

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }  
County of Washington } ss.

Dorothy A. Booth, being duly sworn,  
deposes and says:

That he is the CLERK of  
THE WEISER SIGNAL, a weekly newspaper published at  
Weiser, in the County of Washington and State of Idaho; that  
said paper has been and is in general circulation in the  
county aforesaid, and in the vicinity of Weiser; that the ad-  
vertisement, a copy of which is attached hereto, was pub-  
lished in said newspaper once a week for 2 consecu-  
tive weeks in the regular and entire issue of said paper dur-  
ing the period and time of publication, and was published in  
the newspaper proper and not in a supplement; that said  
paper has been established and regularly published for more  
than seventy-eight consecutive weeks prior to the date of  
first publication of said advertisement.

Such notice was published in the issue beginning with  
APRIL 1, 1971, and ending  
with the issue of APRIL 8, 1971.

Dorothy A. Booth  
Fees, \$ 7.25

Subscribed and sworn to before me this 3  
day of MAY, 1971

Notary Public, Residing at Weiser, Idaho.

My Commission Expires 5-1, 1973

No. 491  
**NOTICE OF CLAIM TO A  
WATER RIGHT**  
No. 67-4012

Notice is hereby given that Sky-  
way Enterprises, Inc., Route 3,  
Weiser, Idaho, has filed a claim to  
a water right established by di-  
version and application to bene-  
ficial use of 1.5 cubic feet per sec-  
ond of water from Buttermilk  
Slough, tributary to the Snake  
River, with point of diversion in  
the NW $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 22, T. 10N. R.

5W, B. M., Washington County.  
The water is claimed to be used  
from April 1 to Nov .15 for ir-  
rigation purposes with a priority  
of May, 1942; the place of use is  
within the NE $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 22, T.  
10N. R. 5W. B.M.

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

R. KEITH HIGGINSON  
Director

Published in the Weiser Signal,  
Weiser, Idaho, on April 1 and  
April 8, 1971. 4-2s

67 4012

No. 491  
**NOTICE OF CLAIM TO A  
WATER RIGHT**

No. 67-4012

Notice is hereby given that Skyway Enterprises, Inc., Route 3, Weiser, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 1.5 cubic feet per second of water from Buttermilk Slough, tributary to the Snake River, with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 22, T. 10N, R. 5W, B. M., Washington County.

The water is claimed to be used from April 1 to Nov. 15 for irrigation purposes with a priority of May, 1942; the place of use is within the NE $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 22, T. 10N, R. 5W, 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 Weiser Signal,  
Weiser, Idaho, on April 1 and  
April 8, 1971. 4-2s

67 4012

0.1  
3-26-71  
8.8.

Identification No. \_\_\_\_\_  
Claim No. 67-4012  
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 Skyway Enterprises, Inc.  
post office address Route 3, Weiser, Idaho
2. The point of diversion is in NW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  Section 22 Township 10 N  
Range 5 W B.M. located on Buttermilk Slough  
(name of source)  
tributary to Snake River in Washington 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:

May 1942 amount: 1.5 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 Nov 15 (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 pumped directly  
from Buttermilk Slough; 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 \_\_\_\_\_

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 \_\_\_\_\_ 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 \_\_\_\_\_ 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.

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 \_\_\_\_\_

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 30

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

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

State of Idaho

County of Ada

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.

Sworn to before me this 19<sup>th</sup> day of March, 1971.

Marion W. Smith  
Claimant

Don Russell  
Notary Public

Residing at Boise, Idaho

My commission expires Jan 19, 1973

For Department Use Only

|                                                                     |                      |                           |      |
|---------------------------------------------------------------------|----------------------|---------------------------|------|
| Received by <u>K.L.</u> Date <u>3-19-71</u>                         | Exception filed by:  | Forwarded to claimant by: | Date |
| Prelim. check by <u>B.J.</u> Date <u>3-19-71</u> <u># 5774</u>      | <u>Account given</u> |                           |      |
| Fee received by <u>K.L.</u> Date <u>3-19-71</u> Fee \$ <u>10.00</u> |                      |                           |      |
| Approved for publication by <u>D</u>                                |                      |                           |      |
| Published in <u>Weiser Signal</u> Dates <u>4-1 &amp; 4-8, 1971</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. or</u> | <u>          </u> | acre feet |
|                           | <u>June 1, 1901</u> | amount:        | <u>0.4 c.f.s. or</u> | <u>          </u> | acre feet |
|                           |                     | Total claimed: | <u>1.2 c.f.s. or</u> | <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.

A F F I D A V I T

FRED EISENBARTH, being first duly sworn, deposes and says that he rented and farmed the following described property in 1942 from Ruth Houser, the owner at that time, and later bought the property himself;

Lot 23 of Southern Idaho Land Company's Orchard and Garden Tract, also described as the Northeast quarter of the Northwest quarter of Section 22, Twp 10 N R 5 W B M in Washington County, Idaho

THAT in May 1942 he installed in Buttermilk Slough, a tributary of Snake River, about 60 feet south of the northeast corner of the above described tract a Cascade 7 $\frac{1}{2}$ h.p. electric pump and motor, and that the tract has been farmed and irrigated from this source from that date continuously to the present time.

Fred Eisenbarth

Subscribed and sworn to before me this 5th day of February 1971.

John B. Lloyd  
Notary Public for Idaho, residing at  
Weiser, Idaho

67 4012

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tive weeks in the regular and entire issue of said paper dur-  
ing the period and time of publication, and was published in  
the newspaper proper and not in a supplement; that said  
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Fees, \$ 7.25

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[Signature]  
Notary Public, Residing at Weiser, Idaho.

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R. KEITH HIGGINSON  
Director  
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67 4012

ACT  
IDN

N OWNER LAST NAME - SKYWAY ENTERPRISES INC.

N ADDRESS LINE 1 - RT. 3

N CITY - WEISER

STATE - ID

N SOURCE - BUTTERMILK SLOUGH

TRIBUTARY OF - SNAKE RIVER

N STAGE - STATRY CLM

PRIORITY - 05-01-1942 COUNTY - WASHINGTON TOTAL DIV. RATE - 1.5000CFS

N DIVERSION POINT - NWNE 22 10N 05W

N USE - IRRIGATION

USE DIV. RATE - 1.5000CFS

N USE - IRRIGATION

PLACE OF USE - TWN 10N RNG 05W SEC 22 TRACT NENW AC 30

IDENT. NO

12.13.99

- DATA ENTRY -

Record

- Present Owner: \_\_\_\_\_

- J. Right iBasis (for adjudication claims A,B,C only):

|                          | <u>Tract</u> | <u>Sec.</u> | <u>Twp.</u>     | <u>Rge.</u>    | <u>Gov't Lot</u> | <u>Rediv.</u> |
|--------------------------|--------------|-------------|-----------------|----------------|------------------|---------------|
| 6. A. Point of Diversion | NW NE        | 22          | 10 <sup>N</sup> | 5 <sup>W</sup> |                  |               |
|                          |              |             |                 |                |                  |               |
|                          |              |             |                 |                |                  |               |
|                          |              |             |                 |                |                  |               |

- from \_\_\_\_\_ to \_\_\_\_\_ for \_\_\_\_\_ purposes. Amount \_\_\_\_\_

8. Use Code: ~~A~~

[illegible]

9. A. Decree Name:

B. Decree Date:

10. Remarks: A.  
B.  
C. 2.0  
D.  
E.

11. Other Uses (Non-irrigation explanatory information):

12. Other Rights for Same Use:

13. A. Proof Due Date:

B. Date Permit Approved or Denied:

C. Protested Date:

D. Hearing Date:

E. Old Number:

F. Proof Made (P or blank):

G. Field Exam Made (P,R,F or blank):

H. Conditions of Approval: \_\_\_\_\_

14. Diversion Means (brief narrative):

May 6, 1971

Re: Claim to a Water Right No. 02-4009  
" " " " " " 02-4010  
" " " " " " 67-4012

Skyway Enterprises, Inc.  
Route #3  
Weiser, Idaho 83672

Gentlemen:

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, a copy 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

67 4012

March 24, 1971

Re: Application No. 67-7053 - K. W. Currier  
Claim No. 02-4009 - Skyway Enterprises, Inc.  
" " 02-4010 - Skyway Enterprises, Inc.  
" " 67-4012 - Skyway Enterprises, Inc.

Weiser Signal  
P.O. Box 709  
Weiser, Idaho 83672

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 our 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,

67 4012

Donald W. McEldowney  
Appropriation Supervisor

Bill submitted 5-6-71 by ds

DWM:DR  
Enc: Legal notices (4)

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The water is claimed to be used from April 1 to Nov. 15 for irrigation purposes with a priority of May, 1942; the place of use is within the NE $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 22, T. 10N, R. 5W, 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

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67 4012

C. 67  
2.26-71  
B.B.

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