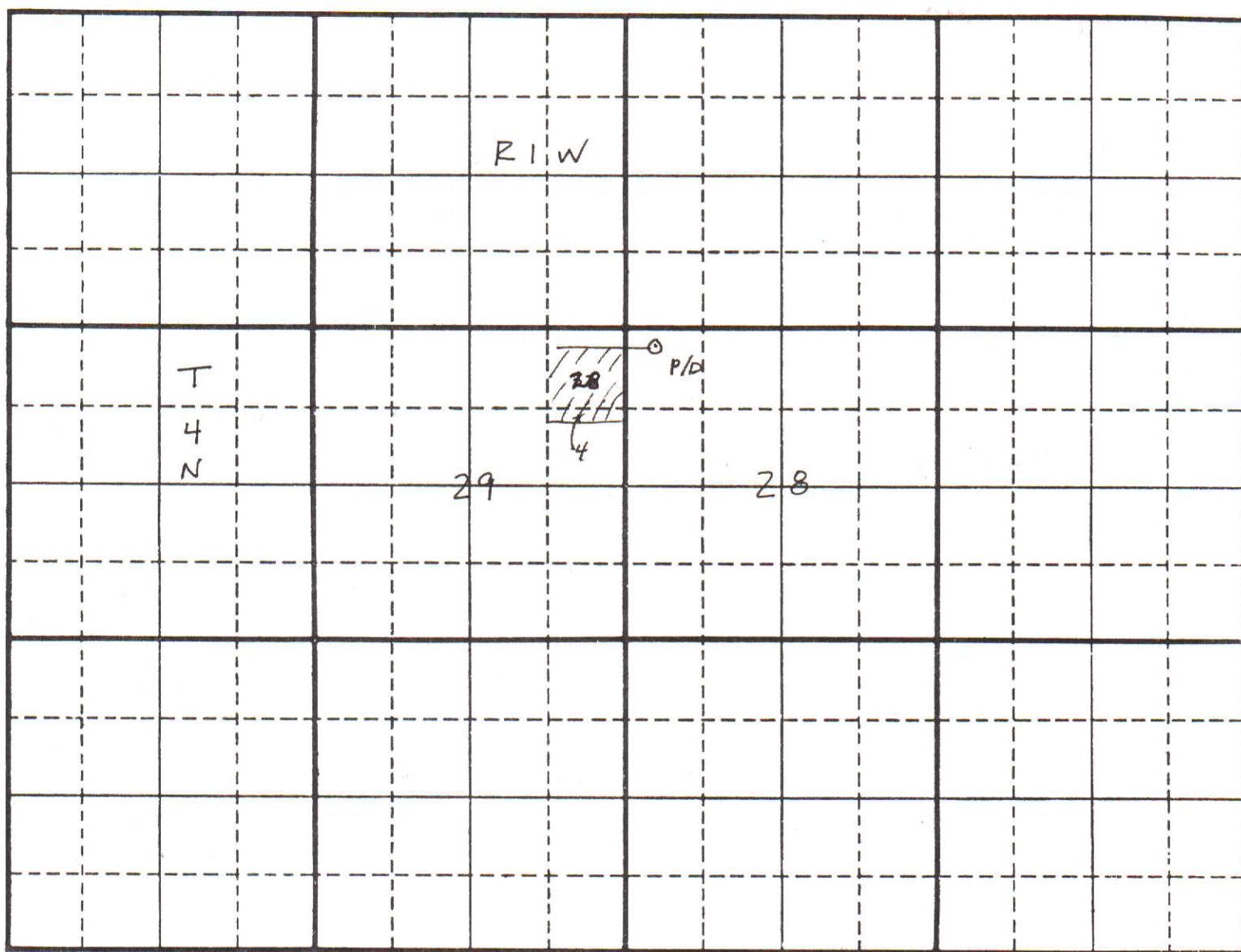


(8) Remarks This artesian water is used on lands that also receive surface water supplies.



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 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 affiant's knowledge.

Sworn to before me this 6th day of May

R. Eby
* Eugene Eby
(Claimant)
19 88

Notary Public
Residing at

David R. Tuttle

Boise Id

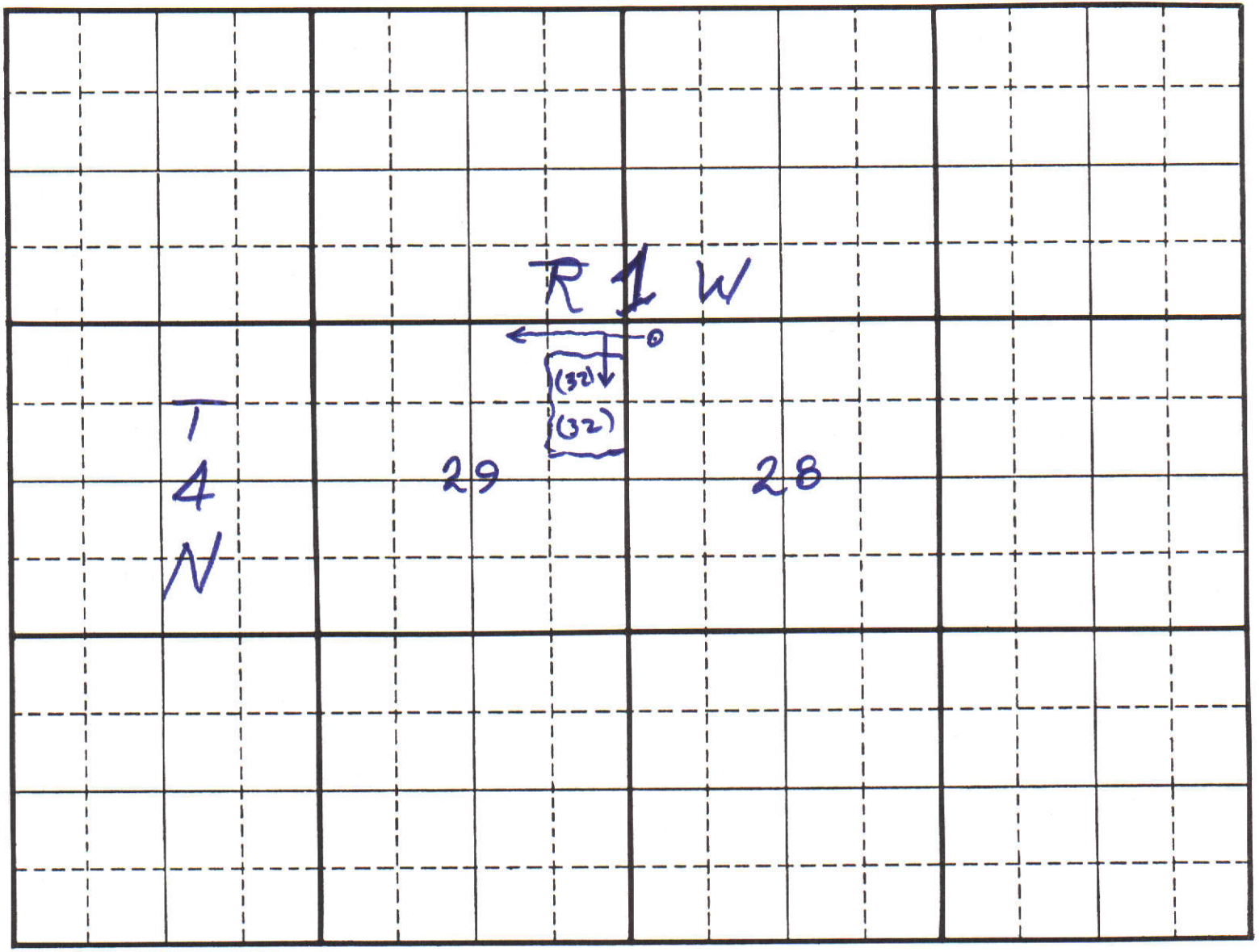
My commission expires Sept 10, 1988

SEP 29 1988

FOR DEPARTMENT USE ONLY

Received by RD Date 5/11/88 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by RD Date 5/11/88 claimant by: _____
\$30.00 fee received by _____ Date _____
Published in The Idaho Statesman
Dates 5/19 & 5/26/1988

(8) Remarks This right when combined with other waters of Nampa-Meridian Irrigation District.
Point of Diversion is NENE, Sec. 29, T 4N R 1W.



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 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 affiant's knowledge.

Richard W. Ely
(Claimant)



Sworn to before me this 6 day of August, 1979.

Kathryn A. Walper
Notary Public
Residing at Boise

My commission expires life

FOR DEPARTMENT USE ONLY

Received by S Date 8/06/79 Exception filed by: _____ Date _____
Prelim. check by CLS Date _____
\$20.00 fee received by S Date 8/06/79 #14493
Published in Statesman
Dates 8/16 & 8/23/79 Forwarded to claimant by: KK Date 9/5/79

STATE OF IDAHO)

) ss.

COUNTY OF ADA)

Cheryl R. Rehwal

two

issue of August 16, 19 79,
issue of August 23, 19 79.

Cheryl R. Rehwal

Subscribed and sworn to before me this 23rd

day of August, 19 79.

Shirley Eiguren
Notary Public for Idaho, Residing

Notary Public for Idaho, Residing at Boise, Idaho

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

63-4676

EBY, RICHARD W. &/or EUGENE R.
P.O. BOX 9342, BOISE, ID 83707
Source: GROUNDWATER
Priority Date: 08/20/1936
Amount: 0.64 CFS
Diversion Point: NWNW Sec 28 T 04N R
01W, ADA Co.
Use: IRRIGATION (0.64 CFS) from
03/15 to 11/15.

Place of Use: NENE SENE Sec 29 T
04N R 01W for 64 ACRES.
Diversion Means: ARTESIAN WELL,
CASING, & DITCHES

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 92 S. Cole Road, Boise, Idaho 83709.

C. STEPHEN ALLRED
Director
Pub. Aug. 16, 23, 1979

2584

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KIR
9/4/79

RECEIVED

AUG 24 1979

Department of Water Resources
Western Regional Office

Water Resources
Regional Office

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES



CLAIM TO A WATER RIGHT

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.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Eugene R. Eby (Name of Claimant)
2028 Amber Boise Id 83706 Telephone No. 376-1450
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 8/20/1936

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Groundwater tributary to _____

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, af)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity	<u>0.50 cfs</u>	Use	<u>Irrigation</u>	Period of Use From <u>3/15</u>	To <u>11/15</u>
Quantity	_____	Use	_____	Period of Use From _____	To _____
Quantity	_____	Use	_____	Period of Use From _____	To _____
Quantity	_____	Use	_____	Period of Use From _____	To _____
Quantity	_____	Use	_____	Period of Use From _____	To _____

(4) 0.50 TOTAL QUANTITY USED.
(cfs, af)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NW 1/4 NW 1/4, Sec. 28 Twp. 4N Rge. 1W B.M., County of Ada
Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Artesian Flowing Well, ditches for irrigation.

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
<u>4N</u>	<u>1W</u>	<u>29</u>	<u>28</u>			<u>4</u>													<u>32</u>

No. of acres 32

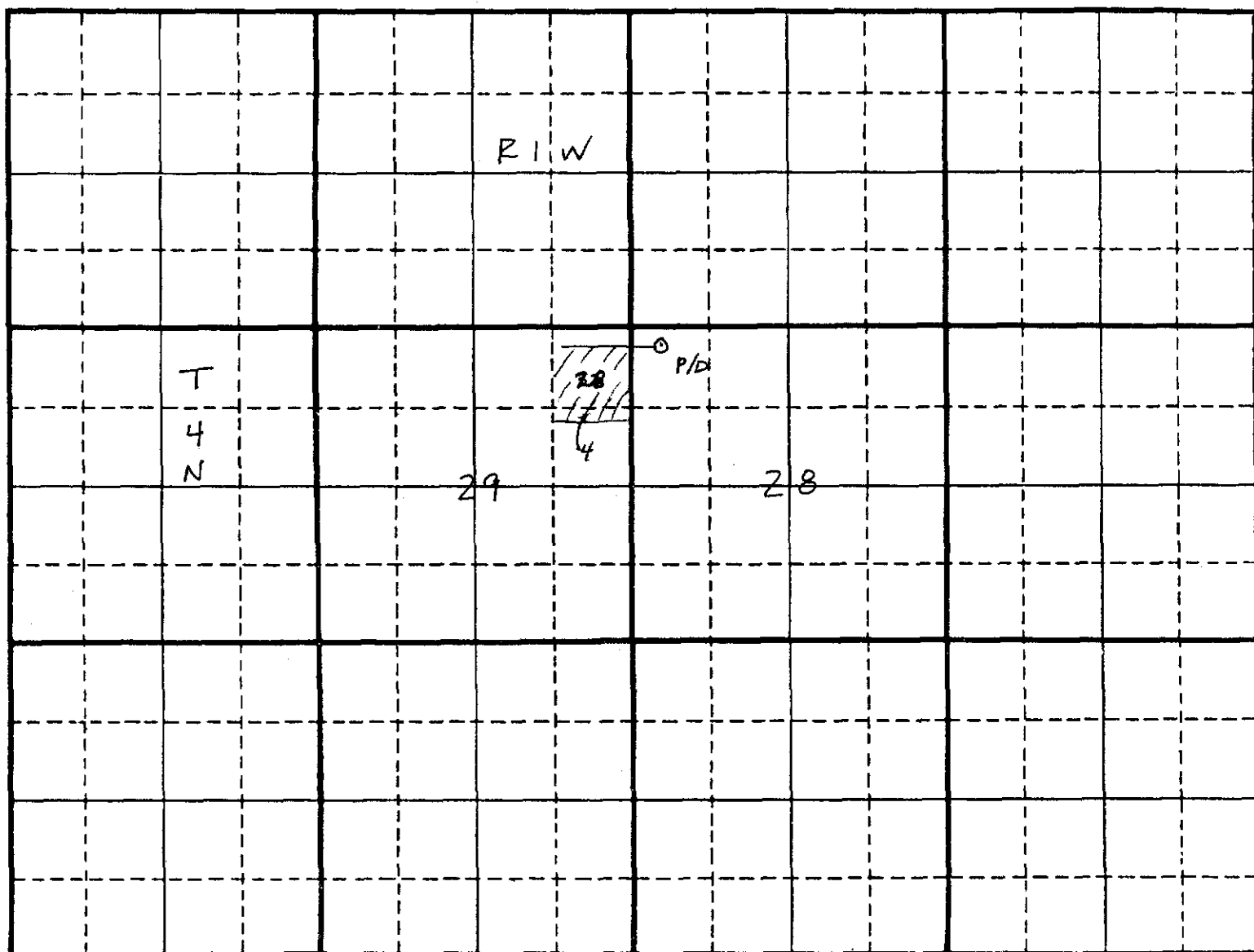
B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered: _____

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

SEP 20 1983

(8) Remarks This artesian water is used on lands that also receive
surface water supplies.



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 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 affiant's knowledge.

Sworn to before me this 6th day of May

R. O. Eby
(Claimant)
1988

David E. Tuttle
Notary Public
Residing at Boise Id

My commission expires Sept 10, 1988

SEP 20 1988

FOR DEPARTMENT USE ONLY

Received by BD Date 5/11/88 Exception filed by: _____ Date _____
Prelim. check by BD Date 5/11/88 claimant by: _____
\$30.00 fee received by _____ Date _____
Published in The Idaho Statesman _____
Dates 5/19 & 5/26/1988 _____

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MAY 27 1988

The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

Amount Due

38 78

Department of Water Resources
Western Regional Office

Account Name Idaho Department of Water Resources (Western)			Account Number #47628		
Address 2735 Airport Way		City/State Boise, ID		Zip 83705	
Ordered By Judy Pense	P.O. Number	Rate NT	Run Dates 1988 May 19, 26		
Identification Notice of Claims to Water Rights			Estimated Inches		Real Inches
1 Number of Affidavits Requested					Legal Number #8565

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Deborah Gregory, being duly

sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for Two (2) ☒ consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip

insertion(s) beginning with the issue of May 19, 1988
and ending with the issue of May 26, 1988

Deborah Gregory

Subscribed and sworn to before me this 26th day of May, 1988

SEP 29 1988

NOTICE OF CLAIMS TO WATER RIGHT

The following claim(s) have been filed on water rights created by diversion and beneficial use:

63-04644 AMENDED

McCollum, Thomas J.
6100 N. McDermott
Meridian, Idaho 83642
Source: Groundwater
Diversion Pt: NWNW Sec. 28 T. 04N R01W
Use: Irrigation (.500 CFS)
Priority Date: 08/20/1936
In: T04N R01W S28 NWNW SWNW
— 35.0 Acres Total

63-04676 AMENDED

Eby, Eugene R.
2028 Amber
Boise, Idaho 83706
Source: Groundwater
Diversion Pt.: NWNW Sec. 28 T. 04N R01W
Use: Irrigation (.500 CFS)
Priority Date: 08/20/1936
In: T04N R01W S29 NENE SENE
— 32.0 Acres Total

Exceptions to a claim may be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705.

R. KEITH HIGGINSON
Director

Pub. May 19, 26, 1988

8565

Kim E Prow 4/2/93
Notary Public for Idaho, Residing at Boise, Idaho

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
CLAIM TO A WATER RIGHT

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.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Richard W. Eby &/or Eugene R. Eby
(Name of Claimant)
P. O. Box 9342, Boise, ID 83707 Telephone No. _____
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 8/20/1936

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Groundwater tributary to _____

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, gpd, AFA)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity	<u>.64 CFS</u>	Use	<u>Irrigation</u>	Period of Use From <u>3/15</u>	To <u>11/15</u>
Quantity	_____	Use	_____	Period of Use From _____	To _____
Quantity	_____	Use	_____	Period of Use From _____	To _____
Quantity	_____	Use	_____	Period of Use From _____	To _____
Quantity	_____	Use	_____	Period of Use From _____	To _____

(4) .64 CFS TOTAL QUANTITY USED.
(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NW ¼ NW ¼, Sec. 28 Twp. 4N Rge. 1W B.M., County of Ada
Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change.
Artesian flowing well, casing and ditches for irrigation.

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	1W	29	32			32													64

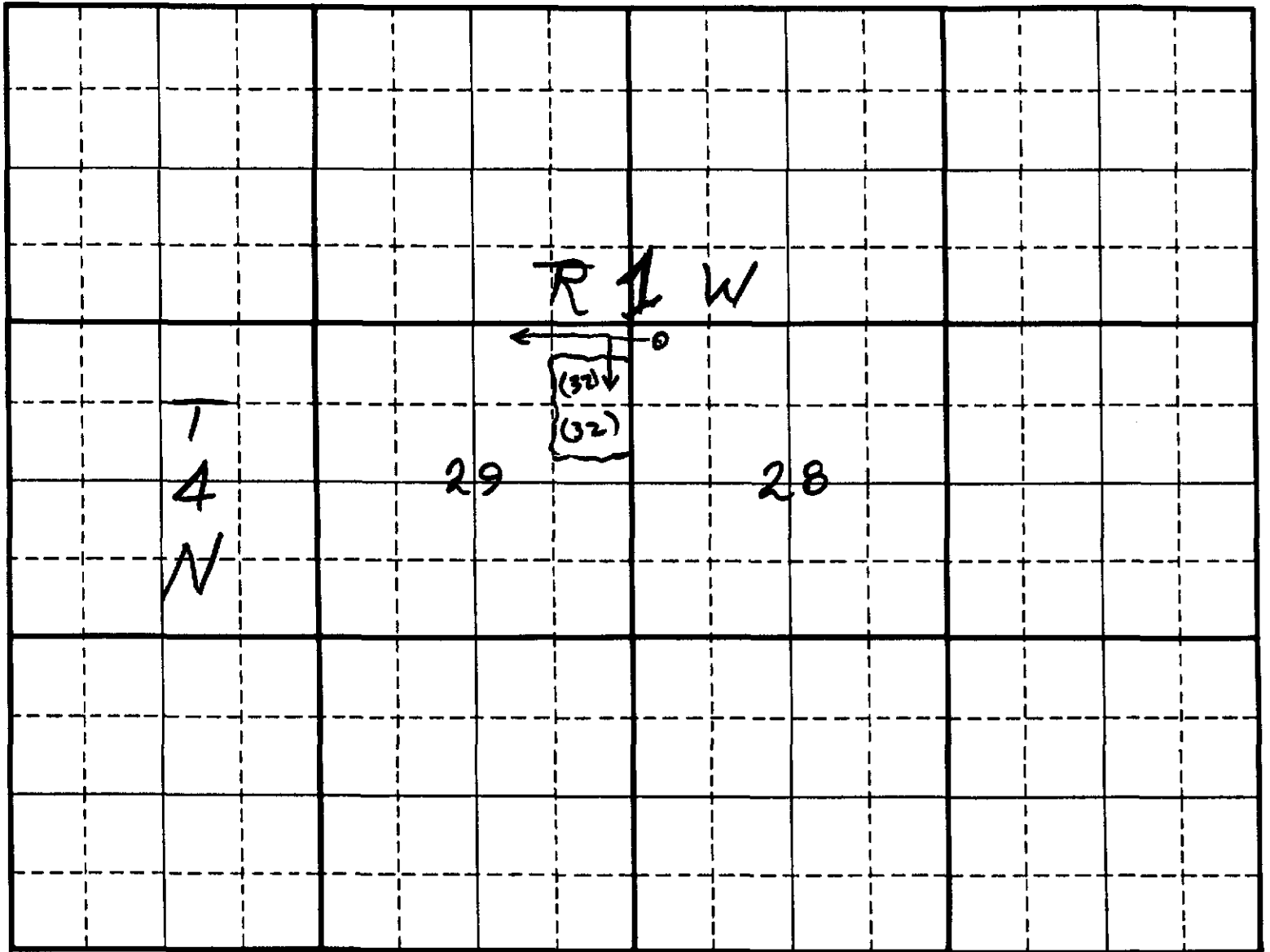
No. of acres 64

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

NOTE: Include here the type and number of stock watered: _____

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

(8) Remarks This right when combined with other waters of Nampa-Meridian Irrigation
District:
Point of Diversion is NENE, Sec. 29, T 4N R 1W.

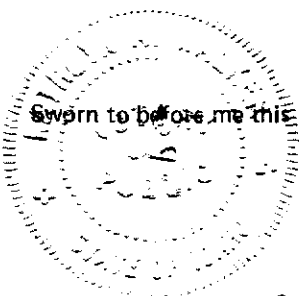


Scale: 2 inches equal 1 mile.

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 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 affiant's knowledge.



Richard W. Iley
(Claimant)

Kathryn A. Walker
Notary Public
Residing at Boise

My commission expires life

FOR DEPARTMENT USE ONLY

Received by S Date 8/06/79 Exception filed by: _____
Prelim. check by CLS Date 8/06/79 # 14493 Forwarded to claimant by: KK Date 9/5/79
\$20.00 fee received by S Published in Statesman
Dates 8/16 & 8/23/79

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Cheryl R. Rehwalt, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in the regular edition of The Idaho Statesman for

two insertions, beginning with the
issue of August 16, 1979, and ending with the
issue of August 23, 1979.

Cheryl R. Rehwal

Subscribed and sworn to before me this 23rd
day of August, 19 79 .

Notary Public for Idaho, Residing at Boise, Idaho

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AUG 24 1979

Department of Water Resources
Western Regional Office

Water Resources
Regional Office

UNCLASSIFIED

OK
KIC
9/4/77

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: BD

Right Number 63-04676 Amended Applicant _____

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.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
 - ☒ Claim published correctly. State Substantive
 - ☒ Exceptions processed. 5/19 & 5/26/88
- By BD Date 2/4/88

STATE OFFICE PROCESSING:

- ☒ Claim review complete.
- By SC Date 8-8-88

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AUG 08 1988

Department of Water Resources



CECIL D. ANDRUS
Governor

State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705 • (208) 334-2190

R. KEITH HIGGINSON
Director

August 4, 1988

Eugene R. Eby
2028 Amber
Boise, ID 83706

Re: Amended Claim No. 63-04676

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 free to contact us.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT:jpp

Enclosure:

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SEP 29 1988

EUGENE R. EBY
2028 AMBER
BOISE, ID 83706

Re: Claim No. 63-04676

Dear Claimants(s):

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 the information or evidence added at any time. Please refer to the claim identification number when corresponding with the 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.

Sincerley,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT:jp

Enclosure

SEP 20 1988

EBY, EUGENE R.
2028 AMBER
BOISE, ID 83706

Source: GROUNDWATER

Diversion Pt: NWNW Sec 28 T 04N R 01W

Use: IRRIGATION (.500 CFS)

Priority Date: 8/20/1936

In: T04N R01W S29 NENE SENE

32.0 ACRES TOTAL

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SEP 29 1988

WATER RIGHT
DATA ENTRY LOG

[illegible]



State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705 • (208) 334-2190

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

March 21, 1988

Richard W. Eby and/or
Eugene R. Eby
P. O. Box 9342
Boise, ID 83707

Re: Claim to a Water Right No. 63-4676

Gentlemen:

Enclosed is a copy of an exception filed in connection with your above-referenced claim to a water right. The Department will not schedule a hearing in this matter or evaluate for conformation or censure the right claimed since Section 42-244, Idaho Code, states in part the following:

"At anytime after the filing of a claim, 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 Water Resources 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 Resources."

If we can be of further assistance, please contact us.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:jp

Enclosure

MAILED

APR 04 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

CECIL D. ANDRUS
Governor

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

R. KEITH HIGGINSON
Director

March 21, 1988

Vernon K. Smith
Attorney at Law
1900 Main Street
Boise, ID 83702

Re: Claims to Water Right Nos. 63-4644 in the Name of Thomas J. McCollum, No. 63-4676 in the Names of Richard W. Eby and/or Eugene R. Eby, No. 63-5395 in the name of Alvin E. &/or Nancy A. Lutz, No. 63-5397 in the Names of Peter K. &/or Ingrid M. Kuehn, No. 63-5398 in the Name of Pete Cope

Dear Mr. Smith:

This office acknowledges receipt of your protests concerning the above-referenced claims to water rights. The Department will not schedule a hearing in the matter or evaluate for conformation or censure of the rights claimed. However, your protests will be made a part of the permanent Claim files, as described in Section 42-244, Idaho Code, which states in part the following:

"At anytime after the filing of a claim, 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 Water Resources 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 Resources."

If we can be of further assistance, please contact us.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:jp

APR 04 1988

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MAR 16 1988

Hand-Delivered
Department of Water Resources
Western Regional Office

VERNON K. SMITH
ATTORNEY AT LAW
1900 Main Street
Boise, Idaho 83702

Telephone: 345-1125

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

In Re:	)	
	)	<u>PROTEST TO CLAIM OF WATER RIGHT</u>
	)	<u>FILED BY RICHARD W. EBY AND/OR</u>
Statutory Claim to a Water Right	)	<u>EUGENE R. EBY</u>
Claim, No. 63-4676, filed by	)	
Richard W. Eby and/or Eugene R.	)	
Eby on August 6, 1979.	)	PROTESTANT: ROBERT H. RUBLE
	)	CAROLYN J. RUBLE

COMES NOW Robert H. Ruble and Carolyn J. Ruble, residing at 6175 West Chinden Blvd., Meridian, Idaho 83642, and do hereby PROTEST the Claim to a Water Right, Claim No. 63-4676, filed by Richard W. Eby and/or Eugene R. Eby, P.O. Box 9342, Boise, Idaho 83707, with the Department of Water Resources on August 6, 1979, purportedly pursuant to Section 42-243 Idaho Code.

The initial objection to the Application of Messers. Eby is that the NE 1/4 Section, comprised of 40 acres, is currently under seige by Claimants asserting a claim to a water right for 47 acres. See Claim of Pete Cope, Claim No. 63-5398, claiming 8 acres of beneficial use, and Claim of Peter Kuehn, Claim No. 63-5397, claiming 7 acres of beneficial use. Those two claims, together with that of Messers. Eby, totals 47 acres.

Additionally, there is another 40 feet in the NE 1/4 Section the NE 11/4, located along Hwy 20-26, which is not incorporated in any of the current claims in this 40 acre parcel. That 40 foot strip represents

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APR 04 1988

1.21212 acres, so we have an apparent over stated application and beneficial usage on non-existent property.

It is noted in the claim filed that the claim to such water right is to supplement the water provided by Nampa-Meridian Irrigation District. The artesian well has never had any water discharged from it that is ever then entered the Nampa-Meridian water system. There has never been any comingling, interreaction, or transportation of waters between these two ditch systems. If the Claimant in fact received his water from the Nampa-Meridian Irrigation District, he then has never and could never apply the artesian water to a beneficial use on his premises as the water has never entered the Nampa-Meridian Irrigation lateral system.

Protestant has carefully reviewed the records made available to him by the Settlers Irrigation District and it has been confirmed, to the clerical personnel at Settlers' Office that there has never been any shares of water acquired by or paid for, or provided to the Claimant, and therefore it once again does appear unlikely, untenable, and inconceiveable that Claimant would assert the beneficial use of water from this artesian well on property through a lateral that he neither has any right to water from or any right thereto. It would appear that the prevailing law in Idaho precludes the formation of a claim to water through the unlawful diversion of irrigation water from an irrigation district lateral, and that such conduct will never support the basis for a valid claim to a water right.

Furthermore, with respect to Claimant's asserted beneficial use of water to the 32 acres located in the SE 1/4, NE 1/4 of Section 28, Township 4N, RIW is again untenable and inconceiveable for the reason that it is physically impossible to deliver water to the SE 1/4, NE 1/4 since there is a large waste ditch located directly between the NE 1/4, NE 1/4 and the SE

APR 04 1988

1/4, NE 1/4 of that Section. The artesian water has never before and cannot now flow to any acreage located in the SE 1/4, NE 1/4.

Protestant would urge the Department to carefully consider Claimant's verification as Mr. Eby has stated, under oath, that the matters and facts stated in his Claim are true to the best of his knowledge; that the suggested combination or co-mingling of waters with the Nampa-Meridian Irrigation lateral system suggests sufficient deception to generate concern, but the obvious misstatement as to the beneficial use of water on land located in the SE 1/4, NE 1/4 would stretch the truth beyond the limits of an honest mistake, and a summary denial would be in order of this erroneous claim.

The claim to a water right for irrigation use as set forth above is untenable at present and if any claim may have ever existed sometime in or after 1936, it has long since been abandoned. The Protestant is unable to perceive how water could have ever been used for irrigation on this property.

At no time has Mr. Eby ever claimed a right by diversion and application to a beneficial use of any water flowing from the artesian well described in his Claim to a Water Right.

The Protestant is the owner of the property where the artesian well is located, and there has never been any authorization, license or easement granted to Mr. Eby to divert any water from this artesian well to any point across the property of Protestant or that of any adjoining neighbor.

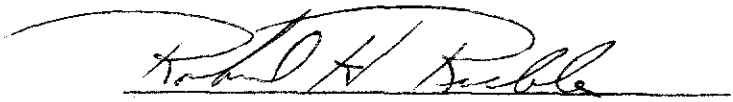
For the above reasons, Mr. Eby has not now and never before could make a beneficial use of any water flowing from the artesian well located on

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APR 04 1988

the property of Protestant. Any attempt to divert water from Protestants' premises and from this artesian well would constitute trespass and could never support the basis of a valid claim to a water right.

In summary, there has never been a beneficial use of water from the artesian well by Claimant for at least 8 years continuously to the personal knowledge of Protestant, and with respect to the drain ditch, it physically prohibits irrigation from the date of its installation, and topographically speaking, it appears that it would have been impossible to flow water across that area unless a flume had before existed as the land slopes gradually to the drain ditch on both sides for a substantial distance. There is no physical signs to indicate the presence of any previous structure such as a flume, aquifer or culvert system, but if there ever were any claim existing from any previous use by any previous landowners, it is long since been forfeited and abandoned by law.

Dated this 15 day of March, 1988.


Robert H. Ruble

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9/78

IDENT. NO. 63-4676

I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

WATER RIGHT
DATA ENTRY LOG

Initials

Date _____

Item

JK

8/9/79

Original form entered

pu

8/16

Edit Report Correct

Date Protested

Date of Hearing

Date Approved/Denied
(Proof due date, stage and/or status,
conditions of approval, water district)

Record Verified

Amendment Approved

Extension Approved

Partial Proof

Proof Complete

Field Exam Received

Field Exam Accepted
and changes entered

License Signed

Transfer Approved

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: 6h5.

Right Number 63-4676 Applicant Richard Eby

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.

FINAL REGIONAL PROCESSING REVIEW:

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

By DBS Date 9/4/79

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By Jani Date 9/6/79

FILED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Western Region

92 South Cole Road
Boise, Idaho 83709
(208) 384-2190

AUGUST 5, 1979

RICHARD W. EBY
EUGENE R. EBY
P.O. BOX 9342
BOISE

ID 83707

RE: Claim No. 63-4676

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,

DAVID B. SHAW
Western Region Supervisor

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Western Region

92 South Cole Road
Boise, Idaho 83709
(208) 384-2190

AUGUST 8, 1979

The Idaho Statesman
Box 40
Boise, ID 83707

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 billings to this office before SEPTEMBER 3, 1979.

Yours truly,

Karla Knecht
Secretary

Encl.

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AUG 14 1979

63-4626-

EBY, RICHARD W. &/or EUGENE R.

P.O. BOX 9342, BOISE, ID 83707

Source: GROUNDWATER

Priority Date: 08/20/1936

Amount: 0.64 CFS

Diversion Point: NWNW Sec 28 T 04N R 01W, ADA Co.

Use: IRRIGATION (0.64 CFS) from 03/15 to 11/15

Place of Use: NENE SENE Sec 29 T 04N R 01W FOR 64 ACRES

Diversion Means: ARTESIAN WELL, CASING, & DITCHES

MICROFILMED