

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

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.

Notice is hereby given that R. L. Bodkin,
(name of claimant)
of Rt. #1, Downey, Idaho, claims a right to the diversion and beneficial use of
(mailing address)
the public water of the State of Idaho

The extent and nature of said claim is as follows:

(1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Marsh Creek
Portneuf River, tributary to,

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

Amount <u>3.30</u>	Use <u>Irrigation</u>	Period of Use: From <u>Apr. 1</u> To <u>Nov. 1</u>
Amount _____	Use _____	Period of Use: From _____ To _____
Amount _____	Use _____	Period of Use: From _____ To _____
(cfs, gpm or a/f)	(dom., irri., stock, etc.)	(both dates inclusive)

(3) Total quantity of water claimed: 3.30 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.

✓ (4) Priority claimed: (the date water was first applied to beneficial use) See papers attached Aug 1865

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 to this rule is that a claim may be filed on domestic use from a ground-water source.

(5) A) Point of diversion: (give location of point where water is diverted from its source)
NE ¼ NE ¼, Sec. 10 Twp. 12S Rge. 37E B. M. County of Bannock
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 40hp pump and sprinkler system
Head 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.

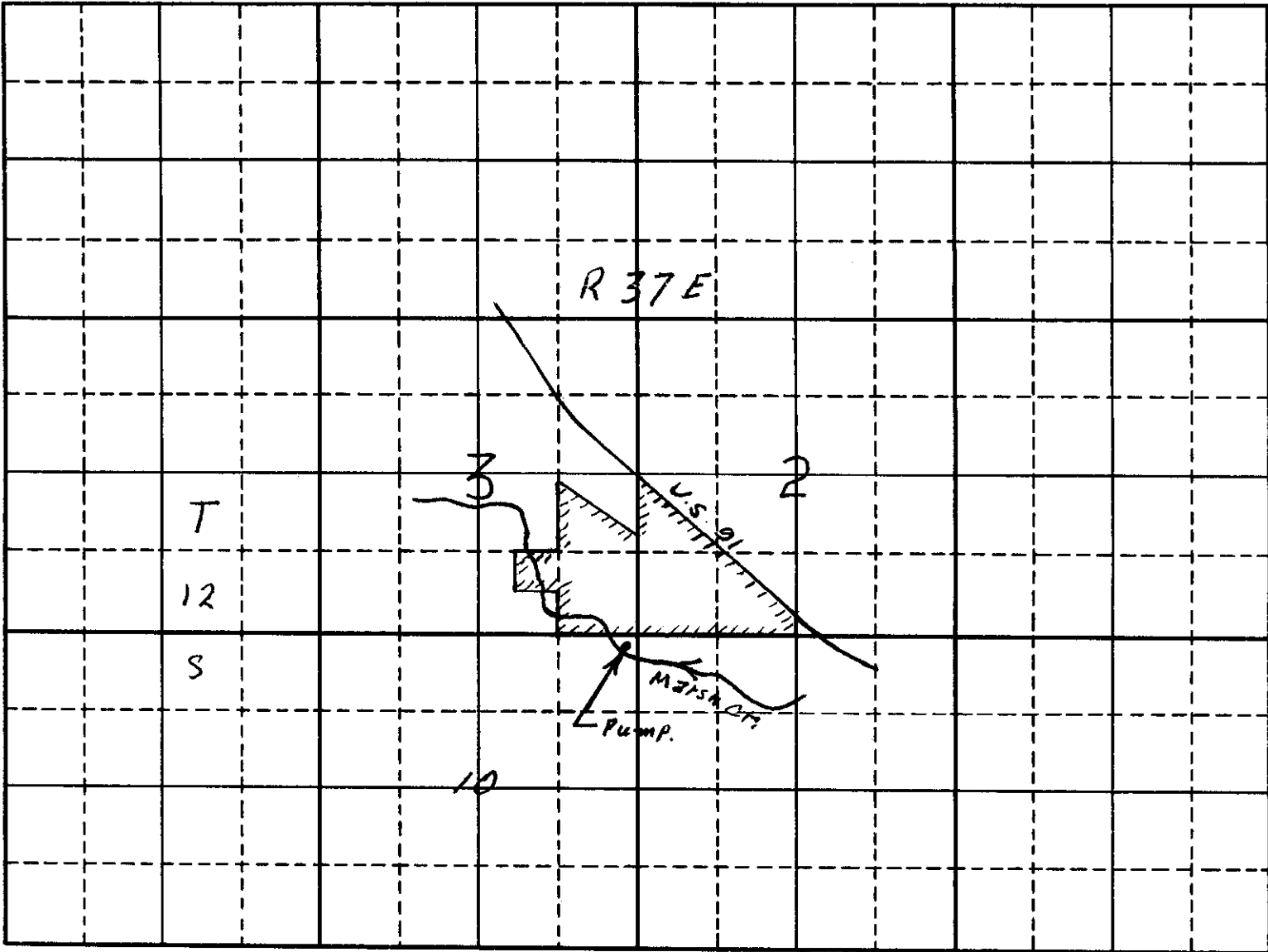
T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
12S	37E	2									20	40	30						90
		3												25		10	40		75

Total No. of acres 165

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

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

(8) Remarks SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2 and SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 3, are also covered by
License No. 29-2223; 1.30 c.f.s. with priority of 10-04-1919



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 Lannock) 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 5 day of November, 1976
R. L. Bodkin (Claimant)
Notary Public
Residing at Lawrence, Idaho

My commission expires 3-11-76

For Department Use Only			
Received by <u>me</u>	Date <u>11-22-76</u>	Exception filed by:	Forwarded to
Prelim. check by <u>me</u>	Date <u>11-8-76</u>		claimant by:
\$10.00 fee received by <u>me</u>	Date <u>11-22-76</u>		
Approved for publication by <u>me</u>	Date <u>12-20-76</u>		
Published in <u>Idaho State Journal</u>			
Dates <u>December 24 & 31, 1976</u>			

July 19, 1956

RECEIVED

NOV 22 1976

Mr. Eli Barnes
Downey
Idaho

Department of Water Resources
Eastern District Office

Dear Mr. Barnes:

In answer to your letter of July 12, 1956, in which you state that you are not getting your water filed on from the waters of Marsh Creek due to the interference of other users above with an inferior filing with later priority of right.

Providing water rights as shown on the enclosed list were decreed by the Court this Department could appoint you a Watermaster to administer said rights and distribute the waters of Marsh Creek according to priority of right. According to statute the Department of Reclamation cannot supervise the delivery of water by the Appointment of a Watermaster on an unadjudicated stream.

We are mailing a copy of an Abstract of all Permits and Licensed Water Rights filed with this Department to each user so that each water user will have knowledge of the various filings and dates of priorities on Marsh Creek.

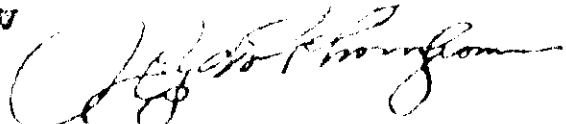
We suggest that the water users of Marsh Creek try and get together and work out your own water problems by agreement, by respecting each others right in priority.

We regret that the Department cannot supervise the delivery from Marsh Creek by appointment of a Watermaster.

Please feel free to write us again upon any suggestions that may arise.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By


Roy W. Thompson
Supervisor of Water Distribution

T:cu
Enc.

CC: Joseph Barnes — Ed H. McDaniel — John T. Sharp — H. Leigh Clifflins
Anna Barnes — Peter Christiansen — Fred R. Bishoff — Lew Carlile
W.H. Jensen — D.F.M. & M. Irrig. System — Vental & Leon Jensen — D. C. Barnes

COPY

Jones, Pomeroy & Jones

Lawyer

CENTRAL BLDG.

Pocatello, Idaho

Ma n 23, 1955

T. D. JONES, DECEASED
E. W. POMEROY, DECEASED
RALPH H. JONES
RALPH H. JONES, JR.

Mr. T. W. Hadley
Downey, Idaho

Dear Mr. Hadley:

We have examined Abstract No. 1294 insofar as it concerns the following described property:

Southwest Quarter of Southwest Quarter, Section 2, Township 12 South, Range 37 E.B.M., and Northeast Quarter of Southeast Quarter, Section 3, Township 12 South, Range 37 E.B.M., excepting therefrom a strip of land described as follows: Beginning at Northeast corner of Southeast Quarter of Southeast Quarter of Section 3, Township 12 South, Range 37 East of Boise Meridian; running thence West 375 feet; thence North 100 feet; thence East 375 feet; thence South 100 feet to place of beginning.

Said abstract was certified the 3rd day of October, 1939. As of said time, Will Evans of Downey was the record owner of the above described property. The examination of said abstract was made particularly for the purpose of determining the water rights appurtenant to the above described land. Wish to say that there is no Decree from the court decreeing any waters to this particular land. Wish to say further, however, that a good many of the water rights in Idaho are dependent upon appropriation and use, and that a good many of the small streams and tributaries in Idaho have never been decreed. Notwithstanding this fact, a great number of valuable rights are appurtenant to particular property by reason of long continuous use, and if the question ever becomes one of litigation the important thing to determine is how long the water has been used upon the particular land in question.

In respect to the real estate above described, wish to state there is an important document filed for record in Bannock County being a quit Claim Deed from Joseph H. Byington and Rosetta Byington, his wife, to Amos Neff which deed was dated in 1903 by the terms of which deed the grantors conveyed to the grantee certain water rights in Marsh Creek which deed reads as follows:

".....diverted at a point near the South line of the Northwest Quarter of the Northwest Quarter of Section 11, in Township 12 South, of Range 37 East of the Boise Meridian, in Bannock County, State of Idaho, and conducted thence in a Southwesterly direction by means of a ditch three feet wide at the bottom, three feet deep and six feet wide at the top to the lands formerly owned by the grantor herein and now owned by the said grantee, to-wit:

The Southwest Quarter of the Southwest Quarter of Section 2, and the East Half of the Southeast Quarter and the Northwest Quarter of the Southeast Quarter of Section 3, in Township 12 South, of Range 37 East of the Boise Meridian, in Idaho, together with the right to use said water upon the lands last above described. which said water was located and diverted by means of said described ditch by John Kyle, during or about, the year 1873, and used continuously by him up to the time of the purchase of the same by the grantor herein, to-wit: Some time during the year 1887, and said water and ditch have been in continuous use by the grantor herein since said year 1887 up to the present time, but which said water right has not been recorded by said Grantor Joseph H. Byington or said John Kyle in said Bannock County."

It will be observed from the language of said deed that the waters have been used upon the lands described in said deed since the year 1873, and as we understand it from our conversation with you, continuously since said date. This being true, this would be very good evidence that there is good water right with this land.

There is of record in Bannock County, however, a water decree dated the 30th day of March, 1896 found in Judgment Record No. 1 at Page 408 which decreed the waters of Marsh Creek to certain parties mentioned in said decree, the date of their water right being (August, 1865). None of the predecessors in interest of the lands now owned by Mr. Evans appear to have been involved in this litigation, and apparently from the information I obtained from you, none of the parties to this litigation have interfered with the use of the waters by Will Evans and his predecessors in interest upon the lands described in this letter. This is very important also for the reason that if there are any rights prior in time to the predecessors in interest of Will Evans, and they have permitted the predecessors in

T. W. Hadley
March 23, 1955
Page 3

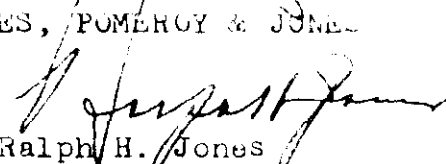
interest of Will Evans, and Will Evans himself, to use the waters openly, notoriously and adverse to them for more than five years, they would lose their rights.

First time you are in Pocatello, I will be glad to go over this matter in more detail with you, and when you call at the office, you can pick up the abstract which you left with me in connection with this matter.

Yours truly,

JONES, POMEROY & JONES

BY:


Ralph H. Jones

RHJ:g

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

ss.

DEC 20 1976

Department of Water Resources
Eastern District Office

NOTICE OF CLAIM TO A WATER RIGHT

Notice is hereby given that R.L. Bodkin, Owner, has filed a claim to a water right established by diversion and application to beneficial use of 3.30 cubic feet per second of water from Marsh Creek tributary to Portneuf River with point of diversion in the NE 1/4 NE 1/4, Sec. 10, T. 12S, R. 37E, B.M. Bannock County.

The water is claimed to be used from Apr. 1 to Nov. 1 for the irrigation of 165 acres with a priority of Aug. 1, 1945 the place of use is within the NW 1/4 SW 1/4, Sec. 2, E 1/2 SE 1/4, SW 1/4 SE 1/4, Sec. 3, T. 12S, R. 37E, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Resources, 1515 Laramie Road, Idaho Falls, Idaho, 83401.

R. KEITH HIGGINSON
Director

December 2, 9, 1976
No. 589

PATRICIA PECK

being first duly sworn on oath deposes and says: That SHE was at all times herein mentioned a citizen of the United States of America, more than 21 years of age, and the Principal Clerk of THE IDAHO STATE JOURNAL, a daily newspaper, printed and published at Pocatello, Bannock County, Idaho, and having a general circulation therein.

That the document or notice, a true copy of which is attached, was published in the said IDAHO STATE JOURNAL, on the following dates, to-wit:

DECEMBER 2, 1976 19.....
DECEMBER 9, 1976 19.....
..... 19..... 19.....
..... 19..... 19.....
..... 19..... 19.....

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice or advertisement and is a newspaper within the meaning of the laws of Idaho.

Patricia C Peck

Subscribed and sworn to before me this 10th

day of DECEMBER, 1976

[Signature]

Notary Public, State of Idaho
Residence: Pocatello, Idaho

PROOF OF PUBLICATION

STATE OF IDAHO
County of Bannock

ss.

NOTICE OF CLAIM TO A WATER RIGHT

Notice is hereby given that R.L. Bodkin, Downey, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 3.30 cubic feet per second of water from Marsh Creek tributary to Portneuf River with point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 10, T. 12S, R. 37E, B.M. Bannock County.

The water is claimed to be used from Apr. 1 to Nov. 1 for the irrigation of 165 acres with a priority of Aug., 1865 the place of use is within the W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 3, T. 12S, R. 37E, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401.

R. KEITH HIGGINSON

Director

December 2, 9, 1976
No. 589

PATRICIA PECK

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, 19, 19

, 19, 19

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice or advertisement and is a newspaper within the meaning of the laws of Idaho.

Patricia C. Peck

Subscribed and sworn to before me this 10th

day of DECEMBER, 1976

[Signature]

Notary Public, State of Idaho

Residence: Pocatello, Idaho

December 21, 1976

RE: Claim to a Water Right No. 29-4071

Mr. R. L. Bodkin
Rt. #1
Downey, Idaho 83234

Dear Mr. Bodkin:

The Department of Water Resources has completed the processing of your claim to a water right and no further action is authorized under Sections 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,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enc: Copy of Claim

November 24, 1976

RE: Claim to a Water Right No. 29-4071

Mr. R. L. Bodkin
Rt. #1
Downey, Idaho 83234

Dear Mr. Bodkin:

Attached herewith is departmental receipt No. 4433 in the amount of \$10.00 for the above referenced claim.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Attachment

November 24, 1976

RE: Claim to a Water Right No. 29-4071 BODKIN

Idaho State Journal
Box 431
Pocatello, Idaho 83201

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 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.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enclosures (1)

Bill submitted 12-20-76 by CW

NOTICE OF CLAIM TO A WATER RIGHT

NO. 29-4071

Notice is hereby given that R. L. Bodkin,

Downey, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 3,30 cubic feet per second ~~XXXXXXXXXXXXXXXXXXXX~~

of water from Marsh Creek tributary to Portneuf River

with point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 10, T. 12S, R. 37E, B.M.

Bannock County

The water is claimed to be used from Apr. 1 to Nov. 1 for the

irrigation of 165 acres

with a priority of Aug., 1865;

the place of use is within the W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$,

Sec. 3, T. 12S, R. 37E, B.M.

Any exception to this claim of water right may be filed with the Idaho
Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401.

R. KEITH HIGGINSON

Director

Published in the Idaho State Journal, Pocatello, Idaho

on December 2 and December 9, 1976

RECORDED
12-10-76

Rec'd.
-Mc-C.

November 10, 1976

Mr. R. L. Bodkin
Rt. #1
Downey, Idaho 83234

Dear Mr. Bodkin:

We have returned your claim to a water right because the \$10.00 statutory filing fee was not enclosed, and you did not place the priority date you wish to claim in Item 4. The letters attached are good evidence to substantiate the priority you wish to claim.

It Item 5b, I don't believe this method of irrigation would be the same as when the water right was first used and for many years afterwards.

Please complete Item 4 and make any changes in Item 5b you wish, then return with the \$10.00 filing fee and the attached documents for further processing.

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

Very truly yours,

LOY H. JOHNSON
Senior Water Resource Agent

LHJ:cw

Enclosures

July 26, 1976

Mr. R. L. Bodkin
Rt. #1
Downey, Idaho 83234

Dear Mr. Bodkin:

As we discussed, I have prepared a claim to a water right form for you.

Please inspect the claim and insert the priority, the date water was first put to use upon the listed lands in Item 4, which is checked.

Send the signed, notarized claim to this office with any other evidence which you wish to include in support of it, plus the statutory \$10.00 filing fee and we will commence processing.

Very truly yours,

LOREN O. HOLMES
Assistant Regional Supervisor

LOH:CW

Enclosure