

917 - 8th ave
5A-3554 #0

PLATT of WATER SOURCE

TWP 37N 2W

EMERY

BATEMAN

4-10-72

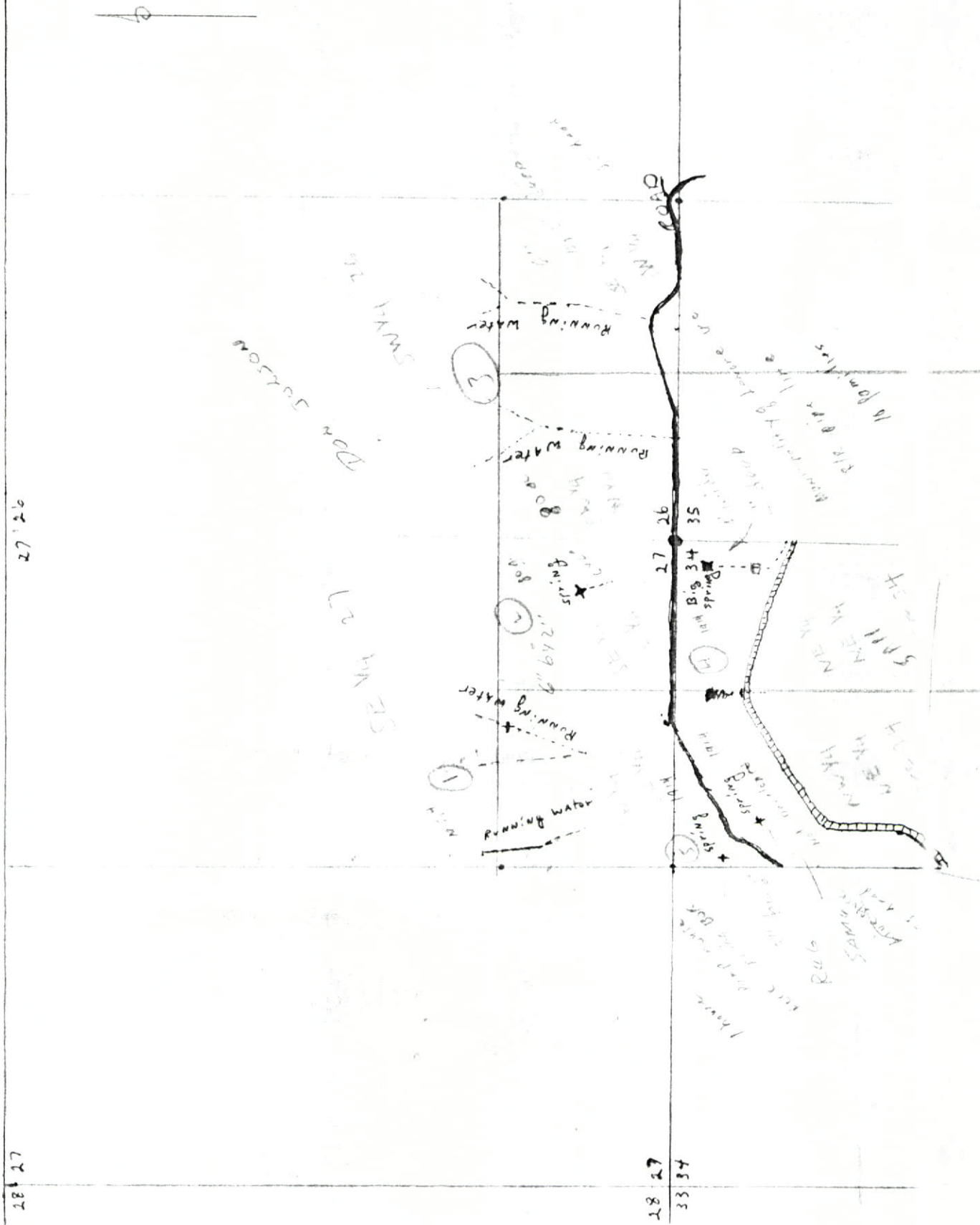
28 27

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28 27
33 34

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35 36



PUBLISHER'S AFFIDAVIT OF PUBLICATION

NOTICE OF CLAIM TO A WATER RIGHT No. 86-4013

Notice is hereby given that Emery Bateman, 429 Bryden Drive, Lewiston, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 0.016 cubic feet per second of water from an Unnamed Spring, tributary of the Clearwater River with point of diversion in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 37N, R. 2W, B.M., Nez Perce County.

The water is claimed to be used from Jan. 1 to Dec. 31 for stockwatering purposes with a priority of 1954; the place of use is within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 37N, R. 2W, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Ad-

ministration, Statehouse, Boise, Idaho, 83707.

R. KEITH HIGGINSON
Director

Published in the Lewiston Morning Tribune, Lewiston, Idaho, on May 18 and May 25, 1972.

STATE OF IDAHO, }
County of Nez Perce } ss.

D.N. Sinclair, being duly sworn
Office Manager

deposes and says, I am the _____ of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 20 consecutive years immediately preceding the first publication of this notice, and has been so published uninterruptedly for said period; that the Claim to a Water Right 864013 attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, once a week for Two consecutive weeks, the first publication thereof being on the 18th day of May, A. D. 19 72, and the last publication thereof being on the 25th day of May, A. D. 19 72, and said Claim to a Water Right was so published in the regular and entire issue of the said newspaper and not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

SUBSCRIBED AND SWORN TO BEFORE ME THIS THE

25th day of May, 19 72

J. H. Jones

Notary Public in and for the State of Idaho,
residing at Lewiston, therein.

Identification No. _____

Claim No. 86-4013 P

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 EMERY BATEMAN
post office address 429 Bryden Drive 6 Lewiston, Idaho

2. The point of diversion is in SE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 27 Township 37 North
Range 2 West B.M. located on no name
(name of source)
tributary to Clearwater River in Nez Perce 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:

1954 amount: .016 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 livestock period of use from 1 Jan to 31 Dec (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 small hand dug
depressions for cattle to drink from.; 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 N/A; 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 _____

_____; if so, give dates and explain _____

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 _____.

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 _____

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 _____

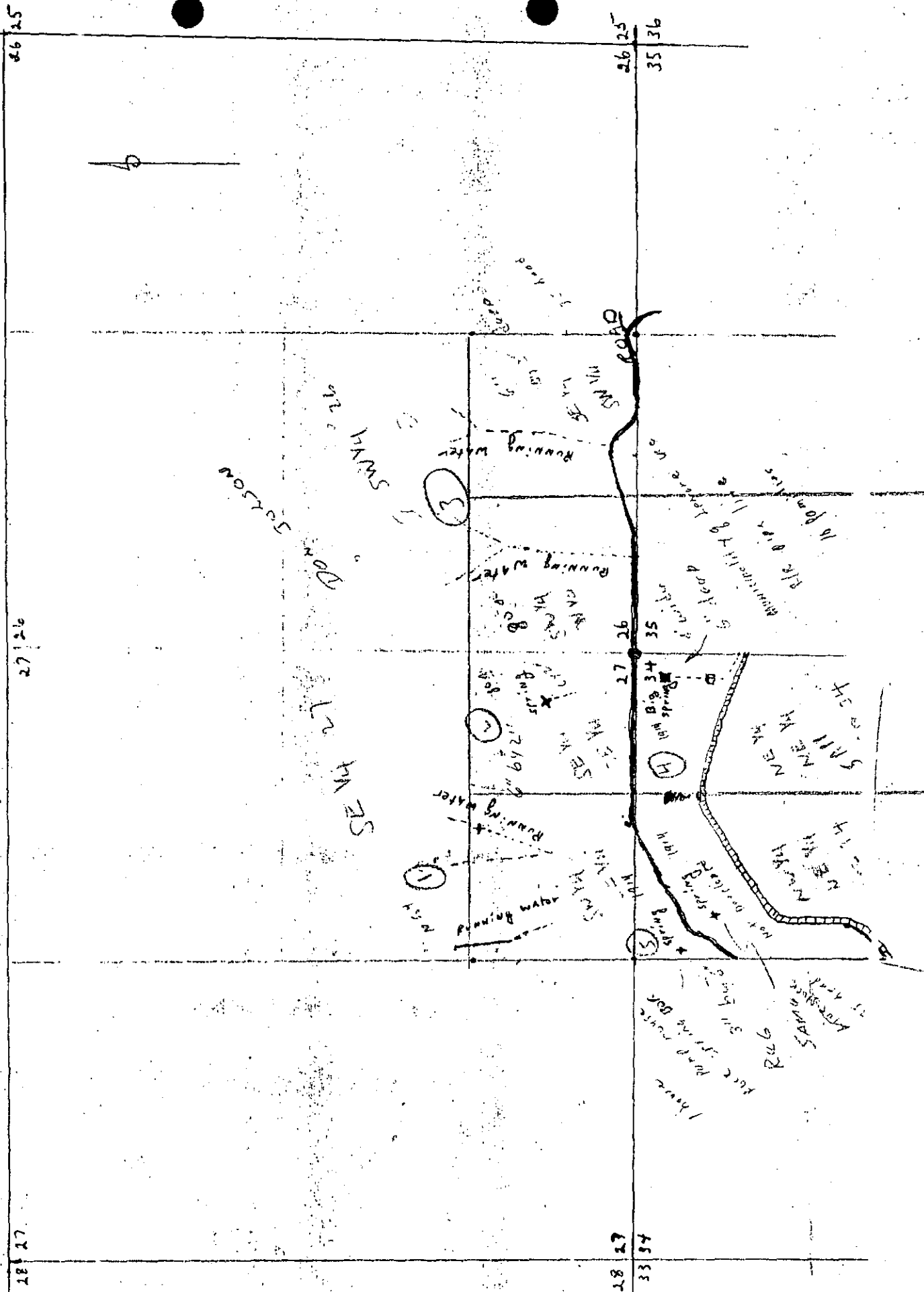
Explain any significant increase in area irrigated since first use, give dates and acreages if known _____

PLANT of water source

TwP 37N 2W

BATEMAN
EMERY.

4-10-72



96 4013

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 35 Head
Range Cattle

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
This claim consists of running water from springs located in the center
of the described 40 acres. This spring may be used to supply one house
at some later date. Presently being used for watering livestock.

State of Idaho

County of _____

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.

Emery Bateman
Claimant

Sworn to before me this 3rd day of May, 1972.

William A. Stelton
Notary Public

Residing at Lewiston

My commission expires 12/19/72

Rec'd # 8391 For Department Use Only

Received by JS Date 5-5-72

Exception filed by: _____

Forwarded to
claimant by: _____

Date _____

Prelim. check by JS Date 5-6-72

Fee received by JS Date 5-8-72 Fee \$ 10.00

Approved for publication by _____

Published in LEWISTON MORNING TRIBUNE Dates 5-18 + 5-25-72

86-4013

PUBLISHER'S AFFIDAVIT OF PUBLICATION

NOTICE OF CLAIM TO A WATER RIGHT

No. 86-4013

Notice is hereby given that Emery Bateman, 429 Bryden Drive, Lewiston, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 0.016 cubic feet per second of water from an Unnamed Spring, tributary of the Clearwater River with point of diversion in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 37N, R. 2W, B.M., Nez Perce County.

The water is claimed to be used from Jan. 1 to Dec. 31 for stockwatering purposes with a priority of 1954; the place of use is within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 37N, R. 2W, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Ad-

ministration, Statehouse, Boise, Idaho, 83707.

R. KEITH HIGGINSON
Director

Published in the Lewiston Morning Tribune, Lewiston, Idaho, on May 18 and May 25, 1972.

STATE OF IDAHO, }
County of Nez Perce } ss.

D.N. Sinclair

being duly sworn
Office Manager

deposes and says, I am the _____ of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 20 consecutive years immediately preceding the first publication of this notice, and has been so published uninterruptedly for said period; that the Claim to a Water Right 864013 attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, once a week for Two consecutive weeks, the first publication thereof being on the 18th day of May, A. D. 19 72, and the last publication thereof being on the 25th day of May, A. D. 19 72, and said Claim to a Water Right was so published in the regular and entire issue of the said newspaper and not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

D.N. Sinclair

SUBSCRIBED AND SWORN TO BEFORE ME THIS THE

25th day of May, 19 72

J. H. Hendon
Notary Public in and for the State of Idaho,
residing at Lewiston, therein.

ACT
ION

N OWNER LAST NAME - BATEMAN
N ADDRESS LINE 1 - 429 BRYDEN DR.
N

N SOURCE - SPRING
N STAGE - STATRY CLM
N DIVERSION POINT - SESE 27 37N 02W
N FROM - 01-01 TO - 12-31 USE - STOCKWATER
N USE - STOCKWATER
N NON IRRIG USE - S/35 RANGE.

FIRST NAME - EMERY
CITY - LEWISTON
STATE - ID

TRIBUTARY OF - CLEARWATER RIVER
PRIORITY - 06-01-1954 COUNTY - NEZ PERCE TOTAL DIV. RATE - .0200CFS
USE DIV. RATE - .0200CFS
PLACE OF USE - TWN 37N RNG 02W SEC 27 TRACT SESE

IDENT. NO. 810-4013

WATER RIGHT
DATA ENTRY LOG

[illegible]

WATER RIGHT ANALYSIS FORM

- DATA ENTRY -

Identification No.

Old No.

186-4013

New No.

Record

1. Original Owner: Emery Bateman

Present Owner: _____

2. Address: 429 Bryden Dr.3. City: Lewiston State: ID Zip: _____4. A. Source of Water: Spring
B. Tributary of: Clearwater River5. A. Stage (A,P,L,D,S,J): S

B. Status (D,L,R,C,A,I,F - leave blank if valid):

C. Priority Date: 6-1-1954D. County: 69E. Total Diversion Rate: .02

F. Total Diversion Volume:

G. Transfer/Amendment (P,T of A or blank):

H. Water District:

I. DLE/Carey Act (D,C or blank):

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

	Tract	Sec.	Twp.	Rge.	Gov't Lot	Rediv.
6. A. Point of Diversion	<u>SESE</u>	<u>27</u>	<u>31N</u>	<u>2W</u>		

7. Period of Use, Use, Diversion Rate/Volume:

from 1-1 to 12-31 for 8 purposes. Amount .02
(cfs or ~~AC-FT~~/yr)

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 _____

from _____ to _____ for _____ purposes. Amount _____

8. Use Code: 8

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
37N	2W	21																8	

- 9. A. Decree Name:
- B. Decree Date:

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

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

8/35 range.

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):

RECEIVED

Department of Water Administration

STATE OF IDAHO)
) ss.
County of Nez Perce)

EMERY BATEMAN and MYRTEA BATEMAN, being first severally duly sworn on their oath severally depose and say:

That they are the owners of real property situate in Nez Perce County, State of Idaho, described as follows:

The Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4}SE\frac{1}{4}$), (except Tax No. 5634 and No. 5747 thereof), Section 26, Township 37 N., Range 2 W.B.M., and the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}$) of Section 27, Township 37 N., Range 2 W.B.M.,

That they have filed water right claims with the State of Idaho Department of Water Administration on water that is running through this property, and also have filed water right claims on springs situate upon this property as follows:

Claim No. 86-4012 on 0.022 cu. ft. pr. sec. of water on the $SW\frac{1}{4}SE\frac{1}{4}$, Section 27, T. 37 N., R. 2 W.B.M.

Claim No. 86-4013 on 0.016 cu. ft. pr. sec. of water on the $SE\frac{1}{4}SE\frac{1}{4}$ of Section 27, T. 37 N., R. 2 W.B.M.

Claim No. 86-4014 on 0.022 cu. ft. pr. sec. of water on the $SE\frac{1}{4}SW\frac{1}{4}$ and the $SW\frac{1}{4}SW\frac{1}{4}$ of Section 26, Township 37 N., R. 2 W.B.M.

Affiants further state that these claims are only on a portion of the water running through the said property, and also that it is not their intent to harm or divert the springs from which the water originates on their property except for use on their property, and that the purpose for filing of the claims is to guarantee to them this amount of flow of water and also to guarantee to them the right to divert the springs situate on the property described above for their needs in the future.

Further, it is not their intent to do anything other than claim the water originating from springs above their property and flowing through their property in the amounts claimed as water rights so that this amount will never be allowed to be diverted to their harm from the date of filing their claims forward.

Emery Bateman
EMERY BATEMAN

Myrtea L. Bateman
MYRTEA BATEMAN

Subscribed and sworn to before me this 15th day of January, 1973.

William A. Stellmon
William A. Stellmon
Notary Public in and for said state
Residing at Lewiston therein

(SEAL)

86 4013

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
NORTHERN DISTRICT OFFICE



Cecil D. Andrus
Governor
R. Keith Higginson
Director

401 Front Ave., Rm. 209
Coeur D'Alene, Idaho 83814
(208) 667-6484

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

January 30, 1973

Re: Claim to a Water Right No. 86-4012
" " " " " " 86-4013
" " " " " " 86-4014

Emery Bateman
429 Bryden Drive
Lewiston, ID 83501

Dear Mr. Bateman:

We hereby acknowledge receipt of your affidavit in connection with the above referenced claims.

These claims record historic uses and priority to the amount of water listed on the claims and shall be prima facia evidence to such rights, but do not guarantee such rights; nor do they guarantee any right to waters for future use.

Any development of water rights after May 20, 1971, must be preceeded by an approved permit from this Department, excepting groundwater to supply a single domestic dwelling.

If we can be of any further assistance, please feel free to contact this office.

Very truly yours,

Ervin E. Ballou
Water Resource Examiner
Northern District

EEB:cr

86 4013

July 13, 1972

Re: Claim to a Water Right No. 86-4013 & 86-4014- Emery Bateman

Emery Bateman
429 Bryden Drive
Lewiston, Idaho 83501

Dear Mr. Bateman:

Enclosed please find a copy of the Affidavit filed in behalf of Don F. Johnston by Mr. Russell S. Randall. The following is a quote from the provisions under which the above referenced claim has been filed (Idaho Code, Section 42-225b):

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

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

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

Very truly yours,

Fred Eisenbarth
Water Resource Examiner II

FE:sds

Enclosures: copy of affidavit

86 4013

3c
RUSSELL S. RANDALL
JOHN H. BENGTON

RANDALL & BENGTON
LAWYERS
FIRST SECURITY BANK BUILDING
LEWISTON, IDAHO 83501
TELEPHONE 743-4526

MAILING ADDRESS:
P. O. BOX 446

July 11, 1972

RECEIVED

JUL 12 1972

Department of Water Administration

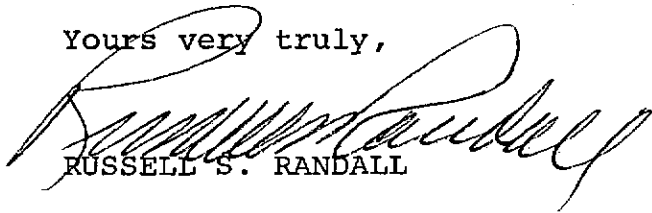
State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho, 83707

Re: Claim to a Water Right No. 86-4013 - Emery Bateman
Claim to a Water Right No. 86-4014 - Emery Bateman

Gentlemen:

Enclose you will find in duplicate Affidavit
in regard to the above claim to water rights.

Yours very truly,


RUSSELL S. RANDALL

RECEIVED

JUL 13 1972

Department of Water Administration
Northern District Office

86 4013

A F F I D A V I T

RECEIVED

STATE OF IDAHO)
) SS
COUNTY OF NEZ PERCE)

Copyright 1911 by the State of Idaho

DON F. JOHNSTON, being first duly sworn upon
oath, deposes and says:

That I am over the age of twenty-one years
and a citizen of the United States; that I make this
affidavit as a protest to the claims to water rights
filed by Emery Bateman, 429 Bryden Avenue, Lewiston, Idaho,
under Notice of Claim to Water right #86-4014 and 86-4013;
that I am the owner of the following described real property
located in Nez Perce County, State of Idaho, to-wit:

Southwest quarter of Northeast quarter,
Southeast quarter of Northeast quarter,
Northeast quarter of Southeast quarter,
Northwest quarter of Southeast quarter,
of Section 27, Township 37, North Range
Two (2) West of the Boise Meridian

and

All of the Southwest quarter of Northwest
Quarter of Section 26, Township 37, North
Range Two (2), West of the Boise Meridian

except

that part of the said Southwest quarter of
the Northwest quarter of said Section 26
described in Deed recorded in Book 128 of
Deeds at Page 228, records of Nez Perce
County, Idaho.

ALSO

The Southeast quarter of the Northwest quarter,
and the North half of the Southwest quarter in
Section 26, Township 37, North Range 2, West of the
Boise Meridian. That portion of the Southwest
quarter of the Northwest quarter of Section 26,
Township 37, North Range 2, West of the Boise Meridian,
described as follows: Commencing at the Southeast
corner of said Southwest quarter of the Northwest
quarter of said Section 26; thence North along the
East line of said Southwest quarter of the Northwest
quarter of said Section, a distance of 660 feet;

thence West to the East line of the wagon road known as the Van Winkle grade; thence Southerly along the East line of said wagon road to the intersection of said East line of said road with the South line of said Southwest quarter of the Northwest quarter of said Section 26; thence East along the said South line of said Southwest quarter of the Northwest quarter of said Section a distance of 660 feet; thence West to the East line of the wagon road known as the Van Winkle grade; thence Southerly along the East line of said wagon road to the intersection of said East line of said road with the South line of said Southwest quarter of the Northwest quarter of said Section 26; thence East along the said South line of said Southwest quarter of the Northwest quarter of said Section 26 to the place of beginning, containing about three acres, more or less.

That the springs in question furnishing the water upon which the claims of water rights are based rise upon my land. That I and my predecessors in interest have used the water from said springs for many years prior to the use by the claimant for domestic and livestock purposes, and that my use is antecedent to use of claimant Emery Bateman. That I and my predecessors in interest have continuously used the waters from said springs for said purposes for many years prior to the use by claimant. That the claimant, Emery Bateman, has not continuously used the water as claimed for the period claimed. That there is not an adequate supply of water for use by me for the uses that I have put the water for many years, together with my predecessors in interest, and to satisfy the claim of Emery Bateman. That the granting of the claim of claimant to the waters claimed would do irreparable damage to my land. That the granting of the claims would deny me the right to the use of the water that I, together with my predecessors, have been using for many years prior to the claimed right of said Emery Bateman.

Further the affiant saith not.

Don F Johnston

Subscribed and sworn to before me this 4th day of July, 1972.

Ann Israel

Notary Public in and for the State of Idaho
Residing at Lewiston, therein.

98 4013

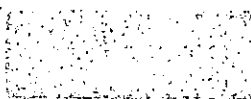


EXECUTIVE COMMITTEE:

RICHARD A. HALFMOON, CHAIRMAN
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Nez Perce

TRIBAL EXECUTIVE COMMITTEE



208-843-2293 OR 2294

June 5, 1972

RECEIVED

JUN 6 1972

Department of Water Administration

Mr. Kenneth Knoblock
Water Resource Examiner
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Knoblock:

This is to acknowledge your letter of June 1, 1972 to Chairman Halfmoon regarding Water Right Claims 86-4012, 86-4013, 86-4014, 86-4015 and 86-4016 and to express our appreciation for the information you furnished.

Sincerely yours,

Wilfred A. Scott
WILFRED A. SCOTT
Secretary

86 4013

June 23, 1972

Re: Claim to a Water Right Nos. 86-4013 & 86-4014

Mr. Emery Bateman
429 Bryden Drive
Lewiston, Idaho 83501

C Dear Mr. Bateman:

C In reference to the above claims, the enclosed is a copy of an exception filed by Don F. Johnston in connection with these claims under the provisions of Chapter 2, Section 42-225b of the Idaho Code, which states the following:

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

Y Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

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

Sincerely,

KENNETH KNOBLOCK
Water Resource Examiner

KK/dg

Enclosure

86 4013

June 23, 1972

Re: Claim to a Water Right No. 86-4013 - Emery Bateman
Claim to a Water Right No. 86-4014 - Emery Bateman

Mr. Don F. Johnston
% RANDALL & BENGTON
P.O. Box 446
Lewiston, Idaho 83501

Dear Mr. Johnston:

We are in receipt of your correspondence concerning the above referenced claims to a water right. The following is a quote from the provisions under which these claims have been filed (Section 42-225b of the Idaho Code):

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

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

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

Very truly yours,

KENNETH KNOBLOCK
Water Resource Examiner

KK/dg

86 4013

RECEIVED

JUN 22 1972

Department of Water Administration

Lenore, Idaho
June 21, 1972

Idaho Dept. of Water Administration
State House
Boise, Idaho 83707

Re: Notice of Claim to Water Right
Number 86-4014 and 86-4013

Gentlemen:

I do hereby protest the claims to water rights under the above-designated numbers, as published in the Lewiston Morning Tribune and filed by Emery Bateman, 429 Bryden Drive, Lewiston, Idaho, for the following reasons:

1. That I am the owner of the following described tracts of land located in Nez Perce County, Idaho, to-wit:

Southwest quarter of Northeast Quarter,
Southeast quarter of Northeast Quarter,
Northeast quarter of Southeast Quarter,
Northwest quarter of Southeast Quarter,
of Section 27, Township 37, North Range
Two (2) West of the Boise Meridian

and

All of the Southwest quarter of Northwest
Quarter of Section 26, Township 37, North
Range Two (2), West of the Boise Meridian

except

that part of the said Southwest quarter of
the Northwest quarter of said Section 26
described in Deed recorded in Book 128 of
Deeds at page 228, records of Nez Perce
County, Idaho.

ALSO:

86 4013

The Southeast quarter of the Northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$); and the North half of the Southwest quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) in Section Twenty-six (26), Township thirty-seven (37), North Range Two (2), West of the Boise Meridian. That portion of the Southwest quarter of the Northwest quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Twenty-six (26), Township Thirty-seven (37), North Range Two (2), West of the Boise Meridian, described as follows: Commencing at the Southeast corner of said Southwest quarter of the Northwest quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of said Section Twenty-six (26); thence North along the East line of said Southwest quarter of the Northwest quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of said Section a distance of 660 feet; thence West to the East line of the wagon road known as the Van Winkle grade; thence Southerly along the East line of said wagon road to the intersection of said East line of said road with the South line of said Southwest quarter of the Northwest quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of said Section Twenty-six (26); thence East along the said South line of said Southwest quarter of the Northwest quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of said Section Twenty-six (26) to the place of beginning, containing about three acres, more or less.

2. That the springs in question furnishing the water upon which the claims of water rights are based rise upon my land.
3. That I and my predecessors in interest have used the water from said springs for many years prior to the use by the claimant for domestic and livestock purposes, and that my use is antecedent to use of claimant Emery Bateman.
4. That I and my predecessors in interest have continuously used the waters from said springs for said purposes for many years prior to the use by claimant.
5. That the claimant Emery Bateman has not continuously used the water as claimed for the period claimed.
6. That there is not an adequate supply of water for use by me for the uses that I have put the water for many years, together with my predecessors in interest, and to satisfy the claim of Emery Bateman.

7. That the granting of the claim of claimant to the waters claimed would do irreparable damage to my land.
8. That the granting of the claims would deny me the right to the use of the water that I, together with my predecessors, have been using for many years prior to the claimed right of said Emery Bateman.

These objections are filed to the claims to water right by said Emery Bateman pursuant to the provisions of the Idaho Code.

Very truly yours,

Don F. Johnston

DON F. JOHNSTON

RANDALL & BENGTON

LAWYERS

POST OFFICE BOX 446

LEWISTON, IDAHO 83501

CERTIFIED

No 891860

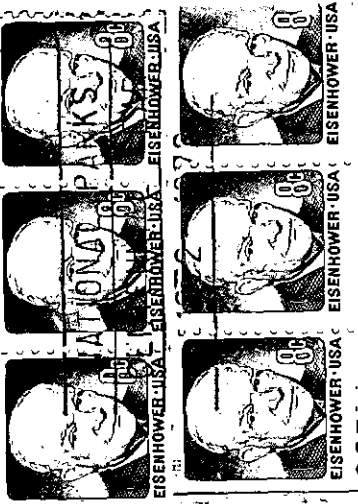
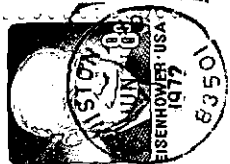
MAIL

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Idaho Dept. of Water Administration

State House

Boise, Idaho 83707



86 4013

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

Cecil D. Andrus
Governor
R. Keith Higginson
Director

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215



Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection

June 8, 1972

Re: Claim to a Water Right No. 86-4012
" " " " " 86-4013
" " " " " 86-4014
" " " " " 86-4015
" " " " " 86-4016

Emery Bateman
429 Bryden Drive
Lewiston, Idaho 83501

Dear Mr. Bateman:

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

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

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

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

Very truly yours,

Donald W. McEldowney
Water Rights Supervisor
State Office

DWM:CR

Enc: copies of claims

86 4013

RECEIVED

JUN 1 1972

BEFORE THE DIRECTOR,
DEPARTMENT OF WATER ADMINISTRATION
STATE OF IDAHO

Department of Water Administration

In the Matter of the Applications
for Appropriation and Notice of
Claim to Water Rights

EMERY BATEMAN

)
(
)
(
)

Nos. 86-4012, 86-4013, 86-4014,
86-4015 & 86-4016

AMENDED PROTEST

WHEREAS, the NEZ PERCE TRIBE OF IDAHO, an Indian Tribe, acting by and through the Nez Perce Tribal Executive Committee, has previously filed a protest to the above mentioned claims to water rights and,

WHEREAS, Claim No. 86-4012, concerning an unnamed spring in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, T. 37N, R. 2W, B.M., Nez Perce County, Idaho, was inadvertently omitted from the original protest;

NOW THEREFORE, comes now the Nez Perce Tribe of Idaho, and hereby amends its original protest to include the previously omitted claim upon the same grounds and authority as originally stated.

Dated this day of May, 1972.

NEZ PERCE TRIBAL EXECUTIVE COMMITTEE

By: Richard A. Halfmoon
Richard Halfmoon, Chairman

I hereby certify that I mailed a true and correct copy of the within Amended Protest to Emery Bateman, by depositing it in the United States mail addressed to 429 Bryden Drive, Lewiston, Idaho, 83501, with postage prepaid thereon, this the 31 day of May, 1972.

Richard A. Halfmoon
Richard Halfmoon

86 4013

RECEIVED

MAY 22 1972

Department of Water Administration

BEFORE THE DIRECTOR,
DEPARTMENT OF WATER ADMINISTRATION
STATE OF IDAHO

In the Matter of the Applications
for Appropriation and Notice of
Claim to Water Rights of

EMERY BATEMAN

)
(
)
(
)

No. 86-4013, 86-4014, 86-4015,
& 86-4016

PROTEST

Comes now the NEZ PERCE TRIBE OF IDAHO, an Indian Tribe, acting by and through the Nez Perce Tribal Executive Committee, with reference to the above entitled claims and applications relating to four unnamed springs in Nez Perce County, Idaho, and hereby protests the proposed action.

The location of said springs as described in the published notices disclose that all of said springs are located on the Nez Perce Reservation, as established by the Congress of the United States in the Treaty with the Nez Perces, 1863, 14 Stats. 647. Said treaty, particularly Article 8 thereof, reserves to the Nez Perce Tribe of Idaho all such springs.

This protest is made upon the authority of the aforementioned treaty, together with all other treaties, proclamations and statutes of the United States of America and the State of Idaho pertinent thereto.

The Nez Perce Tribe of Idaho hereby claims prior rights to the use and occupation of said springs and to all such waters similarly situated.

Dated this day of May, 1972.

NEZ PERCE TRIBAL EXECUTIVE COMMITTEE

I hereby certify that I mailed a true and correct copy of the within Protest to Emery Bateman, by depositing it in the United States mail addressed to 429 Bryden Drive, Lewiston, Idaho, 83501, with postage prepaid thereon, this the 24 day of May, 1972.

By: Richard A. Halfmoon
Richard Halfmoon, Chairman

Richard A. Halfmoon
Richard Halfmoon

86 4013

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

Cecil D. Andrus
Governor

R. Keith Higginson
Director

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215



Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection

June 1, 1972

RE: Claim to a Water Right No: 86-4012
86-4013
86-4014
86-4015
86-4016

Emery Bateman,
429 Bryden Drive
Lewiston, Idaho 83501

Dear Mr. Bateman:

In reference to the above claims, we have received an exception and an amendment filed by the Nez Perce Tribe of Idaho in connection with claim under by provisions of Section 42-225b of the Idaho Code, which states the following:

"At anytime after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception there to in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the department of reclamation 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 reclamation. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required."

This is the only action that has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

If you have any questions about this matter feel free to contact us.

Very truly yours,

KENNETH KNOBLOCK
Water Resource Examiner

KK:alw

86 4013

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

Cecil D. Andrus
Governor

R. Keith Higginson
Director

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215



Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection

June 1, 1972

RE: Claim to a Water Right No: 86-4012
86-4013
86-4014
86-4015
86-4016

Richard Halfmoon, Chairman
Nez Perce Tribe of Idaho
Lapwai, Idaho 83540

Dear Mr. Halfmoons:

We have received your affidavit and amendment concerning the above referenced claims to a water right. The following is a quote from the provisions of Section 42-225b of the Idaho Code, under which the referenced claims have been filed:

"At anytime after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the department of reclamation 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 reclamation. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required."

This is the only action that has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

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

Very truly yours,

KENNETH KNOBLOCK
Water Resource Examiner

KK:alw

86 4013

May 12, 1972

Re: Claim No. 86-4012 - Emery Bateman
" " 86-4013 - " "
" " 86-4014 - " "
" " 86-4015 - " "
" " 86-4016 - " "

Lewiston Morning Tribune
505 "C" Street
Lewiston, Idaho 83501

Gentlemen:

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

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

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

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

(signature of claimant)

Very truly yours,

Fred Eisenbarth
Water Resource Examiner
Northern District

FE:CR

Enc: Legal Notices (5)

Bill submitted 5-31-72. R

86 4013

THE *Tribune* PUBLISHING CO.



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Sold to

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Dept. of Water Admin.
Statehouse Annex 2
Boise, Ida.

Date May 25, 19 72

ACQUISITION NO.	JOB NO.	QUANTITY	DESCRIPTION	AMOUNT
			Notice of A Claim to a Water Right #86-4013 32 Lines, 2 Times- I hereby certify the above account is correct and just, that the supplies were actually fur- nished and/or the services were actually ren- dered as charged and that I/we have not re- ceived payment therefor Signed: <u>Tribune Publishing Co</u> By: <u>J. H. Jones Bas Mgr</u> THANK YOU FOR YOUR PATRONAGE CHECK YOUR ORDER CAREFULLY AND CALL US IF NOT SATISFACTORY	\$11.84
	86 4013			

NOTICE OF CLAIM TO A WATER RIGHT

No. 86-4013

Notice is hereby given that Emery Bateman, 429 Bryden Drive,
Lewiston, Idaho

has filed a claim to a water right established by diversion and appli-
cation to beneficial use of 0.016 cubic feet per second ~~acre feet~~
of water from an Unamed Spring, tributary of the Clearwater River
with point of diversion in the SE¹SE¹, Sec. 27, T. 37N, R. 2W, B.M.,
Nez Perce County.

The water is claimed to be used from Jan. 1 to Dec. 31 for
stockwatering purposes
with a priority of 1954 ;
the place of use is within the SE¹SE¹, Sec. 27, T. 37N, R. 2W, B.M.

Any exception to this claim of water right may be filed with the
Idaho Department of Water Administration, Statehouse, Boise, Idaho, 83707,
~~on or before~~ _____.

R. KEITH HIGGINSON

Director

Published in the Lewiston Morning Tribune, Lewiston, Idaho
on May 18 and May 25, 1972.

86 4013

LEGAL-5-18-72 21W S.W.

PROOF TO BOISE (P)

**NOTICE OF CLAIM
TO A WATER RIGHT**

No. 86-4013

Notice is hereby given that Emery Bateman, 429 Bryden Drive, Lewiston, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 0.016 cubic feet per second of water from an Unnamed Spring, tributary of the Clearwater River with point of diversion in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 37N, R. 2W, B.M., Nez Perce County.

The water is claimed to be used from Jan. 1 to Dec. 31 for stockwatering purposes with a priority of 1954; the place of use is within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 37N, R. 2W, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, Statehouse, Boise, Idaho, 83707.

R. KEITH HIGGINSON
Director

*CALLER &
CORRECTED
5-17-72*

cl

86 4013

2

WARE, STELLMON & O'CONNELL
LAWYERS

LEWISTON PROFESSIONAL BUILDING

1219 IDAHO STREET

LEWISTON, IDAHO 83501

MARCUS J. WARE
ELBERT A. STELLMON
DANIEL W. O'CONNELL
WILLIAM A. STELLMON

AREA CODE 208
TELEPHONE 743-1515
P. O. DRAWER 835
CABLE ADDRESS: WASCO

May 4, 1972

RECEIVED

MAY 5 1972

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Department of Water Administration

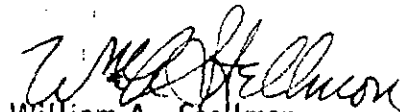
Gentlemen:

We enclose herewith claims to water rights on behalf of Mr. Emery Bateman, together with his check for \$50.00.

If there is anything further that you need in order to process these claims, please let us know.

Very truly yours,

WARE, STELLMON & O'CONNELL


William A. Stellmon

WAS:cw
Enc.

86 4013