

Identification No. _____

Claim No. 13-4001

Map No. _____

**STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION**

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 State of Idaho, Department of Fish & Game
post office address Box 25, Boise, Idaho 83707

2. The point of diversion is in NW $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 18 Township 11 South
Range 41 East B.M. located on Middle Whisky Creek Spring
(name of source)
tributary to Bear River in Caribou 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:

August of 1950 amount: 7.0 c.f.s. or acre feet
amount: c.f.s. or acre feet
amount: c.f.s. or acre feet
Total claimed 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 Fish culture period of use from Jan. 1 to Dec. 31 (both dates inclusive)
use period of use from to (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 open earth canal
 ; length is 400 feet; height is 3 feet;
width at bottom is 3 feet; width at top is 6 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

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attach well logs if available; has there been any change in pump or motor since well was first completed _____; if so, give dates and explain _____

c. Conveying works: length of ditch to place of use is 400 feet; width of ditch at top is 6 feet; width of bottom of ditch is 3 feet; depth of water is 2 feet; grade of ditch per 1000 feet is 1.1 feet; material through which ditch passes is soil; maximum length of pipe line to first place of use is 43 feet; diameter of pipe line is 18 inches; type of pipe galvanized iron corrugated; grade of pipe per 1000 feet is 2,356 feet.

Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible _____

d. If water is stored: name of reservoir _____;
total capacity of reservoir is _____ acre feet; active capacity of reservoir is _____ acre feet;
year construction commenced _____; year completed _____; date first used _____
period of storage is from _____ to _____; is reservoir drained each year _____;
is reservoir on or off stream _____ explain _____

if feeder canal is used give maximum carrying capacity_____c.f.s.; if reservoir is off stream, describe location of reservoir by 40-acre subdivisions_____

has there been any enlargement of the reservoir since it was first built_____, if so, give dates and describe_____

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres:

[illegible]

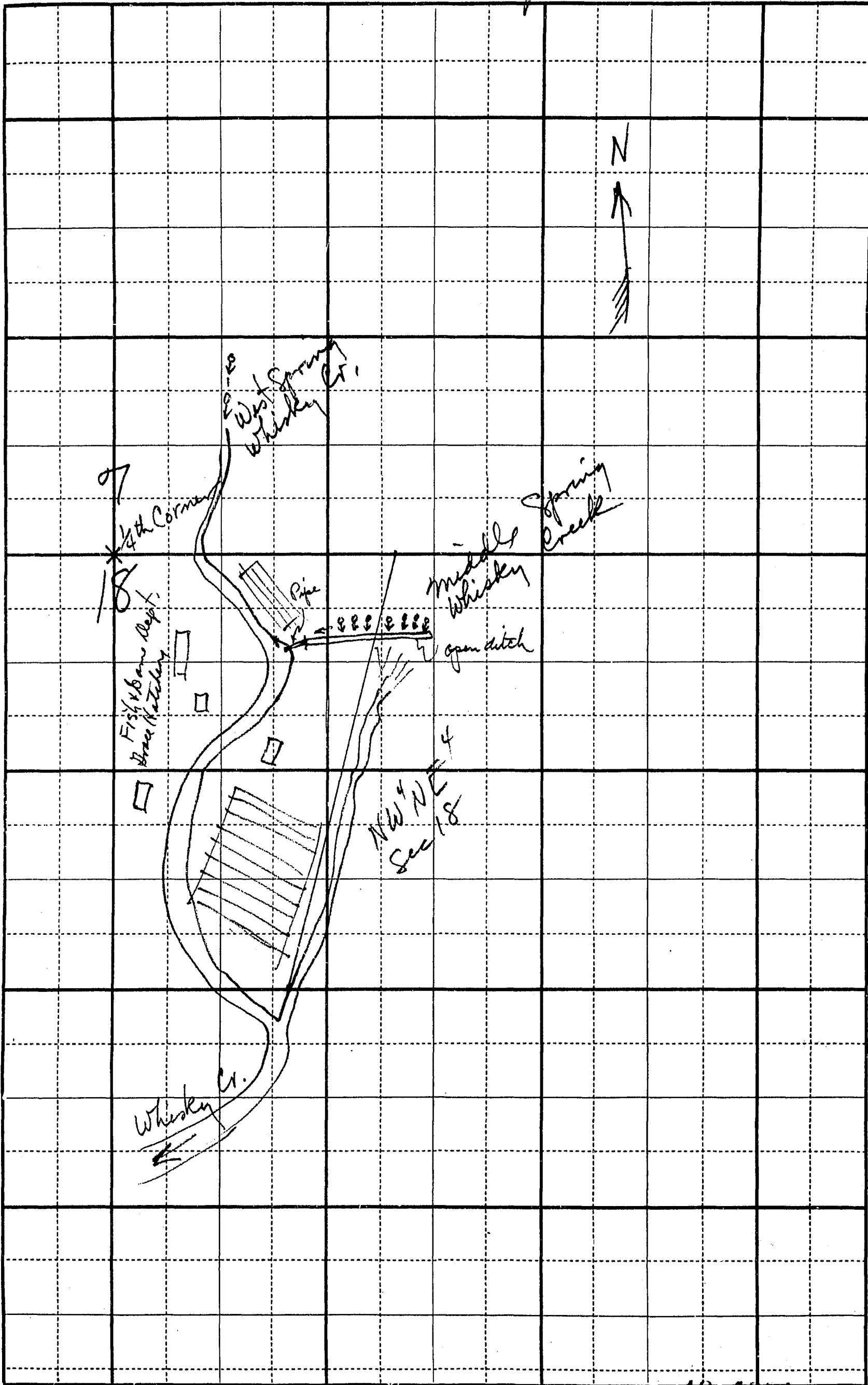
Total number of acres to be irrigated _____

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____

NAME OF APPLICANT

Idaho Fish & Game Dept. T11S, R4E BM

Form No. 0



SCALE: 2 Inches Equal 1 Mile. Draw Plan In Ink.

13 4001

b. Do you get water through a ditch owned by several users? no If yes, give the name of the ditch
_____. The other users and their respective
interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered _____

7. Where water is used for domestic or municipal purposes give number of families served _____
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible,
giving dates and quantities _____

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
Water from the middle springs of Whisky Creek are gathered in an open ditch 400 feet
in length and conveyed westerly to a land ridge. The water then enters an 18" pipe
with a near vertical drop of 17 ft. where it is conveyed a distance of 43' to the
stream channel of the West Fork of Whisky Creek. The waters are here commingled.
These waters are then diverted to the place of use within the Department's Grace
Hatchery complex. The waters of the Middle Springs of Whisky Creek are waters in
addition to those waters licensed to the Department as permit #20271 in the
amount of 20.00 cfs.

State of Idaho }
County of Ada } 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.

IDAHO FISH AND GAME DEPARTMENT

Director

Claimant

Sworn to before me this 26th day of October, 1970

Notary Public

Residing at

My commission expires June 1, 1974

10-27-70 For Department Use Only

Received by	Date	Exception filed by:	Forwarded to	Date
<u>ef</u>	<u>10-28</u>			
Prelim. check by <u>ef</u>	Date <u>10-28</u>			
Fee received by <u>ef</u>	Date <u>11-17-70</u>	Fee \$ <u>10.00</u>		
Approved for publication by <u>D</u>				
Published in <u>Caribou County</u>	Sun <u>12-10</u> & <u>12-17</u> , 70		<u>13</u>	<u>4001</u>
	dg			

1-371
Copy of agreement provided
by Idaho Fish and Game
Department.

A.K. Dunn

13 4001

13-4001

RECEIVED

JAN 8 1971

Department of Water Administration

A G R E E M E N T

THIS AGREEMENT, made and entered into this 1st
day of June, 1943, by and between the Fish and
Game Commission of the State of Idaho, for and on behalf of the State
of Idaho, party of the first part, the undersigned water-users of
Whiskey Creek, the parties of the second part, and the Gem Valley Rod
and Gun Club, party of the third part, witnesseth:

That Whereas, the party of the first part has purchased,
or is about to purchase, certain lands from Mary E. Bitton, L. B.
Bitton and Eva Bitton, which said lands are situated in the NE $\frac{1}{4}$ of
Section 13, Township 11 South, Range 41 East Boise Meridian, in the
County of Bannock, State of Idaho, and

Whereas, said party of the first part contemplates the con-
struction and operation of a fish hatchery and rearing ponds on said
lands, and

Whereas, the parties of the second part are all water-users
of Whiskey Creek below the proposed State fish hatchery site, and ob-
ject to the pollution of their domestic water supply through the feeding
of fish, and

Whereas, the Gem Valley Rod and Gun Club desires to aid and
assist the Fish and Game Commission of the State of Idaho in expanding
the facilities for the propagation of fish in this vicinity,

NOW THEREFORE, for and in consideration of the sum of \$600.
and other good and valuable considerations to be paid as hereinafter
provided, and the mutual covenants and agreements herein contained,
it is agreed by the parties hereto as follows:

1. That the parties of the first part will, upon the execution
of these presents, pay to the parties of the second part, as a group,
the sum of Three Hundred Dollars (\$300), the receipt whereof is hereby
acknowledged.

STATE OF IDAHO } SS
County of Caribou }

69490

I hereby certify that this instrument was filed at the request of

Caribou Title at 11:10 o'clock A.M.

this 21 day of Sept, 1970. In my office and

fully recorded in Microfilm Records of Caribou County

69490 Kenneth M. Fowler

Ex-Officio Recorder

By Debra Britschke Fee \$ 3.00

13 4001

2. The party of the third part will, upon the execution of these presents, pay to the parties of the second part, as a group, the sum of Three Hundred Dollars (\$300), the receipt whereof is hereby acknowledged.

3. That the said sums of money will be used by the said parties of the second part for the installation of a domestic water supply for

Wm J. Wendenhall, Roe Bennett
Elmer C. Bennett, Leroy Turner
Hennis Bennett

users of domestic water below the hatchery site; and said users hereby agree to stand all additional expense in the purchase of the said domestic water supply system and all expense of installation and expense of maintenance thereafter, share and share alike. The aforementioned water users further agree not to use any of the water for irrigation or any other purposes except domestic use.

4. That the parties of the first part shall have the ^{right} ~~right~~ to impound and divert the waters of Big and Middle Whiskey Creeks and use the same for the purpose of hatching, propagating and rearing fish, including all purposes necessary for the continuous operation of the hatchery and its rearing ponds; but that no water shall be used by the party of the first part for irrigation purposes except for a small lawn and shrubs around the hatchery and rearing pond site. (It is estimated that more than sufficient water for this purpose will be saved by the installation of a pipe line from the spring to the hatchery site, thereby decreasing seepage and evaporation). ~~It is further agreed that the parties of the second part will release a share or an inch of their water to parties of the first part in the event that loss of water is incurred by hatchery installations.~~ JTB
242

5. That the party of the first part, after using said water as herein specified, will turn said water back into the original channel.

6. That the parties of the second part will and do hereby release and forever discharge the party of the first part and the party of the third part of and from all claims, actions, causes of action, damages for trespasses whatsoever by reason of the diversion, impounding and use of the waters of Big and Middle Whiskey Creeks for the purposes herein provided and the operation of said hatchery and its rearing ponds.

13 4001

IN WITNESS WHEREOF, said parties have hereunto set their hands
on the day and year first above written.

(Signed) FISH AND GAME COMMISSION
OF THE STATE OF IDAHO

BY: James O. Beck
Director of Fish & Game
Department
Party of the First Part

(Signed)
Clark H. Mickelson
Edmund Bennett
Dennis Bennett
Roe Bennett
LeRoy Turner
James Swensen X

(Signed) Michael Mickelson X
(Signed) Raymond Swensen
(Signed) Willis J. Swensen
(Signed) Harris A. Mickelson
(Signed) John T. Mickelson
(Signed) Wm. J. Mendenhall X
(Signed) Lowell J. Mendenhall
(Signed) Henry B. Turner
Party of the Second Part

GEM VALLEY ROD AND GUN CLUB

BY: W. H. Smith
President

and

Secretary
Party of the Third Part

STATE OF IDAHO
COUNTY OF Cannock } SS

On this 1st day of June, 1943, before me Harold
B. Lowe, a Notary Public in and for said state personally appeared
those whose signatures appear
above

known to me to be the persons whose names are subscribed to the within instru-
ment and acknowledged to me that they executed the same.

In witness whereof I have hereunto set my hand and affixed my
official seal the day and year first above written.

Harold B. Lowe
Notary Public for Idaho Residing 13 40

Grace Idaho

RECEIVED

JAN 7 1971

Department of Water Administration

Affidavit of Publication

County of Caribou }
State of Idaho } ss.

V. E. Lansberry

being first duly sworn on his oath, states:

That he is publisher.....
of the Caribou County Sun, a newspaper of general circulation in Caribou County, Idaho, published weekly at Soda Springs in said County, that said newspaper has been published in said County uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement;

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any

supplement thereof for two...
successive weekly issues thereof,
the date of the first publication

being the 10th day

of December, 1970

The date of the last publication

being the 17th day of

December, 1970

V. E. Lansberry

Subscribed and sworn to before me this 5th day

of January, 1971

Claine S. Johnson

Notary Public, residing
at Soda Springs, Idaho
(SEAL)

My Commission expires the

1st day of November

1974

NOTICE OF CLAIM TO A WATER RIGHT

No. 13-4001

Notice is hereby given that the State of Idaho, Department of Fish and Game, Box 25, Boise, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 7.0 cubic feet per second of water from Middle Whiskey Creek Spring, trib. to Bear River with point of diversion in the NW¼ NE¼, Sec. 18, T. 11 S, R. 41 E, B.M., Caribou County.

The water is claimed to be used from January 1 to December 31 for fish culture with a priority of August, 1950; the place of use is within the NW¼ NE¼, Sec. 18, T. 11 S, R. 41 E, B. M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, Statehouse, Boise, Idaho.

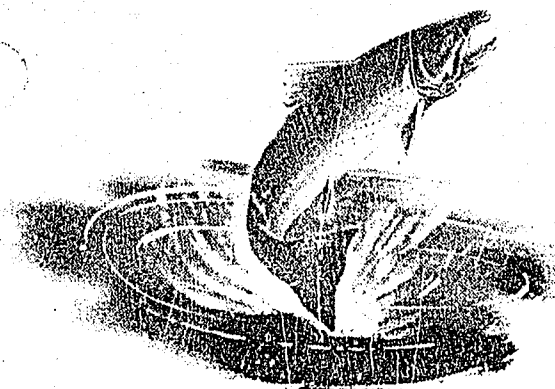
R. KEITH HIGGINSON,
Director

Published in the Caribou County Sun, Soda Springs, Idaho on December 10 and December 17, 1970.

13 4001



DON SAMUELSON, Governor
COMMISSION
ROBERT G. KALB, Sandpoint
PAUL C. KEETON, Lewiston
JOHN EATON, Cascade
R. J. HOLMES, Twin Falls
GLENN STANGER, Idaho Falls



RECEIVED
OCT 27 1970



Department of Water Administration
JOHN R. WOODWORTH, Director

POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

IDAHO FISH AND GAME DEPARTMENT

October 26, 1970

Middle Whiskey
Creek Spring
Caribou County

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Gentlemen:

Enclosed herewith is Claim to Water Right properly notarized.

Please sign the enclosed State's Miscellaneous Voucher on the Claimant line and return to the Idaho Fish and Game Department, Boise, Idaho for issuance of a warrant in payment of filing fee.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT
John R. Woodworth, Director

T. D. Biladeau, Wildlife Land Agent
Engineering Division

TDB/ech

Enclosures - 2

12 40

October 29, 1970

C
Idaho Fish and Game Department
Attn: T. D. Biladeau
B U I L D I N G

O
Dear Mr. Biladeau:

P
Enclosed herewith is the Expenditure Voucher you requested a signature on.
Upon receipt of the warrant for the filing fees, the claim application you
submitted on Middle Whiskey Creek Spring, Caribou County, will be processed.

Very truly yours,

M. RUSSELL BOSCH
Administrative Assistant

Y
MRB:ejw

Enclosure

13 4001

179867

DA-8

2-REMITTANCE ADVICE

STATE OF IDAHO
Miscellaneous Expenditure Voucher

No.

FOR USE OF DIVISION
OF ACCOUNTS ONLY

No.

FOR USE OF DEPARTMENT

FROM DEPARTMENT Fish and GameSUB-DIVISION Fish and Game CommissionAPPROPRIATION
ACCOUNT TITLEFish and Game Fund

REMARKS

PAY TO:

CODE NO.

Department of Water AdministrationStatehouseBoise, Idaho

ACCOUNT CODES					
FUND	FUNCTION	SUB DIV	APPR	OBJECT	COST CODES
6	6	01	6401	210	10.00
COMPUTATION CHECKED BY:				PRE-AUDITED BY:	
INCLUDED IN DAILY SUMMARY NO.				POSTED TO BUDGET CONTROL LEDGER	

DATE	EXPLANATION	AMOUNT	LEAVE BLANK
Oct. 13	Water Filling Fee Whisky Creek Sect 67-1614	\$10.00	

FISH & GAME
 ENF. 10-1-70
 ADM. 10-1-70

70 NOV 16 AM 10:18

DIR. 10-1-70

The above purchases are exempt from Idaho Sales Tax according to Tax Collectors Regulations No. 52 & 53 Idaho Sales Tax Act.

TO THE CLAIMANT:

Enclosed please find State of Idaho warrant in full settlement of the claim.

Please address any inquiries concerning this transaction to the

STATE AUDITOR,
 Division of Accounts
 State Capitol Building,
 Boise, Idaho

11/2/70 bc

ech

836990

13 4001

NOV 4 1970

November 17, 1970

State of Idaho
Fish and Game Department
Statehouse Mail

Gentlemen:

Returned herewith is Departmental Receipt No. 5327 in the amount of
\$10.00 for Application for Permit (Middle Whiskey Cr. Spring),

which was received in this office under the above date.

Very truly yours,

M. RUSSELL BOSCH
Administrative Assistant

MRB:ejw

Enclosure: Receipt

13 4001

NOTICE OF CLAIM TO A WATER RIGHT

No. 13-4001

Notice is hereby given that the State of Idaho, Dept. of Fish & Game,
Box 25, Boise, Idaho
has filed a claim to a water right established by diversion and appli-
cation to beneficial use of 7.0 cubic feet per second ~~acre/feet~~
of water from Middle Whisky Creek Spring, trib. to Bear River
with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 18, T. 11 S, R. 41 E, B. M.,
Caribou County.

The water is claimed to be used from January 1 to December 31 for
fish culture
with a priority of August, 1950;
the place of use is within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 18, T. 11 S, R. 41 E, B. M.

Any exception to this claim of water right may be filed with the
Idaho Department of Water Administration., Statehouse, Boise, Idaho.

R. KEITH HIGGINSON

Director

Published in the Caribou County Sun, Soda Springs, Idaho
on December 10 and December 17, 1970.

13 400

November 25, 1970

Re: Claim No. 13-4001

Caribou County Sun
P.O. Box 815
Soda Springs, Idaho 83276

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 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 claimant)

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM/DG
Enc: legal notice

Bill submitted 1-14-71 By ds

December 30, 1970

Re: Claim to a Water Right No. 13-4001
State of Idaho, Dept. of Fish & Game

C
Caribou County Sun
P.O. Box 815
Soda Springs, Idaho 83276

O
Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced item. The legal notice was to have been published in your paper on December 10th and 17th, 1970.

P
Thank you for your cooperation in this matter.

Very truly yours,

Y
Donald W. McEldowney
Appropriation Supervisor

DWM:DR

13 4001

LEONARD O. KINGSFORD

ATTORNEY AT LAW

Box 915

Soda Springs, Idaho 83276

December 23, 1970

CA
RECEIVED

DEC 28 1970

Department of Water Administration

Idaho Department of Water Administration
Statehouse
Boise, Idaho 83700

Gentlemen:

I am representing Daniel Mickelson, John Marvin Prescott, Franklin H. Mickelson, Lavera S. Henderson, Melvin T. Mickelson, Roe F. Bennett, Clark A. Mickelson, Carl Bassett, Adelia G. Rasmussen, Gene L. Rasmussen, Harris A. Mickelson, Riley L. Mickelson, Laurence D. Mickelson, Glenn V. Turner, Henry R. Turner, Elmer Bennett, Henry Jay Turner, Lovell Mendenhall, and Dwayne Mendenhall, as my clients, all of whom wish to protest the claim to water right filed by the State of Idaho Department of Fish and Game covering 7.0 cubic feet per second of water from Middle Whiskey Creek Spring.

The protestants believe that there is no water available to cover this claim. All waters of said spring have been heretofore decreed to protestants for irrigation purposes.

Protestants further allege that certain of the waters of said stream have long been used for culinary purposes and the use or proposed use of said water in a fish hatchery so pollutes and contaminates the water as to make it unfit for culinary use.

Very truly yours,

Leonard O. Kingsford

LEONARD O. KINGSFORD

13 4001

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215



R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

January 4, 1971

Re: Claim No. 13-4001

Leonard O. Kingford,
Attorney-at-Law
P.O. Box 915
Soda Springs, Idaho 83276

Dear Mr. Kingford:

We are in receipt of your letter of December 23, 1970, concerning claim to a water right no. 13-4001.

Claim no. 13-4001 is filed under the provisions of Section 42-225a&b of the Idaho Code, wherein any person claiming a water right established by diversion and use under Idaho's Constitution may file a public claim to such right. Under these provisions, the statutes provide that if in proper form the Department will cause a notice to be published, as required by the statutes, and the claim remains on record for further use by the courts or the Department. Anyone feeling aggrieved by the claim may file their own claim or file an exception to the claim, as provided by Section 42-225b of the Idaho Code. Upon receipt of an exception, as outlined under Section 42-225b of the Idaho Code, the Department will forward a copy of the exception to the claimant and place the original with the claim. No further action by the Department has been contemplated under these provisions.

If we understand the claim in question, it describes a fish hatchery that has been in use since 1950, and does not propose any new development on Whiskey Creek. If you wish to submit a formal exception to this claim, it must be in affidavit form and in duplicate. There is no time limit for submitting the exception. If we can be of further assistance, please contact us.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM/DG

13 4001

January 14, 1971

Re: Claim to a Water Right No. 13-4001

State of Idaho
Department of Fish & Game
Box 25
Boise, Idaho 83707

Gentlemen:

The Department of Water Administration 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. 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 Supervisor

DWM:dr
Enclosure: Copy of claim

13 4001

Steve:

Attached is an agreement executed in 1943 between F&G and several water users on Whiskey Creek.

Seven of the individuals who signed the letter of protest against the F&G Dept. also signed the 1943 agreement. F&G indicates that they contacted all water users affected in 1943 and they signed the agreement. I assume that the other names on the protest letter then represent a change in ownership.

I suggest we send protestants attorney a copy of the 1943 agreement and see if they ~~wish~~ wish to continue further action.

It should be noted that F&G didn't have the agreement recorded until Sept. 1970.

Kem

1-26-71

13 4001

February 2, 1971

Re: Claim of Water Right No. 13-4001

Mr. Leonard O. Kingsford
Attorney at Law
P.O. Box 915
Soda Springs, Idaho 83276

Dear Mr. Kingsford:

In processing the Fish and Game Department's claim to a water right, we noticed an agreement dated June 1, 1943 between the Fish and Game Department and several waterusers of Whiskey Creek. A copy of that agreement is enclosed. Please notice that several of the parties to this agreement are the same parties that you included as protestants in your letter of December 23, 1970. We felt that you should be aware of this agreement that has been included as additional information in regard to the claim by the Fish and Game Department.

If you have any questions concerning this matter, please contact us.

Very truly yours,

BOBBY D. FLEENOR
Assistant Director

BDF:kh

Enclosure

13 4001

Yellow

November 13, 1972

Re: Water District No. 13-S/Fish and Game Department

Lovell J. Mendenhall
344 East 10 North
Logan, Utah 84321

Dear Mr. Mendenhall:

In reference to your letter of October 30, 1972. We have been in contact with the Idaho Fish and Game Department, Engineering Division in Boise, Idaho. They advise that they are constructing, at present, a new storage facility which will include public restrooms, but the building itself will have no use for water other than the public restrooms. They have, under present plans, intentions to use an extension pipe from an existing spring which has been in use for approximately 25 years and they feel that their present water rights are sufficient to cover the use of the public restrooms. They do not plan any dwellings in addition to those which are on the sight at the present time.

The Engineering Division has advised us that they are looking into the possibility of a multiple domestic well that might replace the spring water. Until an application is filed or some new diversion is made, we can not become involved. If these diversions are made or a new application is filed then you have a course of action as provided under the protest divisions, wherein you can file a protest to their new appropriations. In addition to this, you might seek counseling from your attorney and see if some other course of law is open to you.

The Fish and Game Department, at present, has claim No. 13-4001, claiming a 1950 priority for 7 cubic feet per second for fish culture on year round basis from Middle Whiskey Creek Spring. In addition, they have an application No. 13-7022 for Middle Whiskey Creek Springs, which is protested, and requests an additional 7 cubic feet per second for fish culture on year round basis. These are the only filings we have for the Fish and Game Department in connection with this matter at this time.

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

Very truly yours,

Donald W. McEldowney
Water Rights Administrator

DWM/cd

13 4001

