

REG. 11
NOV 11
Department of Water

STATE OF IDAHO,)
COUNTY OF ADA) ss.

Georgene Davis

, 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 weekly consecutive insertions, beginning with the issue of November 4, 1971, and ending with the issue of November 11, 1971.

Georgene Davis

Subscribed and sworn to before me this 11th

day of November, 1971.

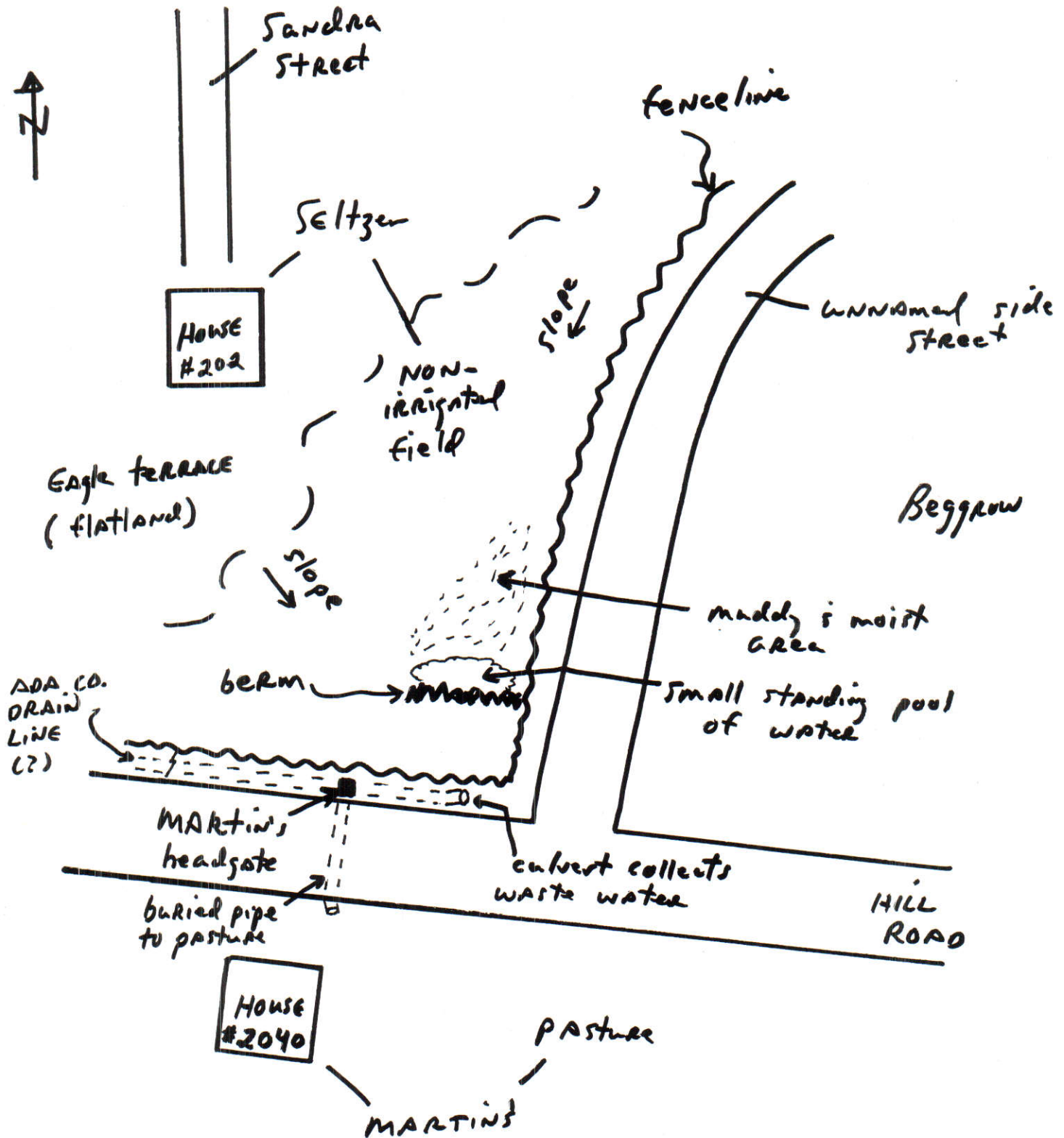
Jana A. Young

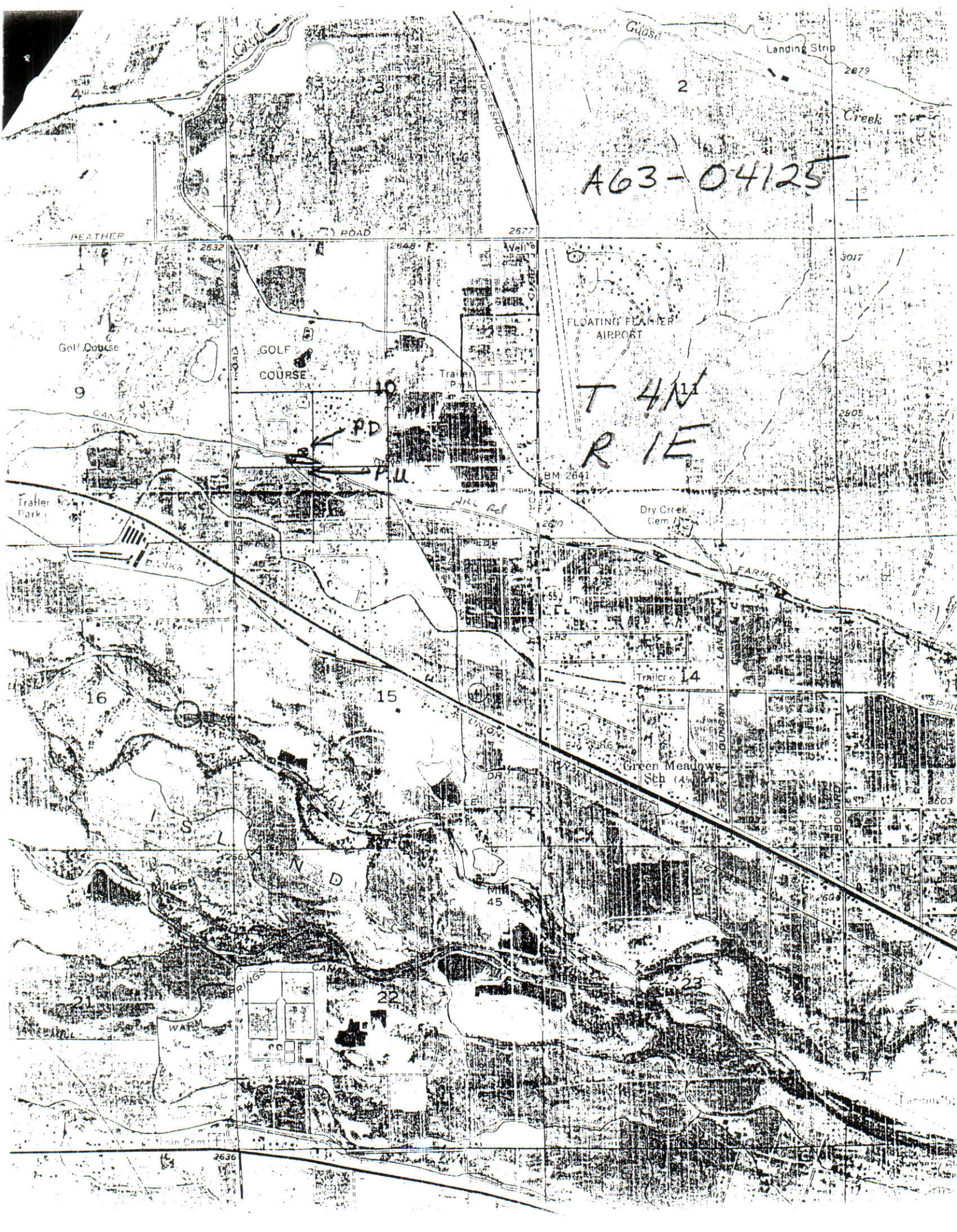
Notary Public for Idaho, Residing at Boise, Idaho

NOTICE OF CLAIM TO A WATER RIGHT
Notice is hereby given that Richard H. Martin, Route No. 1, Boise, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 0.20 cubic feet per second of water from an Unnamed Stream, tributary to New Dry Creek Canal with point of diversion in the NW¼SW¼, Sec. 10, T. 4N, R. 1E, E.M., Ada County.
The water is claimed to be used from Jan. 1 to Dec. 31 for stock-watering purposes; and from March 15 to Nov. 15 for the irrigation of 2½ acres with a priority of May 20, 1937 the place of use is within the NW¼SW¼, Sec. 10, T. 4N, R. 1E, E.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
Pub. Nov. 4, 11, 1971. 234

63 4125

Diagram: Complaint involving 63-04125





Identification No. 63-4125
Claim No. _____
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 Richard H. Martin
post office address Route #1, Boise, Idaho
2. The point of diversion is in NW $\frac{1}{4}$ of SW $\frac{1}{4}$ Section 10 Township 4 N
Range 1 E B.M. located on Unnamed Stream
(name of source)
tributary to New Dry Creek Canal in Ada 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 20, 1937 amount: 0.20 c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
Total claimed 0.20 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 March 15 to Nov. 15 (both dates inclusive)
use Stockwater period of use from Jan. 1 to Dec. 31 (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 Concrete headgate
_____; 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 _____

63-4125

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_____

[illegible]

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

b. Do you get water through a ditch owned by several users? _____ If yes, give the name of the ditch _____ The other users and their respective interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered Sheep - beef - horses

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.

Richard H Martin
Claimant

Sworn to before me this 14 day of Oct, 1971.

[Signature]
Notary Public
Residing at 1301 E Idaho

My commission expires 2-18-1974

Rec'd #8382 For Department Use Only

Received by D Date 10-14-1971

Exception filed by:

Forwarded to claimant by: 63 4125

Prelim. check by D Date 10-14-1971

Fee received by ej Date 10/14/71 Fee \$ 10.00

Approved for publication by JA

Published in Idaho Statesman Dates 11-4-11-11-71

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.

STATE OF IDAHO,) ss.
COUNTY OF ADA)

Georgene Davis

, 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 weekly consecutive insertions, beginning with the issue of November 4, 19 71, and ending with the issue of November 11, 19 71.

Georgene Davis

Subscribed and sworn to before me this 11th day of November, 19 71.

Jana A. Young
Notary Public for Idaho, Residing at Boise, Idaho

63 4175



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 25, 1992

Mr. James M. Seltzer
202 Sandra Street
Eagle, ID. 83616

RE: Illegal Diversion of Water

Dear Mr. Seltzer:

This office received a complaint on 2/19/92 that you installed a berm across an area that normally provides waste water to a water diversion used for irrigation of a pasture at 2040 Hill Road. The pasture irrigation occurs under water right no. **63-04125**, a statutory claim based on Idaho Code 42-243.

I visited the site today. The earth and gravel berm impounding a small amount of water was observed. A water right is required to divert and/or impound surface water in a situation such as this. According to department water right and adjudication records, no water right exists to cover the impounded water held in place by the berm.

If you own the land where the berm is found, this letter serves to notify you that you are diverting water illegally. To comply with Idaho laws, you must either a) remove the berm and cease using it or any other means to impound water in the field in question, or b) immediately file a water right permit application to provide legal protection for the diversion and use of the water. Water must be used beneficially to be part of a valid water right. Water right applications are subject to protest under the provisions of Idaho Code 42-203A.

Please contact me by writing or calling (334-2190) by 3/4/92 to explain which of the two actions you will take. Let me know if you have any questions concerning this issue.

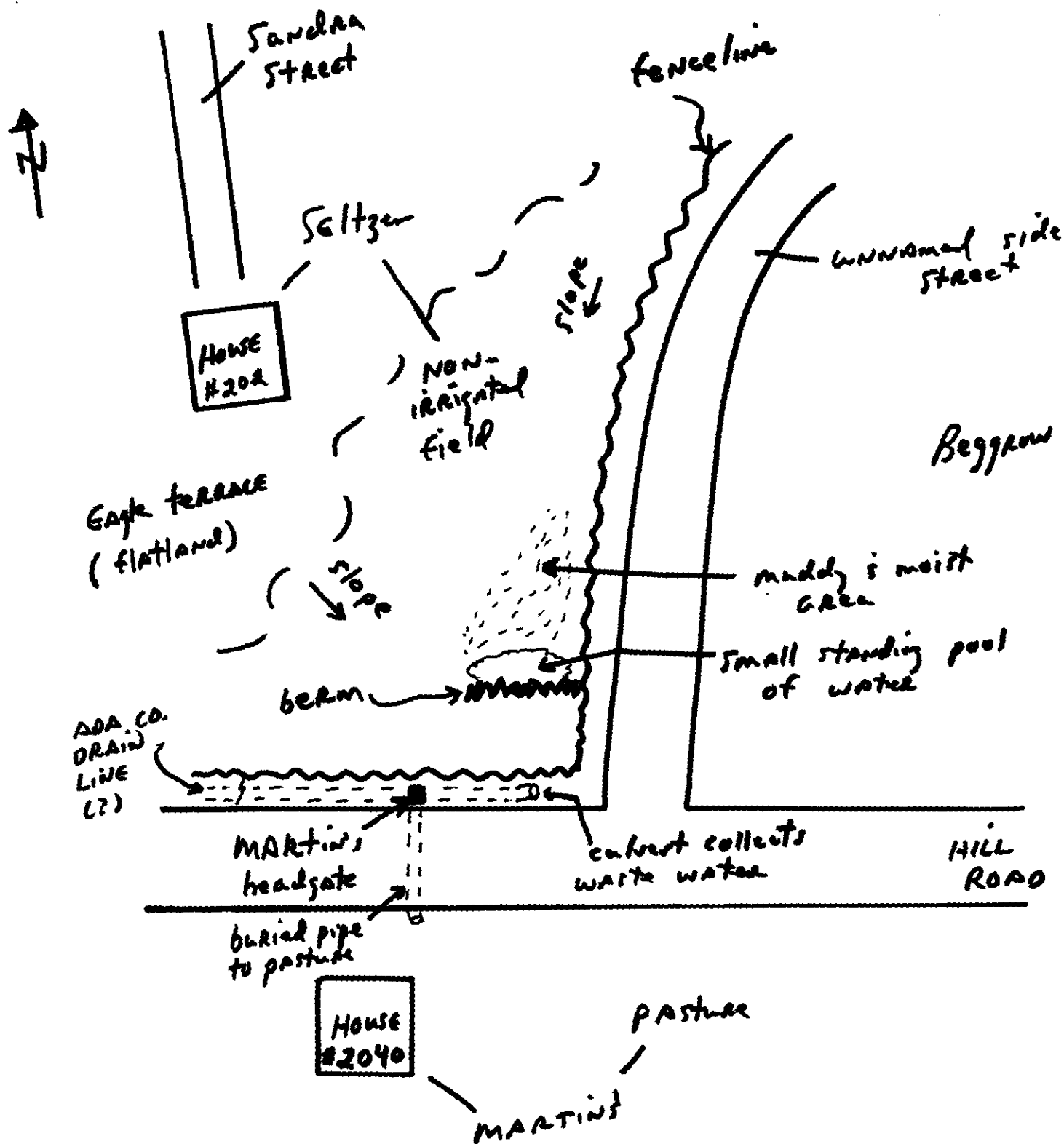
Sincerely,

Steve Lester
Sr. Water Resource Agent

CC: R. and B. Martin
D. Beggrow

2040 Hill Rd. } Eagle
2062 Hill Rd. }

Diagram: Complaint involving 63-04125



- Steve: -

2/21/92

I have a faint recollection of seeing something about this conflict years ago (or perhaps I am thinking of a similar unrelated situation).

Would you plz check out?

DATE: 19-Feb-1992 15:44

TO: DAVE TUTHILL

Thanks, Dave

FROM: KAY WALKER *Kay*

RE: WATER WARS

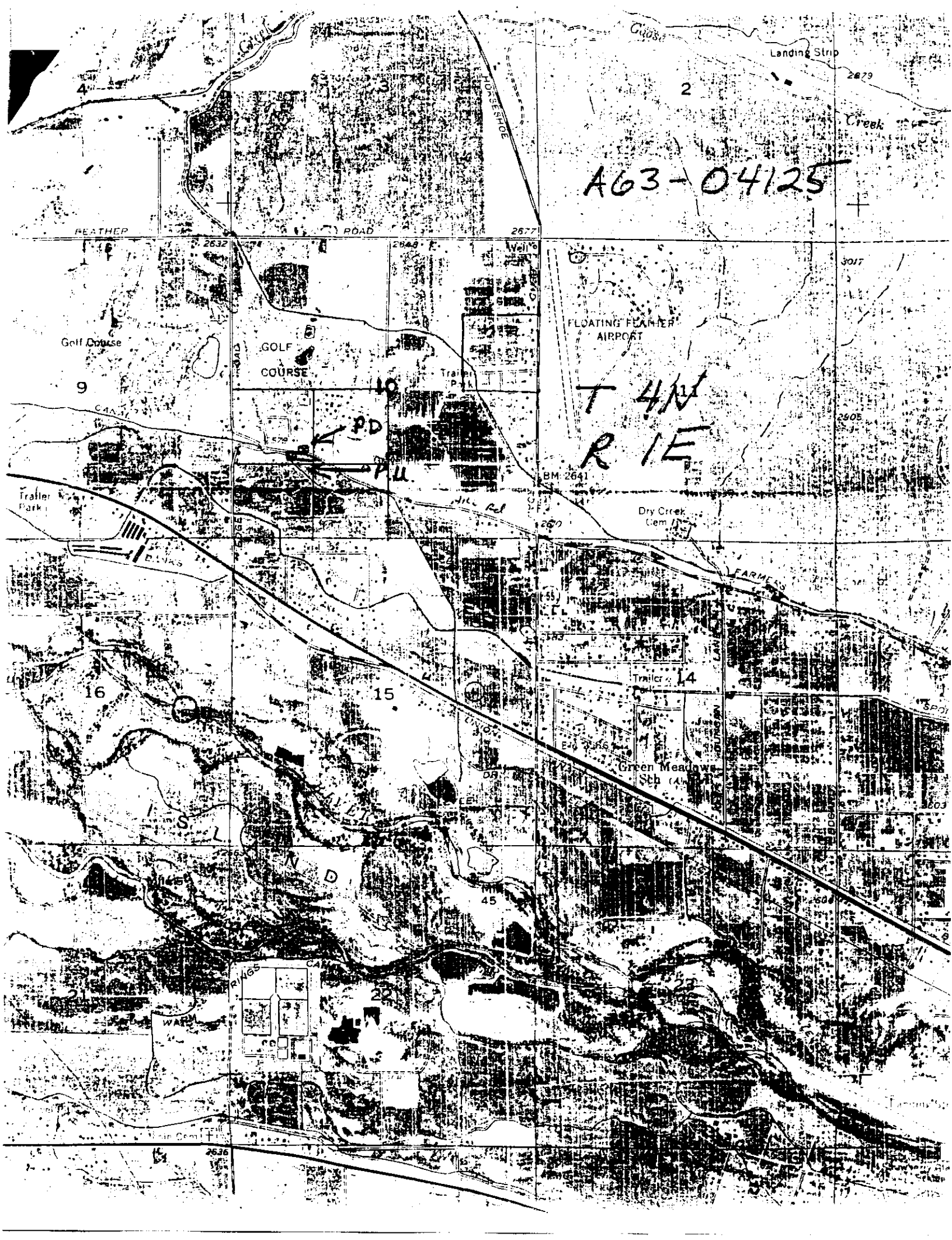
Today Richard and Bonnie Martin came into the office to find out what can be done about a person who has dammed up their source of water because of neighborhood problems.

According to the Martins, about 2 years ago, some neighbor women were concerned about some horses that were being pastured and called the humane society. The owner thought that Mr. and Mrs. Martin had called the humane society and dammed up their water source, which they have used continuously since May of 1937, recorded by Statutory Claim No. 63-04125. The person who dammed up the water took a backhoe and dug out the source, then put gravel fill in, which eventually washed out. He then filled up a bunch of plastic garbage bags with dirt and gravel and put these into the source which formed a dam. This person does not use this water and does not have a water right on file. After the water backs up over the dam it goes into a trench and flows around a pipeline which goes into the sewer district. The pipeline into the sewer district goes under the highway. The Martins contacted the highway district but they cannot do anything until the water washes out the pipeline and causes damage to the highway.

The source of water is waste water, originating from the Golf Course (just north of their place), possibly some from Farmers Union Canal, and from Evans Water Company. The previous owner of the property was Richard Evans, whom the Martins never had any problems with. The current owner is "Seltzer" (this was all the Martins knew) who I located in the phone book under James Seltzer, 1 N. Sandra, Eagle.

I told the Martins that we could only advise Mr. Seltzer that he has no right to divert the water and request that he remove the dam; if there was no result they would have to get an attorney. The Martins would like someone to come out and look at this problem. They requested we contact them so they can show whoever just what the problem is. Their address and phone number are as follows:

Richard and Bonnie Martin
2040 Hill Rd.
Eagle 939-6636



A63-04125

T 4N
R 1E

K PD
→

Golf Course

GOLF COURSE

FLOATING PLANTER AIRPORT

Dry Creek
Cem

Trailer

Green Meadows Sch

FARMERS

WATER



WATER RIGHT NUMBER 63-4125

WATER RIGHTS EDIT REPORT

12/11/79

PAGE 6

ACT
ION

N OWNER LAST NAME - MARTIN
N OWNER LAST NAME - MARTIN
N ADDRESS LINE 1 - RT. 1
N ADDRESS LINE 1 - RT. 1

FIRST NAME - RICHARD H.
FIRST NAME - RICHARD H.

** R ** MULTIPLE LINES NOT ALLOWED FOR THIS RECORD

N CITY - BOISE STATE - ID ZIP CODE - 83701
N CITY - BOISE STATE - ID ZIP CODE - 83701

** R ** MULTIPLE LINES NOT ALLOWED FOR THIS RECORD

N SOURCE - UNNAMED STREAM TRIBUTARY OF - NEW DRY CREEK CANAL
N SOURCE - UNNAMED STREAM TRIBUTARY OF - NEW DRY CREEK CANAL
N STAGE - STATRY CLM PRIORITY - 05-20-1937 COUNTY - ADA TOTAL DIV. RATE - .2000CFS
N STAGE - S PRIORITY - 05-20-1937 COUNTY - 01 TOTAL DIV. RATE - .2000CFS

** R ** MULTIPLE LINES NOT ALLOWED FOR THIS RECORD 05

N DIVERSION POINT - NWSW 10 04N 01E
N DIVERSION POINT - NWSW 10 04N 01E
N FROM - 03-15 TO - 11-15 USE - IRRIGATION USE DIV. RATE - .2000CFS
N FROM - 01-01 TO - 12-31 USE - STOCKWATER
N USE - IRRIGATION PLACE OF USE - TWN 04N RNG 01E SEC 10 TRACT NWSW AC 01 TRACT NWSW AC 02
N REMARKS - AC. IRR.=2.5.

3/79

IDENT. NO. 63-4125

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

[illegible]

- DATA ENTRY -

Record

- | | <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 | <u>NWSW</u> | <u>10</u> | <u>4N</u> | <u>1E</u> | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

- from 3-15 to 11-15 for A purposes. Amount .2
(cfs or ~~AC-FT/yr~~)
from 1-1 to 12-31 for S purposes. Amount _____
from _____ to _____ for _____ purposes. Amount _____
from _____ to _____ for _____ purposes. Amount _____
from _____ to _____ for _____ purposes. Amount _____
from _____ to _____ for _____ purposes. Amount _____
from _____ to _____ for _____ purposes. Amount _____

ch 11-6-79

8. Use Code: A

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	
4N	1E	10									1	2							

9. A. Decree Name:

B. Decree Date:

10. Remarks: A. ac. in = 2.5
B.
C.
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):

November 24, 1971

Re: Claim to a Water Right No. 63-4125

Richard H. Martin
Route #1
Boise, Idaho

Dear Mr. Martin:

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

As you are aware, the filing of your claim does not, in itself, guarantee you a water right; it only records and preserves the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included in your claim file, you may have that information or evidence added at any time. Please refer to your claim number when corresponding with this office.

We are enclosing, for your records, a copy of your claim. If you have any questions, or if we can be of further assistance, please feel free to call upon us.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

63 4125

DWM/BB
Enclosure: Copy of Claim

October 27, 1971

Re: Application No. 63-7507 - Mary A. Miller
" " 63-7508 - W. Franklin Miller
Claim No. 63-4125 - Richard H. Martin

The Idaho Statesman
Box 2640
Boise, Idaho 83701

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,

Donald W. McEldowney
Appropriation Supervisor

Bill submitted 11-23-71 By cl

DWM:cr

63 4125

Enc: Legal Notice

NOTICE OF CLAIM TO A WATER RIGHT

No. 63-4125

Notice is hereby given that Richard H. Martin, Route #1,
Boise, Idaho

has filed a claim to a water right established by diversion and appli-
cation to beneficial use of 0.20 cubic feet per second ~~more than~~
of water from an Unnamed Stream, tributary to New Dry Creek Canal
with point of diversion in the N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 10, T. 4N, R. 1E, B.M.,
Ada County.

The water is claimed to be used from Jan. 1 to Dec. 31 for stock-
watering purposes; and from March 15 to Nov. 15 for the irrigation of 2 $\frac{1}{2}$ acres
with a priority of May 20, 1937;
the place of use is within the N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 10, T. 4N, R. 1E, 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 Idaho Statesman, Boise, Idaho
on Nov. 4 and Nov. 11, 1971.

63 4125