

Proof of Publication

The Post-Register

State of Idaho, }
County of Bonneville } ss.

I, J. Robb Brady, first being duly sworn, depose and say: That I am the Principal Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers having been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eighty (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 13th day of December, 1984, last publication having been made on the 20th day of December, 1984, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, this 26th day of December, 1984

Dean R. Papier
Notary Public

My commission expires September 30, 1988

B10, 1M,

RECEIVED

DEC 28 1984

Department of Water Resources
Eastern District Office

NOTICE OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT

Notice is hereby given that Roy Avery, Idaho Falls, Idaho, has filed an application for extension of time to avoid forfeiture of Claim No. 25-4147.

The claim was filed for 0.03 cfs of water from Willow Creek and Sand Creek tributary to Snake River with the point of diversion within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20 SW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, T. 3N, R. 39E, B.M., Bonneville County for stockwatering purposes from Nov. 1 to Mar. 31 with a priority of January 1, 1880 to be used within the SE $\frac{1}{4}$ NE $\frac{1}{4}$,

NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20, T. 3N, R. 39E, B.M.

Sec. 42-222, Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon failure to apply water to beneficial use for a period of five years. The state may allow an additional five year period of non-use without forfeiture upon a showing of reasonable cause. The claimant has applied for this extension due to the practice since 1979 by the Bureau of Reclamation of shutting off the natural flow of Willow Creek and using this water to fill Ririe Reservoir.

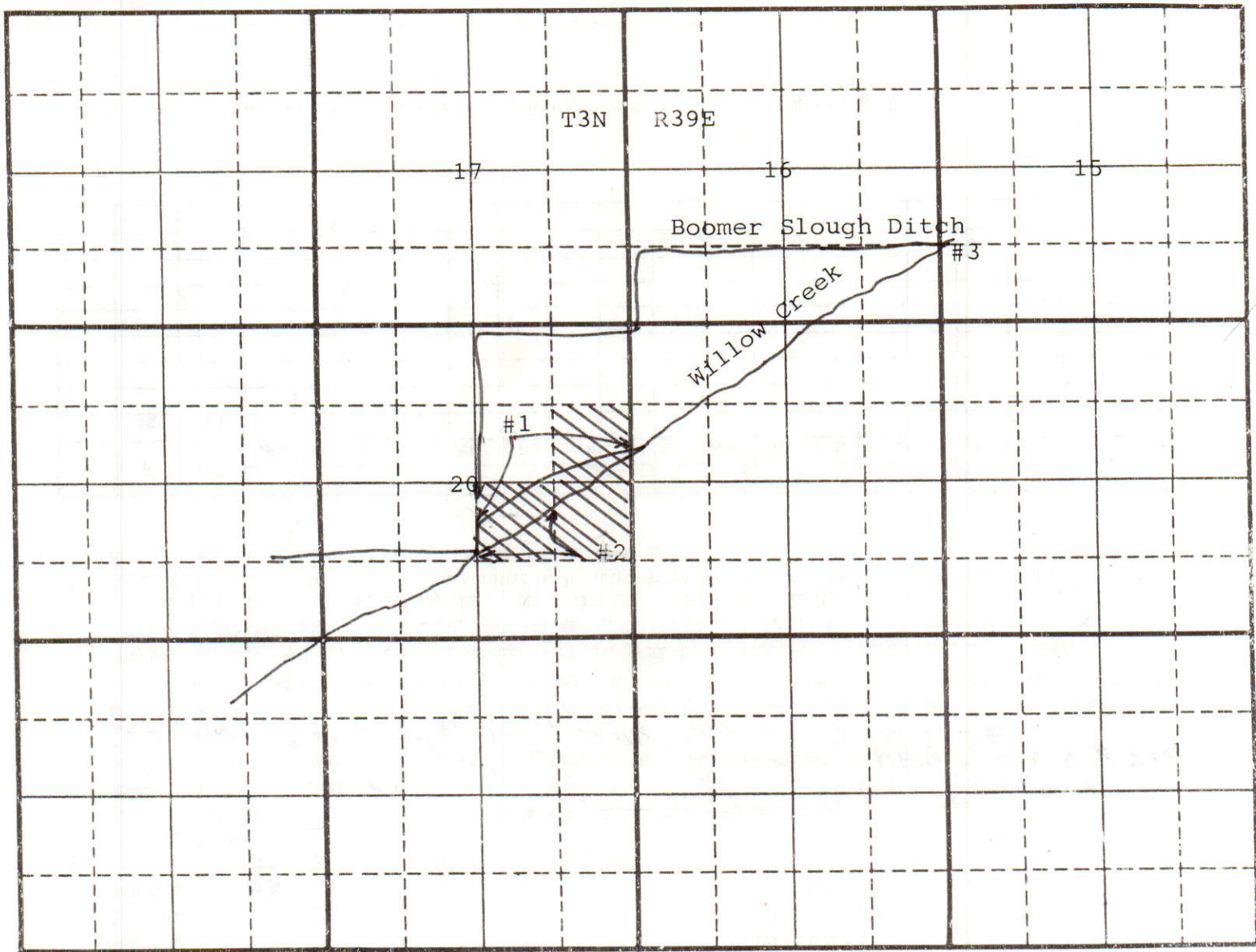
Any protest against the granting of this extension may be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, ID 83402, on or before December 31, 1984.

A. KENNETH DUNN, Director

Published: December 13, 20, 1984

MICROFILMED

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Madison) 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 affiant's knowledge.

Sworn to before me this 20th day of May

Roy Avery
(Claimant)
19 82

Lay W. Sigby
Notary Public
Residing at Lexburg, Idaho

My commission expires

Life

Received by CW Date 6-01-82 Exception filed by: _____
Prelim. check by CW Date _____
\$30.00 fee received by CW Date 7-7-82 #22376
Published in Post Register
Dates 7-22-82 & 7-29-82

Forwarded to _____ Date _____
claimant by: _____

82 JUL

Proof of Publication

The Post-Register

AUG 6 1982

Department of Water Resources
Eastern District Office

State of Idaho, }
County of Bonneville } ss.

I, J. Robb Brady, first being duly sworn, depose and say: That I am the Principal Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers having been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eighty (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 22nd day of July, 1982, last publication having been made on the 29th day of July, 1982, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, this 4th day of August, 1982

Notary Public

My commission expires September 30, 1984

B10, 1M,

NOTICE OF CLAIMS TO WATER RIGHTS

Notice is hereby given that the following claim(s) to water right(s) have been established by diversion and application to beneficial use:
25-4147

AVERY, ROY
RT. 8, BOX 255, IDAHO FALLS, ID
83401
Source: WILLOW CREEK tributary to
SNAKE RIVER; SAND CREEK tributary
to SNAKE RIVER
Priority Date: 01/01/1880
Amount: 0.03 CFS
Diversion Point: SENE SWNE NWSE
Sec 20 T 03N R 39E SWSW NWSW Sec
15 T 03N R 39E, BONNEVILLE Co.
USE: STOCKWATER (0.03 CFS) from
11/01 to 03/31.
PLACE OF USE: SENE NESE NWSE
Sec. 20 T 03N R 39E
Diversion Means: SHAPED BANK OF
CREEKS
Any exception to any claim of water

right may be filed with the Director of
the Idaho Department of Water Resources,
150 Shoup Ave., Idaho Falls,
Idaho 83402.

A. KENNETH DUNN
Director

Published: July 22, 29, 1982

MICROFILMED

STATE OF IDAHO
Department of Water Resources

Application for Extension of Time to Avoid Forfeiture
of a Water Right

Department of Water Resources

Section 42-222 Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director of the Dept. may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources, Statehouse, Boise, ID 83720 with the statutory fee of \$20.00

1. Name of water right holder Roy Avery 522-6780
Post office address Rt. #8, Box 255, Idaho Falls, ID 83401

2. The right was obtained or is evidenced by:

a. Decree to _____ in Case of _____
(Name)
vs. _____, Dated _____ in _____
(Name of Court)
Court, County of _____. Fully describe decree _____

b. License No. _____ issued by the Department of Water Resources

c. Claim No. 25-4147 on file with the Department of Water Resources

3. Source of water Willow & Sand Creeks tributary to Snake River
(Name of stream or source)

4. Date of priority of right January 1, 1880

5. Amount of water a. 0.03 c.f.s. and/or
b. _____ acre feet/annum

6. Water is used for Stockwatering from 11/1 to 3/31
(Purpose) (Month-Day) (Month-Day)
_____ from _____ to _____
(Purpose) (Month-Day) (Month-Day)

7. Location of point of diversion is SE 1/4 NE 1/4 of Section 20,
Township 3N, Range 39E, B.M., in Bonneville County;
Additional points of diversion, if any SWNE, NWSE, Sec. 20; SWSW, NWSW, Sec. 15,
T. 3N, R. 39E

8. Lands irrigated or place of use:

TWP	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
3N	39E	20				X									X	X			

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9. Give last date when water was applied to beneficial Dec. 1979
Length of extension of time requested 5 years, or until Dec. 9, 1989
(Date)

10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use Starting in 1979 the U.S. Bureau of Reclamation started the practice of shutting off the natural flow of Willow Creek and using this water to fill Ririe Reservoir. Since then we have participated with other parties also effected in pursuing congressional action to obtain compensation for the loss of our winter stockwatering rights. We do not know when congressional action will be finalized or the use will resume.

I hereby assert that no one will be injured by such extension. The information contained in this application is true to the best of my knowledge.

Subscribed and sworn to before me this 28th day of September 19 84
Roy Cherry (Signature of Applicant)
Calvin Gray (Notary Public)

My commission expires 6-15-85

ACTION OF THE DIRECTOR OF THE DEPARTMENT

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby APPROVE said application subject to the following conditions or reasons.

1. Approval of this request for extension of time to avoid forfeiture of a water right does not confirm the validity of the right claimed.
2. The use of water under this claim shall resume on or before December 9, 1989.

Witness my hand this 7th day of May, 19 85.

A. Glen Saylor
Chief, Operations Bureau

For Department Use Only

Received by aw Date 11-28-84 Time 12:25P Preliminary check by _____
Fee \$ 20.00 Received by aw # 34347 Date 11-28-84 Publication prepared by aw
Date 12-5-84 Published in Post Register Dates 12-13 & 12-20-84
Publication approved aw Date 12-28-84 Protests filed by: _____

Copies of protests forwarded by _____ Hearing held by _____ Date _____
Recommended for ☒ approval ☐ denial by EMC

State of Idaho,
County of Bonneville } ss.

MICROFILMED

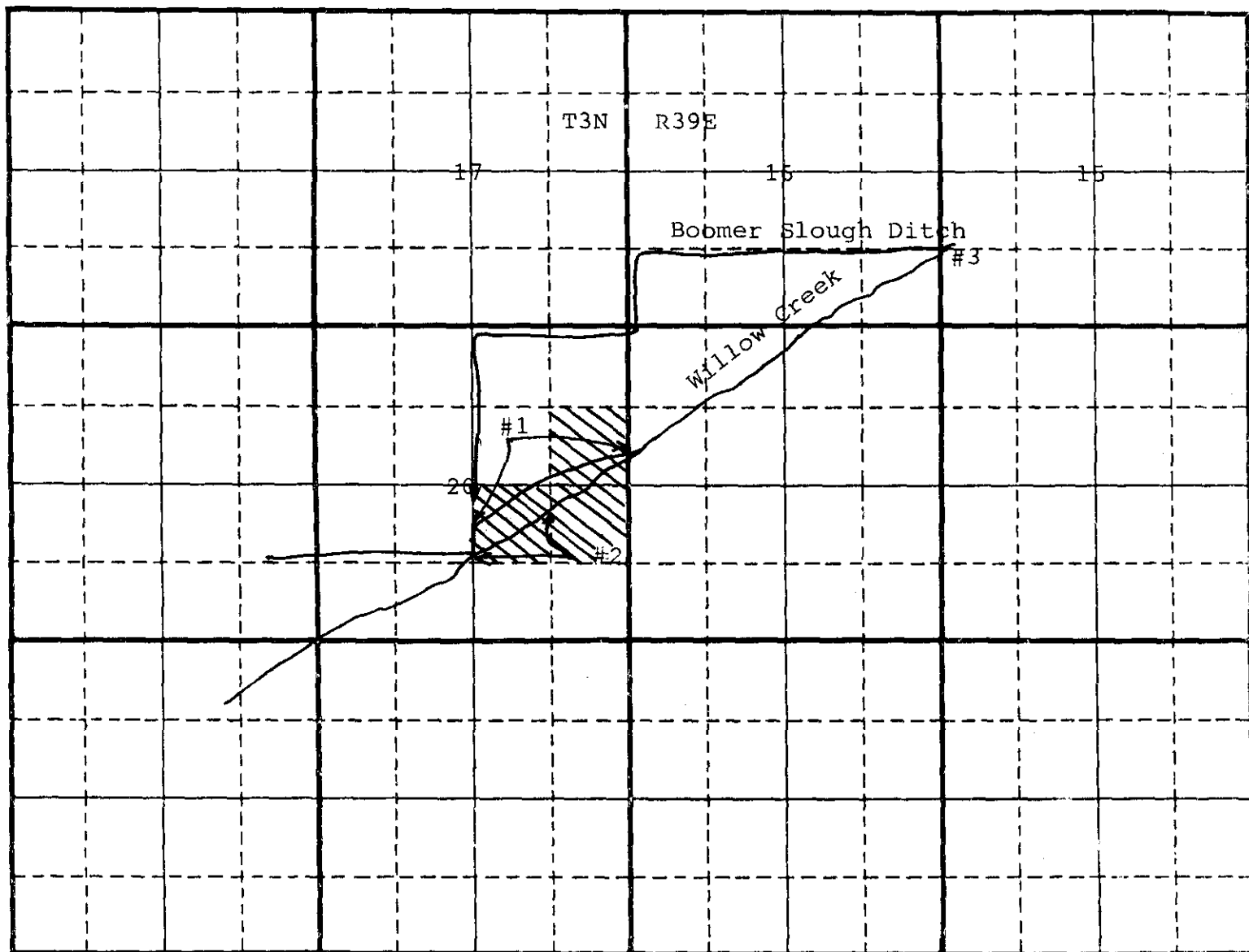
Under the provisions of Section 42-243, **Idaho Code**, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), **Idaho Code**. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

Telephone No. 522-6780

(Zip Code)

(7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Madison) 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 affiant's knowledge.

Sworn to before me this 20th day of May

Ray Query
(Claimant)

19 82

Lay W. Higby
Notary Public
Residing at Lewiston, Idaho

My commission expires Life

MICROFILMED

Received by AW Date 7/6/82 FOR DEPARTMENT USE ONLY
Prelim. check by AW Date 6-01-82 Exception filed by: _____ Forwarded to _____ Date _____
\$30.00 fee received by AW Date 7-7-82 # 22376
Published in Post Register
Dates 7-22 & 7-29-82

This claim is filed for the purpose of recording the claimant's right to water from the streams for stockwatering purposes during the winter period. Such use of water is consistent with the Decree in the case of The Eagle Rock and Willow Creek Water Company, et. al., v. Henry W. Keifer, et. al., dated July 20, 1901, which states, "... they have used the same for beneficial purposes, to-wit: agricultural, domestic and stock raising purposes..."

While a specific quantity of water is given in paragraph 3, based upon an assumed rate of use per animal, this claim is for sufficient flow in the stream at all times during the winter period to provide water for the livestock.

The water claimed is physically diverted from the streams at the following points:

- #1. From the point where the stream enters the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 20 to the point where the stream leaves the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 20, T3N R39E BB&M
- #2. From the point where the stream enters the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 20 to the point where the stream leaves said NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 20, T3N R39E BB&M
- #3. Water is sometimes diverted through the Boomer Slough Ditch at a point N 1320 ft. and E 100 ft. from the SW Cor Sec 15, T3N R39E BB&M.

RECORDED

Proof of Publication
The Post-Register

21467
AUG 10 1982
Department of Water Resources
Eastern District Office

State of Idaho, }
County of Bonneville } ss.

I, J. Robb Brady, first being duly sworn, depose and say: That I am the Principal Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers having been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eighty (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

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Subscribed and sworn to before me, this 4th day of August, 1982.

J. Robb Brady
Leon K. Napier
Notary Public

My commission expires September 30, 1984

B10, 1M,



MICROFILMED

November 2, 1989

Roy Avery, et. al.
9673 N. 75 E.
Idaho Falls, ID 83401

RE: STATEMENT OF RESUMPTION OF BENEFICIAL USE - 25-4147

Dear Mr. Avery:

The department has reviewed the above referenced statement which you submitted on October 5, 1989.

Although there are some discrepancies between the claim originally filed and the statement of resumption of use, the department will treat the statement as your sworn statement that you have resumed the use originally claimed.

The validity and the extent of the water right which has been claimed will be ultimately determined in the ongoing Snake River Basin adjudication. This determination, of course, assumes that you have filed an adjudication claim for the use with the department.

Please feel free to contact the department if you have questions.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

c: IDWR - E. Region

MICROFILMED

DEC 12 1989

Form 42-222
5/88

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Department of Water Resources

STATEMENT OF RESUMPTION OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the water right holder(s) has/have resumed the use of water for the water right identified below. This form must be returned for the department to consider the water right valid after the period of non-use.

Water Right No. 25-4147
Name(s) of Water Right Holder: Roy Avery - Clyde Avery, Kevin Avery, Vance Avery
Post Office Address: 9673 N. 75 E. Idaho Falls, ID 83401
Telephone No. 522-6780
Source of Water: Willow Creek (Enterprise-Progressive)
Extent of Use:
Domestic 2 (number of households)
Stockwater 1200 stock cows (number and type of stock)
Irrigation 510 horses 215 (acres)
Other/Remark _____

Total rate and/or volume of use: 0.170 cfs _____ acre-feet

Show the date water use will be/was resumed under this water right:
has been used since 1880 - 1884

Person to contact to accompany the Department representative if a field examination is conducted:

(Name) Marlene Avery Jones (Telephone Number) 524-3958

(Address) 9680 N. 75 E. Idaho Falls, ID 83401

The above information is my true statement of the extent to which use of the above numbered water right has been resumed.

Date 10-3-89

Signature

Roy Avery
Marlene Avery Jones

MICROFILMED

DEC 12 1989

September 29, 1989

138739
CERTIFIED MAIL

Roy Avery
Rt. 8, Box 255
Idaho Falls, ID 83401

Gentlemen:

Re: Water Right No. 25-4147

NOTICE TO RESUME WATER USE

One of the conditions of approval of the Application for Extension of Time to Avoid Forfeiture of a Water Right is that diversion and use of water be resumed on or before December 9, 1989. Enclosed is a form when submitted, will notify the department that you have again established beneficial use to the extent indicated on the form.

Failure to resume the use of water and to notify the department will be cause for the water to revert back to the state and be again available for appropriation.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

RECEIVED

DEC 12 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

May 9, 1985

RE: Water Right No. 25-4147

Roy Avery
Rt. 8, Box 255
Idaho Falls, ID 83401

Dear Mr. Avery:

Enclosed is a copy of your approved Application for Extension of Time to Avoid Forfeiture of a Water Right.

Please note that use of water must resume on or before December 9, 1989.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

Enclosure

MICROFILMED

NOTICE OF APPLICATION FOR EXTENSION OF TIME
TO AVOID FORFEITURE OF WATER RIGHT

Notice is hereby given that Roy Avery, Idaho Falls, Idaho, has filed an application for extension of time to avoid forfeiture of Claim No. 25-4147.

The claim was filed for 0.03 cfs of water from Willow Creek and Sand Creek tributary to Snake River with the point of diversion within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, T. 3N, R. 39E, B.M., Bonneville County for stockwatering purposes from Nov. 1 to Mar. 31 with a priority of January 1, 1880 to be used within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 20, T. 3N, R. 39E, B.M.

Sec. 42-222, Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon failure to apply water to beneficial use for a period of five years. The state may allow an additional five year period of non-use without forfeiture upon a showing of reasonable cause. The claimant has applied for this extension due to the practice since 1979 by the Bureau of Reclamation of shutting off the natural flow of Willow Creek and using this water to fill Ririe Reservoir.

Any protest against the granting of this extension may be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, ID 83402, on or before December 31, 1984.

A. KENNETH DUNN

Director

Published in the Post Register, Idaho Falls, ID 12/13 & 12/20/84.

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave.
Idaho Falls, Idaho 83402
(208) 525-7161

AUGUST 9, 1982

ROY AVERY
RT. 8, BOX 255
IDAHO FALLS ID 83401

RE: Claim No. 25-4147

Dear Claimant:

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve 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 with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,

RONALD L. CARLSON
Eastern Region Supervisor

Enclosure

RECEIVED
AUG 12 1982

Department of Water Resources

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY:

Ernst

Right Number

25 4147

Applicant

Acary

NOTE: IF ANY OF THE ITEMS BELOW ARE MISSING, THE CLAIM IS INCOMPLETE AND MUST BE RETURNED IMMEDIATELY TO THE CLAIMANT ALONG WITH THE APPROPRIATE COVER LETTER.

CHECK:

- ☒ Name and address.
 - ☒ Date of priority. (Check for a date past the mandatory filing dates.) (One date only.)
 - ☒ Source.
 - ☒ Quantity, use, period.
 - ? ☒ Point(s) of diversion.
 - ☒ Location of use.
 - ☒ Signature/notarization/fee.
- Send to: *8-9-82*
Aug.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Claim published correctly.
- ☐ Exceptions processed.

By

Ernst Carls

Date

Aug 10, 1982

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By

kw

Date

8/10/82

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave.
Idaho Falls, Idaho 83402
(208) 525-7161

JULY 15, 1982

The Post Register
P. O. Box 1800
Idaho Falls, Idaho 83401

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review 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. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before AUGUST 9, 1982.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

RECEIVED

NOTICE OF CLAIMS TO WATER RIGHTS

Notice is hereby given that the following claim(s) to water right(s) have been established by diversion and application to beneficial use:

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, Idaho 83402.

A. KENNETH DUNN

Director

Published 7/22 & 7/29/82.

Microfilm
7/29/82

25-4147

AVERY, ROY

RT. 8, BOX 255, IDAHO FALLS, ID 83401

Source: WILLOW CREEK tributary to SNAKE RIVER
SAND CREEK tributary to SNAKE RIVER

Priority Date: 01/01/1880

Amount: 0.03 CFS

~~Priority Date: 01/01/1880~~

~~Amount: 0.03 CFS~~

Diversion Point: SENE SWNE NWSE Sec 20 T 03N R 39E SWSW NWSW
Sec 15 T 03N R 39E, BONNEVILLE Co.

Use: STOCKWATER (0.03 CFS) from 11/01 to 03/31

Place of Use: SENE NESE NWSE Sec 20 T 03N R 39E

Diversion Means: SHAPED BANK OF CREEKS

NOTED