

IN THE DISTRICT COURT OF  
THE FIFTH JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER  
FROM THE SNAKE RIVER BASIN WATER SYSTEM

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

U.S. DEPT. OF INTERIOR  
BUREAU OF LAND MGMT.  
IDAHO STATE OFFICE  
3380 AMERICANA TERRACE  
BOISE ID 83706  
TELEPHONE: 208-334-1401

PRIORITY DATE: 1936-04-01  
IDWR NUMBER: ~~XXXXXXXXXX~~  
BLM NUMBER: 7404688001  
BASIS OF CLAIM: DECREE  
BASIN NUMBER: 74

| SOURCE        | TRIBUTARY TO         |
|---------------|----------------------|
| -----         | -----                |
| CHIPPIE CREEK | WHISKEY SPRING CREEK |

DESCRIPTION OF DIVERSION WORKS  
-----  
NONE

| PURPOSE OF USE | DIVERSION<br>RATE | DIVERSION<br>VOLUME | PERIOD OF USE<br>FROM | TO    |
|----------------|-------------------|---------------------|-----------------------|-------|
| -----          | -----             | -----               | -----                 | ----- |
| STOCKWATER     | 0.620             | 0.00                | 0101                  | 1231  |
| IRRIGATION     | 0.010             | 0.00                | 0101                  | 1231  |
| WILDLIFE       | 0.620             | 0.00                | 0101                  | 1231  |
| TOTAL:         | 0.620 CFS         | 0.00 AF             |                       |       |

NON-IRRIGATION USES  
-----  
STOCKWATER, 1034 RANGE CATTLE; WILDLIFE VAR. AMT.

| POINT OF DIVERSION |       |       |        |        |        |       |        |
|--------------------|-------|-------|--------|--------|--------|-------|--------|
| TWP                | RNG   | SEC   | TRACT1 | TRACT2 | TRACT3 | LOT   | COUNTY |
| -----              | ----- | ----- | -----  | -----  | -----  | ----- | -----  |
| 17N                | 27E   | 21    |        | SE     | SE     | 00    | LEMHI  |
| 17N                | 27E   | 21    |        | SW     | SE     | 00    | LEMHI  |

| PLACE OF USE |       |       |        |        |       |        | IRRIGATED<br>OWNED | ACRES |
|--------------|-------|-------|--------|--------|-------|--------|--------------------|-------|
| TWP          | RNG   | SEC   | TRACT1 | TRACT2 | LOT   | COUNTY | -----              | ----- |
| -----        | ----- | ----- | -----  | -----  | ----- | -----  | -----              | ----- |
| 17N          | 27E   | 28    | SE     | SE     | 00    | LEMHI  | YES                | 0.0   |

MICROFILMED

APR 18 1994

BLM NUMBER: 7404688001

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|     |     |    |    |    |    |       |     |     |
|-----|-----|----|----|----|----|-------|-----|-----|
| 17N | 27E | 21 | SE | SW | 00 | LEMHI | YES | 3.0 |
| 17N | 27E | 21 | NW | SE | 00 | LEMHI | YES | 6.0 |
| 17N | 27E | 21 | SW | SE | 00 | LEMHI | YES | 9.0 |
| 17N | 27E | 21 | SE | SE | 00 | LEMHI | YES | 6.0 |
| 17N | 27E | 28 | SE | SE | 00 | LEMHI | YES | 0.0 |

TOTAL ACRES IRRIGATED: 24.0

TOTAL CONSUMPTIVE USE IS: 0.6 ACRE FEET PER ANNUM

OTHER WATER RIGHTS

-----  
NONE

REMARKS

-----  
PREVIOUSLY FILED WITH THE DEPARTMENT OF WATER RESOURCES

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

IN THE MATTER OF THE GENERAL DETERMINATION OF THE RIGHT TO THE USE OF SURFACE WATERS AND TRIBUTARIES FROM WHATEVER SOURCE ADMINISTERED BY THE DRAINAGE BOARD OF THE SALMON RIVER  
Salmon Area Office

NOTICE OF CLAIM

IDENT NO

MAP NO

TO A  
WATER RIGHT

74-1128

No-map-number  
North of 17-27-E

Notice is hereby given that Franklin Jack and/or Elizabeth M. Powers

(Name of Claimant)

Leadore, Idaho 83464

claims a right to the diversion

and beneficial use of the surface groundwater of or tributary to the LEMHI River:

The extent and nature of said claim is as follows:

April 1, 1936

- (1) Date of priority: (When was the water first applied to a beneficial use or date that permit was issued) \_\_\_\_\_
- (2) Describe source of water: (Name of stream, lake, spring, etc. or groundwater) Chippie Creek, tributary to Canyon Creek, tributary to Lemhi River.
- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
- | Quantity           | Use        | Period of Use From | To         |
|--------------------|------------|--------------------|------------|
| 1.84<br>CFS XXXXXX | Irrigation | April 1            | November 1 |
| Quantity           | Use        | Period of Use From | To         |
| Quantity           | Use        | Period of Use From | To         |
| Quantity           | Use        | Period of Use From | To         |
- (4) 1.84 TOTAL QUANTITY CLAIMED  
CFS XXXXXX

- (5) A) Point of Diversion: Give location of point where water is diverted from its source. SE 1/4 Sec 21 Twp 17N Rge 22E BM; additional points: \_\_\_\_\_

B) Describe means of diversion of water: (Pump and pipeline well diversion dam reservoir, length of ditch and field etc) Ditch

- (6) 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

| T   | R   | SEC | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | TOTAL |
|-----|-----|-----|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|-------|
|     |     |     | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |       |
| 17N | 27E | 21  |        |        |        |        |        |        |        |        |        |        |        | 3.3    | 1.4    | 5.6    | 8.9    | 5.7    | 24.9  |
| 17N | 27E | 21  |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |       |
| 17N | 27E | 28  |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 22.2  |

Total No of acres. 46.7 30.8

B) If water is used for other than irrigation, fully describe that use being as specific as possible:

- (7) Effluent, sewage waste, or return water from this use is discharged into: \_\_\_\_\_
- (8) If you are claiming water as a member of an organization, list name of organization: \_\_\_\_\_
- (9) Remarks This land is owned in its entirety by BLM and USFS

- (10) Basis of claim (Check one) ☒ A) Right based on diversion and beneficial use  
☐ B) Right decreed by court, cite title of case \_\_\_\_\_  
☐ C) Right based on application license or claim filed with the Idaho Department of Water Administration

Be it known that the undersigned, after being duly sworn on oath depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge

April 12, 1972  
(Date)

Individual  
Franklin Jack Powers  
(Signature of Claimant)

(Signature of Spouse)

Organization

(Signature of Authorized Agent)

State of Idaho

County of Lemhi

On this 12th day of April, in the year 1972

a notary public, personally appeared Franklin Jack Powers, known to me to be the person(s) whose name(s) are subscribed to the above instrument and acknowledged to me that (he, she, they, corporation partnership or \_\_\_\_\_) executed the same

Notary Public residing at Salmon, Idaho

My commission expires July 14, 1974

1gs

STATES OF PUBLIC DOMAINS  
LAND AND MINERAL TITLE

MT PLAT

| REFUGEE<br>TRAC NO | DATE | STATUS | SURVIVAL |
|--------------------|------|--------|----------|
| 1                  | 1945 | 1      | 1        |
| 2                  | 1945 | 1      | 1        |
| 3                  | 1945 | 1      | 1        |
| 4                  | 1945 | 1      | 1        |
| 5                  | 1945 | 1      | 1        |
| 6                  | 1945 | 1      | 1        |
| 7                  | 1945 | 1      | 1        |
| 8                  | 1945 | 1      | 1        |
| 9                  | 1945 | 1      | 1        |
| 10                 | 1945 | 1      | 1        |
| 11                 | 1945 | 1      | 1        |
| 12                 | 1945 | 1      | 1        |
| 13                 | 1945 | 1      | 1        |
| 14                 | 1945 | 1      | 1        |
| 15                 | 1945 | 1      | 1        |
| 16                 | 1945 | 1      | 1        |
| 17                 | 1945 | 1      | 1        |
| 18                 | 1945 | 1      | 1        |
| 19                 | 1945 | 1      | 1        |
| 20                 | 1945 | 1      | 1        |
| 21                 | 1945 | 1      | 1        |
| 22                 | 1945 | 1      | 1        |
| 23                 | 1945 | 1      | 1        |
| 24                 | 1945 | 1      | 1        |
| 25                 | 1945 | 1      | 1        |
| 26                 | 1945 | 1      | 1        |
| 27                 | 1945 | 1      | 1        |
| 28                 | 1945 | 1      | 1        |
| 29                 | 1945 | 1      | 1        |
| 30                 | 1945 | 1      | 1        |
| 31                 | 1945 | 1      | 1        |
| 32                 | 1945 | 1      | 1        |
| 33                 | 1945 | 1      | 1        |
| 34                 | 1945 | 1      | 1        |
| 35                 | 1945 | 1      | 1        |
| 36                 | 1945 | 1      | 1        |
| 37                 | 1945 | 1      | 1        |
| 38                 | 1945 | 1      | 1        |
| 39                 | 1945 | 1      | 1        |
| 40                 | 1945 | 1      | 1        |
| 41                 | 1945 | 1      | 1        |
| 42                 | 1945 | 1      | 1        |
| 43                 | 1945 | 1      | 1        |
| 44                 | 1945 | 1      | 1        |
| 45                 | 1945 | 1      | 1        |
| 46                 | 1945 | 1      | 1        |
| 47                 | 1945 | 1      | 1        |
| 48                 | 1945 | 1      | 1        |
| 49                 | 1945 | 1      | 1        |
| 50                 | 1945 | 1      | 1        |
| 51                 | 1945 | 1      | 1        |
| 52                 | 1945 | 1      | 1        |
| 53                 | 1945 | 1      | 1        |
| 54                 | 1945 | 1      | 1        |
| 55                 | 1945 | 1      | 1        |
| 56                 | 1945 | 1      | 1        |
| 57                 | 1945 | 1      | 1        |
| 58                 | 1945 | 1      | 1        |
| 59                 | 1945 | 1      | 1        |
| 60                 | 1945 | 1      | 1        |
| 61                 | 1945 | 1      | 1        |
| 62                 | 1945 | 1      | 1        |
| 63                 | 1945 | 1      | 1        |
| 64                 | 1945 | 1      | 1        |
| 65                 | 1945 | 1      | 1        |
| 66                 | 1945 | 1      | 1        |
| 67                 | 1945 | 1      | 1        |
| 68                 | 1945 | 1      | 1        |
| 69                 | 1945 | 1      | 1        |
| 70                 | 1945 | 1      | 1        |
| 71                 | 1945 | 1      | 1        |
| 72                 | 1945 | 1      | 1        |
| 73                 | 1945 | 1      | 1        |
| 74                 | 1945 | 1      | 1        |
| 75                 | 1945 | 1      | 1        |
| 76                 | 1945 | 1      | 1        |
| 77                 | 1945 | 1      | 1        |
| 78                 | 1945 | 1      | 1        |
| 79                 | 1945 | 1      | 1        |
| 80                 | 1945 | 1      | 1        |
| 81                 | 1945 | 1      | 1        |
| 82                 | 1945 | 1      | 1        |
| 83                 | 1945 | 1      | 1        |
| 84                 | 1945 | 1      | 1        |
| 85                 | 1945 | 1      | 1        |
| 86                 | 1945 | 1      | 1        |
| 87                 | 1945 | 1      | 1        |
| 88                 | 1945 | 1      | 1        |
| 89                 | 1945 | 1      | 1        |
| 90                 | 1945 | 1      | 1        |
| 91                 | 1945 | 1      | 1        |
| 92                 | 1945 | 1      | 1        |
| 93                 | 1945 | 1      | 1        |
| 94                 | 1945 | 1      | 1        |
| 95                 | 1945 | 1      | 1        |
| 96                 | 1945 | 1      | 1        |
| 97                 | 1945 | 1      | 1        |
| 98                 | 1945 | 1      | 1        |
| 99                 | 1945 | 1      | 1        |
| 100                | 1945 | 1      | 1        |

1 08630 Oct 14 1967 1st of Long 12/12/1965  
completed 12/19/1960. All in surface water by  
USFS

FOR ORDERS EFFECTING DISPOSAL OR USE OF  
UNIDENTIFIED LANDS REFER TO INDEX OF  
MISCELLANEOUS DOCUMENTS.

|             |            |
|-------------|------------|
| CURRENT TO  | CURRENT TO |
| SEP 11 1970 |            |

Lat. 44°45'57" N  
Long. 113°07' W

THE NOTATION SHOWN ON WITHDRAWALS REPRESENT THE LAST ACTION TAKEN, BUT MAY NOT BE THE EFFECTIVE DATE. SEE THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITHDRAWAL.

**WARNING STATEMENT**

This plot is the Bureau's Record of Title, and should be used only as a graphic display of the township survey data. Records between do not reflect title changes which may have

SCALE in Chains

MEMORANDUM TO FILE: 74-1128, Chippie Creek Water Right

RECEIVED

DATE: June 11, 1979

MAY 14 2004

Department of Water Resources

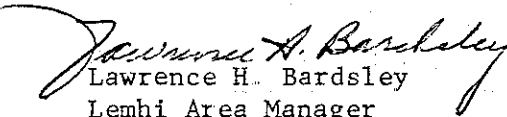
On this date, Paul Krupin, District Hydrologist and myself attended an informal hearing conducted by Glenn Saxton, Idaho Water Resources Department and the Department's lawyer, Jo Deaman. This hearing was associated with a protest filed by Max Beyeler, Leadore, Idaho over the priority date for water rights associated with deeded property owned by Jack Powers and Public Lands administered by both the Bureau of Land Management and the Salmon National Forest on Canyon Creek and adjacent tributaries. James Herndon from Herndon Law Office represented Jack Powers.

The Public Lands involved in a portion of Mr. Beyeler's protest are those associated with an old homestead in T. 17 N., R. 27 E., B.M., Sections 21 and 28 (please refer to the attached Deadman Pass 7½ minute Quad Map). The complete history of the homestead was not researched but apparently a Mr. Bell had established the homestead in the 1930's but never acquired title to the lands. The homestead entry was cancelled on 02/13/52. The present irrigation system was established by Mr. Bell in the early years and consisted of flood irrigating approximately 31 acres by diverting Chippie Creek. The earlier diversion points are still present and spread the water over the area each year without any effort by any individual.

In an informal discussion with everyone present, and based upon earlier discussions that Jack Powers and Max Beyeler had, the Water Resource Department felt that most of Mr. Beyeler's protest had been settled. In regards to the BLM water right, the Government never had made application, so in 1972 Jack Powers made application. The Water Resource Department, in earlier investigations, checked the right and use of the water and recorded the water in the name of the Department of Interior, Bureau of Land Management instead of Jack Powers. After discussing the situation as to the use and method that the federal lands were involved, it appeared that there really was no conflict in use because the irrigation done on the public lands aided the downstream users by recharging the watershed and provided water to the system later in the season. Mr. Beyeler felt that his 1944 right might be hurt by the Government's 1936 right. Mr. Saxton informed Mr. Beyeler that in short water situations that his, the Government's & Jack Power's rights would be later than McRae's right and all the upstream use would have to be terminated to fill McRae's water right anyway.

Based upon the above information and earlier agreements between Mr. Powers & Mr. Beyeler, I suggested that the Bureau would agree to have the 1936 priority date dropped back to the 1944 date to coincide with Powers' and Beyeler's right. This would not impede the normal irrigation of the old homestead because of the early, natural irrigation that occurs.

The Department of Water Resources will draw up an agreement covering the tentative agreements reached today and will coordinate with our State Office for approval and who will sign for us.

  
Lawrence H. Bardsley  
Lemhi Area Manager

Q UNAPPROPRIATED  
SPRINGS

● BCM APPROPRIATED  
SPRINGS  
① SWSE SEC 21  
② SESE SEC 21

FLOOD IRRIGATED  
AREAS FROM  
BCM SPRINGS

300 000 FEET  
(MONT)

T 17 N

T 16 N

44° 45'  
113° 15'

323 1 030 000 FEET (MONT)

324