

No Color
Documents
In File

Identification No. 85-4032

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 Barbara M. Benscoter (Agent) SH 3-6757
post office address 3829 17th St. C. - LEWISTON, IDAHO
2. The point of diversion is in #1 SE 1/4 of SE 1/4 Section 23 Township 36 N
#2 SW 1/4 of SE 1/4 Section 26 Range T W B.M. located on 2 Springs Big Canyon Creek
(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:

- #1 April 23, 1925 amount: 0.022 c.f.s. or _____ acre feet
#2 April 23, 1925 amount: 0.013 c.f.s. or _____ acre feet
2022 2 11 9 18 amount: _____ c.f.s. or _____ acre feet
Total claimed 0.35 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:

- #1 use stockwater period of use from April 1 to Oct. 15 (both dates inclusive)
#2 use stockwater period of use from April 1 to Oct. 15 (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 _____
_____ ; length is _____ feet; height is _____ feet;
width at bottom is _____ feet; with 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 _____
_____ ;

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]

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 _____
30 head 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

Two Springs
Off watering troughs
Spring #1 is on property bought by my father from Carter Miller April 23, 1925. D. V. Garner (my father) pastured cattle through the summer months. Spring #2 is on land bought by D. V. from Dec 21, 1918 from James S. Kincaid, agent to other property. These two properties are joined to D. V. Garner's 160 acre homestead land of 1895 and his father's (V. B. Garner) 160 acre homestead of 1895. All of these properties are now owned by D. V.'s 2 sons: 1 son - Neil R. Garner, Joseph E. Coon, Barbara M. Benscoter - at the time are forming a partnership along with our husbands & wife to be known as "Garner's Seventy Four Acres" the Seventy Four from our father's share of earlier days "7" ^{Raymond L. Shain, Clifford Coon, and Ted Baker joined} verify this history.

State of Idaho }
County of Nez Perce } ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this

9th

day of

Barbara M. Benscoter
Claimant

August

1972

Jay C. Kellum
Notary Public

Residing at

Lewiston

My commission expires

7-21-76

For Department Use Only

Received by KL Date 8/21/72

Exception filed by:

Forwarded to
claimant by:

Date

Prelim. check by EB Date 8-21-72

Rec'd # 9428

Fee received by EB Date 8-21-72 Fee \$16.00

Approved for publication by

Published in LEWISTON TRIBUNE Dates 8-31-72-7-72

85 452

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:	May 18, 1871	amount:	0.8 c.f.s. or	_____	acre feet
	June 1, 1901	amount:	0.4 c.f.s. or	_____	acre feet
	Total claimed:		1.2 c.f.s. or	_____	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 Water Administration, Statehouse, Annex 2, Boise, Idaho, 83707, is \$10.00.

25 000

PUBLISHER'S AFFIDAVIT OF PUBLICATION

SEP 13 1972

NOTICE OF CLAIM TO A WATER RIGHT NO. 85-4032

Notice is hereby given that Barbara M. Ponscofer, 3829 17th Street C, Lewiston, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 0.35 cubic feet per second of water from 2 springs, tributary to Big Canyon Creek with point of diversion in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23; SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 26, T. 36N, R. 1W, B.M., Nez Perce County.

The water is claimed to be used from April 1 to Oct. 15 for stockwatering purposes with a priority of April 23, 1925 (.022 cfs); Dec. 21, 1918 (.013 cfs); the place of use is within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23; SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 26, T. 36N, R. 1W, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, 401 Front Avenue, Coeur d'Alene, Idaho 83814.

R. KEITH HIGGINSON
Director

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

DN Sinclair

Department of Water Administration
Northern District Office
being duly sworn

deposes and says, I am the Office Manager 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 Notice of Claim # 85-4032 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 31st day of August, A. D. 1972, and the last publication thereof being on the 7th day of Sept., A. D. 1972, and said Notice of Claim 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.

DN Sinclair

SUBSCRIBED AND SWORN TO BEFORE ME THIS THE

8 day of Sept, 1972

Norman W. Rich 8-28-76

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

WATER RIGHT NUMBER 85-4032

WATER RIGHTS EDIT REPORT

07/02/80

PAGE 168

ACT

ION

L OWNER LAST NAME - BENSCOTER

FIRST NAME - BARBARA M.

FORM 1413-H13

Alvord Business Forms, Inc. 59

ACT
ION

N OWNER LAST NAME - BENSOCTER
N ADDRESS LINE 1 - 3829 17TH ST. C
N

FIRST NAME - BARBARA M.

N SOURCE - SPRINGS
N STAGE - STATRY CLM

CITY - LEWISTON
TRIBUTARY OF - BIG CANYON CREEK

STATE - ID ZIP CODE - 83501

N DIVERSION POINT - SESE 23 36N 01W
N FROM - 04-01 TO - 10-15 USE - IRRIGATION

PRIORITY - 12-21-1918 COUNTY - NEZ PERCE TOTAL DIV. RATE - .3500CFS
SWNE 26 36N 01W

N USE - STOCKWATER
N USE - STOCKWATER

USE DIV. RATE - .3500CFS

N REMARKS - PRIORITIES ARE 12-21-1918 OF .02 CFS & 4-23-1925 OF .03 CFS.
N NON IRRIG USE - S/30 RANGE.

PLACE OF USE - TWN 36N RNG 01W SEC 23 TRACT SESE
PLACE OF USE - TWN 36N RNG 01W SEC 26 TRACT SWNE

IDENT. NO. 85-4032

WATER RIGHT
DATA ENTRY LOG

[illegible]

- DATA ENTRY -

Old No.

New No.

1. Original Owner: Barbara M. Benscoter

Present Owner: _____

2. Address: 3829 17th St. C

3. City: Lewiston State: ID Zip: 83501

4. A. Source of Water: *springs*
B. Tributary of: *Big Canyon Creek*

5. A. Stage (A,P,L,D,S,J): ✓

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

C. Priority Date: ~~12~~ 12-21-1918

D. County: 69

E. Total Diversion Rate: .35

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):

	<u>Tract</u>	<u>Sec.</u>	<u>Twp.</u>	<u>Rge.</u>	<u>Gov't</u> <u>Lot</u>	<u>Rediv.</u>
6. A. Point of Diversion	SE SE	23	36N	1W		
	SW NE	26	36N	1W		

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

from 4-1 to 10-15 for A purposes. Amount .35
(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

111379

8. Use Code: *S*

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	
<i>111379</i>	<i>14</i>	<i>23</i>																	<i>14</i>
		<i>26</i>																	<i>14</i>
																			<i>14</i>
																			<i>14</i>
<i>36N</i>	<i>14</i>	<i>23</i>																<i>S</i>	
		<i>26</i>																	

9. A. Decree Name:

B. Decree Date:

10. Remarks: A. *Priorities: 12-21-1918 of .02 cfs & 4-23-1925 of .03 cfs.*
 B.
 C.
 D.
 E.

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

S/30 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):

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

September 14, 1972

Re: Claim to a Water Right No. 85-4032

Barbara M. Benscoter
3829 - 17th Street C
Lewiston, ID 83501

Dear Ms. Benscoter:

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 a 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,

Fred Eisenbarth
Water Resource Examiner
Northern District

FE:CR

Enc: copy of claim

bcc: State Office

85 4032

September 6, 1972

Re: Claim to a Water Right No. 85-4032

Barbara M. Benscoter
3829 - 17th Street C.
Lewiston, ID 83501

Dear Ms. Benscoter:

Attached herewith is your receipt No. 8428 in the amount of \$10 for the filing fee on the above referenced claim, which was received in this office.

Very truly yours,

Fred Eisenbarth
Water Resource Examiner
Northern District

FE:CR

Enc: Receipt

85 4032

August 25, 1972

Re: Claim No. 85-4030 - Eddy L. Wylde
" " 85-4031 - Cecil B. Carpenter
" " 85-4032 - Barbara M. Benscoter

Lewiston Morning Tribune
505 "C" Street
Lewiston, ID 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

Bill submitted 9-11-72 by cl

FE:CR

Enc: Legal Notices (3)

85 4032

NOTICE OF CLAIM TO A WATER RIGHT

NO. ~~85-4032~~

Notice is hereby given that ~~Barbara M. Benscoter,~~

~~3829 - 17th Street C, Lewiston, Idaho~~

has filed a claim to a water right established by diversion and application
to beneficial use of ~~0.35~~ cubic feet per second ~~acre feet per annum~~
XXXXXXXXXXXXXXXXXXXX

of water from ~~2 springs, tributary to Big Canyon Creek~~

with point of diversion in the ~~SE1/4, Sec. 23; SW1/4, Sec. 26, T. 36N,~~

~~R. 1W, B.M., Nez Perce County~~

The water is claimed to be used from ~~April 1 to Oct. 15 for stock-~~

~~watering purposes~~

with a priority of ~~April 23, 1925 (.022 cfs); Dec. 21, 1918 (.013 cfs)~~

the place of use is within the ~~SE1/4, Sec. 23; SW1/4, Sec. 26, T. 36N,~~

~~R. 1W, B.M.~~

Any exception to this claim of water right may be filed with the Idaho
Department of Water Administration, 401 Front Avenue, Coeur d'Alene, Idaho
83814.

R. KEITH HIGGINSON

Director

Published in the ~~Lewiston Morning Tribune, Lewiston, Idaho~~

on ~~Aug. 31~~ and ~~Sept. 7, 1972~~

85 4032

NOTICE OF CLAIM TO A WATER RIGHT
NO. 85-4032

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Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, 401 Front Avenue, Coeur d'Alene, Idaho 83814.

R. KEITH HIGGINSON
Director

O.K.

9-6-72

ck

85 4032

Identification No. 85-4032

Claim No. _____

Map No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

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(Please refer to the instructions on the back of this form)

1. Name of claimant Barbara M. Benscoter (Agent) 5H3-6757
post office address 3829 17th St. C. Lemiaton, Idaho
2. The point of diversion is in #1 SE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 23 Township 36 N
Range 1 W #2 SW B.M. located on 2 Springs Big Canyon Creek
(name of source)
- tributary to Clear Water 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:

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#2 April 23, 1925 amount: 0.013 c.f.s. or _____ acre feet
Dec 21, 1918 amount: _____ c.f.s. or _____ acre feet
Total claimed 0.35 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:

- #1 use stockwater period of use from April 1 to Oct. 15 (both dates inclusive)
#2 use stockwater period of use from April 1 to Oct. 15 (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 _____
_____ ; 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 _____

85 4032

.....

if feeder canal is used give maximum carrying capacity c.f.c. if reservoir is off stream describe

1

		NE 1/4	NW 1/4	SW 1/4	SE 1/4
--	--	--------	--------	--------	--------

Total number of acres to be irrigated _____

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 _____
30 head 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,
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Two Springs
Old Spring trough
Spring #1 is on property bought by my father from Carter
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through the summer months. Spring #2 is on land
bought by D. H. from Dec 21, 1918 from James S. Kincaid, agent
to other property. These two properties are joined to
D. H. Hansen's 160 acre homestead land of 1895 and his father's
(W. B. Hansen) 160 acre homestead of 1895. All of these properties
are now owned by D. H. & his wife - Mrs. R. Hansen,
Joseph E. Coon, Barbara M. Benscote - at this time are
forming a partnership along with our husbands & wife to
be known as "Hansen, Coon, Hansen & Benscote" the
partnership firm from our fathers' friends & neighbors "Z"
Raymond P. Blain, Clifford Coon, and Ed Spitzer Gould
verify this history.

State of Idaho

County of Nez Perce

ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the
foregoing claim to a water right, together with all attached information, and that the matters and facts therein are
true to the best of the affiants knowledge.

Sworn to before me this

9th

day of

Barbara M. Benscote
Claimant

August

1972

Notary Public

Residing at

Lewiston

My commission expires

7-21-76

For Department Use Only

Received by KL Date 8/21/72

Exception filed by:

Forwarded to
claimant by:

Date

Prelim. check by EB Date 8-21-72

Rec'r. # 8428

Fee received by EB Date 8-21-72 Fee \$10.00

Approved for publication by

Published in Lewiston Tribune Dates 8-31-72

85 ADP