

Claim No. 11 4067

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 Lee Hotchkiss or Russell H. Mouritsen
(name of claimant) Russell H. Mouritsen
of Rt 1, Bx 34-A, Ovid, ID 83260, 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) Mill Creek
tributary to, Ovid 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>.46 cfs</u>	Use <u>Irrigation</u>	Period of Use: From <u>April 1</u> To <u>Nov 1</u>
Amount <u>.04 cfs</u>	Use <u>Domestic</u>	Period of Use: From <u>Jan 1</u> To <u>Dec 31</u>
Amount _____	Use <u>& livestock</u>	Period of Use: From _____ To _____
(cfs, gpm or a/f)	(dom., irri., stock, etc.)	(both dates inclusive)

- (3) Total quantity of water claimed: .50 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) 1900

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)
NW 1/4 SW 1/4, Sec. 31 Twp. 12 S Rge. 43 E 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. 19" Culvert w/ shut-off gate

- (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.

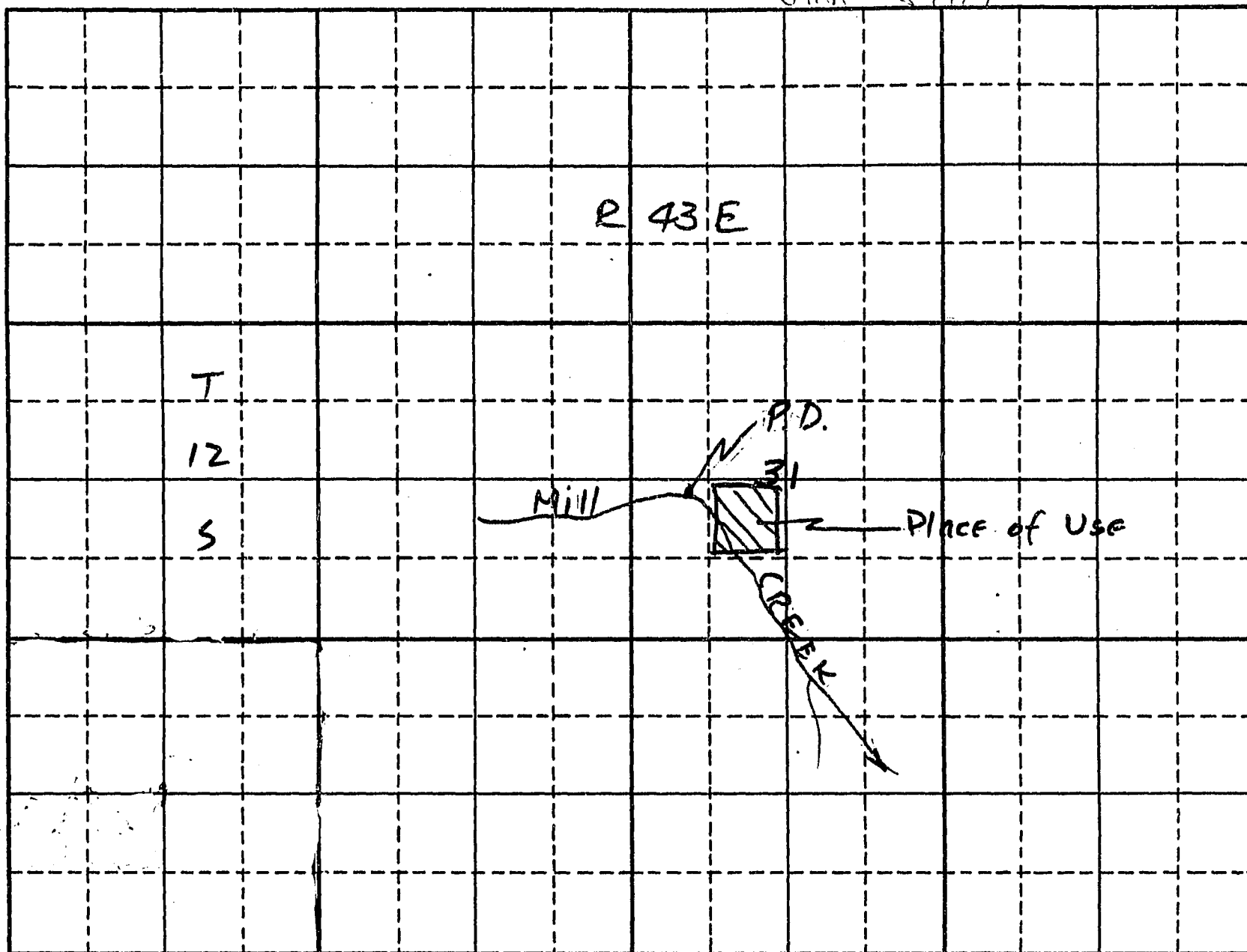
T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
12S	43	31									25								25Ac.

Total No. of acres _____

B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: This existing diversion was made at or near the turn of the century for domestic use (household use & running saw mill), irrigation and watering livestock. The water is used in some amounts for domestic & livestock, and primarily irrigation.

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

(8) Remarks Russell H. MOUNTSEN is a contract buyer.
Please send information & claim number to
MR. MOUNTSEN at 2925 Apple Blossom Lane
Salt Lake City
UTAH 84117



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)
) ss.
 County of Benz 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.

Russell H. MOUNTSEN Lee A. Hotchkiss
 (Claimant)
 Sworn to before me this 1st day of MAY, 19 78.

Joseph W. Davenport
 Notary Public
 Residing at BLOOMINGTON

My commission expires life

For Department Use Only

Received by <u>Qu</u>	Date <u>5-12-78</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>Qu</u>	Date <u>5-12-78</u>		claimant by:	
\$10.00 fee received by <u>Qu</u>	Date <u>5-12-78</u>			
Approved for publication by <u>Qu</u>	Date <u>5-12-78</u>			
Published in <u>Newspaper</u>	Date <u>5-12-78</u>			
Dates <u>May 18 & 25-1978</u>				

RECEIVED

IN THE OFFICE OF THE IDAHO DEPARTMENT OF WATER RESOURCES JUN 7 1978

Department of Water Resources
Eastern District Office

* * * * *

IN THE MATTER OF THE CLAIM TO A) EXCEPTION AND PROTEST
WATER RIGHT OF LEE HOTCHKISS OR)
RUSSELL H. MAURITSEN TO WATERS OF)
MILL CREEK TRIBUTARY TO THE WATERS) OF LAST CHANCE CANAL CO.
OF BEAR RIVER LOCATED IN BEAR)
LAKE COUNTY, IDAHO,)
Claim No. 11-4067.)

COMES NOW the protestant, Last Chance Canal Company of Grace, Idaho and protests the above-captioned claim of Lee Hotchkiss or Russell H. Mauritsen.

1. Last Chance Canal Company is the owner of certain water rights decreed in the matter of Utah Power & Light Co. vs. Last Chance Canal Co., et al, in equity #203, July 14, 1920, the so-called "Dietrich Decree", as well as other rights in the Bear River as evidenced by claim for water right #11-4035 filed with the State of Idaho Department of Water Resources on February 20, 1973.

2. Mill Creek is a tributary to the Bear River and, the rights to waters of the Bear River and all of its tributaries were conclusively established by the so-called Dietrich Decree, and any rights obtained by the claimants are inferior in time and right to the water rights established in said Decree and/or established subsequent thereto if at all.

3. Bear River and its tributaries below Stuart Dam are fully appropriated, and the establishment and use of the aforesaid claim would adversely effect the aforementioned water rights of Last Chance Canal Co.

WHEREFORE, protestant prays that the claim for water right of Lee Hotchkiss or Russell H. Mauritsen be denied and this exception be permanently noted in the records of the Idaho Department of Water Resources for the reason that there is no unappropriated water in the proposed source, all rights to the waters of the Bear River and its tributaries were conclusively established in the so-called Dietrich Decree and any rights now established are subsequent to said Decree, and the proposed use will injure the rights of Last Chance Canal Company and others.

DATED this 6th day of June, 1978.

By: Randall C. Budge
Randall C. Budge
Transtrum & Budge, Chartered -

LAST CHANCE CANAL CO., GRACE, IDAHO
DON W. GILBERT, PRESIDENT
Attorneys for Protestant

Nº 881

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Bear Lake

ss.

Loren M. 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 *five* 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

May 18, 19*78*, and ending
with the issue of *May 25*, 19*78*.

Fees, *1431*

Subscribed and sworn to before me this *6* day

of *June*, 19*78*

Loren M. Thompson
Notary Public, Residing at Montpelier, Idaho

My Commission Expires *March 13*, 19*79*

RECEIVED

JUN 8 1978

Department of Water Resources
Eastern District Office

Public Notices

NOTICE OF CLAIM TO A WATER RIGHT NO. 11-4067

Notice is hereby given that Lee Hotchkiss or Russell H. Mouritsen, Ovid, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 0.50 cubic feet per second of water from Mill Creek tributary to Ovid Creek with point of diversion in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 31, 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 stockwatering purposes and from Apr. 1 to Nov. 1 for the irrigation of 25 acres with a priority of 1900; the place of use is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 31, T. 12S, 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.

C. STEPHEN ALLRED

Director

Published in the News-Examiner, Montpelier, Idaho on May 18 and May 25, 1978.

M18-25

Russ Mouritsen

RECEIVED

MAY 5 1978

5-3-78

Department of Water Resources
Eastern District Office

Dear Mr. Johnson,

I am submitting the attached claim to a water right. Please note there are two names given as claimant. I am buying this property on contract from Lee Hotchkiss and assume his name should be used when advertising the claim in the local paper. I would appreciate having any information or exceptions sent to me:

Russ Mouritsen
2925 Apple Blossom Lane
Salt Lake City
Utah 84117

I thank you for your help in this matter.

Sincerely,

Russ Mouritsen

Russ Mouritsen



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

May 5, 1978

Mr. Russ Mouritsen
2925 Apple Blossom Lane
Salt Lake City, Utah 84117

Dear Mr. Mouritsen:

It is necessary we return your claim to a water right as the statutory \$10.00 filing fee was not enclosed.

To keep from having two signatures on any future changes that may occur on the claim, I wonder if you would put "or" between Mr. Hotchkiss' and your signature. If you agree, please make the addition and return with the statutory filing fee for further processing.

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

Very truly yours,

LOY H. JOHNSON
Senior Resource Agent

LHJ:cw

Enclosure

May 12, 1978 .

C

RE: Claim to a Water Right No. 11-4067

O

Mr. Russ Mouritsen
2925 Apple Blossom Lane
Salt Lake City, Utah 84117

Dear Mr. Mouritsen:

Attached herewith is departmental receipt No. 9969 in the amount of \$10.00 for the above referenced claim.

Very truly yours,

Y

COLLEEN WRAY
Senior Secretary

Attachment

NOTICE OF CLAIM TO A WATER RIGHT

NO. 11-4067

Notice is hereby given that Lee Hotchkiss or Russell H. Mouritsen,
Ovid, Idaho
has filed a claim to a water right established by diversion and application
to beneficial use of 0.50 cubic feet per second ~~acre feet per annum~~
of water from Mill Creek tributary to Ovid Creek
with point of diversion in the NW¹/₄ Sec. 31, 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 stockwatering purposes and from Apr. 1 to Nov. 1 for the
irrigation of 25 acres
with a priority of 1900;
the place of use is within the NE¹/₄ Sec. 31, T. 12S, 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.

C. STEPHEN ALLRED
~~R. KEITH HIGGINSON~~

Director

Published in the News Examiner, Montpelier, Idaho
on May 18 and May 25, 1978

CW-2
CW-11

May 12, 1978

RE: Claim to a Water Right No. 11-4067 HOTCHKISS & MOURITSEN

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 _____ by _____

RDC:CW

Enc: legal notice (1)

Transtrum & Budge, Chartered

A Professional Corporation

Attorneys at Law

WALLACE M. TRANSTRUM

RANDALL C. BUDGE

A. BRUCE LARSON

240 So. Main - Suite A - Telephone 208-547-3944
P.O. Box 833 - Soda Springs, Idaho 83276

C. Stephen Allred, Director
Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Date: June 6, 1978

Re: Claim #11-4067

ENCLOSED ARE: Original Exception and Protest of Last Chance Canal Co.

☐ For your file ☐ Sign ☐ Notarize ☐ Return ☐ Record

☐ Obtain signature of _____

☐ Send to _____

COPY: ☐ Conform ☐ Certify ☐ File ☐ Return

☐ Send to _____

REMARKS: Please file the enclosed objection to Claim #11-4067.

RECEIVED

Very truly yours,

Randy Budge

JUN 7 1978

Department of Water Resources
Eastern District Office



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

June 15, 1978

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

C. Stephen Allred
Director

RE: Claim to a Water Right No. 11-4067 HOTCHKISS & MOURITSEN

Mr. Don W. Gilbert, President
Last Chance Canal Company
Grace, Idaho 83241

Dear Mr. Gilbert:

We have received the exception dated June 6, 1978, filed by Attorney Randall C. Budge against the above referenced claim to a water right. The following is a quote from the provisions of the Idaho Code under which this claim has 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 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: Attorney Randall Budge



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

June 15, 1978

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

C. Stephen Allred
Director

RE: Claim to a Water Right No. 11-4067

Lee Hotchkiss or
Russell H. Mouritsen
Rt. #1, Box 34-A
Ovid, Idaho 83260

Gentlemen:

Enclosed please find a copy of the exception filed by Attorney Randall Budge in behalf of Last Chance Canal Company in connection with your Claim No. 11-4067. The following is a quote from the provisions of the Idaho Code under which this claim has 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



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

June 15, 1978

RE: Claim to a Water Right No. 11-4067

Lee Hotchkiss or
Russell H. Mouritsen
Rt. #1, Box 34-A
Ovid, Idaho 83260

Gentlemen:

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

