

RECEIVED

JAN 8 1970

Department of Reclamation

CERTIFIED

No 212049

MAIL

Montpelier, Idaho
January 5, 1970

Department of Reclamation
R. Keith Higginson,
State Reclamation Engineer
Boise, Idaho

Dear Sir:

The January 1, 1970 issue of the News Examiner, Montpelier, Idaho carried three notices of claim to water rights No. 11-7012, No. 11-4025 and No. 11-4026, made by John Stephens, 369 Clay St., Montpelier, Idaho.

I hereby enter a protest to these claims. I am the owner of property described on the ~~tax~~ notice as: T-1107 Fr. E 1/2: Fr. N 1/2 NE Sec. 28 T 12 S. R. 44 E 100 acres. The stream of water on which John Stephens is filing runs through my property. I have owned this property since 1952 and was informed by the previous owner who had purchased this property from Wilford Bergreen that Mr. Bergreen had filed for water rights on this stream.

I have been using water for stock since 1952 and for pumping for irrigation since 1961 and it is my opinion that if Mr. John Stephens is given these water rights as applied for it could leave me as well as other property owners on this stream without water. I have talked with several others that claim to have water rights on this stream and believe you will be receiving protests from them for the same reasons I am protesting.

I will appreciate hearing from you before any further action is taken.

Sincerely yours,

Phil S. Derricott

Phil S. Derricott

Box 387

Montpelier, Idaho 83254

11-4025

Identification No. _____
Claim No. 11-4025 P
Map No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
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 John Stephens
post office address 319 Clay Street, Montpelier, Idaho 83254
2. The point of diversion is in NW $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 33 Township 12S
Range 14E B.M. located on Spring (name of source)
tributary to Bear River in Bear Lake 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:

<u>Winterized Dec. 17, 1950</u>	amount: <u>.5</u> c.f.s. or _____ acre feet
<u>June 15, 1954</u>	amount: <u>.5</u> c.f.s. or _____ acre feet
<u>Oct. 20, 1960</u>	amount: <u>1.5</u> c.f.s. or _____ acre feet
Total claimed <u>2</u> 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 <u>Water livestock</u>	period of use from <u>Jan. 1</u> to <u>Dec. 31</u> (both dates inclusive)
use <u>Irrigation</u>	period of use from <u>April 1</u> to <u>Sept. 15</u> (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 _____

I N S T R U C T I O N S

Your claim should set forth all necessary information to describe your claimed right. Failure to give enough information may make your claim of little value. Some of the items in the form may not apply to your situation. Please use additional sheets if space provided is not sufficient to fully answer the questions.

Paragraph No.

1. Give full name and post office address of person or company making the claim.
2. Describe the point of diversion by 40-acre subdivision. Give the name of the source, the drainage to which it is tributary if surface water, and the county in which the point of diversion is located. If there is more than one point of diversion, list others in the remarks section.
3. Give the priority dates and the quantities of water that you claim. You should accurately list the dates that you initiated each new use of the water. List separately the dates and amounts of water involved in each enlargement of the diversion. (Example: if you diverted 0.8 c.f.s. of water for irrigation on May 18, 1871, for the first time for use on 40 acres of land, and then later you enlarged the diversion by diverting an additional 0.4 c.f.s. of water to irrigate an additional 20 acres of land on June 1, 1901, your right should be described as follows:

Date of priority claimed:	<u>May 18, 1871</u>	amount:	<u>0.8</u> c.f.s. or	<u> </u> acre feet
	<u>June 1, 1901</u>	amount:	<u>0.4</u> c.f.s. or	<u> </u> acre feet
	Total claimed:		<u>1.2</u> c.f.s. or	<u> </u> acre feet

Since the water was used for irrigation between April 1 and October 31 on that particular farm, part b. would be completed as follows:

use irrigation period of use from April 1 to October 31 (both dates inclusive). If the water had been used for any other purpose, you would have described the priority date, amount, use, and period of use in a similar manner.

4. Describe the diversion works and explain any changes since the right was first initiated.
5. If the water is used for irrigation, give the total acreage and list the lands irrigated by 40-acre subdivisions and complete the other questions.
- 6, 7, & 8. Describe any other uses of water.
9. In the remarks section, give any information or details that you feel are not fully covered or that need clarifying. You might explain your operation, where the water is returned to if for an industrial or non-consumptive right, the condition and temperature of the returned water, and any other information to help explain your claim.

You may wish to include as a part of your claim, affidavits of witnesses who are familiar with your right and who have a personal knowledge of the circumstances which you have described in your claim. You may submit maps, drawings, certified copies of posted notices which may have been filed in the county courthouse, water measurement records, or any other document which you feel will support your claim.

Your claim will be advertised in a county newspaper for two weeks. Exceptions to your claim which dispute the water right that you have described may be received by the Department of Reclamation and you will be provided a copy of such exceptions.

The fee for filing this claim with the Department of Reclamation, Room 107, Statehouse, Boise, Idaho 83701, is \$10.00.

RECEIVED

Department of Agriculture

STATE OF IDAHO,)
) ss. A F F I D A V I T
County of Bear Lake.)

PHIL S. DERRICOTT, being first duly sworn, deposes
and says:

That he is a resident and land owner in Bear Lake
County, Idaho;

That on January 1, 1970 The News Examiner, a news-
paper printed and published in Montpelier, Bear Lake
County, Idaho, carried three notices of claim to water
rights No. 11-7012, No. 11-4025 and No. 11-4026, made by
John Stephens, 319 Clay Street, Montpelier, Idaho;

That your affiant hereby protests the issuance of a
permit for the above claims for the following reasons:

1. Your affiant is the owner of property described
on Tax Notice T-1107, Fr. E $\frac{1}{2}$ W $\frac{1}{2}$; Fr. N $\frac{1}{2}$ NE $\frac{1}{4}$ of
Sec. 28, T 12 S., R. 44 EBM, 100 acres;
2. That the stream of water on which the said John
Stephens is filing runs through your affiant's
property;
3. That your affiant has owned this property since
1952 and was informed by the previous owner who
had purchased said land from Wilford Bergreen,
that the said Wilford Bergreen had filed for
water rights on this stream;
4. That your affiant has been using water for stock
since 1952 and for pumping for irrigation since
1961, and it is his opinion that if the said
John Stephens is given the water rights as applied
for, it would leave your affiant, as well as other
property owners on this stream, without water.

WHEREFORE, your affiant prays that the application
for permit of John Stephens be denied.

Phil S. Derricott
Phil S. Derricott

SUBSCRIBED AND SWORN TO Before me this 20th day of
January, 1970.

(SEAL)

Wesley H. Munk
NOTARY PUBLIC for Idaho
Residing at Montpelier, Idaho
My Comm. expires 9-12-73

11-4025

RECEIVED

JAN 6 1970

Department of Reclamation



Montpelier, Idaho
January 5, 1970

Department of Reclamation
R. Keith Higginson,
State Reclamation Engineer
Boise, Idaho

Dear Sir:

The January 1, 1970 issue of the News Examiner, Montpelier, Idaho carried three notices of claim to water rights No. 11-7012, No. 11-4025 and No. 11-4026, made by John Stephens, 319 Clay St., Montpelier, Idaho.

I hereby enter a protest to these claims. I am the owner of property described on the tax notice as: T-1107 Fr. E 1/2 Sec. 38 T 12 S. R. 44 E 100 acres. The stream of water on which John Stephens is filing runs through my property. I have owned this property since 1952 and was informed by the previous owner who had purchased this property from Wilford Bergeon that Mr. Bergeon had filed for water rights on this stream.

I have been using water for stock since 1952 and for pumping for irrigation since 1961 and it is my opinion that if Mr. John Stephens is given these water rights as applied for it could leave me as well as other property owners on this stream without water. I have talked with several others that claim to have water rights on this stream and believe you will be receiving protests from them for the same reasons I am protesting.

I will appreciate hearing from you before any further action is taken.

Sincerely yours,

Phil Derricott

Phil S. Derricott

Box 37

Montpelier, Idaho 83254

Original in

11-4025

11-4025

Jan - 5 - 1970

R. Keith Higgins
State Reclamation Engr.

RECEIVED

Dear Sir and those concerned,

This letter will serve as my protest and
objection to Water Rights Claims numbers 114025
and 114026. These claims having been filed
by John Stephens, 219 Clay Street, Montpelier, Idaho
My land, through which this stream flows,
lies adjacent to that of John Stephens, and between
him and my neighbor Phil Derricott, who I under-
stand is filing a protest also.

If this stream were not allowed to flow,
the way it has for centuries, I would have no
water for my livestock and also as a result, no
pasture.

I also have planned to sprinkle from this
water source.

Sincerely yours,

Original in
11-4025

11-4025

Grant E. Jensen
619 Grant Street
Montpelier, Idaho

RECEIVED

Department of Reclamation

2762 Delsa Drive
Salt Lake City, Utah 84117
January 13, 1970

R. Keith Higginson
State Reclamation Engineer
Department of Reclamation
Boise, Idaho

Dear Dr. Higginson:

I am writing in protest to filing of Mr. John Stephens for water from unnamed springs tributary of Bear River. This water is running in a drainage canal dug for flood control for the reservoir being built in Montpelier Canyon.

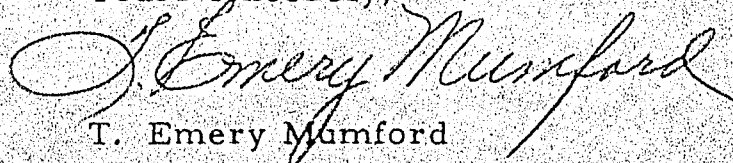
When this drainage canal was dug, it lowered the water table on my Mother's Ranch, which joins Mr. Stephen's property. Some of this water comes up in this canal on our ranch approximately 500 yards east of old Highway 40. Therefore, I believe that we should be entitled to a portion of this water for irrigation also, and would like to make application to that portion of water which raises on our property.

Would you please send us the necessary papers with instructions on how to apply for this water? The property is in my Mother's name, Mrs. Mary E. Mumford - 1420 South 15th East, Salt Lake City, Utah.

There are also others who are interested in this water for use on their farms, that this canal runs through.

We sincerely hope some satisfactory solution can be reached on this water for all concerned.

Yours sincerely,


T. Emery Mumford

TEM:k

11-4025

RECEIVED

NOTICE OF CLAIM TO
A WATER RIGHT

No. 11-4025

Notice is hereby given that John Stephens, 319 Clay Street, Montpelier, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 2.0 cubic feet per second of water from an unnamed springs, tributary to Bear River with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 33, T. 12S, R. 44E, B. M., Bear Lake County; the water is claimed to be used from April 1 to September 15 for irrigation and from January 1 to December 31 for stockwater with a priority of December 17, 1889 (.5 cfs), June 18, 1914 (.5 cfs), October 20, 1960 (1.5 cfs), the place of use is within the $\frac{3}{4}$ SE $\frac{1}{4}$, Sec. 28, T. 12S, R. 44E, B. M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON
State Reclamation Engineer
Published in The News-Examiner,
Montpelier, Idaho, on January 1
and January 8, 1970.

(j-118)

2762 Delsa Drive
Salt Lake City, Utah
January 13, 1970

R. Keith Higginson
State Reclamation Engineer
Department of Reclamation
Boise, Idaho

Dear Dr. Higginson;

I am writing in protest to filing of Mr. John Stephens for water unnamed springs tributary of Bear River. This water is running in Montpelier Canyon for the reservoir being built.

When this drainage canal was dug, it lowered the water table on my Mother's Ranch, which joins Mr. Stephen's property. Some of this water comes up in this canal on our ranch approximately 500 yards east of old Highway 40. Therefore, I believe that we should be entitled to a portion of this water for irrigation also, and would like to make application to that portion of water which raises on our property.

Would you please send us the necessary papers with instructions on how to apply for this water? The property is in my Mother's name, Mrs. Mary E. Mumford - 1420 South 15th East, Salt Lake City, Utah. There are also others who are interested in this water for use on their farms, that this canal runs through.

We sincerely hope some satisfactory solution can be reached on this water for all concerned.

Yours sincerely,

T. Emery Mumford
T. Emery Mumford

TEM:k

11-4025

THE NEWS-EXAMINER

MONTPELIER, IDAHO

RECEIVED

Department of Reclamation

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,)
County of Bear Lake,) ss.

W. Jerome Taylor

being first duly sworn, deposes and says
he is Publisher and Foreman of the
News-Examiner; that the said News-Examiner
is a weekly newspaper published at Montpelier,
County of Bear Lake, State of Idaho, of general
circulation in said County and State.

That the notice attached was published in
the said News-Examiner, and not in a
supplement, for two

successive weeks, commencing with the issue
dated January 1, 1970

and ending with the issue

dated January 8, 1970

W. Jerome Taylor
Publisher and Foreman.

Subscribed and sworn to before me this 21st day of January, 1970

Tom L. Bury
Notary Public.

NOTICE OF CLAIM TO A WATER RIGHT

No. 11-4025

Notice is hereby given that John Stephens, 319 Clay Street, Montpelier, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 2.0 cubic feet per second of water from an unnamed springs, tributary to Bear River with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 33, T. 12S, R. 44E, B. M., Bear Lake County; the water is claimed to be used from April 1 to September 15 for irrigation and from January 1 to December 31 for stock-water with a priority of December 17, 1889 (.5 cfs), June 18, 1914 (.5 cfs), October 20, 1960 (1.5 cfs), the place of use is within the S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 28, T. 12S, R. 44E, B. M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON

State Reclamation Engineer
Published in The News-Examiner,
Montpelier, Idaho, on January 1
and January 8, 1970.

(1-1/8)

Bill submitted

1-26-70

11-4025

DON. SAMUELSON
GOVERNOR



P. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

March 5, 1970

Re: Claim to a Water Right No. 11-4025

Mr. John Stephens
319 Clay Street
Montpelier, Idaho 83254

Dear Mr. Stephens:

In reference to the above claim, the enclosed is a copy of an exception filed by Mr. T. Emery Mumford in connection with this claim under the provisions of Chapter 2, Sec. 42-225b of the Idaho Code, which states the following:

"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 final censorship or conformation of the described rights.

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

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR
Enclosure

11-4025

March 5, 1970

Re: Claim to a Water Right No. 11-4025 - John Stephens

Mr. T. Emery Mumford
2762 Delsa Drive
Salt Lake City, Utah 84117

Dear Mr. Mumford:

Please excuse the timely delay in answering your letter of January 13, 1970. Your letter was inadvertently misplaced and has just now been brought to my attention.

The following is a quote from the provisions under which the above referenced claim has been filed (Section 42-225b, Idaho Code):

"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."

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.

11-4025

Page 2

Mr. T. Emery Mumford

Re: 11-4025

March 5, 1970

Pursuant to your request we are enclosing an Application for Permit to Appropriate the Public Waters of the State of Idaho along with a set of instructions for filing an application.

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

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR
Enclosures

C
O
P
Y

11-4025

Page 2

Mr. T. Emery Mumford

Re: 11-4025

March 5, 1970

Pursuant to your request we are enclosing an Application for Permit to appropriate the Public Waters of the State of Idaho along with a set of instructions for filing an application.

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

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR
Enclosures

C
O
P
Y

11-4025

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

February 5, 1970

Re: Application for Permit No. 11-7012 - John Stephens
Claim to a Water Right No. 11-4025 - " "
" " " " " " 11-4026 - " "

Mr. Phil S. Derricott
Box 387
Montpelier, Idaho 83254

Dear Mr. Derricott:

We are in receipt of your protest concerning the above referenced application for permit No. 11-7012. The following are items, which under Section 42-203 of the Idaho Code, can be considered at a hearing in either approving or denying an application:

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

Please bear in mind that the State Reclamation Engineer may reject such application and refuse issuance of a permit, he may partially approve the permit, he may approve the permit for a quantity of water less than applied for, or he may approve the permit subject to special conditions.

11-4025

Page 2

Mr. Phil S. Derricott

Re: 11-7012, 11-4025 & 11-4026

February 5, 1970

A permit issued by this office does not in any way convey or establish a right-of-way over private or governmental lands. Right-of-ways or easements must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for a conference and/or hearing to discuss the matters of protest.

This is to advise that we have filed your protest as exceptions to Claim for a Water Right No. 11-4025 & 11-4026. However, we are not authorized to hold hearings or evaluate for final censorship or conformation of the described rights in the case of exceptions. The claims will remain in our files and will be available at any time for the courts use.

If you have any questions regarding the above, or if we may be of assistance in any way, please contact us.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

11-4025

January 21, 1970

RECEIVED

JAN 23 1970

Department of Reclamation

State of Idaho
Department of Reclamation
Statehouse - Annex 2
Boise, Idaho 83707

Attention Donald W. McEldowney:

Re: Claim to a Water Right No. 11-4025
" " " " 11-4026
Application for Permit No. 11-7012
John Stephens

Dear Sir:

In accordance with your letter of January 14, I am enclosing my affidavit with one copy setting forth my reasons for opposing the granting of the above numbered water rights and permit.

I hope this affidavit is adequate. Thank you.

Very truly yours,

Phil S. Derricoll

Phil S. Derricoll

Box 37

Montpelier, Idaho 83254

11-4025

January 28, 1970

Re: Claim to a Water Right No. 11-4025

John Stephens
319 Clay Street
Montpelier, Idaho 83254

Dear Mr. Stephens:

The Department of Reclamation has completed the processing of your claim to a water right, and no further action is authorized under Section 42-225 of the Idaho Code. Notice of your claim was published and no one has filed an exception to your claim. Your claim will remain in our files and will be available at any time for your or the courts use.

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 evidence that you would like to have included in your claim file, you may add that information at any time. Please refer to your claim number when corresponding with this office.

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

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:mjl

Enclosure: Copy of claim

11-4025

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

January 20, 1970

Re: Claim to a Water Right No. 11-4025
" " " " " " 11-4026) - John Stephens
Application for Permit No. 11-7012)

News-Examiner
P.O. Box 278
Montpelier, Idaho 83254

Gentlemen:

Would you please submit an affidavit of publication and a certified bill in connection with the above referenced item(s). The legal notice was to be published in your paper on January 1 and January 8, 1970.

As the above permit application cannot be approved until we are in receipt of the affidavit, it is important that we receive it as soon as possible.

May we please have your prompt attention to this matter.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

11-4025

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

January 14, 1970

Re: Claim to a Water Right No. 11-4025 and 11-4026

Mr. John Stephens
319 Clay Street
Montpelier, Idaho 83254

Dear Mr. Stephens:

In reference to the above claims, the enclosed is a copy of an exception filed by Mr. Phil S. Derricott in connection with these claims under the provisions of Chapter 2, 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 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 final censorship or conformation of the described rights.

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

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR
Enclosure

11-4025

DON SAMUELSON
GOVERNOR



P. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

January 14, 1970

Re: Claim to a Water Right No. (11-4025)
" " " " " " 11-4026) John Stephens
Application for Permit No. 11-7012)

Mr. Phil S. Derricott
Box 387
Montpelier, Idaho 83254

Dear Mr. Derricott:

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 the above referenced claims have been filed (Idaho Code, Section 42-225b) :

"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."

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.

11-4025

Page 2

Mr. Phil S. Derricott

January 14, 1970

In regards to Mr. Stephens' application for permit No. 11-7012, the following are items which, under Section 42-203 of the Idaho Code, we can consider at a hearing in approving or denying an application for permit:

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed supply insufficient for the purposes intended?
3. Is the application made in good faith or for delaying or speculative purposes?
4. Has the applicant sufficient financial resources to complete the project?

Please bear in mind that the State Reclamation Engineer may reject such application and refuse issuance of permit therefor, or may partially approve and grant permit for a less quantity of water than applied for, or may grant permit upon conditions.

If you desire to file an official protest against the issuance of a permit for the above mentioned application, please do so as soon as possible. Your protest may be in affidavit form, setting forth in detail your reasons for protesting.

If you have any questions regarding the above or if we may be of any assistance, please feel free to contact the Department at any time.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

11-4025

DON SAMUELSON
GOVERNOR



P. KENT HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

January 13, 1970

Re: Claim to a Water Right No. 11-4025 and 11-4026

Mr. John Stephens
319 Clay St.
Montpelier, Idaho 83254

Dear Mr. Stephens:

In reference to the above claims, the enclosed is a copy of an exception filed by Mr. Grant W. Jensen in connection with these claims under the provisions of Chapter 2, 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 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 final censorship or conformation of the described rights.

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

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR
Enc: Copy of exception

11-4025

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

January 13, 1970

Re: Claim to a Water Right No. 11-4025 & 11-4026 - John Stephens

Mr. Grant W. Jensen
619 Grant Street
Montpelier, Idaho

Dear Mr. Jensen:

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 the above referenced claims have been filed (Section 42-225b, Idaho Code):

"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."

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,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

11-4025

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

December 22, 1969

News-Examiner
P.O. Box 278
Montpelier, Idaho 83254

Re:

Claim to a Water Right No. 11-4025
" " " " " " 11-4026
Application for Permit No. 11-7012
JOHN STEPHENS

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 date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department of Reclamation 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 the claimant)

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

Enc: Legal notices (3)

11-4025
- OVER -

**NOTICE OF CLAIM TO
A WATER RIGHT**

No. 11-4025

Notice is hereby given that John Stephens, 319 Clay Street, Montpelier, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 2.0 cubic feet per second of water from an unnamed springs, tributary to Bear River with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 33, T. 12S, R. 44E, B. M., Bear Lake County; the water is claimed to be used from April 1 to September 15 for irrigation and from January 1 to December 31 for stock-water with a priority of December 17, 1889 (.5 cfs), June 18, 1914 (.5 cfs), October 20, 1960 (1.5 cfs), the place of use is within the S $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 28, T. 12S, R. 44E, B. M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON

State Reclamation Engineer

Published in The News-Examiner,
Montpelier, Idaho, on January 1
and January 8, 1970.

(j-118)

NOTICE OF CLAIM TO A WATER RIGHT

No. 11-4025

Notice is hereby given that John Stephens, 319 Clay St.,
Montpelier, Idaho, has filed a claim to a water right
established by diversion and application to beneficial use of 2.0
cubic feet per second ~~acre foot~~ of water from an unnamed spring, tributary
to Bear River with point of diversion in the NW 1/4 of
Sec. 33, T. 12S, R. 44E, B.M., Bear Lake County; the water is
claimed to be used from April 1 to Sept. 15 for irrigation and from
Jan. 1 to Dec. 31 for stockwater with a priority of Dec. 17, 1889 (.5 cfs),
June 18, 1914 (.5 cfs),
Oct. 20, 1960 (1.5 cfs); the place of use is within the SE 1/4
Sec. 28, T. 12S, R. 44E, B.M.

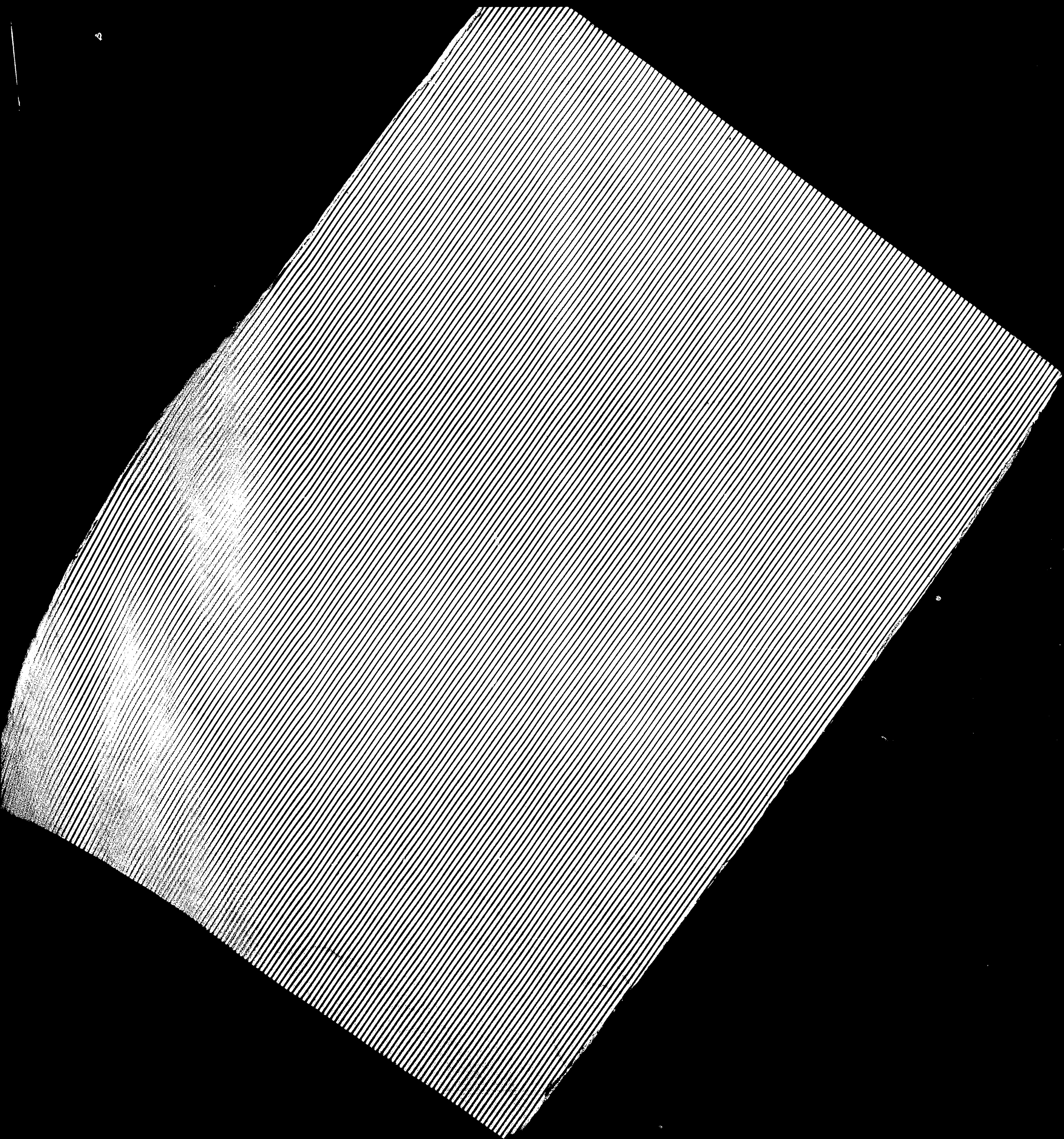
Any exception to this claim of water right may be filed with the Department
of Reclamation.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the News-Examiner, Montpelier, Idaho,
on January 1 and January 8, 1970.

KL

11-4025



Jan - 5 - 1970

R. Keith Higginson
State Reclamation Engr.

RECEIVED

Dear Sir and Those Concerned,

This letter will serve as my protest and exception to Water Rights Claims numbers No. 114025 and No. 114026. These claims having been filed by John Stephens, 319 Clay Street, Montpelier, Idaho my land, through which this stream flows, lies adjacent to that of John Stephens, and between him and my neighbor Phil Herricott, who I understand is filing a protest also.

If this stream was not allowed to flow, the way it has for centuries, I would have no water for my livestock and also as a result, no pasture.

I also have planned to sprinkle from this water source.

Sincerely Yours

Original in
11-4025

11-4025

Grant W. Jensen
619 Grant Street
Montpelier Idaho