

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 Elva Paseey Malcolm  
(name of claimant)  
of Paris, Idaho 83261, 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) Unnamed Spring  
\_\_\_\_\_, tributary to, Hammond Creek
- (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>0.02 cfs</u>      | Use | <u>Domestic</u>               | Period of Use: From | <u>1-1-</u> | To | <u>12-31</u>           |
| Amount | <u>25 a/f</u>        | Use | <u>Irrigation</u>             | Period of Use: From | <u>4-1</u>  | To | <u>11-1</u>            |
| Amount | <u>0.02 cfs</u>      | Use | <u>Stock</u>                  | Period of Use: From | <u>1-1</u>  | To | <u>12-31</u>           |
|        | (cfs, gpm<br>or a/f) |     | (dom., irri.,<br>stock, etc.) |                     |             |    | (both dates inclusive) |
- (3) Total quantity of water claimed: \_\_\_\_\_ cubic feet per second, or 25.5 \_\_\_\_\_ acre feet  
per annum, and/or \_\_\_\_\_ gallons per minute.
- (4) Priority claimed: (the date water was first applied to beneficial-use) ~~8-24-19~~ 8-24-1907

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 SE ¼, Sec. 28 Twp. 13S 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. Reservoir approx. 50 x 100 x 6' deep  
 \_\_\_\_\_  
 \_\_\_\_\_
- (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.

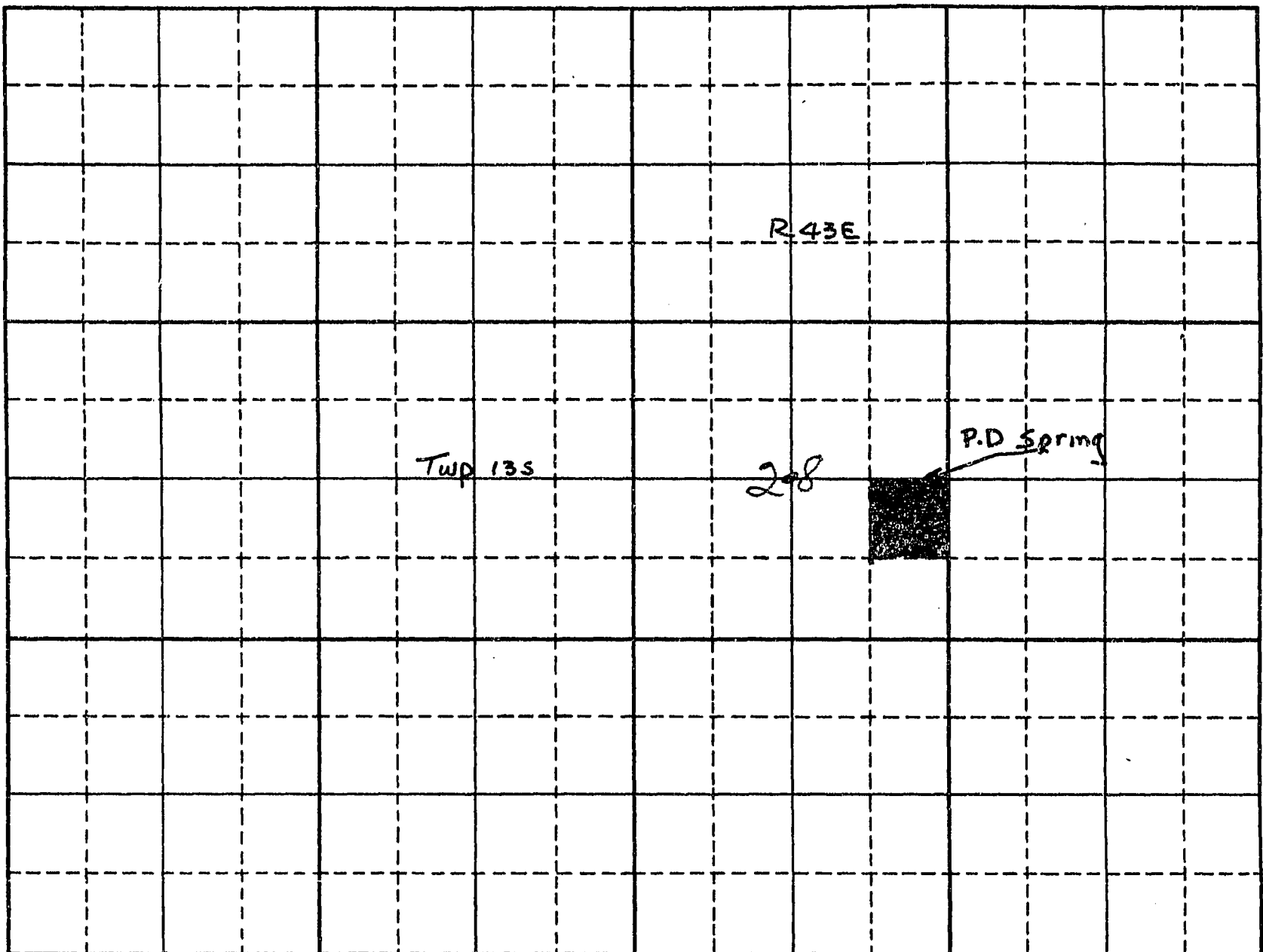
[illegible]

Total No. of acres

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: Stock watering and domestic water

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

(8) Remarks water has been used on this property since property was deeded  
from the U.S. Government in 1907. see attached affidavit



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. NE $\frac{1}{4}$  or SE $\frac{1}{4}$  of Sec. 28 Township 13S Range 43E

State of Idaho )  
County of Bear Lake ) 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 18 day of March

Elena Rossey Malcolm  
(Claimant)  
Notary Public  
Residing at Paris, Idaho

My commission expires Lifetime

For Department Use Only

|                                       |                     |                     |              |      |
|---------------------------------------|---------------------|---------------------|--------------|------|
| Received by <u>AW</u>                 | Date <u>3-30-77</u> | Exception filed by: | Forwarded to | Date |
| Prelim. check by <u>Law</u>           | Date <u>3/31/77</u> |                     | claimant by: |      |
| \$10.00 fee received by <u>AW</u>     | Date <u>3-31-77</u> |                     |              |      |
| Approved for publication by <u>me</u> | Date <u>4-28-77</u> |                     |              |      |
| Published in <u>Idaho Observer</u>    | <u>#6/94</u>        |                     |              |      |
| Dates <u>April 7+14-1977</u>          |                     |                     |              |      |

Nº 582

## AFFIDAVIT OF PUBLICATION

APR 28 1977

Department of Water Resources  
Eastern District Office

STATE OF IDAHO,  
County of Bear Lake

ss.

Loren 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 three 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

April 7, 1977, and ending

with the issue of April 14, 1977.

Fees, 13.76

Subscribed and sworn to before me this 21 day

of April, 1977.

Maude J. Thompson  
Notary Public, Residing at Montpelier, Idaho

My Commission Expires March 13, 1979.

### LEGAL NOTICES

#### NOTICE OF CLAIM TO A WATER RIGHT

VIDE NO. 11-4059

Notice is hereby given that Elva Passey Malcolm, Paris, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 25.5 acre feet per annum of water from an unnamed spring tributary to Hammond Creek with point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 28, T. 13S, R. 43E, B.M., Bear Lake County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic and stockwatering purposes and from Apr. 1 to Nov. 1 for the irrigation of 40 acres with a priority of 8-24-1907; the place of use is within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 28, T. 13S, R. 43E, 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.

Director

Published in The News-Examiner, Montpelier, Idaho on April 7 and April 14, 1977.

A7-14

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

## STATE OF IDAHO

## DEPARTMENT OF WATER RESOURCES

## 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 Elva Malcolm  
(name of claimant)  
of Paris, 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) Developed spring from  
none  
~~undeveloped seep~~, 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>1 cfs</u>         | Use | <u>Stock, Irrig.</u>          | Period of Use: | From | <u>Jan 1</u> | To | <u>Dec 31</u>          |
| Amount | _____                | Use | _____                         | Period of Use: | From | _____        | To | _____                  |
| Amount | _____                | Use | _____                         | Period of Use: | From | _____        | To | _____                  |
|        | (cfs, gpm<br>or a/f) |     | (dom., irri.,<br>stock, etc.) |                |      |              |    | (both dates inclusive) |

- (3) Total quantity of water claimed: 1 cubic feet per second, or unknown acre feet per annum, and/or unknown gallons per minute.
- (4) Priority claimed: (the date water was first applied to beneficial use) March 14, 1936

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) ~~not diverted~~ at the spring  
 \_\_\_\_\_ ¼ \_\_\_\_\_ ¼, Sec. \_\_\_\_\_ Twp. \_\_\_\_\_ Rge. \_\_\_\_\_ B. M. County of \_\_\_\_\_  
 Additional points of diversion: S½ of NW¼ of NE¼ to SE¼ of Sec 28 Township 28 N 13E R43E

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. Gravity flow to reservoir approx 50 x 100 to stock water and irrigation ditch

- (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.

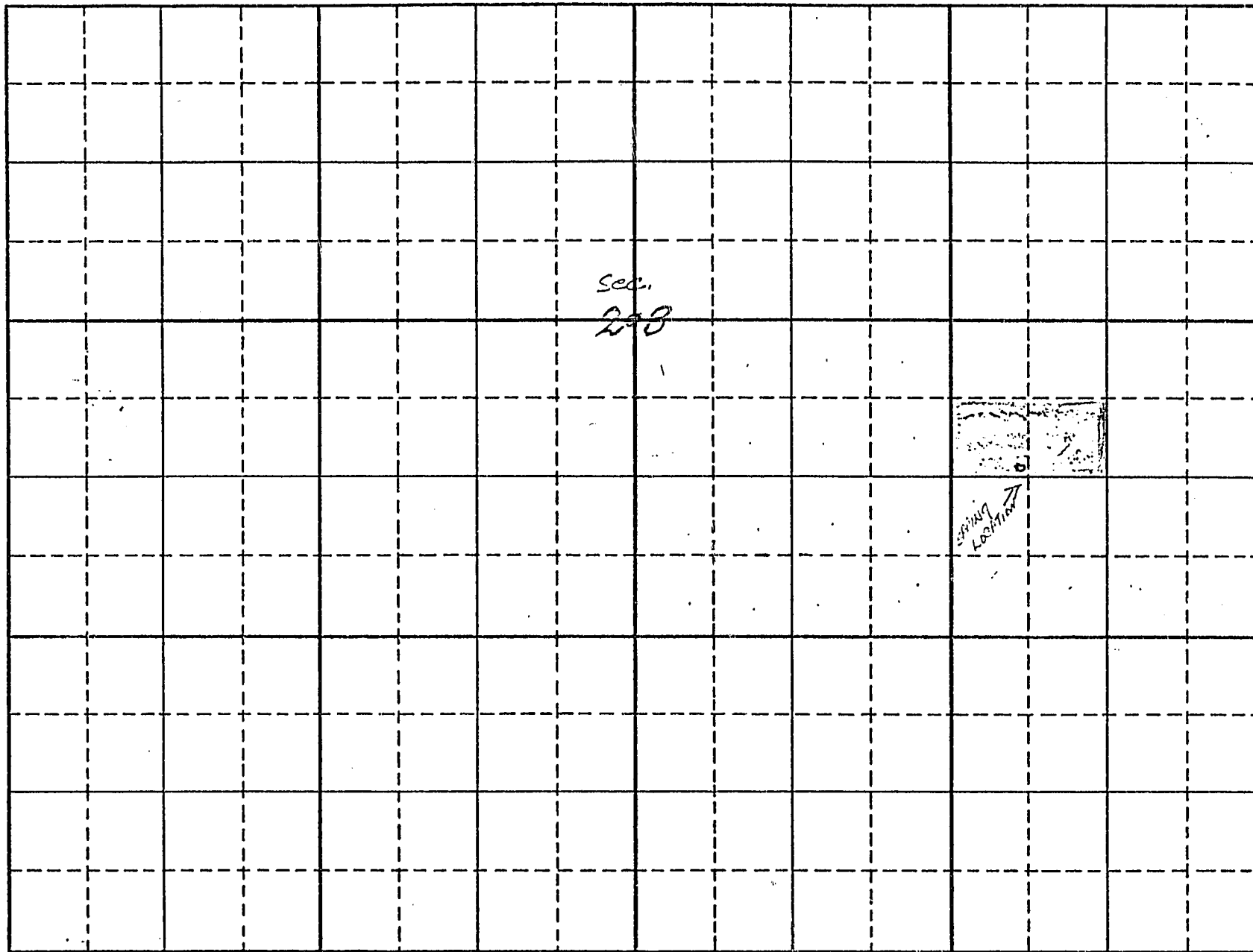
[illegible]

Total No. of acres 40

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: Stock water  
for livestock pastured and pasutre irrigation.

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

(8) Remarks This seep has been used to collect and water stock since 1936  
May of 1976 furthur developemt was made and the flow at the present time is  
approx 1 cfs. This water has been used for stock and pasture irrigation.



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.

& S $\frac{1}{2}$  of NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Sec 28 Township 13S Range 43E Boise meridian

State of Idaho )  
 ) ss.  
County of Bear Lake )

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 8 day of Sept, 19 76.

Elva J. Jolley Malcolm  
(Claimant)  
Notary Public  
Residing at Paris, Idaho

My commission expires 9-20-76

For Department Use Only

|                                                |                     |                     |              |      |
|------------------------------------------------|---------------------|---------------------|--------------|------|
| Received by <u>[Signature]</u>                 | Date <u>9-15-76</u> | Exception filed by: | Forwarded to | Date |
| Prelim. check by <u>[Signature]</u>            | Date <u>9-15-76</u> |                     | claimant by: |      |
| \$10.00 fee received by <u>[Signature]</u>     | Date <u>9-15-76</u> |                     |              |      |
| Approved for publication by <u>[Signature]</u> |                     |                     |              |      |
| Published in <u>[Signature]</u>                |                     |                     |              |      |
| Dates <u>[Signature]</u>                       |                     |                     |              |      |

September 14, 1976

Ms. Elva Malcolm  
Paris,  
Idaho 83261

Dear Ms. Malcolm:

Please find enclosed the claim to a water right that you submitted to this office on September 13, 1976.

For a claim to be of any value, it is necessary to give the legal description of the point of diversion in Item 5a. If it is diverted at the springs, then the location of the springs will be the point of diversion. If the springs flow into the reservoir you described and then are diverted from this reservoir, then the location of the reservoir should be described in Item 5a.

If you will make the corrections I have indicated, and resubmit your claim with the statutory filing fee of \$10.00, we will commence processing. If you have any questions concerning this matter, please feel free to contact me.

Very truly yours,

RONALD D. CARLSON  
Supervisor,  
Eastern Region

RDC:CW

Enclosure

September 22, 1976

Ms. Elva Malcolm  
Paris,  
Idaho 83261

Dear Ms. Malcolm:

Reviewing your claim to a water right we note in the remarks in Item 8, at the top of page 2, we can only accept the claim for stockwater with a 1936 priority. The amount of water you can claim for stockwater is based upon the number of animals using the water (see attached rate of gallons per day per each animal and a conversion table to convert total gallons per day to cubic feet per second c.f.s.)

It will be necessary for you to file an application for permit for the water used for irrigation, as you stated in Item 8 further development was made of the spring in May, 1976, and the flow was now approximately 1.00 c.f.s. We can not accept claims on surface water sources that were perfected after May 20, 1971 (see item 4 on the claim to a water right form.)

Therefore, we have returned your claim to a water right and check No. 92-286 in the amount of \$10.00 with new claim forms and an application for permit with instructions. The fee schedule is on the fourth page of the instructions.

If you feel you need assistance in this matter, please feel free to contact me.

Very truly yours,

LOY H. JOHNSON  
Senior Water Resource Agent

LHJ:cw

Attachment

Enclosures

NOTICE OF CLAIM TO A WATER RIGHT

NO. 11-4059

Notice is hereby given that Elva Passey Malcolm,

Paris, Idaho

has filed a claim to a water right established by diversion and application  
to beneficial use of 25.5 ~~xxxxxxfeetpersecondxx~~ acre feet per annum  
of water from an unnamed spring tributary to Hammond Creek

with point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 28, T. 13S, R. 43E, B.M.,  
Bear Lake County

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic  
and stockwatering purposes and from Apr. 1 to Nov. 1 for the irrigation of 40 acres  
with a priority of 8-24-1907 ;  
the place of use is within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 28, T. 13S, R. 43E, 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.

~~XXXXXXXXXXXXXXXXXXXX~~

Director

Published in the News-Examiner, Montpelier, Idaho

on April 7 and April 14, 1977

*me-Q  
me-Q*

March 31, 1977

RE: Claim to a Water Right No. 11-4059 MALCOLM  
Application for Permit No. 11-7111 ROMRELL

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 4-28-77 by Cul

RDC:CW

Enc: Legal Notice (2)

April 5, 1977

RE: Claim to a Water Right No. 11-4059

Elva Passey Malcolm  
Paris,  
Idaho 83261

Dear Ms. Malcolm:

Attached herewith is departmental receipt No. 6494 in the amount of \$10.00  
for the above referenced claim.

Very truly yours,

RONALD D. CARLSON  
Supervisor,  
Eastern Region

RDC:CW

Attachment



**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
EASTERN REGION

John V. Evans  
Governor

C. Stephen Allred  
Director

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

April 25, 1977

RE: Claim to a Water Right No. 11-4059 MALCOLM

Application for Permit No. 11-7111 ROMRELL

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

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced applications. The legal notice was to have been published in your paper on April 7 and April 14, 1977.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON  
Supervisor,  
Eastern Region

RDC:CW

cc: IDWR - State Office



**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
EASTERN REGION

John V. Evans  
Governor

C. Stephen Allred  
Director

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

April 26, 1977

RE: Claim to a Water Right No. 11-4059 ELVA PASSEY MALCOLM

Mr. Deverl F. Passey  
Ovid,  
Idaho 83260

Dear Mr. Passey:

We are returning your letter of protest concerning the above referenced claim to a water right.

If you do not agree with the information that is contained in the above referenced claim to a water right, then you should file an exception, which must be in affidavit form, indicating why the right claimed is incorrectly represented. There is no time limitation for filing a exception to a claim, however, we request that if you choose to file an exception you submit it as soon as possible to assist us in rapid processing. For your convenience, we have enclosed three affidavit forms.

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

Very truly yours,

RONALD D. CARLSON  
Supervisor,  
Eastern Region

RDC:CW

Enclosure



## STATE OF IDAHO

### DEPARTMENT OF WATER RESOURCES EASTERN REGION

John V. Evans  
Governor

C. Stephen Allred  
Director

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

April 29, 1977

RE: Claim to a Water Right No. 11-4059

Ms. Elva Passey Malcolm  
Paris,  
Idaho 83261

Dear Ms. Malcolm:

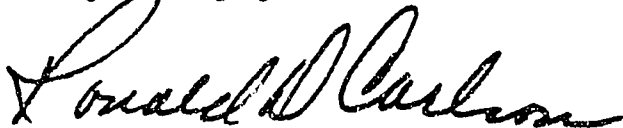
The Department of Water Resources has completed the processing of your claim to a water right and no further action is authorized under Sections 42-225a and 42-225b, Idaho Code. Your claim will be retained in our files and will be available at any time for use by you or the court.

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 contact this office.

Very truly yours,

  
RONALD D. CARLSON  
Supervisor,  
Eastern Region

RDC:CW

Enclosure: Copy of Claim