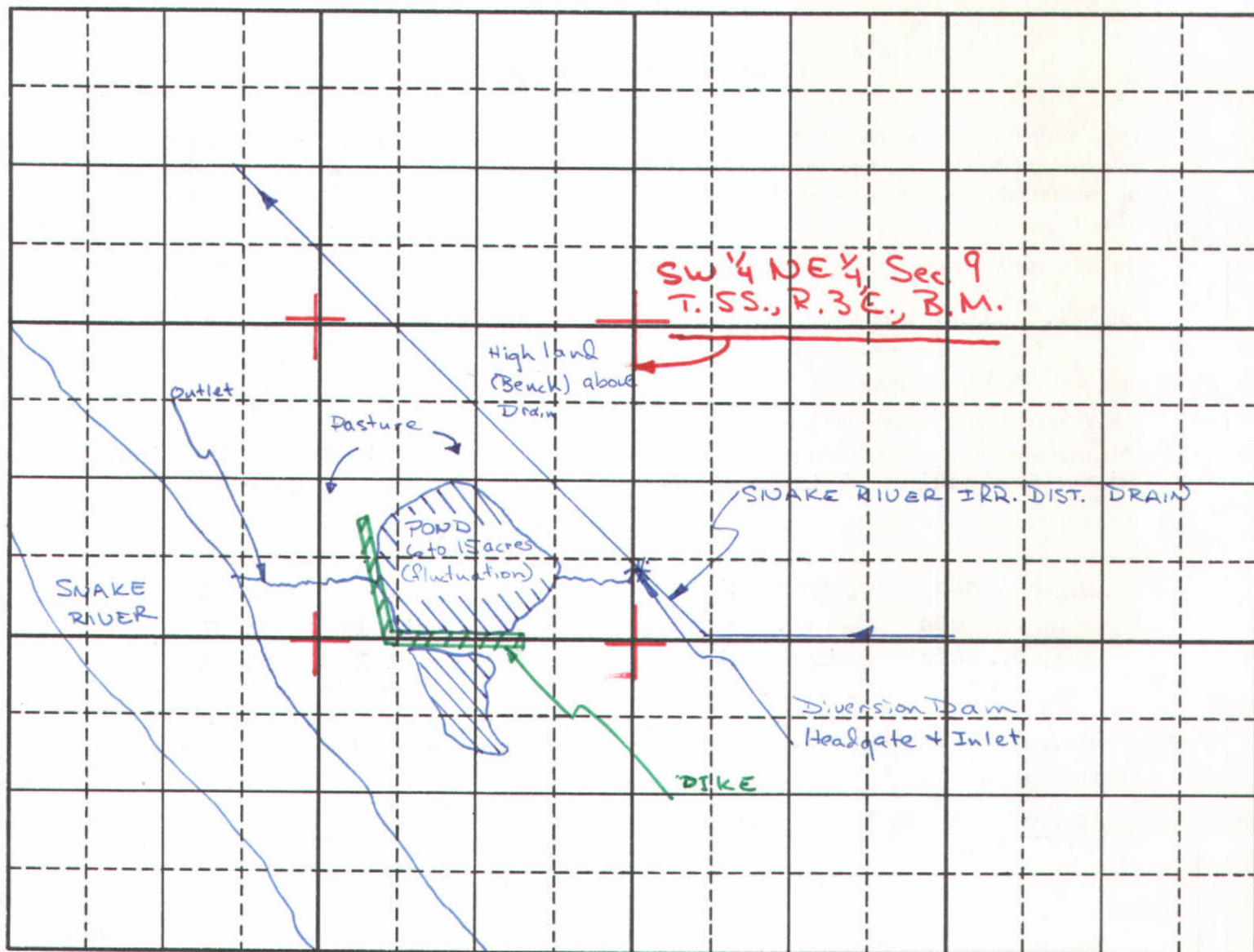


(8) Remarks Affidavits are attached in support of claim by: R. Roland Towle, August 6, 1975, Dr. John C. Lundy, June 17, 1976, James B. Cruzen, October 28, 1975, William E. Irvin, April 27, 1976, and Wayne Ridley, July 30, 1975



Scale: 2 inches equal $\frac{1}{4}$ mile.

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)
) ss.
County of Ada)

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 6th day of July

R. Roland Towle

(Claimant)

William E. Irvin 1976

Notary Public

Residing at Boise, Idaho

My commission expires February 20, 1977

For Department Use Only

Received by <u>ls</u>	Date <u>7/14/76</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>PJC</u>	Date <u>7-14-76</u>		claimant by:	
\$10.00 fee received by <u>ls RB</u>	Date <u>7/14/76</u>	#5084		
Approved for publication by <u>CS</u>	<u>8-6-76</u>			
Published in <u>Mt. Home News</u>				
Dates <u>July 29 & Aug 5</u>				

**NOTICE OF CLAIM
TO A WATER RIGHT
NO. 61-4019**

Notice is hereby given that R. ROLAND TOWLE Boise, ID has filed a claim to a water right established by diversion and application to beneficial use of 2.54 cubic feet per second from a waste water source from Snake River Irrigation District Drain with the point of diversion in the SW 1/4 NE 1/4 Sec 9, T5S-R3E B.M., Elmore County.

The water is claimed to be used from Jan 1 to Dec 31 for recreation and from Apr 1 to Oct 31 for stockwater and for the irrigation of 31 acres with a priority of January, 1946; the place of use is within the SW 1/4 NE 1/4 Sec 9 T5S-R3E B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Resources, Statehouse, Boise, Idaho, 83720.

R. KEITH HIGGINSON
Director

Published in the Mountain Home News, Mountain Home, Idaho on July 29, 1976 and August 5, 1976.

OK
8-6-76 ES

Affidavit of Publication

County of Elmore }
STATE OF IDAHO } ss.

I, Floyd S. Waters do solemnly swear that I am the foreman, or publisher of the

MOUNTAIN HOME NEWS

a weekly newspaper of general circulation, published once a week at MOUNTAIN HOME, IDAHO, that the notice attached hereto and which is a part of the proof of publication thereof, was published in said newspaper for

2 consecutive weeks, the first publica-

tion having been made on the 29 day

of July, 1976, and

the last publication having been made on the

5 day of August.

1976; every Thursday issue of the paper

during the period and time of publication and that the notice was published in the newspaper proper and not in a supplement thereof.

And I further swear that the said MOUNTAIN HOME NEWS has been continuously and uninterruptedly published in said Elmore County during a period of 78 consecutive weeks prior to the first publication of the attached notice.

Floyd S. Waters

Subscribed and sworn to me this 5

day of August, 1976

Vin M. Water

Notary Public

RECORDED

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 R. ROLAND TOWLE (name of claimant)
of 1500 E. Amity, Boise, ID 83705, claims a right to the diversion and beneficial use of
(mailing address)
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) waste water from Snake River Irrigation District drain, tributary to, Snake River
- (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>2 cfs</u>	Use <u>recreation</u>	Period of Use.	From <u>Jan 1</u>	To <u>Dec 31</u>
Amount	<u>.04 cfs</u>	Use <u>stock water</u>	Period of Use.	From <u>April 1</u>	To <u>Oct 31</u>
Amount	<u>0.5 cfs</u>	Use <u>irrigation</u>	Period of Use:	From <u>April 1</u>	To <u>Oct 31</u>
	(cfs, gpm or a/f)	(dom., irr, stock, etc.)		(both dates inclusive)	

- (3) Total quantity of water claimed: 2.54 cubic feet per second, or 1,754.2 acre feet per annum, and/or 1,143 gallons per minute.
- (4) Priority claimed: (the date water was first applied to beneficial use) January 1946

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) 250 to 300 feet North of SE corner of SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9 Twp. 5S Rge. 3E B. M. County of Elmore
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. diversion dam; (original diversion was headgate, presently it consists of earthen dam approximately 20 feet

across and ten feet high with corrugated metal pipe, 10 inches in diameter & gate valve and over flow which bypasses dam

- (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.

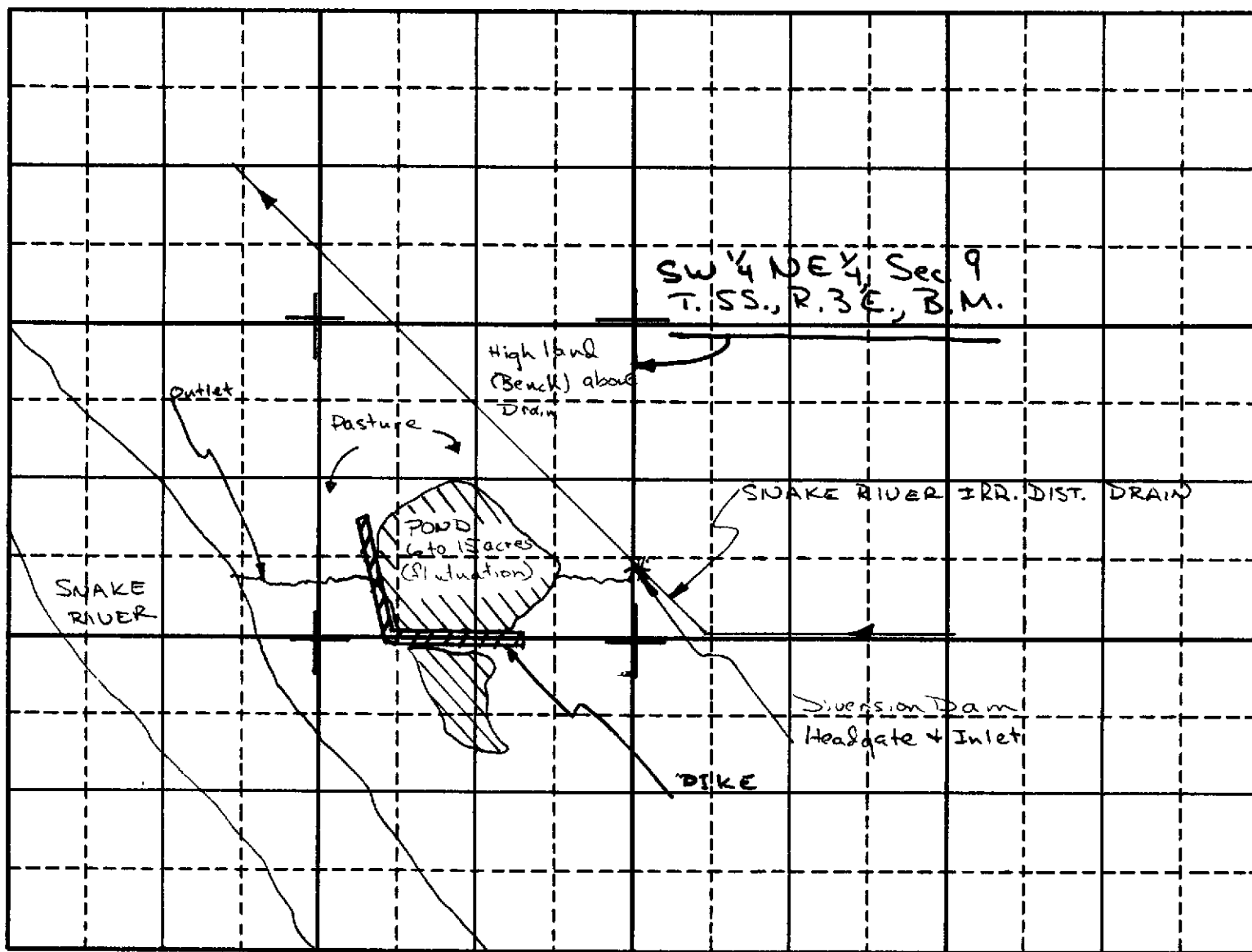
[illegible]

Total No. of acres 31

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: stock watering, (50 head of cattle) and recreation, (migratory and upland game bird habitat and hunting preserve)

- (7) If you are claiming water as a member of an organization, list name of organization: No.

(8) Remarks Affidavits are attached in support of claim by: R. Roland Towle, August 6, 1975, Dr. John C. Lundy, June 17, 1976, James B. Cruzen, October 28, 1975, William E. Irvin, April 27, 1976, and Wayne Ridley, July 30, 1975



Scale: 2 inches equal $\frac{1}{4}$ mile.

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)
) ss.
County of Ada)

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 6th day of July

R. Roland Towle
(Claimant)
William E. Irvin 1976
Notary Public
Residing at Boise, Idaho

My commission expires February 20, 1977

For Department Use Only

Received by <u>ls</u>	Date <u>7/14/76</u>	Exception filed by:	Forwarded to	Date
Prelim check by <u>PJC</u>	Date <u>7-14-76</u>		claimant by:	
\$10.00 fee received by <u>ls RB</u>	Date <u>7-14-76</u>	<u>#5084</u>		
Approved for publication by <u>CS</u>	<u>8-2-76</u>			
Published in <u>Mt. Home News</u>				
Dates <u>July 29 & Aug 5</u>				

**NOTICE OF CLAIM
TO A WATER RIGHT
NO. 61-4019**

Notice is hereby given that R. L. ANDERSON, JR., ID. has filed a claim to a water right established by diversion and application of water to the use of 2.54 cfs of water from Snake River Irrigation District with the purpose of diversion in the SW 1/4 of Sec 9 T3S R3E B.M., Elmore County, Idaho.

The water is claimed to be used for the purpose of irrigation from Apr 1 to Oct 31 for the purpose of irrigation of 30 acres with a priority of January 1, 1976, the date of use is within the 2000 N.P.A. Sec 9 T3S R3E B.M.

It is requested that this claim of water right may be filed with the Idaho Department of Water Resources, Statehouse, Boise, Idaho, 83720.

WILLIAM HIGGINSON
Director

Filed in the Mountain Home News, Mountain Home, Idaho on 8/1/76.

100
1-10-16 65

Affidavit of Publication

County of Elmore }
STATE OF IDAHO } ss.

I, Floyd S. Waters do solemnly swear that I am the foreman, or publisher of the

MOUNTAIN HOME NEWS

a weekly newspaper of general circulation, published once a week at MOUNTAIN HOME, IDAHO, that the notice attached hereto and which is a part of the proof of publication thereof, was published in said newspaper for

..... 2 consecutive weeks, the first publication having been made on the ... 29 ... day

of ... July ..., 1976, and the last publication having been made on the

... 5 ... day of ... August ... 1976; every Thursday issue of the paper

during the period and time of publication and that the notice was published in the newspaper proper and not in a supplement thereof.

And I further swear that the said MOUNTAIN HOME NEWS has been continuously and uninterruptedly published in said Elmore County during a period of 78 consecutive weeks prior to the first publication of the attached notice.

Floyd S. Waters

Subscribed and sworn to me this ... 5 ... day of ... August ..., 1976

Vern M. Waters
Notary Public

RECEIVED

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BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
STATE OF IDAHO

In the Matter of)
Claim to a Water Right of) AFFIDAVIT IN SUPPORT
R. ROLAND TOWLE,) OF CLAIM TO WATER RIGHT
Claim No. _____)

STATE OF IDAHO)
County of Ada : ss.
)

R. Roland Towle, being first duly sworn, deposes and states
in support of his claim to a water right as follows:

1. That he claims a water right by virtue of a diversion
of waste water from the Snake River Irrigation District Waste
System for use upon a 40 acre parcel of land more particularly
described as follows:

Southwest Quarter of the Northeast Quarter of Section 9,
Township 5 South, Range 3 East, Boise Meridian, Elmore
County, Idaho.

2. That he acquired the above water right initially from
Clayton Davidson on February 26, 1958. A copy of the Agreement
by which he acquired the interest of Clayton Davidson in the above
property is attached hereto as Exhibit A and incorporated herein
as if set out in full. This instrument is recorded as Instrument
No. 96589 in Book 23 of Leases at Page 514 and as Instrument
No. 96590 in Book 32 of Quitclaim Deeds, Page 70, according to the
records of Elmore County, Idaho.

AFFIDAVIT IN SUPPORT OF
CLAIM TO WATER RIGHT

1 3. Clayton Davidson first initiated a water right for the
2 above property in approximately 1946 or earlier under a verbal lease
3 of the land from the owner, Sylvia McKeeth, and later, on December
4 18, 1953, acquired a written lease from Sylvia McKeeth which Lease
5 Agreement is attached hereto as Exhibit B and incorporated herein
6 as if set out in full. Under this lease arrangement, Clayton
7 Davidson acquired the exclusive rights to hunt, shoot and fish over
8 and upon the land and water on the property described above together
9 with the exclusive right to improve the property to make it attrac-
10 tive for water fowl. In approximately 1946, or earlier, Clayton
11 Davidson constructed a pond on the property and diverted water from
12 the Snake River Irrigation District Waste System which crosses the
13 property for the purpose of creating a migratory water fowl and up-
14 land game bird habitat for the propagation of those birds and for
15 the sport of hunting and taking the same. Mr. Davidson also diverted
16 water from the Snake River Irrigation District Waste System for the
17 purpose of growing pasture on the property to graze livestock. Mr.
18 Davidson diverted water from the Snake River Irrigation District
19 ditch at a point approximately 250 to 300 feet north of the south-
20 east corner of the southwest quarter of the northeast quarter of said
21 Section 9. From that point, water was conveyed through a ditch
22 approximately 400 to 500 feet to the pond. Depending upon the amount
23 of water in the drain, the pond fluctuated between 6 to 15 acres.
24 The pond also covered a portion of an adjoining parcel of property
25 which was and is now owned by Bill Smith and consists of the north-
26 west quarter of the southeast quarter of said Section 9. Mr.
27 Davidson and I obtained the verbal permission from Mr. Smith for the
28 exclusive right to occupy his property for the propagation and hunt-
ing of migratory water fowl. From the pond the water then emptied

1 into the Snake River at a point which is approximately 500 feet
2 from the west sideline of the 40 acre parcel owned by me.

3 4. Because of subsequent conveyances from Sylvia McKeeth to
4 Merlin P. Olson and Verla R. Olson and from those parties to Ben J.
5 Kotschevar, Esther A. Kotschevar which were all subject to the rights
6 of Clayton Davidson, several miscellaneous instruments between the
7 above parties were executed to clear title to me and I now hold the
8 fee simple estate to the land and water rights with my wife, Edith
9 M. Towle.

10 5. I first became aware of the pond in approximately 1946 and
11 hunted with Clayton Davidson many times since that time until he
12 died in 1958. During the period when Mr. Davidson had possession of
13 the property in 1946 through to when I acquired it in 1958, he con-
14 tinually diverted water from the Snake River Irrigation District
15 System, paid the water assessment for the water each year, and used
16 the water for the purpose of creating a migratory water fowl habitat
17 and for the grazing and pasture of livestock. Mr. Davidson had
18 constructed dikes to contain the water on his and the adjoining
19 property owned by Mr. Bill Smith as described above. These dikes
20 were approximately 2 feet high. After I acquired the property in
21 1958, a new dike was constructed along the south sideline of the
22 above parcel between the 40 acres described above and the property
23 of Bill Smith for the purpose of confining the water in the pond on
24 my property exclusively if it was desired. The total acreage of the
25 pond was not significantly reduced by the diking along the property
26 boundary. Both the dike along the south sideline and the dike along
27 the west sideline have been maintained and improved with heavy equip-
28 ment at least three times since 1958. Pipes have been installed in
these dikes to regulate the level of the water in the pond and for

1 irrigation of the land south and west of the pond. On the remaining
2 sides of the pond there exist natural ground elevations capable of
3 containing the water.

4 6. Use of the pond as a hunting preserve during the water fowl
5 season when the property was owned by Mr. Davidson and since the time
6 it has been owned by me, was extensive with use being made nearly
7 every day of the season. Public use of the hunting preserve has been
8 prohibited by Mr. Davidson and by me. Fences have been constructed
9 and maintained by both of us and signs posted to restrict ingress
10 and egress except by those having permission from us for its use.
11 Individuals have been retained, including Mr. Wayne Ridley, to exclude
12 the public from the pond and the land.

13 7. The diversion device in the Snake River Irrigation District
14 ditch originally consisted of a canvas dam and dirt structure approx-
15 imately 5 to 6 feet across which was capable of diverting the entire
16 flow from the ditch. The quantity diverted was generally not less
17 than 50 miners inches and was up as high as 500 miners inches. In
18 1956, Wayne Ridley, on behalf of Clayton Davidson, improved the
19 diversion structure constructing a wooden head gate approximately 5
20 feet wide and from 4 to 5 feet high with a length of approximately
21 12 feet. Boards were inserted to control the amount of water diverted
22 into the pond. At this time, Wayne Ridley had obtained from Clayton
23 Davidson the right to pasture approximately 50 head of cattle on
24 the property and was using the pasture at that time and has con-
25 tinually used it under a rental agreement with Mr. Davidson and
26 myself for which a portion of the water right is claimed.

27 8. In 1966 and 1967 the Bureau of Land Management began making
28 plans to build duck ponds east and north of the 40 acre parcel. In
the first part of 1969 the Bureau of Land Management completed

1 construction of their duck ponds and placed an earth dam across the
2 waste ditch over my wooden head gate constructed by Mr. Ridley. The
3 Bureau of Land Management installed culverts with head gates to put
4 water in their several ponds and added a 10 inch culvert together
5 with a head gate near where the wooden head gate existed. From this
6 water culvert, water flows from the waste ditch into the ditch origi-
7 nally constructed by Mr. Davidson and used by him and myself to con-
8 vey water to the pond on my property. The point of diversion, there-

9 In the fall of 1969 there was insufficient water in the waste
10 ditch to fill the Bureau of Land Management's ponds and they shut
11 and padlocked the culvert which diverted water from the waste ditch
12 to my pond. I contacted Mr. Ed Tilsey who was a local representa-
13 tive of the Bureau of Land Management and advised him that I had a
14 prior right to divert and use the water and that if the padlock had
15 not been removed from the culvert and water diverted into my pond
16 that I would remove it. He then gave me the combination to the pad-
17 lock and advised me to open that head gate to continue to allow
18 water to flow into my pond. I was not prevented from opening and
19 closing the head gate leading to my pond at my will. With the use
20 of the lock, I could lock the gate open to allow water to flow into
21 my pond and prohibit others from closing it. The lock was removed
22 and the gate closed in the fall of 1974 and I presume this was done
23 by the Bureau of Land Management. I reopened the gate but did not
24 padlock it. It has remained open since that time.

25 9. The deepest portion of the pond is 2 feet and the quantity
26 of water diverted has remained the same from when Mr. Davidson first
27 diverted it through to the present. The minimum amount of water that
28 has been allowed to flow into the pond has remained constant at

1 approximately 50 miners inches. The use of water is also a year
2 around use. While there may exist some natural depression on the
3 property, the diversion of water from the waste ditch was caused by
4 Mr. Davidson and there would not have been a pond but for the diking
5 completed by him. The use of the water for creating the pond and
6 producing a wildlife habitat was initiated by Mr. Davidson and would
7 not have been there but for his improvements and my improvements
8 since 1958.

9 10. Clayton Davidson and I constructed and maintained several
10 duck blinds on the property for water fowl hunting purposes. The
11 property was seeded in grass at one time after 1956. There are
12 approximately 25 acres of land around the pond which receive water
13 for growing pasture. The primary use of the nonflooded portion of
14 the property has been for livestock grazing. In each of the years
15 since 1956, Mr. Wayne Ridley has grazed 50 head of cattle on the
16 property from the 15th day of April to the 15th day of October and
17 only during the last couple of years has limited the number of head
18 because of a request by the Bureau of Land Management to reduce the
19 number to allow the seeding of their adjoining property to take
20 hold for the establishment of vegetation. During the last 2 to 3
21 years, 28 head of cattle have been grazed on the property by Mr.
22 Ridley. The number will be increased back to 50 head as soon as the
23 Bureau of Land Management seeding takes hold. Water diverted from
24 the ditch is also used for watering the livestock grazing on the
25 property.

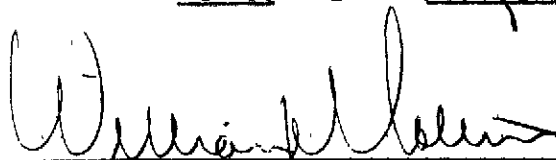
26 11. I claim a water right to 50 miners inches from the
27 Snake River Irrigation District's Waste ditch for use upon the
28 property described in paragraph 1. The period of use is January 1
to December 31 of each year. The point of diversion is as stated

1 in paragraph 3. The purpose of the use is for the propagation of
2 water fowl and upland birds for the purpose of a hunting preserve
3 and for the purpose of growing hay and grass and the pasturage of
4 livestock together with the watering of that livestock which number
5 50 head.

6 

7 R. Roland Towle

8 SUBSCRIBED and SWORN to before me this 6th day of August,
9 1975.

10 

11 Notary Public for Idaho

12 Residing at Boise, Idaho

SALE AGREEMENT

THIS AGREEMENT, Made this 26th day of February, 1958, by and between CLAYTON DAVIDSON, of Boise, Idaho, herein called "Seller" and R. ROLAND TOWLE, likewise of Boise, Idaho, herein called "Buyer", WITNESSETH:

Seller is the owner of a lease dated December 18, 1953, whereby Sylvia McKeeth, a widow, leased to him for hunting and fishing purposes the following described land in Elmore County, Idaho:

The Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 9, and Lot 1, Section 16, all in Township 5 South, Range 3, E. B. M.

The lease extends for a period of twenty years after its date and, among other things, provides in part that it grants the following:

"The exclusive right and privilege of hunting, shooting and fishing over and upon said lands and the waters thereof, and to have the right to improve said property so as to secure good shooting, making it attractive for ducks and other birds and game, and doing such other things as may be necessary to secure to the lessee the full enjoyment of the premises as hunting and fishing grounds."

Said lease is recorded in Book 23 of Leases, page 409, Records of Elmore County, Idaho; and

Whereas, Seller afterward received and accepted from said owner a quitclaim deed to the property described in such lease, which quitclaim deed was by its terms expressly subject to the terms of said lease, and which said quitclaim deed is also of record in Elmore County, Idaho; and

Whereas, Buyer desired to buy and Seller is willing to sell his aforesaid interest in said property;

NOW, THEREFORE THIS AGREEMENT WITNESSETH:

That for the consideration of 11 00 DOLLARS, payable as hereinafter set forth, Seller hereby assigns, conveys,

and transfers unto Buyer all his rights under said lease, and each and every of his rights acquired by the terms of said quitclaim deed aforesaid in and to the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9, and Lot 1, Sec. 16, all in Twp. 5 S., R. 3, E.B.M. above described.

But Seller hereby expressly reserves to himself during his lifetime the right and privilege at all times of hunting and fishing on the property above described; and the right to invite his friends also to hunt and fish on said property during Seller's lifetime.

The consideration for the assignment and transfer of said property as above set forth is payable as follows:

*Receipt of consideration hereby acknowledged
this 20th day of February 1958.*

IN WITNESS WHEREOF, Seller has executed and acknowledged this instrument on the day and year first above written.

STATE OF IDAHO)
County of Ada) ss

On this 2nd day of February, 1958, before me, the undersigned, a Notary Public in and for said State, personally appeared CLAYTON DAVIDSON, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

[Signature]
Notary Public for Idaho
Residing at:

Instrument No. 86971

CONTRACT FOR LEASE OF RIGHT TO FISH AND HUNT
ON REAL PROPERTY

THIS AGREEMENT made and executed this 18 day of December, 1953 by and between SYLVIA McKEETH, a widow, of Boise, Idaho, hereinafter referred to as the Lessor, and CLAYTON DAVIDSON of Boise, Idaho, hereinafter referred to as the Lessee.

WITNESSETH:

The Lessor, in consideration of the payment to her of rent of the sum of \$1.00 and other valuable considerations to her in hand paid, receipt whereof is hereby acknowledged, does hereby let and lease to the Lessee real property of the Lessor situate in the County of Elmore, State of Idaho, more particularly described as follows, to-wit:

Southwest Quarter of the Northeast Quarter of
Section Nine, in Township five South, of Range
Three East of the Boise Meridian, Idaho

and

Lot One (1) of Section Sixteen (16) Township Five
(5) South, Range Three (3) East of the Boise Meri-
dian.

for a term of 20 years from the date hereof for the purpose of shooting any and all game and game birds and taking all game fish in legal season thereof.

The Lessee is to have the exclusive right and privilege of hunting, shooting and fishing over and upon said lands and the waters thereof and to have the right to improve said property so as to secure good shooting, making it attractive for ducks and other birds and game, and doing such other things as may be necessary to secure to the Lessee the full enjoyment of the premises as hunting and fishing grounds.

The Lessor agrees that the Lessee may at his sole option grant licenses to other persons for the purposes and to the ends provided in this lease and to make such licenses or permissions under such terms and conditions as he shall prescribe.

The Lessor covenants that she has not granted any shooting or fishing rights to any other person or persons and covenants that she will not do so during the term hereof.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

Sylvia McKeeth
Lessor
Clayton Davidson
Lessee

STATE OF IDAHO)
) SS.
COUNTY OF ADA)

On this 18 day of December, 1953, before me, the undersigned, a Notary Public in and for said County and State, personally appeared SYLVIA McKEETH, a widow, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate written.

NOTARY SEAL

John A. Carver Jr.
Notary Public for Idaho
Residing at Boise, Idaho

STATE OF IDAHO,)
) SS.
County of Elmore)

EXHIBIT B

I hereby certify that this instrument was filed for record at request of Carver, McClenahan & Greenfield at 05 minutes past 9 o'clock A.M., this 24 day of December A. D., 1953 in my office, and duly recorded in Book 23 of Leases at Page 409.

Fees \$1.00

James A. O'Neil, Ex Officio Recorder
By E. B. Stain Clerk

QUITCLAIM DEED

THIS INDENTURE, Made this 18th day of October,

in the year of our Lord one thousand nine hundred and fifty-seven between

SYLVIA McKEETH, a widow,

of Boise, County of Ada

State of Idaho, the part y of the first part, and

CLAYTON DAVIDSON

of Boise, County of Ada

State of Idaho, the part y of the second part.

WITNESSETH That the said part y of the first part, for and in consideration of the sum of
 -- -- -- Four Hundred and no/100 -- -- -- DOLLARS,
 lawful money of the United States of America, to her in hand paid by the said part y of
 the second part, the receipt whereof is hereby acknowledged, does by these presents remise, release
 and forever QUITCLAIM, unto the said part y of the second part, and to his heirs and
 assigns, all that certain lot, piece or parcel of land, situate, lying and being in
 the County of Owyhee, State of Idaho, bounded and particularly
 described as follows, to-wit:

The Southwest Quarter of the Northeast Quarter
 (SW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 9; and Lot 1, Section 16, all
 in Township 5 South, Range 3, E.B.M.

It is expressly understood and agreed between the parties
 hereto that that certain lease in writing, dated December 18, 1953,
 whereby the grantor herein leased to the grantee herein the above
 described land for hunting and fishing purposes for a term of twenty
 years from the date thereof, remains in full force and effect not-
 withstanding this conveyance; and also notwithstanding a certain
 receipt and memorandum in writing between the parties, dated
 September 19, 1957, pursuant to which this quitclaim deed is being
 given.

And it is also hereby expressly understood and agreed
 between the parties hereto that by the acceptance of this quitclaim
 deed the grantee assumes no obligations whatsoever for the payment of
 any past, present or future taxes or irrigation district assessments
 on said land, or any part thereof, or for the payment of any other
 present, past or future liens or encumbrances thereon.



EXHIBIT C

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the part y of the second part, and to his heirs and assigns forever.

IN WITNESS WHEREOF, The said part y of the first part has hereunto set her hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

Sylvia McKeeth [Seal]
[Seal]
[Seal]
[Seal]

STATE OF IDAHO

County of ADA

ss.

On this 18th day of October in the year 1957, before me

Alvin Helsley

a Notary Public

in and for said State, personally appeared SYLVIA McKEETH, a widow,

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same

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

Alvin Helsley

Notary Public for the State of Idaho
Residing at Boise, Idaho.

QUITCLAIM DEED

Sylvia McKeeth

Clayton Davidson

Dated , 19

STATE OF IDAHO,

County of *Elmore*

I hereby certify that this instrument was filed

for record at request of

Edna Smith

minutes past

o'clock P. M., this 21 day

October, A. D. 1957

at my office, and duly recorded in Book 32

of *Quitclaim Deeds* at page 35

James A. D'Neel

Ex-Officio Recorder.

By *E. B. Stearns* Jr. Deputy.

Fees, \$1.50

Mail to *Clayton Davidson*

Boise 1308 W. 20th St.

EXHIBIT C

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BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
STATE OF IDAHO

In the Matter of)
Claim to a Water Right of) AFFIDAVIT IN SUPPORT
R. ROLAND TOWLE,) OF CLAIM TO WATER
Claim No. _____) RIGHT
_____)

STATE OF IDAHO)
County of Elmore : ss.
)

Wayne Ridley, being first duly sworn on oath, deposes and states in support of the above claim of ROLAND TOWLE to a water right as follows:

1. That he is familiar with the uses made by ROLAND TOWLE and his predecessor in interest, Clayton Davidson, of water diverted from the Snake River Irrigation District Waste System and upon a 40 acre parcel of land more particularly described as follows:

The Southwest quarter of the Northeast quarter of Section 9, Township 5 South, Range 3 East, Boise Meridian, Elmore County, State of Idaho.

2. That he has owned, lived upon and operated a ranch within one quarter mile of the above-described property continuously from the spring of 1956 through to the present, and that during all of the above time he was familiar with the uses being put to the property and water diverted thereon.

3. That he first became aware of the uses being put to the above property in the spring of 1956 and at that time Clayton Davidson held possession and maintained the property as a habitat

AFFIDAVIT IN SUPPORT OF
CLAIM TO WATER RIGHT

1 for migratory water fowl and upland game birds, for their propaga-
2 tion and for hunting and, further, maintained the unflooded portions
3 thereof for pasture and the grazing of livestock. Mr. Davidson
4 diverted water from the Snake River Irrigation District ditch at
5 a point approximately 250 to 300 feet north of the Southeast cor-
6 ner of the Southwest quarter of the Northeast quarter of said
7 Section 9. From that point water was conveyed through a ditch
8 approximately 400 to 500 feet to a pond which, depending upon
9 the amount of water in the drain, fluctuated between approximately
10 6 acres to 15 acres. At this time the pond covered a portion of
11 the property described above and a portion of a forty acre parcel
12 immediately to the South. From the pond the water then emptied into
13 the Snake River which is approximately 500 feet from the west side-
14 line of the above 40 acre parcel. In 1958 Mr. Roland Towle took
15 possession of the parcel and has continued the above practice un-
16 abated.

17 4. The pond in which the water is diverted and the ditch
18 conveying the water to the pond are man-made. In 1956 an old dike
19 was in existence along a portion of the west sideline of the above
20 parcel for a distance of approximately 150 feet. A similar dike
21 also existed along the south side of the pond on the adjacent forty
22 acre parcel for a distance of approximately 200 feet. Both of
23 these dikes were approximately 2 feet high. There were also
24 several other dikes on the property which were used for the purpose
25 of containing the water in the pond and varied from 1 to 1½ feet
26 high. In approximately 1958 a new dike was constructed along the
27

1 south sideline of the above parcel for the purpose of permitting
2 confinement of water on the above property. The total acreage of
3 the pond was not significantly reduced by this activity. Both
4 the new dike along the south sideline and the dike along the west
5 sideline have been maintained and improved with heavy equipment at
6 least three times since 1958. Pipes have been installed in these
7 dikes to regulate the level of water in the pond and for irrigation
8 of the land south and west of the pond. On the remaining sides of
9 the pond there exist natural ground elevations capable of contain-
10 ing the water.

11 5. Use of the pond as a hunting preserve during the water
12 fowl hunting season was and is now extensive with use of the pro-
13 perty being made nearly every day during that season. This use
14 has continued in this manner during all of the time that your
15 Affiant has been acquainted with the property. Public use of the
16 hunting preserve has been prohibited by Mr. Davidson and Mr. Towle.
17 Fences have been constructed and maintained by both of these parties
18 and signs posted to restrict ingress and egress except by those
19 having permission from the owners for its use.

20 6. The diversion device in the Snake River Irrigation Dis-
21 trict ditch originally consisted of a canvass dam and dirt struc-
22 ture approximately 5 to 6 feet across which was capable of divert-
23 ing the entire flow of the ditch from 50 miners inches to 500
24 miners inches into the pond. Just prior to 1958, the method of
25 diverting the water was changed and a wooden headgate constructed
26 approximately 5 feet wide, 4 to 5 feet high and 12 feet long in
27 which boards were inserted to control the amount of the water
28

1 diverted into the pond. The wood headgate was also capable of
2 diverting the entire flow. This method of diverting water con-
3 tinued up until the first part of 1969 when the Bureau of Land
4 Management filled in the diversion and provided an alternate
5 diversion in the ditch near the same point. The water is still
6 diverted into the same ditch leading from the Snake River Irrigation
7 District's System but the diversion device is a corrugated metal
8 pipe of approximately 10 inches in diameter upon which a metal gate
9 valve has been installed to regulate the flow.

10 7. The depth of the pond varies from 4 feet to 2½ feet and
11 the quantity of water diverted into the pond has remained the same
12 through to the present. The minimum amount of water that has been
13 allowed to flow into the pond has remained constant at approximately
14 50 miners inches.

15 8. Clayton Davidson and Roland Towle constructed and main-
16 tained several duck blinds on the property for water fowl hunting
17 purposes. The property was seeded in grass at one time after 1956.
18 There are approximately 25 acres of land around the pond which
19 receive water for growing pasture. The primary use of the non-
20 flooded portion of the property has been for livestock grazing.
21 In each of the years since 1956, I have grazed 50 head of cattle
22 on the property from the 15th day of April through the 15th day
23 of October and only during the last couple of years has the number
24 of head been lessened because of the Bureau of Land Management's
25 request to seed a portion of their adjoining property. During
26 these last two to three years, 28 head of cattle have been grazed
27

1 on the subject property. It is anticipated that the number of head
2 will be increased back to 50 head in the near future. Water di-
3 verted from the ditch is used for the watering of the livestock.

4
5 Wayne Ridley
6 Wayne Ridley

7
8 SUBSCRIBED and SWORN To before me this 30th day of July,
9 1975.

10
11 J. Balderrama
12 Notary Public for Idaho
13 Residing at: Drummond, Idaho 83624
14 My Commission Expires 5-27-78

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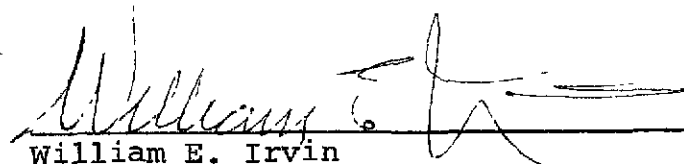
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1 had diverted all of the water from the above drain ditch. He
2 constructed several low dikes to retain the water in a pond cover-
3 ing several acres, part of which was on land initially leased by
4 Mr. Davidson from a third party and part was on land owned by Bill
5 Smith, who had allowed Mr. Davidson to use the land for recreation.
6 Mr. Davidson, prior to his death, purchased the property he leased
7 from the third party. After the water flowed through the pond, it
8 emptied into the Snake River. Mr. Davidson had a small clubhouse
9 on the property that was used for overnight hunting trips. The
10 pond constructed by Mr. Davidson is very effective in attracting
11 migratory water fowl throughout the water fowl hunting season. I
12 enjoyed some of the best duck hunting of my life at this place.

13
14 
15 William E. Irvin

16 SUBSCRIBED and SWORN To before me this 27 day of April,
17 1976.

18 
19 Theresa Stauch
20 Notary Public for Idaho
21 Residing at Boise, Idaho
22
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27 AFFIDAVIT

28

1 BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
2 STATE OF IDAHO

3 In the Matter of)
4 Claim to a Water Right of)
5 R. ROLAND TOWLE,)
6 Claim No. _____)
7)

AFFIDAVIT IN SUPPORT OF
CLAIM TO WATER RIGHT

8 STATE OF IDAHO)
9 : ss.
10 County of Ada)

11 JAMES B. CRUZEN, being first duly sworn on oath, deposes and
12 states in support of the claim of R. Roland Towle to a water right
13 as follows:

14 1. That I am familiar with the uses made by Clayton Davidson
15 of water diverted from the Snake River Irrigation District Waste
16 System for use upon a 40 acre parcel of land more particularly
17 described as follows:

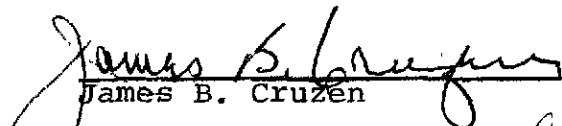
18 The southwest quarter of the northeast quarter of
19 Section 9, Township 5 South, Range 3 East, Boise
20 Meridian, Elmore County, State of Idaho.

21 2. That I first became familiar with the above property in
22 approximately 1946 when I began hunting with Clayton Davidson who
23 held possession and maintained the property as a habitat for migra-
24 tory water fowl. Mr. Davidson diverted water from the Snake River
25 Irrigation District Waste System at a point approximately 250 to
26 300 feet north of the southeast corner of the southwest quarter of
27 the northeast quarter of said Section 9. From that point water was
28 conveyed through a ditch approximately 400 to 500 feet to a pond,
which depending upon the amount of water in the drain, fluctuated
between approximately 6 acres to 15 acres. From the pond the water

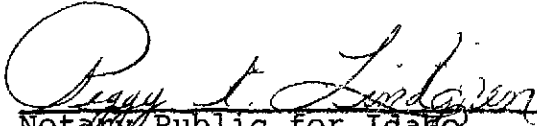
AFFIDAVIT IN SUPPORT OF
CLAIM TO WATER RIGHT

1 then emptied into the Snake River which was approximately 500 feet
2 from the west sideline of the above 40 acre parcel.

3 3. During the period from 1946 through to Mr. Clayton
4 Davidson's death in 1958, I hunted with him on the above property
5 many times. Mr. Davidson had constructed diking to create and con-
6 tain the pond and maintained a continuous diversion of water into
7 the pond during the winter months to prevent it from freezing. He
8 had improved the property for the purpose of propagating migratory
9 water fowl and upland game birds and my familiarity with the prop-
10 erty was solely as a hunting companion. Mr. Davidson excluded the
11 public from his land and in the period that I hunted with him the
12 property was used extensively for that purpose. While there may
13 exist some natural depression on the property, the diversion of water
14 from the waste ditch was caused by Mr. Davidson and there would not
15 have been a pond but for the diking completed by him and consequently
16 the use of the water for creating the pond and producing a wildlife
17 habitat was initiated by Mr. Davidson and would not have been there
18 but for his activity.

19 
James B. Cruzen

20 SUBSCRIBED and SWORN To before me this 28th day of October,
21 1975.

22 
Notary Public for Idaho
23 Residing at Boise, Idaho
24
25
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BEFORE THE DEPARTMENT OF WATER ADMINISTRATION

STATE OF IDAHO

In the Matter of)
Claim to a Water Right of)
R. ROLAND TOWLE,)
Claim No. _____)

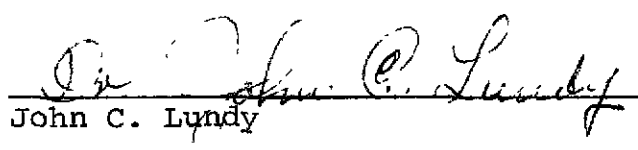
AFFIDAVIT IN SUPPORT OF
CLAIM TO WATER RIGHT

STATE OF IDAHO)
: ss.
County of Ada)

JOHN C. LUNDY, being first duly sworn on oath, deposes and states in support of the claim of R. Roland Towle to a water right as follows:

1. That I am familiar with the uses made by Clayton Davidson and R. Roland Towle of water diverted from the Snake River Irrigation District Waste System for the purpose of creating a migratory water fowl habitat and for the purpose of hunting migratory water fowl.

2. I have read the Affidavit of James B. Cruzen, which is dated October 28, 1975, a copy of which is attached hereto as Exhibit A. That the facts contained in the Affidavit are, to the best of my knowledge and belief, true and correct, and I hereby join in the statements contained in the Affidavit of James B. Cruzen to the same effect as if they were stated herein.


John C. Lundy

AFFIDAVIT

1 SUBSCRIBED and SWORN To before me this 17th day of June,
2 1976.

3 Carse Collier
4 Notary Public for Idaho
5 Residing at Boise, Idaho
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27 AFFIDAVIT
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BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
STATE OF IDAHO

In the Matter of)
Claim to a Water Right of) AFFIDAVIT IN SUPPORT OF
R. ROLAND TOWLE,) CLAIM TO WATER RIGHT
Claim No. _____)
_____)

STATE OF IDAHO)
: ss.
County of Ada)

JAMES B. CRUZEN, being first duly sworn on oath, deposes and states in support of the claim of R. Roland Towle to a water right as follows:

1. That I am familiar with the uses made by Clayton Davidson of water diverted from the Snake River Irrigation District Waste System for use upon a 40 acre parcel of land more particularly described as follows:

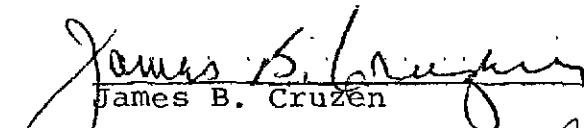
The southwest quarter of the northeast quarter of Section 9, Township 5 South, Range 3 East, Boise Meridian, Elmore County, State of Idaho.

2. That I first became familiar with the above property in approximately 1946 when I began hunting with Clayton Davidson who held possession and maintained the property as a habitat for migratory water fowl. Mr. Davidson diverted water from the Snake River Irrigation District Waste System at a point approximately 250 to 300 feet north of the southeast corner of the southwest quarter of the northeast quarter of said Section 9. From that point water was conveyed through a ditch approximately 400 to 500 feet to a pond, which depending upon the amount of water in the drain, fluctuated between approximately 6 acres to 15 acres. From the pond the water

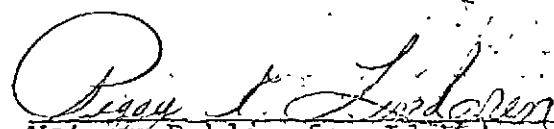
AFFIDAVIT IN SUPPORT OF
CLAIM TO WATER RIGHT

1 then emptied into the Snake River which was approximately 500 feet
2 from the west sideline of the above 40 acre parcel.

3 3. During the period from 1946 through to Mr. Clayton
4 Davidson's death in 1958, I hunted with him on the above property
5 many times. Mr. Davidson had constructed diking to create and con-
6 tain the pond and maintained a continuous diversion of water into
7 the pond during the winter months to prevent it from freezing. He
8 had improved the property for the purpose of propagating migratory
9 water fowl and upland game birds and my familiarity with the prop-
10 erty was solely as a hunting companion. Mr. Davidson excluded the
11 public from his land and in the period that I hunted with him the
12 property was used extensively for that purpose. While there may
13 exist some natural depression on the property, the diversion of water
14 from the waste ditch was caused by Mr. Davidson and there would not
15 have been a pond but for the diking completed by him and consequently
16 the use of the water for creating the pond and producing a wildlife
17 habitat was initiated by Mr. Davidson and would not have been there
18 but for his activity.

19 
20 James B. Cruzen

21 SUBSCRIBED and SWORN To before me this 28th day of October,
22 1975.

23 
24 Notary Public for Idaho
25 Residing at Boise, Idaho

DEPARTMENT OF WATER RESOURCES
- STAFF ANALYSIS -

Item Initial Date

Claim
Application No. 61-4019

☒ Source
☒ Point of Diversion
☒ County
☒ Quantity of Water and Period of Use
☒ Description of Diverting Works
☒ Time required for B/U of water
☒ Place of Use or Acres Irrigated
☒ Map
☒ Signature
☒ Fee

(1) PJC 7-14-76

In form to receipt

(2) _____

Send Copies to:

Idaho State Health Department

Idaho Fish and Game Department

Bureau of Land Management

(3) _____

Request Special Use Permit from U.S.F.S.

Request Easement from B.L.M.

Request Information from Applicant

(4) PJC 7-14-76

In form for advertising

(5) _____

Platted on Map No. _____

(6) _____

Located within Water District No. _____

(7) _____

Critical groundwater area: yes _____ no _____

(8) _____

Groundwater levels:

_____ Declining, _____ Stable, _____ Increasing

(comment) _____

(9) _____

Other rights on the same place of use

(10) _____

Comments: _____

(11) es AS

Affidavit of Publication received(date) 8-10-76

(12) _____

Final date for protests _____

Protests received: yes _____ no _____

(13) _____

All requested information received from agencies or
applicant: yes _____ no _____

(14) _____

Action recommended:

☒ Approve _____ Deny

Proposed Priority

Reason for Reduction

Measuring device required

See attached sheet for other conditions of
approval

No special conditions for approval

(15) District W

By THA Date 8-17-76



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
WESTERN DISTRICT

STATE HOUSE BOISE, IDAHO 83720

August 17, 1976

Re: Claim to a Water Right No. 61-4019

R. Roland Towle
1500 E. Amity
Boise, ID 83705

Dear Mr. Towle:

The Department of Water Resources 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 may be of further assistance, please feel free to call upon us.

Sincerely,

L. GLEN SAXTON, P.E.
Western District Engineer

LGS: rb

Enclosure

RECEIVED
AUG 22 1976
WATER RESOURCES
DIVISION



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WESTERN DISTRICT — ANNEX 3

Cecil D. Andrus
Governor

R. Keith Higginson
Director

Statehouse
Boise, Idaho 83720
(208) 384-2190

July 23, 1976

Re: Notice of Claim to a Water Right No. 61-4019 - R. Roland Towle

Mountain Home News
P. O. Drawer 0
Mountain Home, ID 83647

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 in 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."

Sincerely,

(Signature of Claimant)

Bill Submitted

8.6.76 CS

RECEIVED
MOUNTAIN HOME
IDAHO
JUL 27 1976

NOTICE OF CLAIM TO A WATER RIGHT

No. 61-4019

Notice is hereby given that R. ROLAND TOWLE

Boise, ID
has filed a claim to a water right established by diversion and application
to beneficial use of 2.54 cubic feet per second ~~XXXXXXXXXXXX~~
from a waste water source from Snake River Irrigation District Drain
with the point of diversion in the SW 1/4 Sec 9, T5S-R3E B.M., Elmore
County.

The water is claimed to be used from Jan 1 to Dec 31
for recreation and from Apr 1 to Oct 31 for stockwater and for the
irrigation of 31 acres
with a priority of January, 1946;
the place of use is within the SW 1/4 Sec 9 T5S-R3E B.M.

Any exception to this claim of water right may be filed with the Idaho
Department of Water Resources, Statehouse, Boise, Idaho, 83720.

R. KEITH HIGGINSON

Director

Published in the Mountain Home News, Mountain Home, Idaho
on July 29, 1976 and August 5, 1976.

RECORDED

**NOTICE OF CLAIM
TO A WATER RIGHT
NO. 61-4019**

Notice is hereby given that R.
ROLAND TOWLE Boise, ID has
filed a claim to a water right
established by diversion and appli-
cation to beneficial use of 2.54
cubic feet per second from a waste
water source from Snake River
Irrigation District Drain with the
point of diversion in the SW 1/4
NE 1/4 Sec 9, T5S-R3E B.M.,
Elmore County.

The water is claimed to be used
from Jan 1 to Dec 31 for recreation
and from Apr 1 to Oct 31 for
stockwater and for the irrigation of
31 acres with a priority of January,
1946; the place of use is within the
SW 1/4 NE 1/4 Sec 9 T5S-R3E B.M.
Any exception to this claim of
water right may be filed with the
Idaho Department of Water Re-
sources, Statehouse, Boise, Idaho,
83720.

R. KEITH HIGGINSON
Director

Published in the Mountain Home
News, Mountain Home, Idaho on
July 29, 1976 and August 5, 1976.

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WESTERN DISTRICT — ANNEX 3

Cecil D. Andrus
Governor

R. Keith Higginson
Director

Statehouse
Boise, Idaho 83720
(208) 384-2190

July 21, 1976

R. Roland Towle
1500 E. Amity
Boise, ID 83705

Dear Mr. Roland Towle:

Enclosed is your Receipt No. 5084 in the amount of \$ 10.00
for ~~Claim to a Water Right No. 61-4019~~ which was received in this
office on July 14, 1976.

Sincerely,

RITA BENDELE
Senior Clerk

RB

Enclosure

MICROFILMED

RECEIVED

JUL 17

WILLIAM D COLLINS
HOWARD F MANLY

COLLINS & MANLY
ATTORNEYS AT LAW
705 NORTH 8TH STREET
P O BOX 2794
BOISE, IDAHO 83701

Department of Water Resources
TELEPHONE 345-2811
AREA CODE 208

July 13, 1976

Department of Water Resources
Statehouse
Boise, Idaho 83720

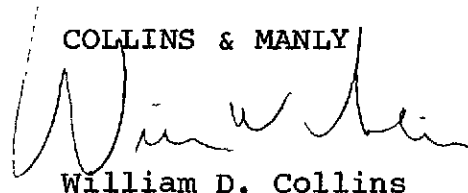
Gentlemen:

I am enclosing the Affidavits in support of the claim of R. Roland Towle of a water right for irrigation and recreational purposes.

I talked to Mr. Saxton the latter part of June and he recommended that I resubmit them with an accompanying Affidavit on your form. Six Affidavits, including the one on your form, are enclosed. Our firm check in the amount of \$10.00 is also enclosed.

Very truly yours,

COLLINS & MANLY



William D. Collins

WDC/cd
cc Mr. R. Roland Towle
Enclosures

MICROFILMED