

RECEIVED

Department of Water Administration

AFFIDAVIT OF PUBLICATION

**NOTICE OF CLAIM
TO A WATER RIGHT**
No. 79-4020

Notice is hereby given that MARLIN LEROY &/or GERALDINE ELLEN DOWNING, P. O. Box 152, White Bird, Idaho 83554 has filed a claim to a water right established by diversion and application to beneficial use of .15 cubic feet per second of water from White Bird Creek, trib. to Salmon River with the point of diversion in the SW $\frac{1}{4}$ -SW $\frac{1}{4}$, Sec. 14, T. 28 N., R. 1 E., B.M., Idaho County.

The water is claimed to be used from April 1 to Oct. 31 for the irrigation of $\frac{1}{4}$ acre with a priority of 1970; the place of use is within the SW $\frac{1}{4}$ -SW $\frac{1}{4}$, Sec. 14, T. 28 N., R. 1 E., B.M.

Any exception to this claim of water right may be filed with Idaho Department of Water Administration, Statehouse, Boise, Idaho, 83707.

R. KEITH HIGGINSON
Director

Published in the Idaho County Free Press, Grangeville, Ida. on April 18, 1973 and April 25, 1973. A18-25

OK'd
5-7-73

_____ Gary D. Cash _____ being first duly sworn, says he is the _____ Office Manager _____ of the IDAHO COUNTY FREE PRESS, a weekly newspaper which is published and issued weekly at Grangeville, Idaho County, State of Idaho, and which is of general circulation in said county and state; that the said notice, of which the one hereto attached is a true copy, was published in said paper for two weeks, being published two times, the first publication being on the 18th day of April, 1973, and the last publication on the 25th day of April, 1973; and that the said notice was published in the newspaper proper and not a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of more than seventy-eight consecutive weeks prior to the first publication of said notice or advertisement.

_____ Gary D. Cash _____

Subscribed and sworn to before me this 25th day of April, 1973.
_____ Richard C. Hahler _____, Notary Public
for State of Idaho, residing at Grangeville, Idaho.

79 4020

Identification No. _____
Claim No. 79-4020
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) ^{or} Geraldine Ellen Downing ^(wife)

1. Name of claimant MARLIN LeRoy Downing
post office address P.O. Box 152 White Bird, Idaho 83554
2. The point of diversion is in SW $\frac{1}{4}$ of SW $\frac{1}{4}$ Section 14 Township 28N
Range 1E B.M. located on White Bird Creek
(name of source)
tributary to Salmon River in Idaho 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:

1970 amount: .15 c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or _____ acre feet.

b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:

use IRRIGATION period of use from April 1 to Oct 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 _____
_____ ; length is _____ feet; height is _____ feet;
width at bottom is _____ feet; width at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known _____

- b. Underground water diverting works: is well flowing or pumped _____ ; depth of well is _____ feet; diameter of well is _____ inches; type of pump is _____
capacity of pump is _____ g.p.m.; name and address of well driller is _____
_____ ;

c. Conveying works: length of ditch to place of use is _____feet; width of ditch at top is _____feet;

width of bottom of ditch is _____feet; depth of water is _____feet; grade of ditch per 1000 feet is _____feet; material through which ditch passes is _____;

maximum length of pipe line to first place of use is 20 feet; diameter of pipe line is 2 inches; type of pipe plastic; grade of pipe per 1000 feet is 1%.

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: _____

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

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres:

[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? _____ 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 _____

7. Where water is used for domestic or municipal purposes give number of families served _____
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible,
giving dates and quantities _____

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation

*we are taking water from White Bird Creek by pump
for irrigation. ~~the~~ Lots 3 and 4 9F Block
"E" Original town of White Bird, Idaho*

*these lots have been irrigated by pump
by other owners for over 30 years that
we know of.*

State of Idaho

County of Idaho

ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the
foregoing claim to a water right, together with all attached information, and that the matters and facts therein are
true to the best of the affiants knowledge.

Martin Downing ^{and} *Geraldine E. Downing*
Claimant

Sworn to before me this 9th day of April, 1973

Neva Shuck
Notary Public

Residing at *White Bird, Idaho*

My commission expires January 23, 1976

Rec'd #10169 For Department Use Only

Received by *ej* Date 4-11-73

Exception filed by: _____

Forwarded to
claimant by: _____

Date _____

Prelim. check by *ej* Date 4/11/73

Fee received by *ej* Date 4-11-73 Fee \$ 10.00

Approved for publication by _____

Published in *Idaho County Free Press* Dates 4-18-73
4-25-73

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

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Department of Water Administration

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The water is claimed to be used from April 1 to Oct. 31 for the irrigation of $\frac{1}{4}$ acre with a priority of 1970; the place of use is within the SW $\frac{1}{4}$ -SW $\frac{1}{4}$, Sec. 14, T. 28 N., R. 1 E., B.M.

Any exception to this claim of water right may be filed with Idaho Department of Water Administration, Statehouse, Boise, Idaho, 83707.

R. KEITH HIGGINSON
Director

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OK'd
5-7-73

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_____ Gary D. Cash _____

Subscribed and sworn to before me this 25th day of April, 1973.
_____ Richard C. Haher _____, Notary Public
for State of Idaho, residing at Grangeville, Idaho.

79 4020

DEPARTMENT OF WATER ADMINISTRATION
- STAFF ANALYSIS -

Item	Initial	Date	
(1)	LEB	12 April 73	Application No. <u>79-4020</u> Name <u>Downing</u>
(2)	LEB	12 April 73	Check: ☒ Signature ☒ Point of Diversion ☒ Quantity of Water and Period of Use - <u>Excessive</u> ☒ Description of Diverting Works ☒ Time required for C/W and application of water to B/I ☒ Place of Use ☒ Map ☒ Fee
(3)	LEB	12 April 73	Send copies to: ☐ Idaho State Health Department ☐ Idaho Fish and Game Department ☐ Bureau of Land Management
(4)	LEB	12 April 73	☐ Request Special Use Permit from U.S.F.S. ☐ Request Easement from B.L.M.
(5)	LEB	12 April 73	In form for advertising <u>yes</u>
(6)	LEB	5-7-73	Affidavit of Publication received <u>yes</u>
(7)			Final date for protests _____ Protests received: yes _____ no _____
(8)			Date and Place of hearing _____ Decision reached at hearing _____
(9)			Located within Water District No. _____
(10)			Critical groundwater area: yes _____ no _____
(11)			Groundwater levels: ☐ Decline (comment) _____ ☐ Stable (comment) _____ ☐ Increasing (comment) _____
(12)			Comments: _____
(13)			Action recommended: ☐ Approve Priority _____ ☐ Deny Reason for Reduction _____ See attached sheet for conditions of approval No conditions for approval
(14)			District _____ By _____ Date _____ Title _____

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EX-105

RECOMMENDEDCONDITIONS OF APPROVAL

- ☐ A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.
- ☐ Measuring devices of a type approved by this Department shall be permanently installed and maintained at the point of diversion and the point of effluent discharge.
- ☐ Use of water under this permit is supplemental to all existing water rights with the same purpose and place of use.
- ☐ Maximum rate of diversion shall not exceed _____ c.f.s.
- ☐ Settling ponds shall be installed which are capable of reducing the silt load in the return water to such a level that the quality of the waters of _____ Creek will not be impaired for other beneficial uses.
- ☐ Return water shall be treated to insure that the effluent meets (interstate) (intrastate) stream water quality standards.
- ☐ Use of water under this permit is subject to control by the watermaster of State Water District No. _____, _____ River.
- ☐ The proposed well shall not be drilled within _____ feet of another well.
- ☐ The issuance of this permit in no way grants any right-of-way or easement across the land of another person.
- ☐ The permit shall not be assigned or sold without first securing the written approval of the Department of Water Administration.
- ☐ This permit cannot be assigned, mortgaged, or conveyed without complying with Section 42-208, Idaho Code.
- ☐ Other: _____
- _____
- _____

May 7, 1973

Re: Claim to a Water Right No. 79-4020

Mr. & Mrs. Marlin L. Downing
P. O. Box 152
White Bird, Idaho 83554

Dear Mr. & Mrs. Downing:

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

As you are aware, the filing of 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.

Sincerely,

KENNETH H. FOIT, P. E.
Western District Engineer

KHF:df

Enclosure

79 4020

NOTICE OF CLAIM TO A WATER RIGHT

No. 79-40202

Notice is hereby given that MARLIN LEROY &/or GERALDINE ELLEN DOWNING,
P. O. Box 152, White Bird, Idaho 83554
has filed a claim to a water right established by diversion and application
to beneficial use of .15 cubic feet per second ~~XXXXXX~~ of water
from White Bird Creek, t~~rb~~ to Salmon River
with the point of diversion in the SW¹/₄SW¹/₄, Sec. 14, T. 28 N., R. 1 E., B.M.,
Idaho County.

The water is claimed to be used from April 1 to Oct. 31 for the
irrigation of 1/4 acre
with a priority of 1970 ;
the place of use is within the SW¹/₄SW¹/₄, Sec. 14, T. 28 N., R. 1 E., B.M.

_____.

Any exception to this claim of water right may be filed with the Idaho
Department of Water Administration, Statehouse, Boise, Idaho, 83707.

R. KEITH HIGGINSON

Director

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on April 18, 1973 and April 25, 1973.

PROOF TO BOISE
NOTICE OF CLAIM
TO A WATER RIGHT

No. 79-4020

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The water is claimed to be used from April 1 to Oct. 31 for the irrigation of $\frac{1}{4}$ acre with a priority of 1970; the place of use is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14, T. 28 N., R. 1 E., B.M.

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R. KEITH HIGGINSON
Director

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79 4020

April 12, 1973

Re: Claim to a Water Right No. 79-4020 Marlin Leroy &/or Geraldine Ellen Downing

Idaho County Free Press
Box 267
Grangeville, Idaho 83530

Gentlemen:

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

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. In order to receive payment, the following certification must appear on the bill:

" I hereby certify that the foregoing account is just and correct,
that the amount claimed is legally due, after allowing all just
credits, and that no part of the same has been paid."

(signature of claimant)

Very truly yours,

Bill submitted _____ by _____

79 4020

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION



Cecil D. Andrus
Governor
R. Keith Higginson
Director

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215

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

April 11, 1973

Re: Claim to ~~Aw~~Water Right No. 79-4020

Marlin Downing
P. O. Box 152
Whitebird, Idaho 83554

Dear Mr. Downing:

Attached herewith is your Receipt No. 10169 in the amount of \$ 10.00
for Claim to a Water Right No. 79-4020

which was received in this office under the above date.

Very truly yours,

M. RUSSELL BOSCH
Administrative Assistant

MRB:ejw

Enclosure

79 4020