

Claim No. 11 4055

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 Truman W. Rigby,
(name of claimant)
of Box 158, Montpelier, 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) Red Pine Spring
_____, tributary to, Bear River
- (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>3.00</u> | Use <u>Irrigation</u> | Period of Use: From <u>Apr. 1</u> To <u>Nov. 1</u> |
| Amount _____ | Use <u>Domestic</u> | Period of Use: From <u>Jan. 1</u> To <u>Dec. 31</u> |
| 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: 3.00 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) April 27, 1897

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 1/4 NW 1/4, Sec. 24 Twp. 12S Rge. 43E B. M. County of Bear Lake
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. Two ditches

- (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.

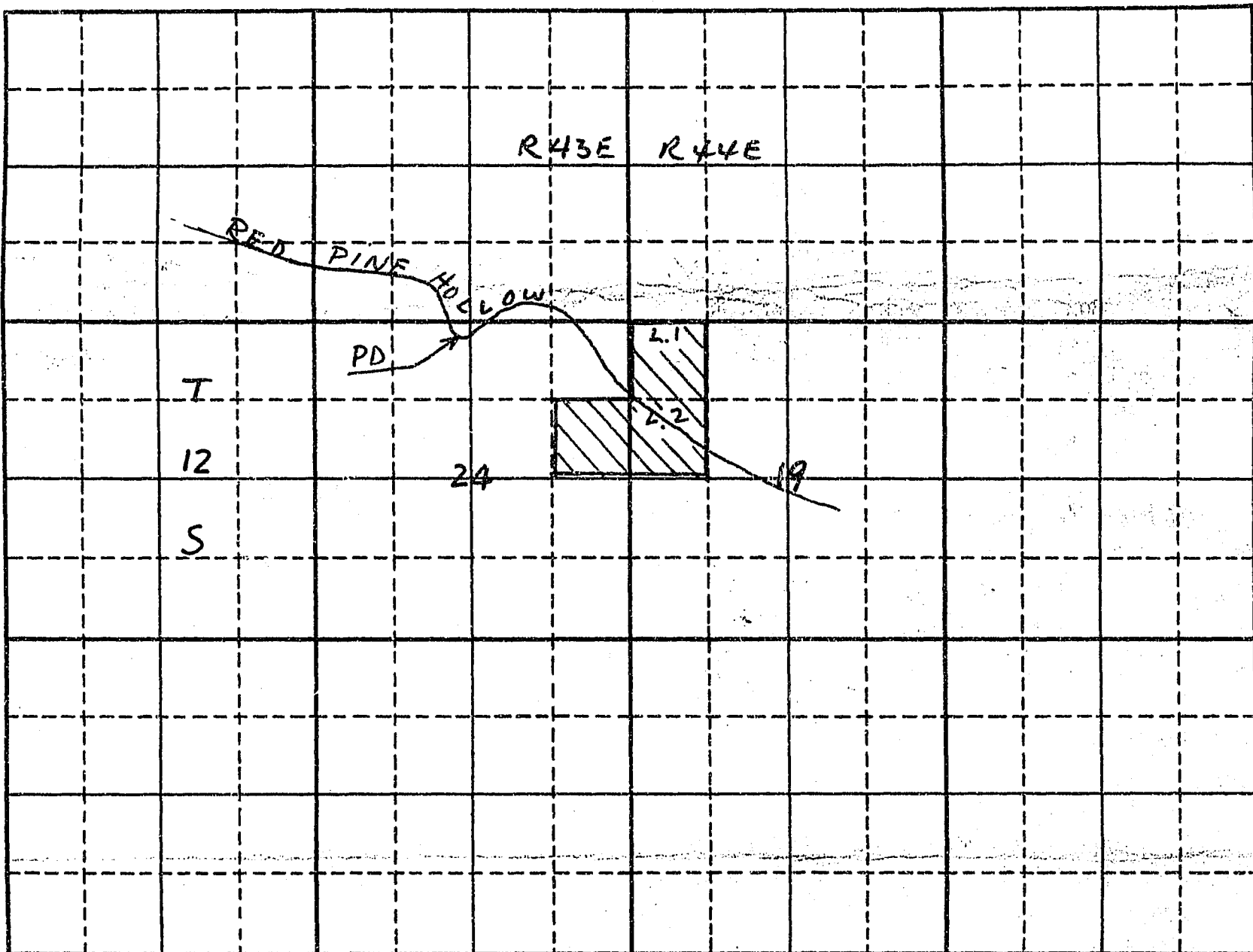
T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
12S	43E	24				40													40
=	44E	19					46.5	46.32											92.82
							100	100											

Total No. of acres 132.82

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 _____



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 Benewah) 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 4th day of August, 1976

Notary Public

Residing at Montpelier, Idaho

My commission expires 9-6-76

For Department Use Only

Received by <u>W. H. H.</u>	Date <u>8/06/76</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>W. H. H.</u>	Date <u>8-10-76</u>		claimant by:	
\$10.00 fee received by <u>Cu</u>	Date <u>8-10-76</u>			
Approved for publication by <u>me</u>	<u>9/07/76</u>			
Published in <u>News-Gazette</u>				
Dates <u>Aug. 19 & 26, 1976</u>				

Nº 446

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

County of Bear Lake

ss.

Loen W. Thompson
being duly sworn,

deposes and says:

That he is the *publisher* of THE NEWS-EXAMINER, a weekly newspaper published at Montpelier, in the County of Bear Lake and State of Idaho; and said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Montpelier; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for *two* consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

August 19, 1976, and ending
with the issue of *August 26, 1976*

Loen W. Thompson
Fees, *14.61*

Subscribed and sworn to before me this *2nd* day
of *September*, 19*76*

Loen W. Thompson
Notary Public, Residing at Montpelier, Idaho

My Commission Expires *March 13, 1979*

RECEIVED

SEP 7 1976

Department of Water Resources
Eastern District Office

NOTICE OF CLAIM TO A WATER RIGHT

NO. 11-4055

Notice is hereby given that Truman W. Rigby, Montpelier, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 3.00 cubic feet per second of water from Red Pine Spring tributary to Bear River with point of diversion in the NE 1/4 NW 1/4, Sec. 24, T. 12S, R. 43E, B.M., Bear Lake County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic purposes and from Apr. 1 to Nov. 1 for the irrigation of 132.82 acres with a priority of Apr. 27, 1897 the place of use is within the SE 1/4 NE 1/4, Sec. 24, T. 12S, R. 43E, W 1/2 NW 1/4, Sec. 19, T. 12S, R. 44E, 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 News-Examiner, Montpelier, Idaho on August 19 and August 26, 1976.

SEP 26

NOTICE OF CLAIM TO A WATER RIGHT

NO. 11-4055

Notice is hereby given that Truman W. Rigby,

Montpelier, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 3.00 cubic feet per second ~~XXXXXXXXXXXXXXXXXXXX~~
of water from Red Pine Spring tributary to Bear River
with point of diversion in the NE1/4NW1/4, Sec. 24, T. 12S, R. 43E, B.M.,
Bear Lake County

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic
purposes and from Apr. 1 to Nov. 1 for the irrigation of 132.82 acres
with a priority of Apr. 27, 1897 ;
the place of use is within the SE1/4NE1/4, Sec. 24, T. 12S, R. 43E; W1/2NW1/4,
Sec. 19, T. 12S, R. 44E, 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 News Examiner, Montpelier, Idaho

on August 19 and August 26, 1976

file-A.
file-B.

August 10, 1976

RE: Claim to a Water Right No. 11-4054 and 11-4055

Mr. Truman W. Rigby
Box 158
Montpelier, Idaho 83254

Dear Mr. Rigby:

Attached herewith is departmental receipt No. 2508 in the amount of \$20.00 for the above referenced claims.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Attachment

August 12, 1976

RE: Claim to a Water Right No. 11-4055 & 11-4054 RIGBY

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

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

Bill submitted

9-01-76

by

CD

RDC:CW

Enc: Legal Notice (2)

Notice

Is hereby given that the undersigned, Gottlieb Dubach, does hereby claim and appropriate all the water of what is known as Red Pine Spring in Bear Lake County, Idaho Territory, and all the streams and springs flowing into said spring or creek along and above the ditch of said Gottlieb Dubach hereinafter mentioned.

1st The said Gottlieb Dubach does hereby claim and appropriate all the waters of said Red Pine Spring and all the springs and streams flowing into said Spring along and above the ditch of said Gottlieb Dubach, or so much thereof as will flow through a ditch two feet wide at the top, one and a half feet wide at the bottom and fourteen inches deep, with a fall of three inches to the rod. Said waters to be taken out at a point three hundred and fifty yards South-west of the North-west corner of the South-west quarter of Section 19, Township No. 12 South of Range No. 44 East Boise Meridian, it being the point where this notice is posted.

2nd The purpose for which said water is claimed and appropriated is for the irrigation of the following described land, to wit: the East half of the North-east quarter and the East half of the South-east quarter of Section No. 19 Township No. 12 South of Range No. 44 East Boise Meridian, said land being in Bear Lake County, Idaho Territory.

3rd The means by which the said Gottlieb Dubach intends to divert all of the water of the said Red Pine Spring and conduct the same to the said land is a ditch two feet wide at the top, one and a half feet wide at the bottom and fourteen inches deep, with a fall of three inches to the rod.

Dated this 7th day of May A. D. 1886

Gottlieb Dubach

Territory of Idaho
County of Bear Lake

I John Sneller hereby certify that a notice of which the foregoing is a true and correct copy was posted up by me at a point where Gottlieb Dubach intends tapping the water of Red Pine Spring 350 yards South-west of the N. W. corner of the S. W. 1/4 of Section 19, Township 12 South of Range 44 East Boise Meridian on this 7th day of May A. D. 1886

John Sneller

Subscribed and sworn to before me this 7th day of May A. D. 1886

J. H. Hays

Clerk of District Court 3^d Judicial District, Idaho

By W. R. D. Shephard Deputy

Recorded at the request of Gottlieb Dubach May 8th A. D. 1886 at 4 P. M.

L. D. Shephard Co. Recorder

RECEIVED

Bern, Idaho
August 20, 1976

AUG 23 1976

Department of Water Resources
Eastern District Office

R. Keith Higginson
Dept. of Water Administration
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Mr. Higginson:

I want to file a protest to a water right claim
of Truman W. Rigby, Montpelier, Idaho. The claim
numbers are 11-4054 and 11-4055.

Enclosed is a copy of my water right with a
priority date of May 7, 1886.

Please advise me of your action on this matter.

Sincerely Yours,

Larry G. Alleman

Larry G. Alleman
Bern, Idaho 83220

August 25, 1976

RE: Claim to a Water Right No. 11-4054 and 11-4055

Mr. Larry G. Alleman
Bern,
Idaho 83220

Dear Mr. Alleman:

This office is in receipt of your letter of August 20, 1976, noting your protest to the above referenced claims to a water right. A claim to a water right is filed by a water user that is developing a right by diversion and beneficial use under the constitutional method. Thus, the documents filed by Truman W. Rigby merely indicate that they claim to have used the water in the manner as advertised since the date listed. They are not applying for an application for permit and will not receive a recorded water right from this Department as a result of their filing the claims. Thus, the Department of Water Resources does not hold a hearing when an exception is filed on a claim to a water right. The exception is merely included in the same file with the claimants documents for consideration during any future court determination. It is unlikely that the court would consider your letter of protest unless it is filed in affidavit form with your signature notarized. Although your letter will be included in the file in its present form, I would recommend that you follow the procedures as set forth in Section 42-225 of the Idaho Code and file your exception in affidavit form and have your signature notarized. We have enclosed a form for your use.

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

Very truly yours,

RONALD D. CARLSON
Supervisor, Eastern Region

RDC:CW

Enclosure

September 8, 1976

RE: Claim to a Water Right No. 11-4055

Mr. Truman W. Rigby
Box 158
Montpelier, Idaho 83254

Dear Mr. Rigby:

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.

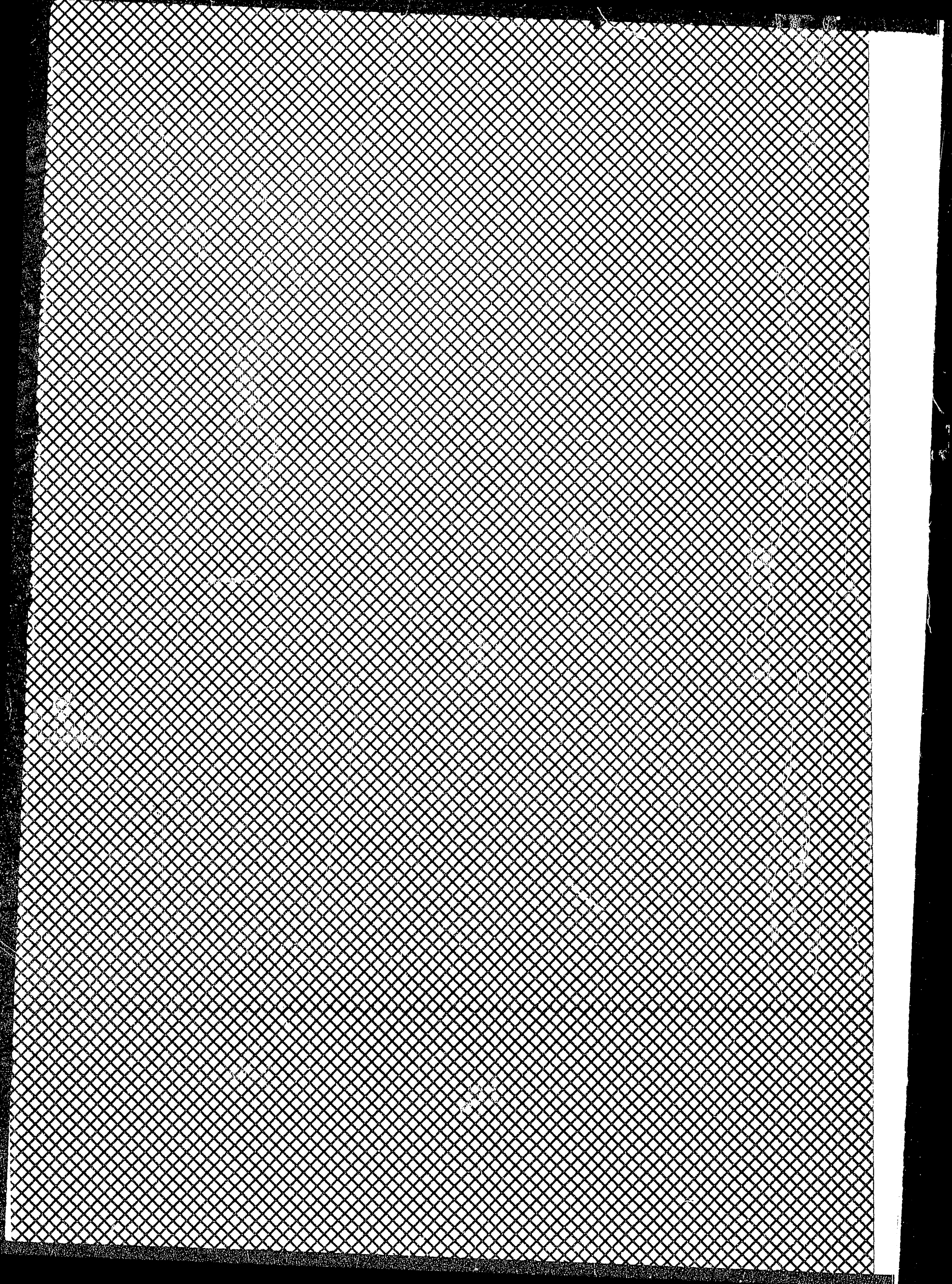
We are enclosing, for your records, a copy of your claim. If you have any questions or if we can be of further assistance, please feel free to call upon us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enc: Copy of Claim



IN THE OFFICE OF THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE APPLICATION :	
OF TRUMAN W. RIGBY TO DIVERT AND	PROTEST OF
APPROPRIATE 3.00 CUBIC FEET PER :	
SECOND OF WATER FROM RED PINE	UTAH POWER & LIGHT COMPANY
SPRING TRIBUTARY TO BEAR RIVER. :	
APPLICATION NO. 11-4055. :	

COMES NOW the protestant UTAH POWER & LIGHT COMPANY (Utah Power) and protests Truman W. Rigby's Application and alleges as follows:

1. Utah Power holds Water Rights Nos. 22060, 2424, 17378, 9073 and 9441.
2. Truman W. Rigby has filed an Application with the Idaho Department of Water Resources numbered 11-4055 seeking to appropriate 3.00 cubic feet per second of water at points of diversion specified in said Application.
3. The granting of the Application of Truman W. Rigby for the appropriation of 3.00 cubic feet per second of water would adversely affect the aforementioned water rights of Utah Power & Light Company.

WHEREFORE, protestant prays that the Application of Truman W. Rigby be denied or alternatively that said Application be set for hearing in order that the matters contained therein as they affect protestant's hereinabove described water rights may be fully explored.

DATED this 15th day of October, 1976.

SIDNEY G. BAUCOM
THOMAS W. FORSGREN

BY Thomas W. Forsgren
Attorneys for Protestants
Utah Power & Light Company
1407 West North Temple
Salt Lake City, Utah 84116

UTAH POWER & LIGHT COMPANY

P. O. BOX 899
SALT LAKE CITY, UTAH 84110

RECEIVED

OCT 20 1976

Department of Water Resources

LEGAL OFFICES
SIDNEY G. BAUCOM
SENIOR VICE PRESIDENT
AND
GENERAL COUNSEL

October 18, 1976,

ROBERT GORDON
350-3214
THOMAS W. FORSGREN
350-3213
VERL R. TOPHAM
350-3850
SAM F. CHAMBERLAIN
350-3825
ROSEMARY RICHARDSON
350-3786

State Office
Idaho Department of Water Resources
373 W. Franklin
Boise, Idaho

DIRECTOR	
PLANNING	
WATER PLAN	
TECH. STUDIES	
OPERATIONS	
ENGINEERING	
WATER RESOURCES	DEF
HYDROLOGY	
LEGAL	
FISCAL	
BOARD	
FILES	
Eastern	

Gentlemen:

Re: Application No. 11-4054
filed by Truman W. Rigby
to Divert 2.02 Cubic Feet
Per Second of Water and
Application No. 11-4055
filed by Truman W. Rigby
to Divert 3.00 Cubic Feet
Per Second of Water (both
from Red Pine Spring Trib-
utary to Bear River)

Enclosed please find Protests of Utah Power & Light Company, both
in duplicate, with respect to the above Applications.

Yours truly,

Thomas W. Forsgren
THOMAS W. FORSGREN

TWF:LK
ENC.



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Cecil D. Andrus
Governor

R. Keith Higginson
Director

Statehouse
Boise, Idaho 83720
(208) 384-2215

October 25, 1976

Re: Claim No's. 11-4054 & 11-4055

Utah Power & Light company
Attn: Thomas W. Forsgren
Box 899
Salt Lake City, Utah 84110

Dear Mr. Forsgren:

We have received the protests against Claims to a Water Right No. 11-4054 and 11-4055.

The following is a portion of Section 42-225b, Idaho Code, related to the filing of a Claim to a Water Right:

"At any time after the filing of a claim under the previous 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 Water Resources and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources."

Only the above action has been contemplated by the Idaho Legislature. Consequently, this Department is not authorized to hold hearings or evaluate for consumation, or final censorship of the described claim.

Enclosed are copies of Mr. Rigby's Claims to a Water Right. Please notice that he is claiming a priority on Claim No. 11-4054 of 1946, and on Claim No. 11-4055 of April 27, 1897. Please notice that these claims do not seek to appropriate additional water for use by Mr. Rigby. If you wish to file an exception of these claims, please state the reasons you feel they are not valid and have the exceptions

Page 2
Utah Power & Light Co.
Claim No's. 11-4054 & 11-4055
October 25, 1976

notarized and return them to us so that information can be preserved for later use. If you have any questions, please contact us.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

Enclosures

IN THE MATTER OF:

Claim to a water
right no. 11-4054 & 11-4055

State of Idaho

County of Bear Lake

RECEIVED

OCT 26 1976

AFFIDAVIT

Department of Water Resources
Eastern District Office

Larry G. Alleman being first duly sworn,
deposes and says: he protests a water right
Claim of Truman W. Rigby The Claim
numbers are 11-4054 and 11-4055.
I have a water right with a
priority date of May 7, 1886. Mr.
Rigby is attempting to claim all the
water from this source; of which I
have the priority right.

Larry G. Alleman
(signature)

Subscribed and sworn to before me this 22 day of October 19 76

Norma Lee Nelson
(notary public)

Residing at Montpelier, Idaho
My commission expires 12-22-76



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

November 2, 1976

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

R. Keith Higginson
Director

RE: Claim to a Water Right No. 11-4054 and 11-4055

Mr. Truman W. Rigby
Box 158
Montpelier, Idaho 83254

Dear Mr. Rigby:

Enclosed please find a copy of the exception filed by Larry G. Alleman in connection with your claim No. 11-4054 and 11-4055. The following is a quote from the provisions of the Idaho Code under which the claims have been filed:

42-225b. Recording of claims by department-----Corrections.-----

.....
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 Water Administration (renamed Department of Water Resources, July 1, 1974) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. 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 you have any questions regarding this matter, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enclosure

cc: IDWR - State Office



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT

Cecil D. Andrus
Governor

November 2, 1976

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

R. Keith Higginson
Director

RE: Claim to a Water Right No. 11-4054 and 11-4055 TRUMAN W. RIGBY

RECEIVED

Mr. Larry G. Alleman
Bern,
Idaho 83220

NOV 3 1976

Department of Water Resources

Dear Mr. Allenman:

We have received the exception dated October 22, 1976, filed against the above referenced claims to a water right. The following is a quote from the provisions of the Idaho Code under which these claims have been filed:

42-225b. Recording of claims by department-----Corrections.-----

.....
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 Water Administration (renamed Department of Water Resources, July 1, 1974) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. 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 you have any questions regarding this matter, please contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

cc: IDWR - State Office

