

PUBLISHER'S AFFIDAVIT

STATE OF IDAHO)
) ss.
County of Valley)

Donald E. McMahan, being first duly sworn, deposes and says: That he is the co-publisher of the Star-News, a weekly newspaper published at Cascade and McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county aforesaid and is a legal newspaper; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for Two consecutive weeks in the regular and entire issue of every number thereof during the period and time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began March 23, 1972, and ended March 30, 1972.

Donald E. McMahan

Subscribed and sworn to before me a Notary Public in and for the County of Valley, and the State of Idaho, this 30 day of August, 1972.

Donald E. Fuller
My commission expires 6-2, 1974. Notary Public.

NOTICE OF CLAIM TO A WATER RIGHT

No. 77-4007

Notice is hereby given that Lucky Brands, Inc., in care of Rex Lanham, Rout No 2 - Box 242, Emmett, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 1.0 cubic feet per second of water from Logan Creek, tributary to Big Creek with point of diversion in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 34 T. 21N, R. 9E, B.M., Valley County.

The water is claimed to be used from Jan. 1 to Dec. 1 for domestic purposes for 30 families and from

April 1 to Nov. 1 for the irrigation of 35.82 acres with a priority of May 7, 1925; the place of use is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 35, T. 21 N, R. 9E, 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

Published in the Star-News on March 23rd and March 30th, 1972.

77 4007

Identification No. _____
Claim No. 77-4007
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 Lucky Brands Inc.
post office address Rex Lanham Rt 2 Box 242 Emmett, Idaho 83601
2. The point of diversion is in NW $\frac{1}{4}$ of SW $\frac{1}{4}$ Section 34 Township 21N
Range 9E B.M. located on Logan Creek
(name of source)
tributary to Big Creek in Valley Co. 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:

Priority Claimed property patented 5/7/25 amount: 1.0 c.f.s. or _____ acre feet
(water license # 18935 1-5-46) amount: _____ c.f.s. or _____ acre feet
amount: _____ c.f.s. or _____ acre feet
Total claimed 1.0 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 Culinary period of use from Jan 1 to Dec 1 (both dates inclusive)
use Domestic period of use from Jan 1 to Dec 1 (both dates inclusive)
use Irrigation period of use from April 1 to Nov 1 (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 Board - Sod + rocks; length is 15 ft. feet; height is 5 feet; width at bottom is 1 feet; width at top is 1 feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known no increase if any - decrease in length & height
(in original license # 18935 (77-2073))

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 _____

77 4007

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 _____

- X c. Conveying works: length of ditch to place of use is 5500 feet; width of ditch at top is 2 feet; width of bottom of ditch is 1 1/2 feet; depth of water is 1 1/2 feet; grade of ditch per 1000 feet is 15 feet; material through which ditch passes is Earth - Sand - Rocks - off-set; maximum length of pipe line to first place of use is _____ feet; diameter of pipe line is _____ inches; type of pipe _____; grade of pipe per 1000 feet is _____.

Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible. Changes #1 more small ditches or cutouts (shovel line) to divert water over property.
#2 more consistent & adequate coverage & full use of water consistent & adequate water change.

- 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 describe _____

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

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			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	
①	21N	9E	35	(River divides the 40)							✓ (approx 20 acres N of Big Creek)								20 acres
②	21N	9E	35							✓									10.83 acres
③	21N	9E	35			✓													5.00 acres

Total number of acres to be irrigated 35.83

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

in original license water filison more but irrigation would depend on ability of people irrigating. Since 1955 all above areas irrigated

X b. Do you get water through a ditch owned by several users? Yes If yes, give the name of the ditch
Academy Lagoon Creek no name. The other users and their respective
interests in the ditch are (if known) too numerous - all other interests are
Domestic & Culinary - some sprinkling of small lawns
Walter Hansen for domestic purpose

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 (approx - 30 families)
name of town supplied old Edwardsburg townsite of Tatal Creek

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 _____

Domestic use for families on property in The
Summer season

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

@ Edwardsburg property was patented claims - Beck of Seeds Valley Co.
Vol 3. Containing 160 acres & 159.74 acres - Since then properties
subdivided properties that continued to be irrigated were land suitable
for horse & cow pasture & domestic water used - Mr Napier Edwards
had help in irrigation due to his inability which was consistent
from 1928 on. He pastured cattle - in 1965 a quit claim deed sold
property and since then pasture is used for horses -
Original patents - 1925 - May - 1.
water license # 18935 (# 77-2073)

attached #1 witness to irrigating water 1955

#2 witness to continual irrigation of property by Mrs Theall.

#3 witness to continual irrigation on properties in question.

#4 witness Mrs Wallace Carter to irrigation since 1930's.

also ~~is~~ adequate & legal survey completed by Valley Co 1971 -

State of Idaho

County of Gem

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.

By LUCKY BRANDS, INC.
Catherine Lorin Gillihan
Secretary Claimant

Sworn to before me this 1st day of March, 1972.

[Signature]
Notary Public

Residing at Emmett, Idaho

My commission expires July 20, 1973

Rec'd # 8108

For Department Use Only

Received by JB Date 1 Mar 72

Exception filed by: _____

Forwarded to
claimant by: _____ Date _____

Prelim. check by JB Date 3/1/72

Fee received by ij Date 3/1/72 Fee \$ 10.00

Approved for publication by _____

Published in Star News, McCall Dates 3-16 & 3-23-72

77-4007

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.

I, Jean Orr Curtis, being first duly sworn
despose and say; that being a long time property owner
in the Big Creek area and lodging routinely with the Edwards,
I, Jean Orr Curtis, can testify to the fact that
since 1929 the properties in question have
been irrigated and the water used for domestic purposes.

Jean Orr Curtis

800—ACKNOWLEDGMENT—SINGLE

Printed and for sale by Messenger Printers, Inc. Emmett, Idaho

STATE OF IDAHO,
County of Ada } ss

On this First day of March, in the year 1972, before me
~~Jean Orr Curtis~~ Darlene Frost, a Notary Public
in and for said State, personally appeared Jean Orr Curtis

known to me to be the person whose name _____ subscribed to the within instrument, and acknowledged to me
that s he _____ 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

Darlene Frost
Notary Public for Idaho, Residing at Meridian, Idaho

I, Kathryn Thrall, can testify to the fact that the properties in question of the original Edward's estate now owned by Lucky Brankd, Inc. are being irrigated from April 1 to November 1, and the water for domestic use from January 1 to December 31.

Also, I am a witness to the fact that since 1953 Mr Edwards and associates have irrigated and used the water until Mr. Edward's death, 1965 and from that time on, Mrs. Catherine Gillihan has irrigated the property and used the water.

Kathryn Thrall

On this 1st day of March, 1972 personally appeared Kathryn Thrall before Notary Public, Nava Coburn.

Nava Coburn
Boise, Idaho

I, Robert J. Gillihan, myself and brothers during 1955, 1956, and 1957, worked for Mr. Edwards establishing ditches and irrigating the properties in question.

Since that time, I have witnessed these properties being irrigated yearly and the water used for culinary and domestic purposes.

My father, Mr. John Gillihan and sons reside in this Big Creek area yearly, in season, on the adjoining properties.

Robert Gillihan

800—ACKNOWLEDGMENT—SINGLE

Printed and for sale by Messenger Printers, Inc. Emmett, Idaho

STATE OF IDAHO,
County of Gem } ss
On this 1st day of March, in the year 1972, before me
the undersigned _____, a Notary Public
in and for said State, personally appeared Robert Gillihan

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 in this certificate first above written

James H. Hovine
Notary Public for Idaho, Residing at Emmett, Idaho

Since the quit claim deed from Mr. Edwards to Mr. Bill Lukehart in 1965, I, Catherine L. Gillihan, have irrigated the properties in question and used the water for domestic use from that date until the present time. I have engaged the help of Mr. Glen Harper and Mr. Walter Hanson in the consitant rotation of the water while I have been away from the area. I reside in the Big Creek area yearly, in season.

Catherine L. Gillihan

900—ACKNOWLEDGMENT—SINGLE

Printed and for sale by Messenger Printers, Inc. Emmett, Idaho

STATE OF IDAHO,
County of Gem } ss
On this 1st day of March, in the year 1972, before me
the undersigned, a Notary Public
in and for said State, personally appeared Catherine L. Gillihan

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

Sam Jones

Notary Public for Idaho, Residing at Emmett, Idaho

PUBLISHER'S AFFIDAVIT

STATE OF IDAHO)
) ss.
County of Valley)

Donald E. McMahan, being first duly sworn, deposes and says: That he is the co-publisher of the Star-News, a weekly newspaper published at Cascade and McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county aforesaid and is a legal newspaper; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for Two consecutive weeks in the regular and entire issue of every number thereof during the period and time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began March 23, 19 72, and ended March 30, 19 72.

Donald E. McMahan
Subscribed and sworn to before me a Notary Public in and for the County of Valley, and the State of Idaho, this 30 day of March, 19 72.
Donald L. Fuller Notary Public.
My commission expires 6-2, 19 74.

77 4007

THIS INDENTURE, Made this 28th day of November
in the year of our Lord one thousand nine hundred and Sixty-Seven (1967), between
BILLIE M. LUKEHART, a single person,

of Emmett, County of Gem, State of Idaho
the party of the first part, and

LUCKY BRANDS, INC., an Idaho corporation,
of Emmett, County of Gem, State of Idaho
the party of the second part, WITNESSETH:

That the said party of the first part, for and in consideration of the sum of
Ten and no/100 (\$10.00) and other valuable consideration - - DOLLARS,
lawful money of the United States of America, to him in hand paid by the said
party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained
and sold, and by these presents does grant, bargain, sell, convey, and confirm unto the said party
of the second part, and to its heirs and assigns forever, all the following described real estate,
situated in the County of Valley, State of Idaho, to-wit:

SEE EXHIBIT A, ATTACHED HERETO AND INCORPORATED HEREIN BY
REFERENCE.

EXHIBIT A

(Being in Valley County, Idaho)

The NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35, Twp. 21 N., R. 9 E.B.M.;
less U.S. Forest Service right of way 3.14 acres and to Pete Hillman
2 acres and to Joe Powell 1 acre.

Lot 5; the NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; the SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$; the E $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
the NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$; the N $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 2,
in Twp. 20 N., and the E $\frac{1}{4}$ SW $\frac{1}{4}$; the N $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$; and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$
of Section 35, Twp. 21 N., all in Range 9 East of the Boise Meridian
and containing 159.74 acres.

LESS the following properties described in various warranty deeds
and instruments to the following named grantees, as follows:
Instrument #56067 to Kathryn Thrall; Instrument #39939 to Martje
Yokel Falkenberg; Instrument #49699 to Wilbur V. Wiles; Instrument
No. 33447 to Axel Falkenberg; Instrument #49720 to David R. Thrall
and Charles A. Pickens; Instrument No. 49904 to Monroe L. Vallejo;
Instrument #54326 to Norman L. Adkins and Pauline Adkins and to
Lenard Lewis and Gladys Lewis; Instrument #59414 to Robert J.
McRae and Ruth C. McRae; Instrument #57506 to John C. Coffin; Ins-
trument #57424 to Robin McRae; Instrument #57425 to Robert J.
McRae and Ruth C. McRae; Instrument #57357 to Claude Elliott
and Rhea Elliott; Instrument #57236 to Kathryn Thrall; Instru-
ment #56068 to Kathryn Thrall; Instrument #34-330 to Maurice or
Grace Hansbrough; Instrument #57955 to Robert J. McRae and Ruth C.
McRae; Instrument #56985 to Ray Larson and Gwendolyn T. Larson;
Instrument #56986 to Lenard Lewis and Gladys Lewis; Instrument No.
60005 to Wilbur V. Wiles, as corrected by Instrument #48006; Ins-
trument #60007 to Wilbur V. Wiles; Instrument #59081 to Kathryn
Thrall; Instrument #33-399 to Ray Larson and Gwendolyn T. Larson;
Instrument #58827 to James W. Ivers and Shirlee A. Ivers; Instru-
ment #58883 to Chet Moulton and/or Mabel Moulton; Instrument
#58884 to William A. Merrick or Opal N. Merrick; Instrument
#58885 to Dean Cummins; Instrument #59062 to J. W. Ivers; Instru-
ment #59061 to J. W. Ivers; Instrument #35-149 to Ray G. Nissula
and Phyllis Nissula.

END OF EXHIBIT A.

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

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

Billie M. Lukehart (Seal)

_____ (Seal)

STATE OF IDAHO,
County of Gem.

On this 28th day of November in the year 1967 before me,
the undersigned, a Notary Public
in and for said State personally appeared BILLIE M. LUKEHART, a single person,
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 in this certificate first above written.

James H. Johnson
Notary Public for the State of Idaho
Residing at Emmett, Idaho

No. 57774
WARRANTY DEED

Billie M. Lukehart

—TO—

County of Blaine, Inc.

Dated _____, 19

STATE OF IDAHO,

ss.

County of Blaine

I hereby certify that this instrument was

filed for record at request of *Billie M. Lukehart*

at _____ Minutes past 11

o'clock of M., this 1st day

of _____, A.D., 1967

In my office, and duly recorded in Book 97

at _____ at page 576

By *James H. Johnson* Ex-Officio Recorder.

Deputy.

Fees, \$ 2.00

Mall to

NOTICE DIRECT

INDEXED INJECT

DOC. 57774-57774

AUG 13 1987

DATE

8/12/87

FROM

Steve Lester

Department of Water Resources

TO

Files 77-4010 AND 77-4007

SUBJECT

Water dispute

The Hansons & Gillmans are involved in a water dispute. Refer to 8/3/87 report in file 77-2073 for information obtained during field trip of 6/30/87. Copies of the report were mailed to the Hansons and to Randy Zuriga, Hydrologist, Payette Nat'l. Forest Supervisors Office.

Steve Lester
SIGNATURE

MICROFILMED

AUG 24 1987

RECEIVED

JUL 15 1986

Department of Water Resources
Western Regional Office

Logan 1106
K to P
Copies filed
in 77-7833
77-2075

Dear Jan Shurt

The forest service rangers + the hydrologist we in here + yesterday they checked water ditches in here, ours included. They came to our house this morning + said they had talked with Hillhans + that they thought an association should be formed. The hydrologist also said that Hillhans could put any size pipe they want in the ditch unless it interferes with our water.

The ranger said an open letter would be sent to everyone in here. When it comes we will send you a copy.

The hydrologist did say that when Hillhans disconnected the pipe from the tank installed in '79 that it was legally abandoned + they had to start over. He said they made a mistake there. They talked a lot + we listened. We aren't happy with a lot they told us + don't know how a lot of it affects us but we don't think it sounds good.

MICROFILMED

AUG 24 1987

The hydrologist did tell us that the ditch is carrying all the water it can stand right now + that no way could it irrigate the 35+ acres she claims the water for.

They all said there is plenty of water in Logan or

+ we agree with that but our dish off Logan cr.
is what concerns us.

we plan to be in the Boise area August 12
+ will contact you while we're out.

Sincerely

Hilda + Walter Hanson

MICROFILMED

AUG 24 1987

Lois Chapman HANSEN'S



Idaho State Fire School

Edwards to Lukehart

June 23, 1964, Recorded
April 24, 1966 Book 38 - pg. 436

Lukehart to Lucky Brands
Nov. 28 - 1964 Recorded
Dec. 1 - 1964 ←

Lucky Brands to Cathy S.
March 26 - 1974 - MICROFILMED

(QUITCLAIM DEED OF ~~PAUL~~ 1957
IN QUESTION)
RECORDED IN VALLEY Co.
COURTHOUSE.

CONVERSATION MEMORANDUM

DATE

2/7/86

FILE

(2) 77-4007

NAME OF PARTY

Hilda & Walter Hanson 77-7233

EMPLOYEE

Jan Shurt 77-2073

RE:

Spoke with Mr. & Mrs. Hanson concerning their problem on Logan Creek & plot on App. for permit no. 77-7233. They submitted the attached information concerning the sale of property claimed under Claim No. 77-4007 by Betty Gilligan. It shows her acquiring the property in 1974 from her father's estate and that her father acquired the land in 1967 rather than 1965 as indicated on the above Claim. Mr. & Mrs. Hanson's rights are covered under Lic. # 77-2073.

MICROFILMED

AUG 44 1987



State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-2190

September 5, 1985

Catherine Gillihan
850 Jackson Ave.
Emmett, ID 83617

Dear Mrs. Gillihan:

In your letter concerning use of the ditch from Logan Creek, you suggested that a representative of our Department may be able to conduct an examination of the ditch in question and perhaps assist in compiling a ditch agreement between you and the Hansons.

However, in discussing the situation with personnel in the regional and state office, it was decided that the ditch agreement would need to be reached by both parties involved. The Department could offer suggestions, but seeing the ditch would not aid in resolving the problem since the Department cannot make a ruling nor take any action until a court of law rules in a matter such as this.

I suggested to Mr. and Mrs. Hanson that if they could agree not to irrigate your four acres adjacent to their land, and if you could agree to leave enough water in the ditch to satisfy their water rights and help maintain the ditch, perhaps a mutual agreement can be reached. I also suggested that a stipulation in the agreement could be made that no new diverting works be installed, or a diversion from the ditch be allowed, without first contacting and gaining approval from the other party. Maybe a pre-determined time and place could be arranged between the three of you for a meeting to discuss the agreement. This agreement should be signed and recorded with the county so if any problems arise in the future, it can be used in court. If an agreement cannot be reached, then attorneys will need to be involved.

Please keep me notified of your progress in this matter, and do not hesitate to contact me if I can be of further assistance.

Sincerely,


JAN GROVER
Senior Water Resource Agent

JG/lis

MICROFILMED

AUG 24 1987



State of Idaho
DEPARTMENT OF WATER RESOURCES
WESTERN REGION, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

September 4, 1985

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-2190

Mr. and Mrs. W. G. Hanson
Big Creek via
Yellow Pine, ID 83677

Dear Mr. and Mrs. Hanson:

Enclosed is a copy of Catherine Gillihan's letter concerning the water problems involving the use of a ditch diverting water from Logan Creek.

Mrs. Gillihan does suggest in her letter that a representative of our Department may need to come and look the situation over to perhaps make suggestions on a ditch agreement. In talking the situation over with personnel from our regional and state office, it was decided at this point that a representative should not visit the site since the Department cannot make a ruling nor take any action until a court of law rules in the matter. The ditch agreement can only be resolved between the two parties involved. Both of you need to decide what factors each want represented in the agreement and arrange a time and place to meet and discuss these factors. If no agreement can be reached, attorneys will then need to be involved.

Perhaps if Mrs. Gillihan could agree to leave enough water in the ditch to satisfy your irrigation use and to help maintain the ditch, while you agree to cease the irrigation of the adjoining four acres, an agreement could be reached. A stipulation may also be included that states no new diversions or diverting works could be installed in the ditch without first notifying each other and gaining approval. The agreement should be filed as a legal document with the county so if any problems arise in the future, the document can be used as evidence in a court of law.

Please keep me informed on your progress with this situation, and if I can further assist you, do not hesitate to contact me.

Sincerely,

JAN GROVER
Senior Water Resource Agent

JG/lis

Enclosure

MICROFILMED

AUG 24 1987

August 12, 1985

Idaho Department of
Water Resources
450 W. State
Boise, Idaho 83702

Dear Sirs;

On Aug. 10, Mr. Hanson "stormed" into our lodge of guests and issued an ultimatum. Mrs Hanson had called earlier that day for a conference that we agreed to at our earliest convenience. Mr Hanson is retired and on military income and our's is a seasonal operation. On that day, I was boarding 13 miners and a small family. To our understanding, Mr. Hanson's chief complaint was that we replaced our old water system without his knowledge. His other continuous complaint being that we alter our pasture water from one pasture to the other.

Our surface domestic water and some minimal irrigation water comes from a ditch from Logan Creek, siting prior use from Napier Edwards' license #77-2073, to be used at two locations; domestic water and pastures twp20N, R9E, Sec.35, part of E $\frac{1}{2}$ SW $\frac{1}{2}$ and SW $\frac{1}{2}$ SE $\frac{1}{2}$ and twp 20N, R9E, Sec 2, part of NW $\frac{1}{2}$ totaling about 5 acres. I have used this water since 1965, and my late father, Rex Lanham, and I recorded our deeds bought from my former husband for this and other properties of the Edwards in 1967. Following new Idaho Code #chap.2 title 42-Sect.42-242 and due to numerous boundry disputes, we refiled water rights under our Lucky Brands Inc. in 1972, to assure stock water and domestic surface water. The water Dept. assisted us in filing for maximum use at that time due to questionable acreage.

In the late 60's and early 70's, we built a cabin on Logan Creek and a warehouse lodge on the Edwards site using various forms of experimental water systems of 2-4" plastic pipe and screened funnels in the existing ditches to the property, thinking that adequate water storage

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could be furnished in the pipe. In 1979, a holding tank with a 4" outlet to 1" into the buildings was built. This tank has deteriorated and the over flow caused standing water on the F.S. In July 1985, our contractor designed a tank moved up the open ditch. It has a self-cleaning screen requiring larger intake but the out let is 3", and the over-flow goes back into the creek(ditch) eliminating standing water. This tank enables us to have adequate storage and pressure required for domestic use and fire protection.

It is our understanding that one does not refile a water permit every time he improves his system if water use remains the same or less. No harm was meant or done to Mr. Hanson's water or property. No alteration was done to any part of the ditch or water level. We have furnished pipe on several occasions to Mr. Hanson to assure that his funnel pipe is always above our tanks. In 1979 we invited him and his son-in-law, Robert Murphy to combine a system with us. Mr. Hanson declined. Our present tank continues on F.S. ground as does the run-off continue into the ditch that we use for irrigation on the two pastures described above. The end of our ditch running approx. 5' onto the sw corner of Mr. Hanson's property, where he irrigates a few strawberries, the remainder of his lot being irrigated with a hose from his house.

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Over the past years, Mr. Hanson continually turns water into our pasture, next to his lot, at his will, many times flooding our barn yard, washing our bridge, and etc. to keep water constantly in access in the ditch. We hired a man to dig an alternate run-off ditch into Big Creek to allow our pasture to dry out and to leave water cont. in the ditch. When we try to irrigate the upper pasture, Mr. Hanson shuts off our set and diverts the water back to the lower pasture. In the past we have had to irrigate at night, or before or after he is in the area to preserve the pasture.

Our contractor has considered the water dept. suggestion of perhaps moving the tank to the point of diversion in Logan Creek. The ditch above our tank is on a side-hill the only access to the creek and is very fragile. Since 3" pipe of approved water pipe is not flexible and could result in some ditch damage; however would probably furnish enough water for 5 acres; this alternative may not be the best.

We feel it would be beneficial to all the ditch users if a person from the water dept. could look at the water and offer advice on ditch agreement. In the past Mr. Hanson claims direction on ditch cleaning and ditch opening without any advance notice irregardless of any other activities of the other users.

We are willing to furnish Km and board for 1 or 2 persons. Mr. Vaughn continues to service this area via airplane and we can assist in these arrangements.

However, if Mr. Hanson has already sought legal action in this matter, to remain unbiased you may need to make other arrangements, we can assist you in these arrangements if needed.

Any help you can offer in solving these problems will be greatly appreciated.

Sincerely,

Catherine Gillihan
850 Jackson Ave.
Emmett, Idaho 83617

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State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-2190

August 16, 1985

Catherine Gillihan
Big Creek via
Yellow Pine, ID 83677

Dear Mrs. Gillihan:

Enclosed is a copy of the complaint filed by Mr. and Mrs. W. J. Hansen concerning your water use from the ditch in Sec. 34, Twp 21N, Rge 9E, from Logan Creek.

It appears the main concern is injury to their water rights and the ditch in question. There are two water rights involved. License No. 77-2073 is for .11 cubic feet per second with a priority of January 5, 1940 for 5 acres in the E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 35, Twp 21N, Rge 9E. Claim No. 77-4007 is for 1.0 cubic feet per second with a priority date of May 7, 1925, for 36 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, Twp 21N, Rge 9E. Mr. and Mrs. Hansen own one acre out of License No. 77-2073 and state they do divert water from the ditch at their property for irrigation. They also have a line further up the ditch from your system which they use for domestic water and to run one hose. They maintain this water use was the only water used from the ditch up until 1979 when you installed the first tank and pipe in the ditch. Please be advised that a claimed use such as your Claim No. 77-4007 has not yet been verified by the Department and in the case of a dispute, the use and date of priority will need to be proven for accuracy. The License No. 77-2037 was verified in August 1947 when a field exam was conducted by our Department; however, if there was a period of five years or more of non-use, then the water right could be lost. This also applies to the claim.

From both accounts, it appears to me an agreement between the Hansen's and you concerning the use of the ditch and amount of water diverted could be reached. If, in fact, you did not use the water from the ditch prior to 1979, and the Hansen's file a law suit, your water rights from Logan Creek could be jeopardized. You may consider meeting with the Hansen's and coming up with a written agreement over the use of the water and ditch which is satisfactory to both parties.

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Catherine Gillihan
August 16, 1985
Page 2

If you have any questions concerning this matter, please do not hesitate to contact me. Otherwise, I will await your letter as we discussed in my office on Monday.

Sincerely,


JAN GROVER
Senior Water Resource Agent

JG:sc

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AUG 24 1987

Aug. 12, '85

To whom it may concern

We are writing this letter to register a complaint against Robert + Catherine Hiliham.

There is a diversion ditch on Logan Creek at Big Creek. Napier Edwards built the ditch or had it built, with the rock dam, to irrigate + for use of the water, on five acres of his land. We bought one acre of the five + have used the ditch since 1965. We have maintained it + the excess water runs onto the other four acres, which is meadow or pasture land. In early July, 1979 the Hilihams built a settling tank next to our ditch + laid a 2" intake pipe, about 20' long in our ditch to the tank. This was above our intake pipe. There was no overflow pipe from the tank back to the ditch + water overflowed + ran on the ground. We were told nothing of all this nor were we ever consulted at any time. We discovered it when our daughter walked up our ditch soon after their tank + pipe were put in. Before they diverted water from our ditch to their property they were using water from Government cr. We went to them + told them they had no right to do that + that we did not approve of the diversion. We did not complain to the Water Resources Officers at that time as we hoped to remain good neighbors. Early this July we saw the ditch was nearly empty at our place + walked up to check it + found the Hilihams had dug a ditch to divert water from our ditch to irrigate some pasture land back of their lodge. We closed the outlet they had dug + told them they could not do that. About the 28th of July this year (1985), the Hilihams, with no word to us, abandoned the old tank + 2" pipe + installed a new settling tank with a six inch (6") intake pipe approx

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in excess of 1000 gallons per hour + some of diversion
on our ditch. The new tank has a 2" overflow pipe back
into the ditch but the tank still overflows on the sur-
rounding ground. When I walked up the ditch to the
head gate, I found they had opened it to full flow +
because of the excess flow the ditch was leaking in
three places. I closed the gate to the normal flow because
if the leaks continued we could soon lose the whole
ditch. I phoned the Hillihans + told them what could happen.

We came to Boise to the water resources office + ex-
plained all this to Jan Grover + she reviewed the claims +
licenses + re-affirmed what we were told years ago,
that the license for the water diversion + ditch were for
the five acres + not for the Hillihan lodge + land.

On August 11th (85) we went to the Hillihans + tried to
settle this peacefully + asked them to move the tank
back to the original site + to use the 2" pipe for the
intake + they flatly refused.

At that point we left + decided to take the matter
to the department of water resources.

Sincerely

Mr. & Mrs. W. H. Hanson

Big Cr. Via Yellow Pine

Idaho, 83677

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AUG 24 1987

April 17, 1972

Re: Claim to a Water Right No. 77-4007
" " " " " " 77-4008

Lucky Brands, Inc.
C/o Rex E. Lanham
Route 2, Box 242
Emmett, Idaho 83617

Dear Mr. Lanham:

The Department of Water Administration has completed the processing of your claims to a water right, and no further action is authorized under Sections 42-225a and 42-225b, Idaho Code. Your claims 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 claims does not, in itself, guarantee you a water right, it only records and preserves the information and the evidence which you included in your claims.

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 files, you may have that information or evidence added at any time. Please refer to your claim numbers when corresponding with this office.

We are enclosing, for your records, copies of your claims. 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:bb
Enclosure: Copy of Claims

77 4007

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

Statehouse — Annex 2

Boise, Idaho 83707

(208) 384-2215

April 13, 1972



R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

FILE

Mr. Ernest E. Ward
Box 1044
McCall, Idaho 83638

Dear Mr. Ward:

Your April 7th request for a hearing on Claims to a Water Right No. 77-4007 & 77-4008 has been received. However, these documents are statements concerning water rights that exist by diversion and beneficial use of the water and, therefore, they are unlike Application for Permit No. 77-7021 which is filed so that a new use of the water may be initiated.

The Idaho Code does not authorize the Department to hold hearings to consider the validity of the claims, but does provide you an opportunity to enter exceptions against the claim or portion of the claim that you feel are invalid. The procedure is explained in the following portion of the Idaho Code:

42-225b. Recording of claims by department-----Corrections.-----

.....
. At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the department of reclamation (renamed department of water administration, July 1, 1970) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the department of water administration. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

If you have any questions concerning the procedure, please contact us.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:dr

77 4007

RECEIVED

ERNEST E. WARD
Box 1044
McCALL, IDAHO

APR 11 1972
Department of Water Administration

APRIL 7, 1972

MR. R. KEITH HIGGINSON
DEPARTMENT OF WATER ADMINISTRATION
BOISE, IDAHO

DEAR SIR:

I AM NOT A BORN OBJECTIONIST AS THIS MAY SEEM, BUT I DO FIRMLY BELIEVE THAT WATER APPLICATIONS NUMBER 77-4007 AND 77-4008 SHOULD BE BROUGHT TO A HEARING FOR THE SAME REASONS THAT I FELT APPLICATION NUMBER 77-7021 SHOULD.

ALL OF THESE APPLICATIONS ARE ASKING FOR AN UNFAIR AMOUNT AND MORE THAN THEY CAN USE.

IF YOU PLEASE, SIR, YOU WILL NOTE I AM NOT OBJECTING TO THE MOST OF INDIVIDUAL USERS IN THE AREA, I JUST DO NOT WANT TO SEE AN UNREASONABLE AMOUNT GIVEN TO ANY PARTY WHICH COULD CURTAIL USERS AND DEVELOPMENT IN THE AREA TEN TO TWENTY YEARS FROM NOW.

I WOULD APPRECIATE IT IF YOU WOULD APPLY MY OFFICIAL OBJECTIONS DIRECTED TO 77-7021 TO INCLUDE 77-4007 AND 77-4008.

THANK YOU.

VERY TRULY YOURS,

Ernest E. Ward

ERNEST E. WARD

77 4007

March 10, 1972

Re: Claim Nos. 77-4007, 77-4008, 77-4009, 77-4010
Application No. 65-7261 - Fred A. Lang

The Star News
Box 985
McCall, Idaho 83638

Gentlemen:

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

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

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

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

(signature of claimant)

Very truly yours,

Fred Eisenbarth
Appropriation Examiner

FE/BL
Enc: legal notice

Bill submitted 4-5-72. CR

77 4007

NOTICE OF CLAIM TO A WATER RIGHT

No. 77-4007

C
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P
Y

Notice is hereby given that Lucky Brands, Inc., c/o Rex Lanham, Route #2 - Box 242, Emmett, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 1.0 cubic feet per second of water from Logan Creek, tributary to Big Creek with point of diversion in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 34, T. 21N, R. 9E, B.M., Valley County.

The water is claimed to be used from Jan. 1 to Dec. 1 for domestic purposes for 30 families and from April 1 to Nov. 1 for the irrigation of 35.82 acres with a priority of May 7, 1925; the place of use is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 35, T. 21N, R. 9E, 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

Published in the Star News, McCall, Idaho on March ²³~~16~~th and March ³⁰~~23~~rd, 1972.

77 4007