

Nº 1788

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Bear Lake

ss.

R. J. Spencer
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 *2* 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

9/17, 19*81*, and ending
with the issue of *9/24*, 19*81*

Fees, *\$24.31*

Subscribed and sworn to before me this *6th* day
of *Oct*, 19*81*

Notary Public, Residing at Montpelier, Idaho

My Commission Expires *lifetime*, 19.....

LEGAL NO. 1788 NOTICE OF CLAIMS TO WATER RIGHTS

Department of Water Resources
Eastern District Office

Notice is hereby given that the following claim(s) to water right(s) have been established by diversion and application to beneficial use:

11-4123

RUDD, F. DAVID
160 N. 3RD ST., MONTPELIER, ID
83254

Source: SAGO HALLOW tributary to
NORTH CREEK

Priority Date: 04-01-1908

Amount: 3.24 CFS

Diversion Point: NESE NESW Sec 28
T 12S R 43E, BEAR LAKE Co.

Use: IRRIGATION (3.00 CFS)

from 04-01 to 11-01

STOCKWATER (0.20 CFS)

from 01-01 to 12-31

DOMESTIC (0.04 CFS)

from 01-01 to 12-31

Place of Use: SWNE NWNW SWNW
Sec 28 T 12S R 43E NWNW SWNW
SENE NESW Sec 33 T 12S R 43E
NENE SENE Sec 29 T 12S R 43E FOR
300 ACRES.

Diversion Means: TWO RESER-
VOIRS WITH GRAVITY PIPELINE.

Any exception to any claim of water
right may be filed with the Director of
the Idaho Department of Water
Resources, 150 Shoup Ave. Idaho
Falls, Idaho 83402.

A. KENNETH DUNN

Director

Published Sept. 17 and 24, 1981

9-17,9-24

39 LINES

IN THE MATTER OF:
Application for Permit
No. 11-4123 RUDD

AFFIDAVIT

RECEIVED

OCT 5 1981

Department of Water Resources
Eastern District Office

State of Idaho
County of Blaine Lake

Reo D. Hymas

being first duly sworn,

deposes and says: We are protesting the above claim to Water Right
11-4123 RUDD. We have been using this water for irrigation purposes
in the East Liberty Irrigation Co. for several years. If we don't have
the use of this water, the quantity of water in our irrigation company
will be greatly reduced.

Pres. Reo D. Hymas
(Signature)

Subscribed and sworn to before me this 30th day of September, 1981.

James D. Duvall
(Notary Public) for Idaho

Residing at Ovid, ID 83260
My Commission Expires Lifetime

RECEIVED

SEP 23 1981

Department of Water Resources
Eastern District Office

RECEIVED

SEP 30 1981

Department of Water Resources
Eastern District Office

NOTICE OF PROTEST

COMES NOW, the undersigned, protestants, by and through their attorney, ARDEE HELM, JR., and enter a protest to Legal No. 1788; also identified therein as 11-4123. The protestants, ALBERT VALDEZ and SUE VALDEZ, reside at 925 Wilson Avenue, Space 32, Pocatello, Idaho, and 3250 North 2450 West, Salt Lake City, Utah, respectively. The protestants object for the following reasons:

1) That DAVID F. RUDD is without any right, title or interest in said Application.

2) That the lands described therein and the waters arise upon properties owned by the protestants, ALBERT VALDEZ and SUE VALDEZ, and have, since 1900, been used the lands owned by ALBERT VALDEZ and SUE VALDEZ and their predecessors in interest.

3) That the sole interest of the applicant, DAVID F. RUDD, is through a purchase agreement of real estate belonging to the protestants. However, said closing date was established as the 15th day of September, 1981, and as of this date, has not been closed or sold to DAVID F. RUDD or any of his assigns or representatives.

4) That there is insufficient waters above and beyond the waters expropriated and used on the lands owned by the protestants, ALBERT VALDEZ and SUE VALDEZ.

DATED this 21st day of September, 1981.

200—ACKNOWLEDGMENT—SINGLE

Printed and for sale by Syms-York Company, Boise, Idaho

STATE OF IDAHO }
COUNTY OF San Lake } ss.

On this 21st day of September, in the year 1981, before me in and for said State, personally appeared Ardee Helm, Jr., a Notary Public known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Ardee Helm, Jr.
Notary Public for Idaho, residing at San Lake, Idaho.

RECEIVED

SEP 23 1981

Department of Water Resources
Eastern District Office

RECEIVED

SEP 30 1981

Department of Water Resources
Eastern District Office

NOTICE OF PROTEST

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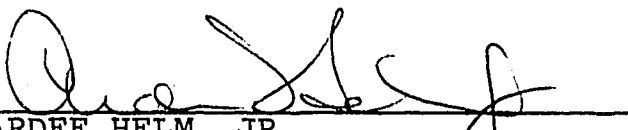
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2) That the lands described therein and the waters arise upon properties owned by the protestants, ALBERT VALDEZ and SUE VALDEZ, and have, since 1900, been used the lands owned by ALBERT VALDEZ and SUE VALDEZ and their predecessors in interest.

3) That the sole interest of the applicant, DAVID F. RUDD, is through a purchase agreement of real estate belonging to the protestants. However, said closing date was established as the 15th day of September, 1981, and as of this date, has not been closed or sold to DAVID F. RUDD or any of his assigns or representatives.

4) That there is insufficient waters above and beyond the waters expropriated and used on the lands owned by the protestants, ALBERT VALDEZ and SUE VALDEZ.

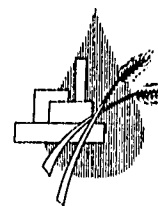
DATED this 21st day of September, 1981.


ARDEE HELM, JR.
Attorney for Protestants
Albert and Sue Valdez

NOTICE OF PROTEST

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that F. David Rudd

160 N. 3rd Street, Monpelier, ID 83254 (Name of Claimant)

(Mailing Address)

(Zip Code)

Telephone No. 208-847-2698

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

- (1) Date of priority: (When was the water first applied to a beneficial use) April 1, 1908

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 is that a claim may be filed on single family domestic use from a ground water source.

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

Sago Hollow tributary to North Creek

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity	(cfs, gpd, AFA)	Use	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity <u>3.00</u>		Use <u>irrigation</u>		Period of Use From <u>Apr. 1</u>	To <u>Nov. 1</u>
Quantity <u>0.20</u>		Use <u>stockwater</u>		Period of Use From <u>Jan. 1</u>	To <u>Dec. 31</u>
Quantity <u>0.04</u>		Use <u>domestic</u>		Period of Use From <u>Jan. 1</u>	To <u>Dec. 31</u>
Quantity _____		Use _____		Period of Use From _____	To _____
Quantity _____		Use _____		Period of Use From _____	To _____

- (4) 3.24 cfs TOTAL QUANTITY USED.

(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

NE 1/4 SE 1/4, Sec. 28 Twp. 12S Rge. 43E B.M., County of Bear Lake

Additional points of diversion:

NE 1/4 SW 1/4, Sec. 28, T. 12S, R. 43E, B.M., Bear Lake

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. Describe any changes in the system and give the date of the change. two reservoirs (existing), gravity pipeline installed in 1950

- (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	28			40			20	40										100
		33						40	30	40	30								140
		29	20			40													60

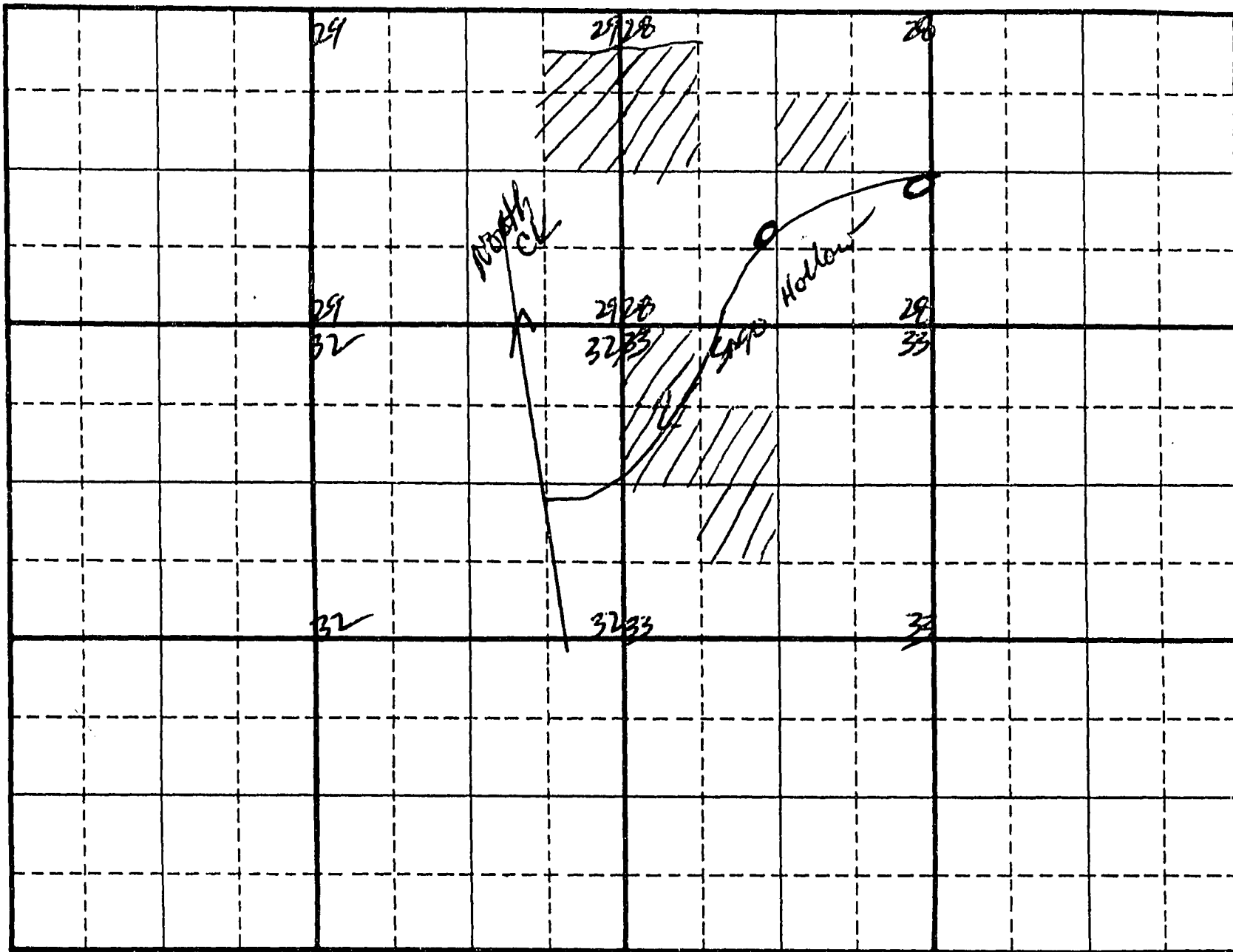
No. of acres 300

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: Domestic use for one family

NOTE: Include here the type and number of stock watered: 400 beef cattle, 100 horses, 4 dairy cattle

- (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 Bonneville) 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 affiant's knowledge.

Sworn to before me this 28th day of August

[Signature]
(Claimant)

19 81

[Signature]
Notary Public
Residing at Idaho Falls, ID

My commission expires 6/15/85

FOR DEPARTMENT USE ONLY

Received by <u>BR</u>	Date <u>28/8/81</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>ENC</u>	Date <u>2-1-81</u>		claimant by:	
\$10.00 fee received by <u>RU</u>	Date <u>8-28-81</u>	<u>Ros. Lyman</u>		
Published in <u>The News Examiner</u>		<u>E. H. Heston, Jr., CW</u>		<u>10/07/81</u>
Dates <u>9-17-81</u> <u>9-24-81</u>		<u>Albert & Son Valdez</u>		

11-4123

RUDD, F. DAVID

160 N. 3RD ST., MONTPELIER, ID 83254

Source: SAGO HOLLOW tributary to NORTH CREEK

Priority Date: 04/01/1908

Amount: 3.24 CFS

Diversion Point: NESE NESW Sec 28 T 12S R 43E, BEAR LAKE Co.

Use: IRRIGATION	(3.00 CFS)	from 04/01 to 11/01
STOCKWATER	(0.20 CFS)	from 01/01 to 12/31
DOMESTIC	(0.04 CFS)	from 01/01 to 12/31

Place of Use: SWNE NWNW SWNW Sec 28 T 12S R 43E NWNW SWNW SENW NESW
Sec 33 T 12S R 43E NENE SENE Sec 29 T 12S R 43E
FOR 300 ACRES

Diversion Means: TWO RESERVOIRS WITH GRAVITY PIPELINE

CW

NOTICE OF CLAIMS TO WATER RIGHTS

Notice is hereby given that the following claim(s) to water right(s) have been established by diversion and application to beneficial use:

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, Idaho 83402.

A. KENNETH DUNN
Director

Published 9/10 & 9/17/81.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave.
Idaho Falls, Idaho 83402
(208) 525-7161

SEPTEMBER 2, 1981

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

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review 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 along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before SEPTEMBER 28, 1981.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

INTER-DEPARTMENT MEMO --- 1

DATE September 8, 1981

FROM

Colleen *CW*

TO

File

SUBJECT

Change of Address

Pursuant to a telephone conversation this date, Mr. Rudd indicates he has a new address:

Rt. #1, Box 14
Ovid, ID 83260

SIGNATURE

September 25, 1981

RE: Claim to a Water Right No. 11-4123 RUDD

Ardee Helm, Jr.
Attorney at Law
518 Washington Street
Montpelier, Idaho 83254

Dear Mr. Helm:

This office is in receipt of your letter of protest against the above referenced claim to a water right. However, we find it necessary to return your letter because an exception filed must be a notarized document. Please have the document notarized and return to this office for further processing.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

Enclosure

September 25, 1981

RE: Claim to a Water Right No. 11-4123 RUDD

Mr. Rao Hymas
Box 47
Ovid, Idaho 83260

Dear Mr. Hymas:

This office is in receipt of your letter of protest against Application for Permit No. 11-7265, 11-7266 and 11-7276 and we have filed it in the appropriate files.

However, in your letter you stated you wished to protest the above referenced claim to a water right. In order for a protest to be valid against a claim, it is necessary that an exception (protest) be filed in affidavit form and notarized. For your convenience, I have enclosed an affidavit form for you to complete, stating the reasons why you feel the claim has not been filed correctly. Please sign the affidavit in the presence of a notary and return to this office for further processing.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

Enclosure

October 7, 1981

RE: Claim to a Water Right No. 11-4123 RUDD

Rao D. Hymas, President
East Liberty Irrigation Company
Ovid, Idaho 83260

Dear Mr. Hymas:

We have received the exception dated September 30, 1981, filed 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 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
Eastern Regional Supervisor

RDC:cw

October 7, 1981

RE: Claim to a Water Right No. 11-4123

F. David Rudd
Rt. #1, Box 14
Ovid, Idaho 83260

Dear Mr. Rudd:

Enclosed please find a copy of the exception filed in connection with the above referenced claim. 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
Eastern Regional Supervisor

RDC:cw

Enclosure

October 7, 1981

RE: Claim to a Water Right No. 11-4123

F. David Rudd
Rt. #1, Box 14
Ovid, Idaho 83260

Dear Mr. Rudd:

Enclosed please find an additional exception filed against the above referenced claim by Ardee Helm, Attorney at Law, in behalf of Albert and Sue Valdez.

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

Very truly yours,

COLLEEN WRAY
Adm. Secretary

Enclosure

October 7, 1981

RE: Claim to a Water Right No. 11-#123 RUDD

Albert Valdez
925 Wilson Avenue, Space 32
Pocatello, Idaho 83201

Dear Mr. Valdez:

We have received the exception dated September 21, 1981, filed 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 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
Eastern Regional Supervisor

RDC:cw

cc: Ardee Helm, Attorney

October 7, 1981

RE: Claim to a Water Right No. 11-4123 RUDD

Sue Valdez
3250 North 2450 West
Salt Lake City, Utah 84400

Dear Ms. Valdez:

We have received the exception dated September 21, 1981, filed 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 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
Eastern Regional Supervisor

RDC:cw

cc: Ardee Helm, Attorney

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave.
Idaho Falls, Idaho 83402
(208) 525-7161

SEPTEMBER 28, 1981

F. DAVID RUDD
160 N. 3RD ST.
MONTPELIER ID 83254

RE: Claim No. 11-4123

Dear Claimant:

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve 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 with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,

RONALD D. CARLSON
Eastern Region Supervisor

Enclosure

Form 243a
11/78

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: Emest

Right Number 11-4123 Applicant Rudd

NOTE: IF ANY OF THE ITEMS BELOW ARE MISSING, THE CLAIM IS INCOMPLETE AND MUST BE RETURNED IMMEDIATELY TO THE CLAIMANT ALONG WITH THE APPROPRIATE COVER LETTER.

CHECK:

- ☒ Name and address.
- ☒ Date of priority. (Check for a date past the mandatory filing dates.) (One date only.)
- ☒ Source.
- ☒ Quantity, use, period.
- ☒ Point(s) of diversion.
- ☒ Location of use.
- ☒ Signature/notarization/fee.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Claim published correctly.
- ☒ Exceptions processed.

By aw Date 10/07/81

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By Juni Date 10/9/81

RECEIVED
OCT 09 1981

Department of Water Resources