

**NOTICE OF CLAIM
TO A WATER RIGHT**

No. 72-4005

Notice is hereby given that Frank Burstedt, Box 554, Challis, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 2.0 cubic feet per second of water from Warm Springs Creek, tributary to Salmon River with point of diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 13N, R. 19E, B.M., Custer County.

The water is claimed to be used from Nov. 1 to March 31 for domestic and stockwatering with a priority of Nov. 1, 1917; the place of use is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 13N, R. 19E, B.M.

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

R. KEITH HIGGINSON
Director

Published in the Challis Messenger, Challis, Idaho on June 10 and June 17, 1971.

Q
Cm
6-10-71

Identification No. _____

Claim No. 72-4005

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 FRANK BURSTEDT (successor in interest to Seth Burstedt)
post office address Box 554, Challis, Idaho 83226

2. The point of diversion is in SW $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 2 Township 13 North,
Range 19 East, B.M. located on Warm Springs Creek
(name of source)

tributary to Salmon River in Custer 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:

November 1, 1917 amount: 2 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: Water is used for domestic and stock water during winter season.

use during winter period of use from Nov. 1 to Mar. 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 earth, rock and lumber; length is 10 feet; height is 4 feet; width at bottom is 6 feet; width at top is 4 feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known _____

Remarks: A headgate also in use at dam is 2 ft. in width and 3 ft. in height.

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 _____

attach well logs if available; has there been any change in pump or motor since well was first completed _____; if so, give dates and explain _____

c. Conveying works: length of ditch to place of use is 2,640 feet; width of ditch at top is 5 feet; width of bottom of ditch is 3 feet; depth of water is one feet; grade of ditch per 1000 feet is 1.6 feet; material through which ditch passes is gravelly loam; maximum length of pipe line to first place of use is none feet; diameter of pipe line is none inches; type of pipe none; grade of pipe per 1000 feet is none.

Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible _____

d. If water is stored: name of reservoir not applicable;

total capacity of reservoir is _____ acre feet; active capacity of reservoir is _____ acre feet;

year construction commenced _____; year completed _____; date first used _____

period of storage is from _____ to _____; is reservoir drained each year _____;

is reservoir on or off stream _____ explain _____

if feeder canal is used give maximum carrying capacity_____c.f.s.; if reservoir is off stream, describe location of reservoir by 40-acre subdivisions_____

has there been any enlargement of the reservoir since it was first built_____, if so, give dates and describe_____

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres:
not applicable.

[illegible]

Total number of acres to be irrigated_____

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____

b. Do you get water through a ditch owned by several users? No If yes, give the name of the ditch
_____. The other users and their respective
interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered 500 head
of cattle and 5 head of horses

7. Where water is used for domestic or municipal purposes give number of families served one
name of town supplied not applicable

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. not applicable

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
The water herein described as used for domestic and stock watering
purposes originates from a warm water spring and does not freeze
over if at least two (2) C.F.S. of water are diverted as above-
described. Also, for this reason, the water is particularly valu-
able for use during the winter freezing months in operating (among
other lands) the following: NE $\frac{1}{4}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, Town-
ship 13 North, Range 19 East, B. M.; also Tract 592, Lots 3 and 5,
and SW $\frac{1}{4}$ said Section 2; and Lots 6 and 10, Section 3; Lot 1, Section
10, and Lot 1, Section 11, all in Township 13 North, Range 19 East,
B. M.; also Lot 9, Section 35, Township 14 North, Range 19 East, B. M.

Frank B. Bennett

State of Idaho }
County of Custer } ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, ~~Frank B. Bennett~~ 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.

Frank B. Bennett
Claimant

Sworn to before me this 18th day of May, 19 71

Jack B. Zurek
Notary Public for Idaho

Residing at Address: Challis, Idaho

My Com. Expires: 5-4-73

My commission expires 5/4/73

For Department Use Only

Received by <u>if</u> Date <u>5/19/71</u>	Exception filed by: _____	Forwarded to claimant by: _____	Date _____
Prelim. check by <u>if</u> Date <u>5-20-71</u>	_____	_____	_____
Fee received by <u>if</u> Date <u>5/20/71</u> Fee \$ <u>10.00</u>	_____	_____	_____
Approved for publication by <u>D</u>	_____	_____	_____
Published in <u>CHALLIS MESSENGER</u> Dates <u>6-10-71 to 6-17-71</u>	_____	_____	_____

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:	<u>May 18, 1871</u>	amount:	<u>0.8 c.f.s.</u> or	_____	acre feet
	<u>June 1, 1901</u>	amount:	<u>0.4 c.f.s.</u> or	_____	acre feet
	Total claimed:		<u>1.2 c.f.s.</u> or	_____	acre feet

- Since the water was used for irrigation between April 1 and October 31 on that particular farm, part b. would be completed as follows:
 use irrigation period of use from April 1 to October 31 (both dates inclusive). If the water had been used for any other purpose, you would have described the priority date, amount, use, and period of use in a similar manner.
- 4. Describe the diversion works and explain any changes since the right was first initiated.
- 5. If the water is used for irrigation, give the total acreage and list the lands irrigated by 40-acre subdivisions and complete the other questions.
- 6, 7, & 8. Describe any other uses of water.
- 9. In the remarks section, give any information or details that you feel are not fully covered or that need clarifying. You might explain your operation, where the water is returned to if for an industrial or non-consumptive right, the condition and temperature of the returned water, and any other information to help explain your claim.

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

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

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

31 4209
RECEIVED
JUN 10 1971

**AFFIDAVIT
OF PUBLICATION**

State of Idaho, }
County of Custer, } ss:

I, Louis Kristan, publisher
of The Challis Messenger, a
weekly newspaper, publish-
ed at Challis, Idaho, do sol-
emnly swear that the notice
hereto attached and made a
part hereof, was published
in the regular and entire
issue of The Challis Messen-

ger for Two
consecutive weeks, com-
mencing with the issue
dated June 10, 1971,
and ending with the issue
dated June 17, 1971

Louis Kristan

Subscribed and sworn to
before me this 21st

day of June, 1971

James R. Bennett
Notary Public, Residing at
Challis, Idaho.

My Commission expires

12-13-74

PUBLIC NOTICE

**NOTICE OF CLAIM
TO A WATER RIGHT**

No. 72-4005

Notice is hereby given that
Frank Burstedt, Box 554, Chal-
lis, Idaho has filed a claim to a
water right established by diver-
sion and application to beneficial
use of 2.0 cubic feet per second
of water from Warm Springs
Creek, tributary to Salmon Riv-
er with point of diversion in the
SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 13N, R.
19E, B.M., Custer County.

The water is claimed to be
used from Nov. 1 to March 31
for domestic and stockwatering
with a priority of Nov. 1, 1917;
the place of use is within the
SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 13N, R.
19E, B.M.

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

R. KEITH HIGGINSON
Director

Published in the Challis Mes-
senger, Challis, Idaho on June
10 and June 17, 1971.

72 4005

INTER-DEPARTMENT MEMO — 1

DATE Feb. 12, 1985

FROM Terry Blau

TO File 72-4005

SUBJECT Description of tract #592

On page 9 of the Judgement Chivers et al vs. Johnson et al, tract #592 is described as follows: "Commencing at the Southwest corner of Lot 2, of Section 2, Twp. 13 North Rge. 19 East, thence Easterly along the South line of said Lot 2, one hundred and seventy feet, thence North 20° 20' East 1069 feet, thence North 64° 25' West 600 feet, thence South 1260 feet to the place of commencement."

MICROFILMED

SIGNATURE

July 11, 1975

Receipt
1080

RE: Water Claim No. 72-4005
Warm Springs Creek

Mr. Lawrence H. Duffin
Attorney at Law
P. O. Box 188
Burley, Idaho 83318

Dear Mr. Duffin:

In checking through our records I found that on February 06, 1974, you wrote to this office and requested information on certain water rights. At that time a copy of the Rodgers, et al -vs- Breyer, et al was forwarded to your office, and a \$1.50 fee was requested. To date our records do not show this amount paid. Please look over your books and see if this was perhaps over-looked.

Thanks.

Very truly yours,

(Mrs.) ELEANOR J. WOODS
Records Supervisor

EJW:e

MICROFILMED

February 14, 1974

72-4005

RE: Warm Springs Creek

Mr. Lawrence H. Duffin
Attorney at Law
P. O. Box 188
Burley, Idaho 83318

Dear Mr. Duffin:

In reference to your February 6th letter, I am enclosing a copy of the Rodgers, et al -vs- Breyer, et al Decree on Warm Springs Creek. I am sure the rights you referred to are the ones on page 4 of the decree. I have circled that right.

The fee for this copy is \$1.50 which you may remit at your earliest convenience. If we can help you further please don't hesitate to contact our office.

Very truly yours,

(Mrs.) ELEANOR J. WOODS
Records Supervisor

EJW:e

Enclosure

MICROFILMED

Lawrence H. Duffin

ATTORNEY AT LAW
FIRST SECURITY BANK BUILDING

Burley, Idaho 83318

February 6, 1974

POST OFFICE
BOX 57

Box 188

RECEIVED
Idaho Department of Water Administration
PHONE 678-3333

Mr. R. Keith Higginson
Director
Idaho Department of Water Administration
Statehouse
Boise, Idaho 83701

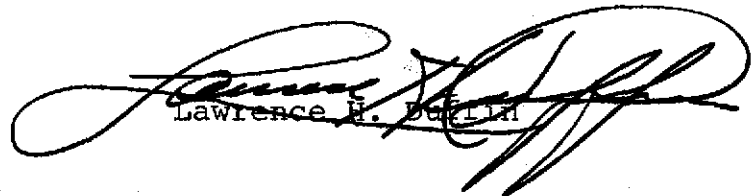
Dear Mr. Higginson:

I have a client who is having some difficulty with his winter water rights on Warm Springs Creek in Custer County, Idaho, a portion of which is located in Township 13 North Range 19, East Boise Meridian.

My client, Mr. Golden Westergard of Challis, Idaho purchased his farm from Mr. Frank Burstedt and we have a copy of the Claim to Water Right filed by Mr. Burstedt on the 18th day of May, 1971. It is our understanding that there is an additional filing for winter water rights in the amount of 200 inches that was made for the McGowan ranch whose present owner is Mr. Ben Howard. It is also our understanding that Mr. Will Ingram now owns the ranch properties that have all of the rights on this creek for the beneficial use of the water for agricultural purposes during the summer.

Would you please send me copies of whatever rights your records show exist on this creek, both winter and agricultural use, except the Frank Burstedt rights, and send me your statement for the expense.

Very truly yours,


Lawrence H. Duffin

RECEIVED

July 6, 1971

Re: Claim to a Water Right No. 72-4005

Frank Burstedt
Box 554
Challis, Idaho 83226

Dear Mr. Burstedt:

The Department of Water Administration has completed the processing of your claim to a water right, and no further action is authorized under Sections 42-225a and 42-225b, Idaho Code. Your claim will be retained in our files and will be available at any time for use by you or the court.

As you are aware, the filing of your claim does not, in itself, guarantee you a water right; it only records and preserves the information and the evidence which you included 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,

Donald W. McEldowney
Appropriation Supervisor

DWM:dr

Enclosure: Copy of claim

cc: Jack B. Furey
P. O. Box 366
Challis, Idaho 83226

72 4005

June 2, 1971

Re: Application No. 72-4005 - Frank Burstedt

The Challis Messenger
P.O. Box 97
Challis, Idaho 83226

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you 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,

Donald W. McElowney
Appropriation Supervisor

DWM:cr

Enclosure

Bill submitted 6-23-71 By de

72 4005

**NOTICE OF CLAIM
TO A WATER RIGHT**

No. 72-4005

Notice is hereby given that Frank Burstedt, Box 554, Challis, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 2.0 cubic feet per second of water from Warm Springs Creek, tributary to Salmon River with point of diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 13N, R. 19E, B.M., Custer County.

The water is claimed to be used from Nov. 1 to March 31 for domestic and stockwatering with a priority of Nov. 1, 1917; the place of use is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 13N, R. 19E, B.M.

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

R. KEITH HIGGINSON
Director

Published in the Challis Messenger, Challis, Idaho on June 10 and June 17, 1971.

Handwritten:
6-10-71

NOTICE OF CLAIM TO A WATER RIGHT

No. 72-4005

Notice is hereby given that Frank Burstedt, Box 554,

Challis, Idaho

has filed a claim to a water right established by diversion and application to beneficial use of 2.0 cubic feet per second ~~more or less~~ of water from Warm Springs Creek, tributary to Salmon River with point of diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 13N, R. 19E, B.M., Custer County

The water is claimed to be used from Nov. 1 to March 31 for domestic and stockwatering

with a priority of Nov. 1, 1917; the place of use is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 13N, R. 19E, B.M.

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

R. KEITH HIGGINSON

Director

Published in the Challis Messenger, Challis, Idaho on June 10 and June 17, 1971.

May 24, 1971

Jack B. Furey
Attorney at Law
P. O. Box 366
Challis, Idaho 83226

Dear Mr. Furey:

Returned herewith is your receipt No. 6476 in the amount of \$10.00
for your claim application in the name of Frank Burstet,
which was received in this office under the above date.

Very truly yours,

M. RUSSELL BOSCH
Administrative Assistant

MRB:ejw

Enclosure

72 4005

TELEPHONE
(208) 879-2421

LAW OFFICES OF
JACK B. FUREY
ATTORNEY AT LAW
CHALLIS, IDAHO 83226

P. O. BOX 366

May 18, 1971

Mr. R. Keith Higginson, Director
Dept. of Water Administration
Room 107 State House
Boise, Idaho 83701

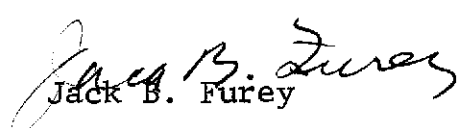
Dear Mr. Higginson:

I am transmitting herewith for filing and processing through the State of Idaho Department of Water Administration the enclosed CLAIM TO A WATER RIGHT executed by Frank Burstedt of Challis, Idaho.

Will you please advise if there is anything further required prior to starting your newspaper publication?

Thank you.

Very truly yours,


Jack B. Furey

JBF/nf

cc: Mr. Frank Burstedt

Enclosure: ck. \$10 fee

72 4005