

WD 11 - 2001



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

November 5, 2001

Bear River Water Users above Bear Lake

Re: Non-Irrigation Season Stock Water Use

Dear Water User,

The Idaho Department of Water Resources (IDWR) recognizes that a number of river diversions above Bear Lake have been used for stock watering purposes during the non-irrigation season. Unfortunately, there are no water rights on record that document this practice for most of the diversions in the area. There has been some concern this year regarding this practice given the severe drought and the low water levels in Bear Lake. This issue should be an on-going concern for IDWR and area water users since the water right decree above Bear Lake (*Preston-Montpelier Irrigation Co. vs Dingle Irrigation Co.*) includes no rights or provisions for non-irrigation season stock water use other than the West Fork Irrigation Co. The general irrigation season in the decree is from April 15 through September 30. A search of IDWR water rights records does not reveal any additional water rights for non-irrigation uses above the Bear Lake.

Given the above concern, IDWR requests that all owners or operators of any river diversion that is currently being used to divert water for stock or other non-irrigation purposes immediately file a beneficial use claim with the department. A claim should also be filed for any river diversion that is presently off but may be used later this winter for stock watering or other non-irrigation uses. IDWR will instruct the Bear River watermaster to shut off any diversion for which a claim is not filed or where a water right does not already exist for non-irrigation season uses. The department requests that the claims be filed pursuant to Section 42-243, Idaho Code. A beneficial use claim form and all applicable statutes are attached to this letter for your use and reference.

Please note that pursuant to Section 42-221, the filing fee for all beneficial use claims filed after June 30, 1998 is \$250.00. This fee will increase to \$500 for any claim filed after June 30, 2005.

Please contact me directly at 327-7864 if you have specific questions regarding this notice. You may also contact this office or the IDWR regional office in Idaho Falls for assistance in completing or filing any beneficial use claims.

Sincerely,

Tim Luke  
Manager, Water Distribution Section

Encl: Form I-243  
Cert. of Service  
Statutes

Cc: Eastern Region  
Pete Peterson, Watermaster  
Claudia Conder, Pacificorp

Attachment A

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 6th day of November, 2001, the above PRELIMINARY ORDER was served upon the following individuals by placing a copy of the same in the United States Mail, postage prepaid and properly addressed as follows:

Henry Rigby-Miller Ditch Div  
C/O Rulon Wistisen  
1180 Old Hwy 34  
Bancroft ID 83217

Dingle Irrigation Co.  
C/O Joy G Alleman  
PO Box 9  
Dingle ID 83233

Henry Rigby-Nuffer Canal Div  
C/O Rulon Wistisen  
1180 Old Hwy 34  
Bancroft ID 83217

Black Otter Irrigation Co  
C/O Bill Robinson  
PO Box 13  
Dingle ID 83233

Larry Butler  
C/O Linda Secrist  
1001 Fort Canyon Rd  
Alpine UT 84004-1111

Peg Leg Island Irrigation  
C/O Dennis Bird  
PO Box 24  
Dingle ID 83233

Demar Romrell  
6000 Pregram Rd  
Montpelier ID 83254

Preston Montpelier Irrigation  
C/O Golden Keetch  
377 Bergreen Rd  
Montpelier ID 83254

Hal Drinkaus  
C/O Emmaus Fund  
1734 Millbrook Rd  
SLC UT 84106

Darrell Keetch  
327 S 7th  
Montpelier ID 83254

Conrad Nebeker  
1750 Kershawst  
Ogden UT 84403

Paul Keetch  
1052 Dingle Rd  
Montpelier ID 83254

Sorensen-Baxter  
C/O Tracy Baxter  
3000 Pregram Rd  
Montpelier ID 83254

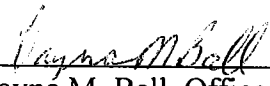
Larry Linford  
3163 Dingle Rd  
Montpelier ID 83254

Jensen Ditch  
C/O Marriner Jensen  
8989 US Hwy 30  
Montpelier ID 83254

Pugmire Ditch  
C/O Golden Keetch  
377 Bergreen Rd  
Montpelier ID 83254

James Smith  
Smith Broken Heart Ranch  
8086 Hwy 30  
Montpelier ID 83254-0214

Ream Crockett  
C/O Lee Ream  
PO Box 78  
Dingle ID 83233

  
\_\_\_\_\_  
Dayna M. Ball, Office Specialist II  
Water Distribution Section

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
  
INSTRUCTIONS FOR COMPLETING A  
**CLAIM TO A WATER RIGHT**

Prior to March 25, 1963, for ground water and May 20, 1971, for surface water, a right to use the public waters of Idaho could be established by diverting water and applying it to a beneficial use. Under the provisions of Section 42-243, *Idaho Code*, any person using or claiming water rights established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed, but failure to file may result in loss of a water right.**

Water rights represented by a valid permit, license, decree, or previous claim, including a claim filed in an ongoing general adjudication of water rights, are exempt from the claim filing requirement. Uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*, are also exempt from this requirement.

Claim only one water right per claim form. If the claim is incomplete, it will be considered invalid and will be returned to you for the missing information. Do not use the Claim to a Water Right form to apply for a new water right.

**COMPLETE THE CLAIM FORM AS FOLLOWS**

Start by printing the full Name, mailing Address and Telephone Number of the claimant in the spaces provided.

1. **Date of Priority.** Enter the date the water was first used as described in the claim. If you do not know the exact date, enter an estimate based on title abstracts, neighbors' recollections, courthouse records, or any other clues. Note that only one date may be submitted. If your water uses were developed in stages, multiple claims may be required.

2. **Source.** Identify the source of water supply and the major stream to which it is tributary.

<b>EXAMPLES</b>	Source of water supply <u>Trail Creek</u>	which is tributary to <u>Snake River</u>
	Source of water supply <u>unnamed stream</u>	which is tributary to <u>Grimes Creek</u>
	Source of water supply <u>groundwater</u>	which is tributary to <u>n/a</u>

3. **Quantity, Use, and Period of Use.** Indicate the maximum rate of diversion and/or the maximum amount of storage used for each purpose shown. State quantities in cubic feet per second (cfs) rounded to the nearest hundredth (0.01) or acre feet (af) rounded to the nearest tenth (0.1). Describe the water use and state the annual beginning and ending dates for the diversion of water. Normal allowances are:

Domestic – 0.04 cfs per household, including up to ½ acre of lawn and/or garden irrigation.

Irrigation – 0.02 cfs (1 miner's inch) per acre.

Stockwater – 0.00022 cfs per head for range cattle/horses, 0.00065 cfs per head for dairy cattle.

Other typical uses of water are mining, power generation, industrial, commercial, recreation, aesthetic, wildlife, municipal, heating, cooling, fire protection, groundwater recharge and fish propagation. The term "Domestic" may describe any type of water use that does not exceed 2,500 gallons per day nor 0.04 cfs.

**EXAMPLES**

Quantity <u>6.40 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>3/15</u> to <u>11/15</u>
Quantity <u>0.02 cfs</u>	Use <u>Domestic</u>	Period of Use From <u>1/1</u> to <u>12/31</u>
Quantity <u>5.0 af</u>	Use <u>Stockwater Storage</u>	Period of Use From <u>1/1</u> to <u>12/31</u>

4. **Total quantity.** State the total rate of diversion after accumulating flows for each use. The quantity entered in Item 4 may be less than the total of the quantities listed in Item 3. However, it must be at least equal to the largest quantity in line Item 3. The acre-feet quantity need not be shown unless water will be stored. If the project proposes storage of water and also a direct flow diversion, both the storage and direct flow components can be shown on the same form.

## 5. Point of Diversion.

A) Locate the point of diversion within each 40-acre tract and/or the U.S. Government Lot of the Public Land Survey System. Spring sources should be described to the nearest 10-acre tract. When both the government lot and the 10-acre or 40-acre tract are shown, the government lot is considered to be the principal legal description. Identify the county where the point of diversion is located.

**EXAMPLE:** Location of point of diversion is SW ¼ of NE ¼ of NW, Govt. Lot 4, Sec. 14, Township 10S, Range 14E, B.M., Twin Falls County.

B) Describe the complete diversion system. List the pump, motor, ditch, pipeline or diversion structure sizes. Be as descriptive as possible.

## 6. Place of Use.

A) Locate all water uses by writing in the townships, ranges and sections. Identify the uses within each 40-acre tract with the symbols shown on the table below. The number of acres to be irrigated in each 40-acre tract must be shown.

### EXAMPLE

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SE	SW	ACRES
8N	4W	22									40	40	20	16					116
8N	4W	22									D,S								

TOTAL ACRES 116

### Water Use Symbols:

Stockwater - S	Domestic - D	Cooling - L	Industrial - I	Recreation - R
Commercial - C	Fire Protection - F	Power - P	Mining - X	Fish Propagation - H
Aesthetic - J	Heating - G	Wildlife - W	Municipal - M	Groundwater Recharge - E

B) Describe in detail all water uses other than irrigation. For example, if water is used for commercial purposes, describe the size and nature of the commercial establishment and the way in which water is used in the commercial establishment.

- Remarks.** The remarks section should include information to further clarify or support your claim to a water right. You may also attach copies of abstracts, deeds, affidavits, or other information to substantiate the validity of your claim.
- Map.** The map must locate the point of diversion from the source of water and the location of the lands to be irrigated or the place where the water will be used. The map must also show townships, ranges, sections, and government lots. Important landmarks such as rivers, streams, roads and highways should be shown on the map. If the place of use is located in a recorded subdivision, submit a copy of that portion of the subdivision plat which contains the lot on which water is used. You may sketch the map on a blank sheet of paper or draw the details of your water use on a base map such as a USGS 7½-minute topographic quadrangle or an aerial photograph.

## SIGNATURE AND FEE

Sign the claim exactly as the name appears in Item 1, unless the applicant is a corporation, municipality, partnership or other entity. If the claimant is a corporation, municipality, or partnership, the person signing the claim must be an officer or elected official of the corporation or municipality and must show the position below the signature.

If the only water use identified on the claim is domestic purposes as defined in Section 42-111, *Idaho Code*, a fee of \$100.00 must accompany the claim. The fee for all other claims is \$250.00. After June 30, 2005, the fee increases to \$500.00. Make checks payable to Idaho Dept. of Water Resources. Submit your claim and fee to one of the following offices:

### Northern Region

Idaho Dept. of Water Resources  
1910 Northwest Blvd., Suite 210  
Coeur d'Alene, ID 83814  
Tel. - 769-1450

### Eastern Region

Idaho Dept. of Water Resources  
900 N. Skyline Dr.  
Idaho Falls, ID 83401  
Tel. - 525-7161

### Southern Region

Idaho Dept. of Water Resources  
1341 Fillmore St., Suite 200  
Twin Falls, ID 83301  
Tel. - 736-3033

### Western Region

Idaho Dept. of Water Resources  
2735 Airport Way  
Boise, ID 83705  
Tel. - 334-2190

Claim No. \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed.** Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that \_\_\_\_\_

(Name of Claimant)

Telephone No: \_\_\_\_\_

(Mailing Address)

(Zip Code)

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

1. Date of Priority: (When the water was first applied to beneficial use) \_\_\_\_\_  
***A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.***

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

\_\_\_\_\_ tributary to \_\_\_\_\_

3. Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:  
(cfs or af) (Irrigation, Domestic, Stock, Etc.) (Both dates inclusive)  
(MM/DD) (MM/DD)

Quantity _____	Use _____	Period of Use From _____	to _____
Quantity _____	Use _____	Period of Use From _____	to _____
Quantity _____	Use _____	Period of Use From _____	to _____
Quantity _____	Use _____	Period of Use From _____	to _____

4. \_\_\_\_\_ TOTAL QUANTITY USED.  
(cfs or af)

5. A) Location of point of diversion is \_\_\_\_\_ ¼ of \_\_\_\_\_ ¼ of \_\_\_\_\_ ¼ Govt. Lot \_\_\_\_\_

Sec. \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_ B.M., \_\_\_\_\_ County;  
additional \_\_\_\_\_ points of \_\_\_\_\_ diversion, if  
any: \_\_\_\_\_

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.  
D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SE	SW	

TOTAL ACRES \_\_\_\_\_

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific. \_\_\_\_\_

NOTE: Include here the type and number of stock watered: \_\_\_\_\_

7. Remarks: \_\_\_\_\_

8. Map -- Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an **aerial photograph** of the place of use if available.

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

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

\_\_\_\_\_  
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Residing at: \_\_\_\_\_

My commission expires: \_\_\_\_\_

#### FOR DEPARTMENT USE ONLY

Received by \_\_\_\_\_ Date \_\_\_\_\_ Published \_\_\_\_\_ in \_\_\_\_\_

Prelim. check by \_\_\_\_\_ Date \_\_\_\_\_ Publication dates \_\_\_\_\_

Fee \_\_\_\_\_ Receipt # \_\_\_\_\_ Publication checked by \_\_\_\_\_ Date \_\_\_\_\_

Receipt prepared by \_\_\_\_\_ Date \_\_\_\_\_ Exceptions filed by \_\_\_\_\_



# Idaho Statutes

## TITLE 42 IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION CHAPTER 2

### APPROPRIATION OF WATER -- PERMITS, CERTIFICATES, AND LICENSES -- SURVEY

42-221. FEES OF DEPARTMENT. The department of water resources shall collect the following fees which shall constitute a fund to pay for legal advertising, the publication of public notices and for investigations, research, and providing public data as required of the department in the performance of its statutory duties

A. For filing an application for a permit to appropriate the public waters of this state or an application to change the point of diversion, place, period or nature of use of water under a vested water right

1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less ..... \$100
2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s. or for a storage volume greater than 20 acre feet but not exceeding 100 acre feet ..... \$250
3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s., or for a storage volume greater than 100 acre feet but not exceeding 2,000 acre feet ..... \$250 plus \$40.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 1.0 c.f.s. or 100 acre feet.
4. For a quantity greater than 20.0 c.f.s. but not exceeding 100 c.f.s. or for a storage volume greater than 2,000 acre feet but not exceeding 10,000 acre feet ..... \$1,010 plus \$20.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 20.0 c.f.s. or 2,000 acre feet.
5. For a quantity greater than 100.0 c.f.s. but not exceeding 500.0 c.f.s., or for a storage volume greater than 10,000 acre feet but not exceeding 50,000 acre feet ..... \$2,610 plus \$10.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 100 c.f.s. or 10,000 acre feet.
6. For a quantity greater than 500 c.f.s., or for a storage volume greater than 50,000 acre feet ..... \$6,610 plus \$2.00 for each additional 1.0 c.f.s. or part thereof or 100 acre feet or part thereof over the first 500.0 c.f.s. or 50,000 acre feet.

B. For filing an application for an extension of time within which to resume the use of water under a vested water right ..... \$100

C. For filing application for amendment of permit ..... \$50.00

D. 1. For filing claim to use right under section 42-243, Idaho Code ..... \$100

2. For filing a late claim to use a water right under section 42-243, Idaho Code, where the date filed with the department of water resources or, the postmark if mailed to the department of water resources, is

- i. After June 30, 1998 ..... \$250
- ii. After June 30, 2005 ..... \$500
- iii. For every ten (10) years after June 30, 2005, an additional

..... \$500

E. For filing an assignment of permit ..... \$25.00

F. For readvertising application for permit, change, exchange, or extension to resume use ..... \$50.00

G. For certification, each document ..... \$1.00

H. For making photo copies of office records, maps and documents for public use ..... A reasonable charge as determined by the department.

I. For filing request for extension of time within which to submit proof of beneficial use on a water right permit ..... \$50.00

J. For tasks requiring in excess of one (1) hour research or for computerized data provided for public use .... A reasonable charge as determined by the department.

K. For filing proof of beneficial use of water and requests for water right license examinations, a fee based upon the rate of diversion claimed in the proof of beneficial use

1. For a quantity of 0.2 c.f.s. or less, or for a storage volume of 20 acre feet or less ..... \$50.00  
except no fee shall be charged for domestic use for which a permit is not required.

2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s., or for a storage volume greater than 20 acre feet, but not exceeding 100 acre feet ..... \$100

3. For a quantity greater than 1.0 c.f.s., or for a storage volume greater than 100 acre feet ..... \$100  
plus \$25.00 for each additional c.f.s. or part thereof, or 100 acre feet or part thereof, over the first 1.0 c.f.s. or 100 acre feet with a maximum fee not to exceed \$600.

L. For filing a protest or request to intervene in a protested matter ..... \$25.00

M. For filing an application to alter a stream channel pursuant to chapter 38, title 42, Idaho Code

1. Application for recreational dredge permits by residents of the state ..... \$10.00

2. Application for recreational dredge permits by nonresidents of the state ..... \$30.00

3. Other applications ..... \$20.00

N. For receipt of all notices of application within a designated area, a reasonable annual charge as determined by the department.

All fees received by the department of water resources under the provisions of this chapter shall be transmitted to the state treasurer for deposit in the water administration account.

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# Idaho Statutes

## TITLE 42 IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION CHAPTER 2

### APPROPRIATION OF WATER -- PERMITS, CERTIFICATES, AND LICENSES -- SURVEY

42-243. FILING OF CLAIMS OF RIGHTS ESTABLISHED BY DIVERSION AND USE -- FORM AND CONTENT OF CLAIM. In order to allow for the recording of historic uses of the waters of this state, any person using or claiming rights to the use of water for uses other than domestic purposes, which have heretofore been established by diversion and application to a beneficial use shall file a claim of such right with the department of water resources not later than June 30, 1983, or if mailed, shall be postmarked not later than June 30, 1983. Such claim shall be in affidavit form on forms furnished by the department of water resources and shall set forth

- a. The name and post-office address of the claimant.
- b. The quantity of water claimed to have been used.
- c. The source of the water supply.
- d. The location of the point or points of diversion.
- e. The nature of the use and the period during each year when the water is used for such purposes.
- f. The priority of the right claimed which shall be determined by the date when the water was first applied to a beneficial use provided there has been no period of abandonment or nonuse or forfeiture of the water right since that date.
- g. If water is claimed for irrigation, the legal description of the lands irrigated.
- h. Such other information as shall be required by the blank form furnished by the department.

Such claim may be accompanied by maps showing the place of use, affidavits of witnesses familiar with the uses claimed, measurements of the water diverted and used, and such other information as the claimant may wish to submit.

If the claim is filed with the department of water resources later than June 30, 1983, or if it is mailed to the department of water resources and the postmark is later than June 30, 1983, the claim shall be classified as follows

- a. If the only use identified on the claim is domestic purposes, then the claim will be considered to be filed in a timely manner.
- b. If the use(s) identified on the claim includes other than domestic purposes, then the claim shall be considered to be a late claim, with a unique filing fee as set forth in section 42-221, Idaho Code.

This section shall not apply to any water rights which are based on the authority of a permit or license issued by the department of water resources or one of its predecessors or water rights which have previously been adjudicated by a court having jurisdiction of such matters.

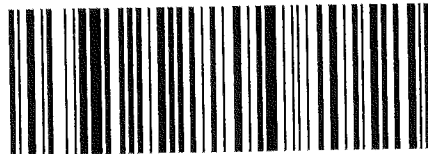
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Search the Idaho Statutes

Available Reference: Search Instructions.

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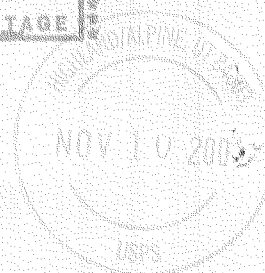


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Department of Water Resources

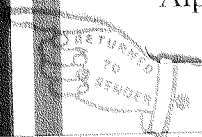
NAME  
1st Notice NOV 10 2001  
2nd Notice NOV 17 2001  
Return NOV 24 2001

IDAHO DEPARTMENT OF WATER RESOURCES

1301 North Orchard St  
PO Box 83720  
Boise, ID 83720-0098  
(208) 327-7900

TO

Larry Butler  
C/O Linda Secrist  
1001 Fort Canyon Rd  
Alpine UT 84004-1191



UNCLAIMED



UNCLAIMED

Resent  
Not certified  
1/8/02

File 0011-2001