

Claim No. 13 4024

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 Jim W. Elsmore and Keith Barthlome
(name of claimant)
of Route #1, Grace, Idaho
(mailing address), claims a right to the diversion and beneficial use of
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, sinks
- (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>0.08</u>	Use	<u>Domestic</u>	Period of Use: From	<u>Jan. 1</u>	To	<u>Dec. 31</u>
Amount	<u>0.06</u>	Use	<u>Stockwater</u>	Period of Use: From	<u>Jan. 1</u>	To	<u>Dec. 31</u>
Amount	<u>(cfs, gpm, etc.)</u>	Use	<u>(dom., irri., stock, etc.)</u>	Period of Use: From		To	
	<u>XXXX</u>						<u>(both dates inclusive)</u>

- (3) Total quantity of water claimed: 0.14 cubic feet per second, or _____ acre feet
per annum, and/or 60 gallons per minute.
- (4) Priority claimed: (the date water was first applied to beneficial use) October 24, 1903

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)
SE 1/4 NE 1/4, Sec. 27 Twp. 11S Rge. 40E B. M. County of Caribou
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. Spring box with orange berg pipe to private cistern.

- (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	
11S	40E	26							X										

Total No. of acres _____

B) If the water is used for other than irrigation, fully describe that use, being as specific as possible:
The water is used for domestic purposes for two families, 1 acre garden and stockwatering purposes for 200 cows and 100 calves.

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

Remarks _____

A hand-drawn map on a grid showing a route from a starting point to a destination. The route is marked with a solid line and a dashed line. The starting point is labeled 'RD.' with an arrow pointing to a small circle. The route passes through points labeled 22, 23, 27, 26, and 25. The destination is labeled 'RANGE 40 E'. The map is divided into sections by solid lines, with the top section labeled 'TOWNSHIP 1 S'.

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.

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.

Heidi Bartelme

Heir of Bartolome
 Juan de E. Lamo
 (Claimant)

Residing at Baden, Prussia, R

1-5-79

For Department Use Only

Received by <u>MB</u>	Date <u>2-13-75</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>RDC</u>	Date <u>2/13/75</u>		claimant by:	
\$10.00 fee received by <u>MB</u>	Date <u>10²⁰</u>			
Approved for publication by <u>MB 2-28-75 #4089</u>		<u>Mr. New. Lawrence</u>	<u>MB</u>	<u>3-11-75</u>
Published in <u>Caribbean (Party Gen)</u>				
Dates <u>February 20 & 27, 1975</u>				

RECEIVED

FEB 13 1975

Department of Water Resources
Eastern District Office

I Alma L. Pond residing at 30 Raymond Ct., Logan, Utah do hereby declare that my parents mr. and mrs Joseph Pond moved onto the ranch presently owned by Mr. James Elmore, April 1903. Water was diverted from a spring by pipe, into the home October 1903. It has been used continuously to date for culinary, stock and garden watering, over 71 years.

Signed

Alma L. Pond

Alma L. Pond

Subscribed to and before me this 8th. day of February 1975. In and for Cache, County Utah.

Notary

James J. Peterson

My commission expires June 3, 1976

RECEIVED

FEB 13 1975

Department of Water Resources
Eastern District Office

I James McCloy residing in Grace Idaho do hereby declare, after examining the area surrounding the cisterns on both sides of the stream, it appears that the collection system recently put in opposite yours could have an effect on your water supply for the following reason:

1. It is between the recharge area and your collection system.
2. It is upstream from your source.

The type and extent of clay on the surface of the water is capable of conducting water between both sources if it continues under the stream.

Signed

James McCloy
James McCloy
Hydrologist

Subscribed to and before me this 10th day of Feb 1975
In Caribou, County Idaho.

Notary

Deane D. Hill
My commission expires 7-25-77

RECEIVED

FEB 28 1975

Department of Water Resources
Eastern District Office

Affidavit of Publication

County of Caribou } ss.
State of Idaho }

V. E. Lansberry

being first duly sworn on his
oath, states:

That he is Publisher
of the Caribou County Sun, a
newspaper of general circula-
tion in Caribou County, Idaho,
published weekly at Soda
Springs in said County, that said
newspaper has been pub-
lished in said County uninterr-
ruptedly and continuously for
over seventy-eight consecutive
weeks, prior to the first publi-
cation of the annexed notice or
advertisement;

That the annexed notice was
published as per clipping at-
tached in the regular and entire
edition of said newspaper and
not in any supplement thereof

for 2 successive weekly
issues thereof, the date of the
first publication being the

20th day of
February, 1975

The date of the last publication

being the 27th day of
February, 1975

+ V E Lansberry

Subscribed and sworn to be-
fore me this 27th day

of February, 1975

Blaine S. Johnson
Notary Public, residing
at Soda Springs, Idaho
(SEAL)

My Commission expires the
1st day of November
1978

NOTICE OF CLAIM TO A WATER RIGHT No. 13-4024

Notice is hereby given that
Jim W. Elsmore and Keith Bar-
tholme, Rt. No. 1, Grace, Idaho
have filed a claim to a water
right established by diversion
and application to beneficial use
of 0.14 cubic feet per second of
water from an unnamed spring
tributary to sinks with point of

diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec.
27, T. 11S, R. 40E, B.M., Caribou
County.

The water is claimed to be
used from Jan. 1 to Dec. 31 for
domestic purposes for two fam-
ilies and stockwatering purposes
for 200 cows and 100 calves with
a priority of October 24, 1903;
the place of use is within the
SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 26, T. 11S, R.
40E, 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 Caribou
County Sun, Soda Springs, Ida-
ho on February 20 and February
27, 1975.

County of

RECEIVED
IDAVIT MAR 10 1955

AFFIDAVIT
MAR 10 1975
Department of Water Resources
Eastern District Office

Residing at Fresno, Idaho
My commission expires 9-18-75

December 17, 1974

Mr. Keith Barthlome
Route #1
Grace, Idaho 83241

Dear Mr. Barthlome:

Please find enclosed your claim to a water right, your check No. 92-223 in the amount of \$10.00, the other documents which you submitted and also, an additional claim form which we have taken the liberty to retype from the information submitted on the original claim form. We are returning your claim because the map in Item 8 and the description in Item 6 did not agree. Since a claim to a water right is evidence that you wish to have available to submit to the court if the need arises, the claim and all documents submitted as supporting evidence must be in the form prescribed by the court. Therefore, rather than the letters that you submitted from Mr. Pond and Mr. McCloy, you should submit their statements in affidavit form and these forms must be signed in the presence of a Notary Public.

Please review the retyped form and if you feel it correctly describes your use rights, it will again be necessary for you and Mr. Elmore to sign the form before a Notary Public before returning it with the \$10.00 filing fee for processing.

If you have any questions, please contact us.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:mb

Enc: Check No. 92-223
Claims

Ronald D. Carlson

RECEIVED

DEC 16 1974

Department of Water Resources
Eastern District Office

Enclosed is use permit or claim to water right of Oct 24 1903 of Beathlane + Edmore.

Also enclosed is statement of Alma Ford of history of right, a statement by James McChesney Hydrologist and Formal Protest, which was previously submitted.

Please make photostatic copies of each and file with claim to water right.

Sincerely yours

Jim W. Edmore

P.S. Please return all document for personal use.

November 25, 1974

Mr. Jim W. Elsmore
Route #1
Grace, ID 83241

Dear Mr. Elsmore:

Please find enclosed your claim to a water right and the protest against Permit No. 13-7064 in the name of Andersen, Hogan &/or Barthlome.

The claim was not in complete form and the statutory filing fee of \$10.00 was not included. We have taken the liberty to retype the claim from the information submitted on the original form. Please complete Item 5a, Item 6a & 6b before returning the retyped document. Also, you will need to sign the form before a Notary Public.

The protest which you submitted against the above mentioned permit cannot be accepted because the protest period has lapsed and the application has been approved. However, if you wish to file an exception to the claim submitted by Mr. Hogan, then it must be filed in affidavit form and signed in the presence of a Notary Public, pursuant to Section 42-225b of the Idaho Code. A copy of the exception will be sent to the claimant and a copy included in the claim file. The Department will take no action on an exception but will have it available if it is ever needed in a court proceeding.

Please return the retyped claim with the filing fee of \$10.00 and we will be happy to commence processing. If we may be of further assistance, please feel free to contact this office.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

Enclosures

RECEIVED

NOV 20 1974

Department of Water Resources
Eastern District Office

RECEIVED

FEB 18 1975

Department of Water Resources
Eastern District Office

RECEIVED

DEC 16 1974

Department of Water Resources
Eastern District Office

Formal Protest

I the undersigned having interest in culinary & domestic water rights, dating back to 1903. Do hereby file protest to water filing and new use right of 90 gal. per minute made by Anderson Bortholme and Hogan for following reasons

1. Section 42-222 Idaho Code (Point of Diversion)

By changing point of diversion and using a collection system for underground water has intercepted water which belongs to the undersigned; which has caused loss of water flow and cessation of flow during part of the season.

2 Waste water is not being regulated but has been allowed to run back into Bear River for past 12 months. When in all probability if such over-flow water was placed back into ground no shortage might exist to undersigned.

3. All parties concerned in water disputes have been negotiating periodically for 5-6 months without reaching an agreement to solve shortage.

4. That their development has jeopardized our senior right and chances for future development.

5. Section 42-203 Idaho Code. That this new use has reduced the quantity of a senior water right which has been in use since 1903.

6. It is questionable if water right & development was made in good faith with due consideration to all parties, since they were cautioned on the length of collection system, and asked not to go too far.

60 gal per
minutes

2
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DEC 16 1974

Department of Water Resources
Eastern District Office

7. Sec. 42-239c Idaho Code.

This section indicates to me that I have
a right of recovery to water which I have
lost, by parties who changed point of diversion
and acquired new use permit.

Sincerely yours

Jim W. Elenore

February 14, 1975

RE: Claim to a Water Right No. 13-4024

Mr. Jim W. Elsmore
Mr. Keith Barthlome
Route #1
Grace, Idaho 83241

Gentlemen:

This is to notify you that the Department has received your claim to a water right and the three other documents which you submitted for inclusion in your claim file. The Department will commence advertising your claim on February 20 and February 27, 1975.

Enclosed you will find departmental receipt No. 4089 in the amount of \$10.00 for said claim.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

Attachment

NOTICE OF CLAIM TO A WATER RIGHT

NO. 13-4024

Notice is hereby given that Jim W. Elsmore and Keith Barthlome,
Rt. #1, Grace, Idaho

have ~~has~~ filed a claim to a water right established by diversion and application
to beneficial use of 0.14 cubic feet per second ~~some feet per second~~
of water from an unnamed spring tributary to sinks
with point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 11S, R. 40E, B.M.,
Caribou County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic
purposes for two families and stockwatering purposes for 200 cows and 100 calves
with a priority of October 24, 1903;
the place of use is within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 26, T. 11S, R. 40E, 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 Caribou County Sun, Soda Springs, Idaho
on February 20 and February 27, 1975.

*AW-A
ad. Called 2-20-75
MB-P #2
AW-A*

PUBLIC NOTICE

**NOTICE OF CLAIM
TO A WATER RIGHT**

No. 13-4024

Notice is hereby given that Jim W. Elsmore and Keith Barthlome, Rt. No. 1, Grace, Idaho have filed a claim to a water right established by diversion and application to beneficial use of 0.14 cubic feet per second of water from an unnamed spring tributary to sinks with point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 11S, R. 40E, B.M., Caribou County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic purposes for two families and stockwatering purposes for 200 cows and 100 calves with a priority of October 24, 1903; the place of use is within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 26, T. 11S, R. 40E, B.M.

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R. KEITH HIGGINSON,
Director

Published in the Caribou County Sun, Soda Springs, Idaho on February 20 and February 27, 1975.

PUBLIC NOTICE

**First Time
Published**

13-4024

**NOTICE OF CLAIM
TO A WATER RIGHT**

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The water is claimed to be used from Jan. 1 to Dec. 31 for domestic purposes for two families and stockwatering purposes for 200 cows and 100 calves with a priority of October 24, 1903; the place of use is within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 26, T. 11S, R. 40E, 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 Caribou County Sun, Soda Springs, Idaho on February 20 and February 27, 1975.

February 14, 1975

RE: Claim to a Water Right No. 13-4024 Elsmore & Barthlome

Caribou County Sun
P.O. Box 815
Soda Springs, ID 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 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
Acting District Engineer

Bill submitted 2-28-75 by CD

RDC:MB

Enc: Legal Notice (1)

1515 Lincoln Road

March 4, 1975

RE: Claim to a Water Right No. 13-4024

Mr. & Mrs. Wawn S. Hogan
Grace,
Idaho 83241

Dear Mr. & Mrs. Hogan:

The Idaho Code specifies that exceptions filed against claims to a water right must be in affidavit form and signed in the presence of a notary public.

We have taken the liberty of retyping your exception in proper form and if you will return a signed copy to use we can then include it in our files.

Very truly yours,

RONALD D. CARLSON
District Engineer

RDC:cw

Enclosure

March 11, 1975

RE: Claim to a Water Right No. 13-4024 ELSMORE & BARTHLOME

C Mr. & Mrs. Wawn S. Hogan
Grace
Idaho 83241

Dear Mr. & Mrs. Hogan:

O We have received the exception dated March 10, 1975, 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.-----

P
Y
.....
.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 reclamation (renamed department of water administration, July 1, 1970) and shall be considered the same as other evidence in said file. A copy of an exception shall be forwarded to the claimant by the department of water administration. 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
District Engineer

RDC:MB

March 11, 1975

RE: Claim to a Water Right No. 13-4024

C Mr. Jim W. Elsmore
Route #1
Grace, Idaho 83241

Dear Mr. Elsmore:

O
P
Y
Enclosed please find a copy of the exception filed by Mr. & Mrs. Wawn S. Hogan in connection with your Claim No. 13-4024. 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 disagreed 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 reclamation (renamed department of water administration, July 1, 1970) 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 administration. 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
District Engineer

RDC:MB

Enclosure

March 11, 1975

RE: Claim to a Water Right No. 13-4024

C
Mr. Keith Barthlome
Route #1
Grace, Idaho 83241

Dear Mr. Barthlome:

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

Very truly yours,

RONALD D. CARLSON
District Engineer

RDC:MB

Enclosure

March 11, 1975

RE: Claim to a Water Right No. 13-4024

C Mr. Keith Barthlome
Route #1
Grace, Idaho 83241

Dear Mr. Barthlome:

O 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.

P 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.

Y 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
District Engineer

RDC:MB

Enc: Copy of claim

March 11, 1975

RE: Claim to a Water Right No. 13-4024

C Mr. Jim W. Elsmore
Route #1
Grace, ID 83241

Dear Mr. Elsmore:

O 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.

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P 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.

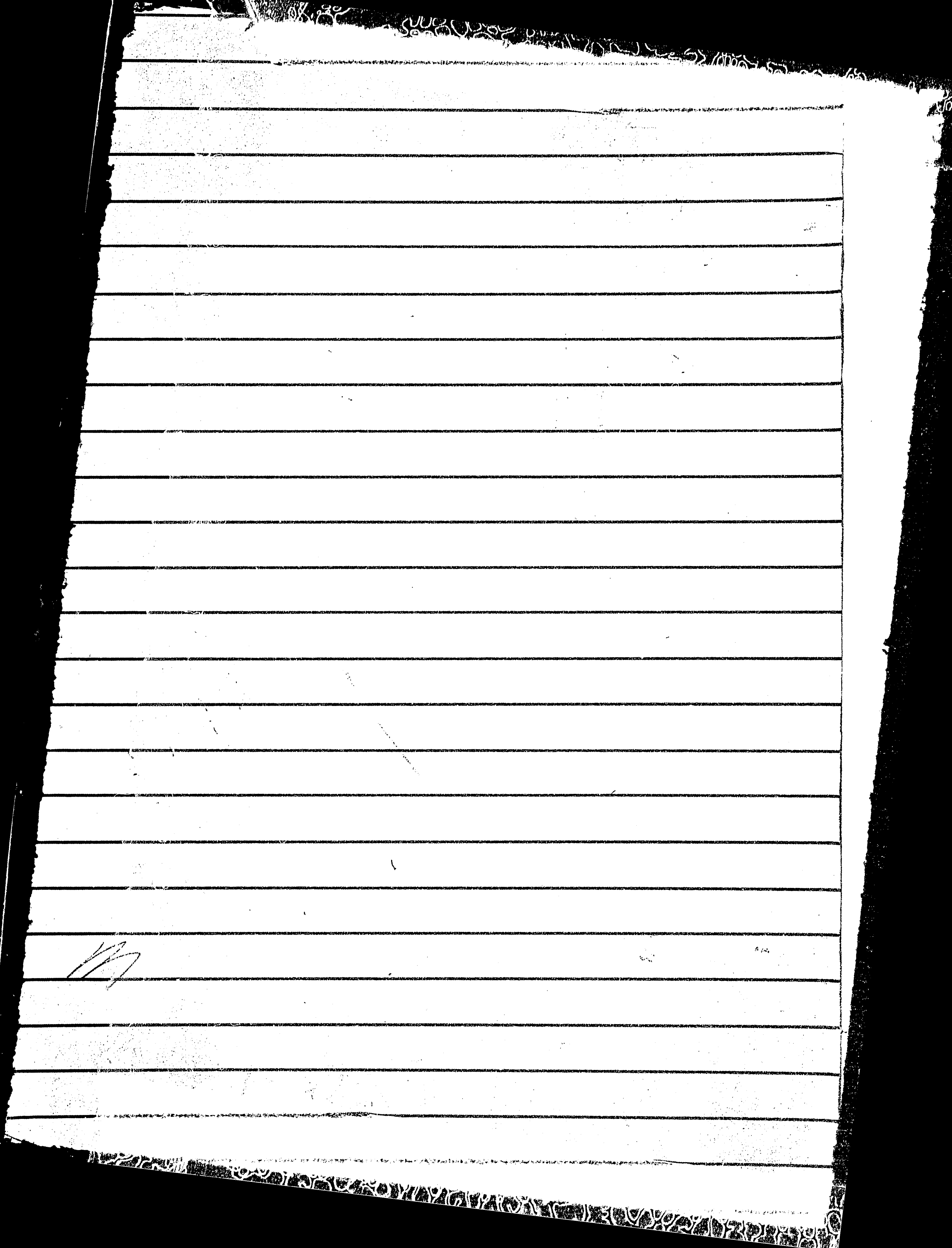
Y We are enclosing, for your records, a copy of your claim. If you have any questions or if we can be of further assistance, please feel free to call upon us.

Very truly yours,

RONALD D. CARLSON
District Engineer

RDC:MB

Enc: Copy of claim



May 13, 1975

Mr. Keith A. Hansen, P. E.
Hansen & Associates
538 North Main Street
Brigham City, Utah 84302

Re: Claim No. 13-4024

Dear Keith:

Thank you for your recent letter giving me your views concerning the situation involving Mr. Elsmore and Mr. Bartholome and their dispute over the springs.

Unfortunately, the Legislature, a few years ago, did not act on a bill which would have given us authority to arbitrate disputes of the type which you mention in your letter. We therefore have no authority to make a decision based upon the information you have given me, and the only present recourse may be to have the matter reviewed by the District Court. However, if the facts are as recited in your letter, it would appear that Mr. Elsmore has a prior right to water from the spring which is being affected by diversion works being constructed by others. If that is the fact, those persons constructing the new collection system have an obligation to provide him with water, probably at no cost to him other than the equivalent of what it would have cost him to maintain the original system had they not interfered with it.

I'm sorry that we cannot provide you with any direct assistance in this matter, but would appreciate being kept advised of the future progress of discussions concerning it.

Very truly yours,

R. KEITH HIGGINSON
Director

RKH:mjr

cc: Ron Carlson

RECEIVED

MAY 8

Department of Water Resources

5 May 1975

Re: Claim No. 13-4024
Jim W. Elsmore & Keith Bartholome

DIRECTOR	☒
PLANNING	☐
WATER PLAN	☐
TECHNICAL	☐
GENERAL	☐
ENGINEERING	☐
WATER RIGHTS	☐
INTERAGENCY	☐
LEGAL	☐
FISCAL	☐
BOARD	☐
FILES	☐

R. Keith Higginson - Director
Idaho State Department of Water Admin.
614 West State Street
Boise, Idaho 83700

Dear Keith:

It has been quite some time since we last conversed but I trust you still remember me.

I have been asked by Jim Elsmore to review some construction that has taken place in the vicinity of some springs that have furnished domestic and cattle water for his home and the home of Keith Bartholome. The springs are recorded as being located in the Southeast 1/4 of the Northeast 1/4 of Section 27, Township 11 South, Range 40 East, B.M.

The facts, as close as I can determine, are as follow:

1. The springs in this area have served the home in which Jim Elsmore lives for over seventy years.
2. In 1945 additional water was collected from a small pond located westerly of Mr. Elsmore's source and piped to Keith Bartholome's and Wawn Hogan's properties for domestic and cattle watering purposes.
3. In 1973, Keith Bartholome, Wayne Anderson and Wawn Hogan filed an application No. 13-7064 to divert 0.20 cfs from this spring area. Mr. Bartholome, Mr. Anderson and Mr. Hogan proceeded to construct a collection works by installing approximately 160 feet of perforated pipe. It went from an existing collection box in a westerly and northwesterly direction around the small pond formerly used as a water source and toward a patch of willows. Mr. Bartholome is involved in both water systems.

^{double}
HaaI

Consulting Engineers & Land Surveyors

HANSEN & ASSOCIATES INC.

534 NORTH MAIN STREET, BRIGHAM CITY, UTAH 84302 (801) 723-3491 • LOGAN (801) 752-8272 • OGDEN (801) 399-4905

4. According to Mr. Elsmore, he did not protest their filing because he was of the opinion that there was adequate water for all.

5. The construction of the collection works by Mr. Bartholome, Mr. Anderson and Mr. Hogan has:

a. Apparently diminished the size of the pond previously used as a source of water.

b. Diminished the water in the springs used by Mr. Bartholome and Mr. Elsmore to the extent that Mr. Elsmore was completely without water and found it necessary to haul water for use within his home.

c. An overflow constructed by Mr. Bartholome, Mr. Anderson and Mr. Hogan is discharging 50 to 100 gpm into the small creek that traverses the property. This water was developed when the collection works was constructed.

Because the construction in the spring area diminished his source of water, Mr. Elsmore requested permission to connect to the collection works of Bartholome, Anderson and Hogan. Mr. Bartholome and Mr. Anderson gave permission but Mr. Hogan denied permission unless Mr. Elsmore paid part of the construction costs. This Mr. Elsmore is refusing to do because he is being required to install approximately two hundred feet of new pipe to intercept adequate water for his own use. Mr. Elsmore's concern is that he won't be able to locate adequate water without going over to and possibly intercepting the collection system of Bartholome, Anderson and Hogan. Mr. Hogan also wanted Mr. Elsmore to give up his priority on his water right. At present there is adequate water for all if the overflow water is directed into Mr. Elsmore's system, however, during the periods of low flow, the quantity could diminish to a point where the owners of the junior rights would have to recognize the senior rights. The problem is a practical one wherein water has been developed, some is going to waste, and an old source has been essentially dried up. It is also a personal one that has created considerable hard feelings in the area and requires the assistance of a disinterested party, such as your office, to make a determination.

Mr. Elsmore has contacted your representatives in Idaho Falls but they are not too responsive. They apparently are trying to mediate the issue. Whereas it is, in my opinion, an issue that requires a decision on water rights and the effect of the 1973 construction.

It is my opinion that:

1. The 1973 construction has intercepted the natural flow to Mr. Elsmore's spring and that corrective measures must be taken to re-establish the flow to Mr. Elsmore's spring.



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

STATE HOUSE BOISE, IDAHO 83725

May 13, 1975

RECEIVED

JUN 4 1975

Department of Water Resources
Eastern District Office

Mr. Keith A. Hansen, P. E.
Hansen & Associates
538 North Main Street
Brigham City, Utah 84302

Re: Claim No. 13-4024

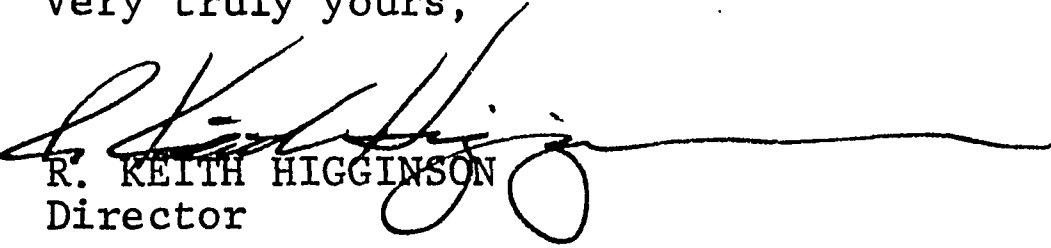
Dear Keith:

Thank you for your recent letter giving me your views concerning the situation involving Mr. Elsmore and Mr. Bartholome and their dispute over the springs.

Unfortunately, the Legislature, a few years ago, did not act on a bill which would have given us authority to arbitrate disputes of the type which you mention in your letter. We therefore have no authority to make a decision based upon the information you have given me, and the only present recourse may be to have the matter reviewed by the District Court. However, if the facts are as recited in your letter, it would appear that Mr. Elsmore has a prior right to water from the spring which is being affected by diversion works being constructed by others. If that is the fact, those persons constructing the new collection system have an obligation to provide him with water, probably at no cost to him other than the equivalent of what it would have cost him to maintain the original system had they not interfered with it.

I'm sorry that we cannot provide you with any direct assistance in this matter, but would appreciate being kept advised of the future progress of discussions concerning it.

Very truly yours,

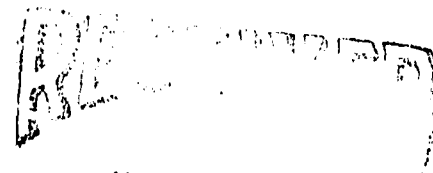

R. KEITH HIGGINSON
Director

RKH:mjr

cc: Ron Carlson

RECEIVED
MAY 15 1975

Mr. Jim Elsmore
Grace, Idaho
May 24, 1975



JUN 4 1975

Department of Water Resources
Eastern District Office

Dear Jim:

Your domestic water supply and that of Mr. Wawn Hogan's is fed by an aquifer on Burton Creek that is a result of ancient stream and lake deposits. Burton Creek has cut through these deposits while depositing sand and gravel over the consolidated clays and silts.

Water travels through the layers of these porous deposits and exists where they are exposed. Your aquifer is fed in a small part from Burton Creek, as proved by the fact that when Burton Creek dries up in the late summer your spring continues to run. The water seeps through the layers of sands and enters through porous soil to the layer of sands and gravels, and since the consolidated clays and silts are not as porous, the aquifer acts like a reservoir. Throughout the year the amount of water in the aquifer depends on the inflow. As the water rises in the reservoir it will exit through any weak spot, your spring or excavation.

The present water level in the reservoir is high enough to allow natural irrigation of your field. If more water is extracted from the aquifer than is supplied, the water table will drop until irrigation will be necessary.

If Mr. Hogan's collection system does not lower the water table, then any increased collection system you install will. Of course, if Mr. Hogan was to put his excess water back into the aquifer rather than into Burton Creek the situation would improve.

I am positive that Mr. Hogan's spring is in the same aquifer as yours and that the present aquifer will not support both collection systems and keep your pasture as productive as it has been.

Respectfully yours

Charles Collins

