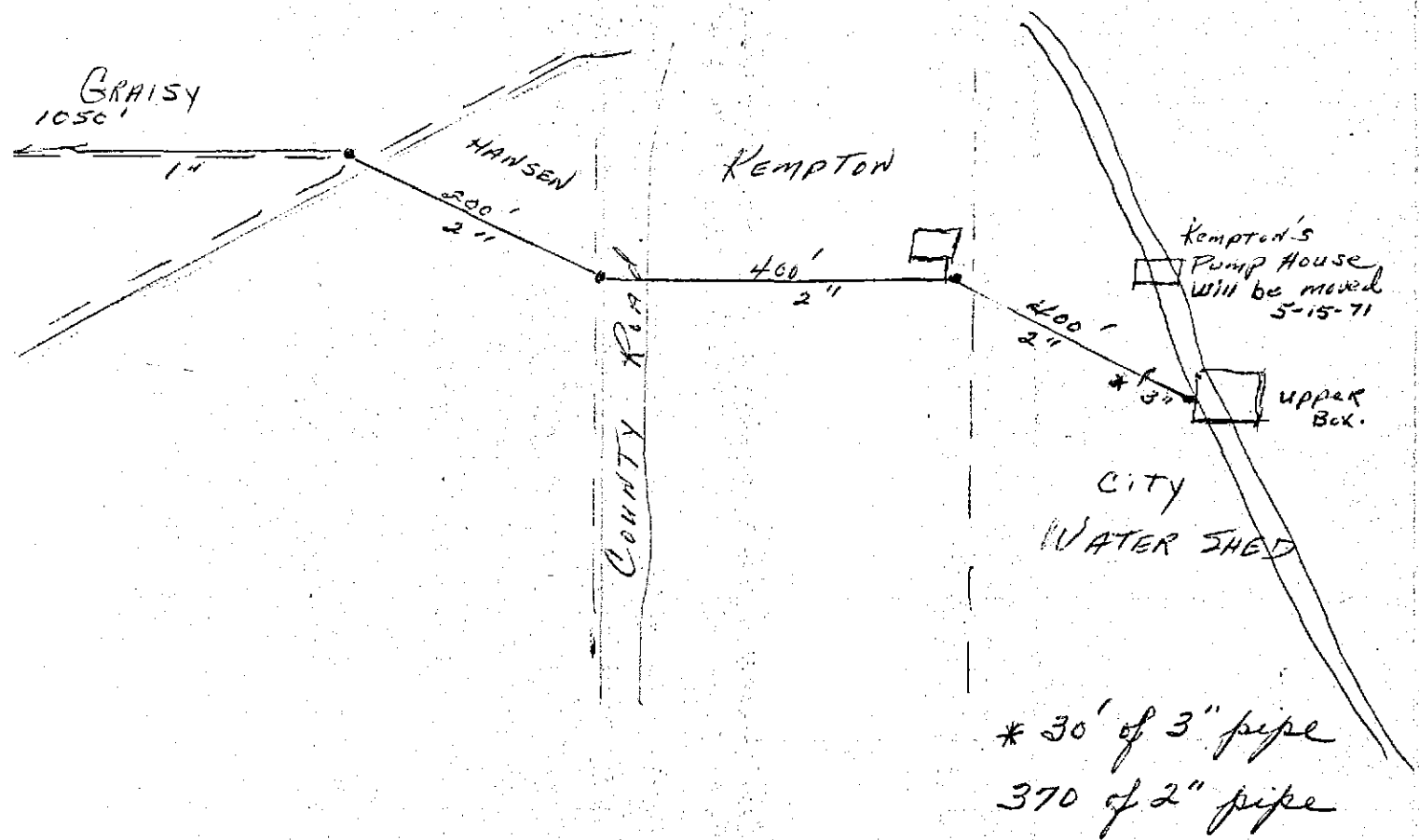
Address: _____

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Ray Kempton

PROPOSED GRAVITY Flow line



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In the Matter of the Claim To	)	OBJECTION TO CLAIM
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City Clerk

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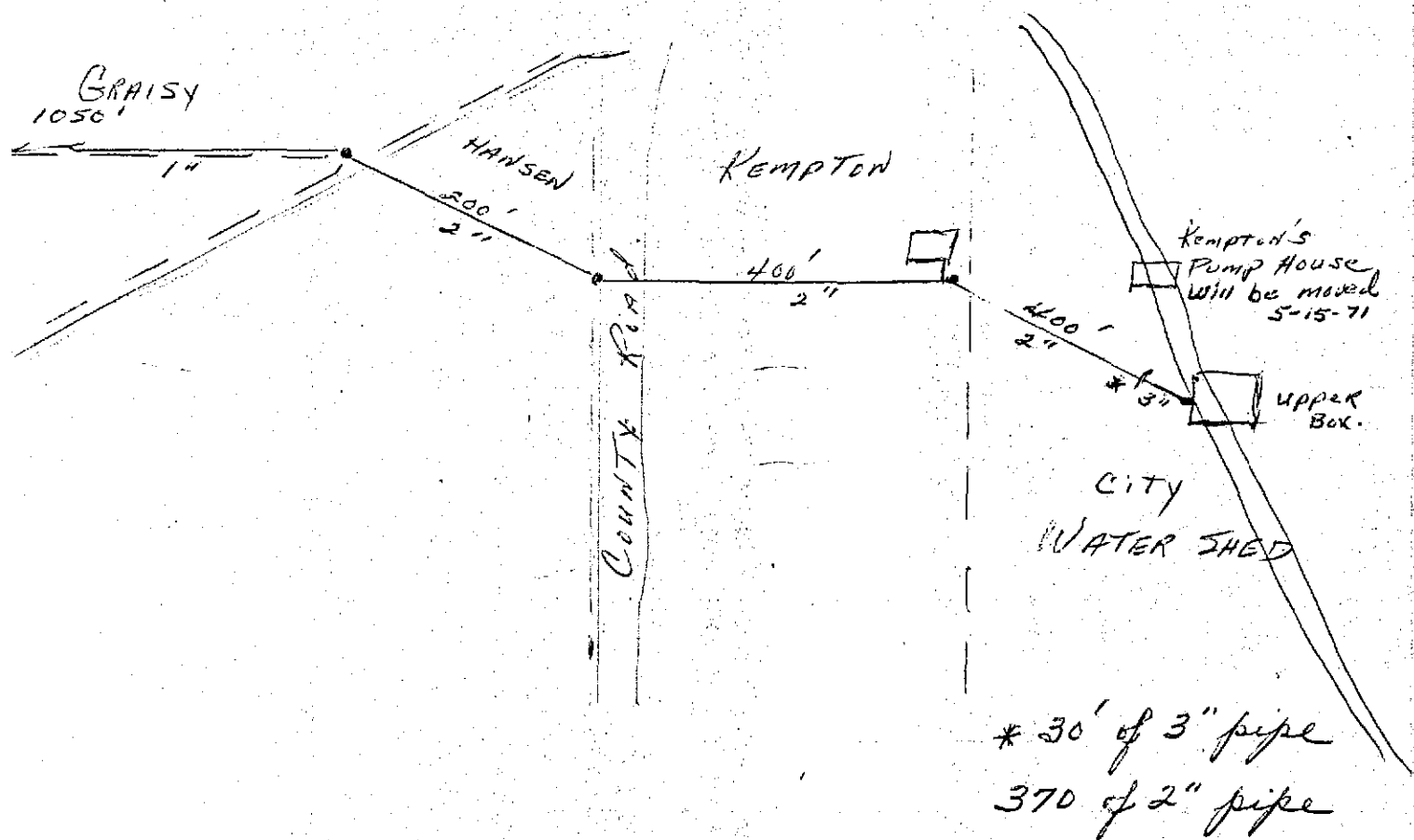
Address: _____

Oscar Earl Hanson

Address: _____

Ray Kempton

PROPOSED gravity Flow line



RECEIVED

AUG 32 1972

AFFIDAVIT OF PUBLICATION

Department of Water Administration
County of Kootenai }
STATE OF IDAHO } ss.

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The water is claimed to be used from Jan. 1 to Dec. 31, for domestic purposes with a priority of July 15, 1969, the place of use is within the SW 1/4 NE 1/4, Sec. 25, T. 52N, R. 5W, 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 Post Falls Tribune, Post Falls, Idaho, on Aug. 10 and Aug. 17, 1972.
8-10 2tc

JEANNETTE S. ROSIN, being first duly sworn, deposes and says that she is the publisher of THE POST FALLS TRIBUNE, a newspaper published weekly at Post Falls, Kootenai County, Idaho, and of general circulation therein.

That the Claim to a Water Right No. 95-4043

Ray Kempton a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for two consecutive issues, commencing

with the issue dated August 10, 1972

and ending with the issue dated August 17, 1972

Subscribed and sworn to before me, this 17th

day of August, 1972

Notary Public for the State of Idaho
Residing at Post Falls, Idaho

Publication Fee \$ 12/58

95 4043

August 31, 1972

Re: Claim to a Water Right No. 95-4043

Ray Kempton
Box 339
Rathdrum, ID 83858

Dear Mr. Kempton:

The Department of Water Administration has completed the processing of your claim to a water right, and no further action is authorized under Section 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 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 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,

Fred Eisenbarth
Water Resource Examiner
Northern District

FE:CR

Enc: copy of claim

95 4043

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

August 21, 1972

Re: Claim to a Water Right No. 95-4043 - Ray Kempton

Herbert Nagel
305 Johnston Building
111 North Second Street
Coeur d'Alene, ID 83814

Dear Mr. Nagel:

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 this claim has been filed (Section 42-225b of the Idaho Code):

"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 (renamed Department of Water Administration on July 1, 1970) 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 Administration. 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,

Fred Eisenbarth
Water Resource Examiner
Northern District

95 4043

FE:CR

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

August 21, 1972

Re: Claim to a Water Right No. 95-4043

Ray Kempton
Box 339
Rathdrum, ID 83858

Dear Mr. Kempton:

In reference to the above claim, the enclosed is a copy of an exception filed by Herbert Nagel in behalf of the City of Rathdrum, in connection with this 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 (renamed Department of Water Administration on July 1, 1970) 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 Administration. 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,

Fred Eisenbarth
Water Resource Examiner
Northern District

FE:CR

Enclosure

95 4043

LAW OFFICE OF
HERBERT NAGEL
305 JOHNSTON BUILDING
111 NORTH SECOND STREET
COEUR D'ALENE, IDAHO 83814

August 15, 1972

RECEIVED

AUG 16 1972

Department of Water Administration
Northern District Office

State of Idaho
Department of Water Administration
401 Front Avenue
Coeur d' Alene, Idaho 83814

Re: Claim of Water Right
Ray Kempton - No. 95-4043

Gentlemen:

Enclosed please find original and two copies of
Objection to Claim of Water right above referred
to, on behalf of the City of Rathdrum.

Yours very truly,



HERBERT NAGEL

HN:slm

Enclosures

cc: David Frazier

95 4043

August 4, 1972

Re: Application No. 95-7199 - Neil F. &/or Virginia M. Johnson
" " " 95-7200 - " " " "
Claim No. 95-4043 - Ray Kempton

Post Falls Tribune
Box 68
Post Falls, ID 83854

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,

Fred Eisenbarth
Water Resource Examiner
Northern District

Bill submitted 8-22-72 by CR

FE:CR

Enc: Legal Notices (3)

95 4043

NOTICE OF CLAIM TO A WATER RIGHT

NO. 95-4043

Notice is hereby given that Ray Kempton, Box 339,

Rathdrum, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 0.03 cubic feet per second ~~acres feet per annum~~

of water from North Fork of Spring Creek, tributary to Spring Creek

with point of diversion in the SW 1/4 NE 1/4, Sec. 25, T. 52N, R. 5W, B.M.,

Kootenai County

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic

purposes

with a priority of July 15, 1969 ;

the place of use is within the SW 1/4 NE 1/4, Sec. 25, T. 52N, R. 5W, 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 Post Falls Tribune, Post Falls, Idaho

on Aug. 10 and Aug. 17, 1972

95 4043

**NOTICE OF CLAIM TO
A WATER RIGHT
No. 95-4043**

Notice is hereby given that Ray Kempton, Box 339, Rathdrum, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 0.03 cubic feet per second of water from North Fork of Spring Creek, tributary to Spring Creek with point of diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 25, T. 52N, R. 5W, B. M., Kootenai County.

The water is claimed to be used from Jan. 1 to Dec. 31, for domestic purposes with a priority of July 15, 1969, the place of use is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 25, T. 52N, R. 5W, 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. KETH HIGGINSON
Director

Published in the Post Falls Tribune, Post Falls, Idaho, on Aug. 10 and Aug. 17, 1972.

8-10 2tc

13

August 3, 1972

Re: Claim to a Water Right No. 95-4043

Ray Kempton
Box 339
Rathdrum, ID 83858

Dear Mr. Kempton:

Attached herewith is your receipt No. 8412 in the amount of \$10 for the filing fee on the above referenced claim, which was received in this office.

Very truly yours,

Fred Eisenbarth
Water Resource Examiner
Northern District

FE:CR

Enc: Receipt

95 4043