

RECEIVED

MAR 13 1978

Department of Water Resources
Eastern District Office

NOTICE OF CLAIM TO
TO A WATER RIGHT
NO. 13-4064

Notice is hereby given that H. Wendell Smith, Grace, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 0.04 cubic feet per second of water from Birch Creek tributary to Beaver Dam Creek with point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, B.M., Caribou County.

The water is claimed to be used from Jan. 1 to Dec. 31 for domestic purposes for one family with a priority of 1911; the place of use is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, 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 Caribou County Sun, Soda Springs, Idaho on February 23 and March 2, 1978.

Affidavit of
Publication

County of Caribou } ss.
State of Idaho }

Mark Steele

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

23rd day of

February, 1978

The date of the last publication

being the 2nd day of

March, 1978

Subscribed and sworn to be-

fore me this 17th day

of March, 1978

Wendy M. Steele

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

My Commission expires the

1st day of March

1980.

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 H. Wendell Smith

(name of claimant)

of Star Route, Grace, Idaho 83241, 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) Birch Creek
, tributary to, Beaver Dam 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 .04 cfs Use Culinary Period of Use: From Jan. 1 To Dec. 31

Amount _____ Use _____ Period of Use: From _____ To _____

Amount _____ Use _____ Period of Use: From _____ To _____

(cfs, gpm
or a/f)

(dom., irri.,
stock, etc.)

(both dates inclusive)

(both dates inclusive)

- (3) Total quantity of water claimed: .04 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) 1911

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
NE ¼ SE ¼, Sec. 2 Twp. 11 S Rge. 39 E 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. existing cement headbox with
eight (8) inch pipeline

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

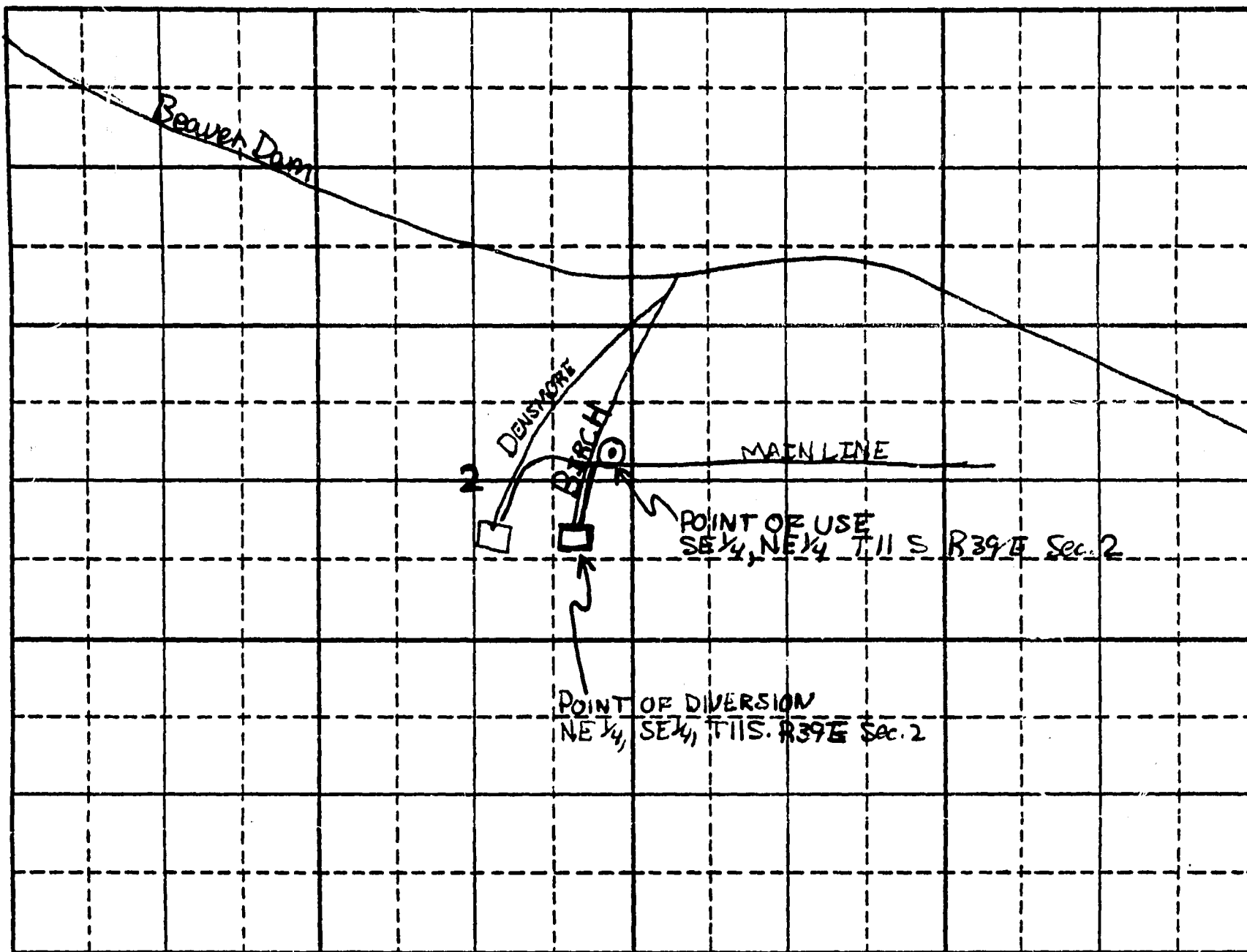
[illegible]

Total No. of acres

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: Culinary - Single Family Domestic Use

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

(3) 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 Utah)
 Idaho) ss.
 County of Salt Lake)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 7th day of February, 19 78

H. Wendell Smith
 (Claimant)

[Signature]
 Notary Public
 Residing at Salt Lake City, Utah

My commission expires 9-14-79

CW	2-13-78	For Department Use Only			
CW		Date	1-04-78	Exception filed by:	Date
Received by	mr	Date	12-30-77	Forwarded to	
Prelim. check by	WHM <u>EMC</u>	Date	1-03-78 <u>2-13-78</u>	claimant by:	
\$10.00 fee received by	mb	Date	12/30/77		
Approved for publication by	<u>3-13-78 CW</u>		#10240		
Published in	<u>Carshaw County (Dum)</u>				
Dates	<u>Feb. 22 & March 24 1978</u>				

Transtrum & Budge, Chartered

A Professional Corporation

Attorneys at Law

WALLACE M. TRANSTRUM

RANDALL C. BUDGE

A. BRUCE LARSON

December 28, 1977

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

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DEC 30 1977

Department of Water Resources

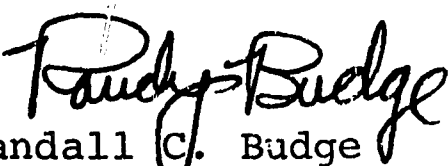
State of Idaho
Department of Water Resources
State Office, 373 W. Franklin St.
Boise, Idaho 83720

RE: CLAIM TO A WATER RIGHT - H. WENDELL SMITH

Enclosed for filing is a claim to a water right submitted on behalf of H. Wendell Smith, together with our trust check in the amount of \$10.00 for filing fees.

Thank you for your time and cooperation in this regard. Please direct all inquiries to this office.

Very truly yours,


Randall C. Budge

RCB/csj
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

January 5, 1978

Mr. Randall C. Budge
Attorney at Law
P.O. Box 833
Soda Springs, Idaho 83276

Dear Mr. Budge:

Enclosed you will find departmental receipt No. 10239 and 10240 totalling \$85.00, two typed applications for permit and three partially completed claims to a water right.

Unfortunately, the original applications for permit were on outdated forms, so for your convenience we have retyped the applications on forms currently in use. Both applications require Don Gilbert's signature and Item 8c on the application for irrigation water from Beaver Dam Creek should be completed.

Since the three claims were also on outdated forms we have enclosed the information contained on the original claims and three current forms. For all three claims, Item 6 must be completed indicating township, range, section, and placing an "X" in the appropriate box designating the correct 40-acre subdivision for the place of use. A map must also be completed under Item 8 on each claim. Have the claims signed in the presence of a notary and return them to our office.

For your files we are enclosing blank application and claim forms. To expedite the future processing of your client's applications and claims, send them to this office rather than the State Office in Boise.

Should you have any questions concerning the above mentioned items, please feel free to contact me at this office.

Respectfully submitted,

ERNEST M. CARLSEN
Water Resource Agent

Enclosures



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

February 2, 1978

Mr. Randall C. Budge
Attorney at Law
P.O. Box 833
Soda Springs, Idaho 83276

Dear Mr. Budge:

The Department has completed the advertising of the two applications for permit submitted by you on behalf of Don Gilbert. You may recall, however, the originals were on outdated forms so on January 5, 1978, new applications were forwarded to your office for review and Mr. Gilbert's signature. One application was for domestic and stockwater within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 20, T. 10S, R. 40E. The second application was for 3.00 c.f.s. of water from Beaver Dam Creek, with the point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, T. 10S, R. 39E, and required the completion of Item 8c. Further processing of these applications is not possible unless those forwarded to you are returned.

Your office should also have received three claims requiring additional information for Item 6 and 8. Two of these claims were for Don W. and Richard W. Gilbert for the beneficial use of water from Birch and Densmore Creeks. The third claimant was H. Wendell Smith claiming the culinary use of water from Birch Creek. Since the originals, retained in our office, did not identify a place of use the Department can not begin the advertising until those forwarded to you are completed and returned to our office.

It is hoped you will give this matter your immediate attention.

Respectfully submitted,

ERNEST M. CARLSEN
Water Resource Agent

EMC:cw

Identification No. 13 4064
Claim No. _____
Map No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
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 H. Wendell Smith,
post office address Star Route, Grace, Idaho 83241
2. The point of diversion is in NE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 2 Township 11 South
Range 39 East B.M. located on Birch Creek
(name of source)
tributary to Beaver Dam Creek 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:

May 1, 1911 amount: .04 c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
Total claimed .04 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 Culinary period of use from January 1 to December 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 ~~work and/or headgate~~: material is composed of cement headbox
_____; length is 5 feet; height is 4 feet;
width at bottom is 5 feet; width at top is 5 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 _____
_____;

_____; if so, give dates and explain _____

- ing date and dimensions if possible.

- 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 _____
- _____

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_____

- 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 _____

- Do you get water through a ditch owned by several users? No If yes, give the name of the ditch:

Published in _____ Dates _____

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Transtrum & Budge, Chartered

WALLACE M. TRANSTRUM
RANDALL C. BUDGE

FEB 13 1978

A Professional Corporation
Attorneys at Law

Department of Water Resources

A. BRUCE LARSON

Eastern District Office

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

State of Idaho
Dept. of Water Resources
1515 Lincoln Rd.
Id. Falls, Id. 83401

Date: 2/10/78

Re: Claim

ENCLOSED ARE:

Claim to a Water Right - H. Wendell Smith

☐ For your file ☐ Sign ☐ Notarize ☐ Return ☐ Record
☐ Obtain signature of _____
☐ Send to _____
COPY: ☐ Conform ☐ Certify ☐ File ☐ Return
☐ Send to _____

REMARKS:

Being resubmitted on updated form.
Filing fees paid previously.

Very truly yours,

Randy Budge

NOTICE OF CLAIM TO A WATER RIGHT

NO. 13-4064

Notice is hereby given that H. Wendell Smith,
Grace, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 0.04 cubic feet per second ~~acres feet per annum~~
of water from Birch Creek tributary to Beaver Dam Creek

with point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, B.M.,
Caribou County

The water is claimed to be used from Jan. 1 to Dec. 31 for
domestic purposes for One family

with a priority of 1911;
the place of use is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 2, T. 11S, R. 39E, 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
~~XXXXXXXXXXXXXXXXXXXX~~

Director

Published in the Caribou County Sun, Soda Spring, Idaho
on February 23 and March 2, 1978

*CW-A
me. 2*

February 15, 1978

RE: Claim to a Water Right No. 13-4064 SMITH

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 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 3-13-78 by CW

RDC:CW

Enc: Legal Notice



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

Don V. Evans
Governor
C. Stephen Allred
Director

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

March 13, 1978

RE: Claim to a Water Right No. 13-4064

H. Wendell Smith
Star Route
Grace, ID 83241

Dear Mr. Smith:

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.

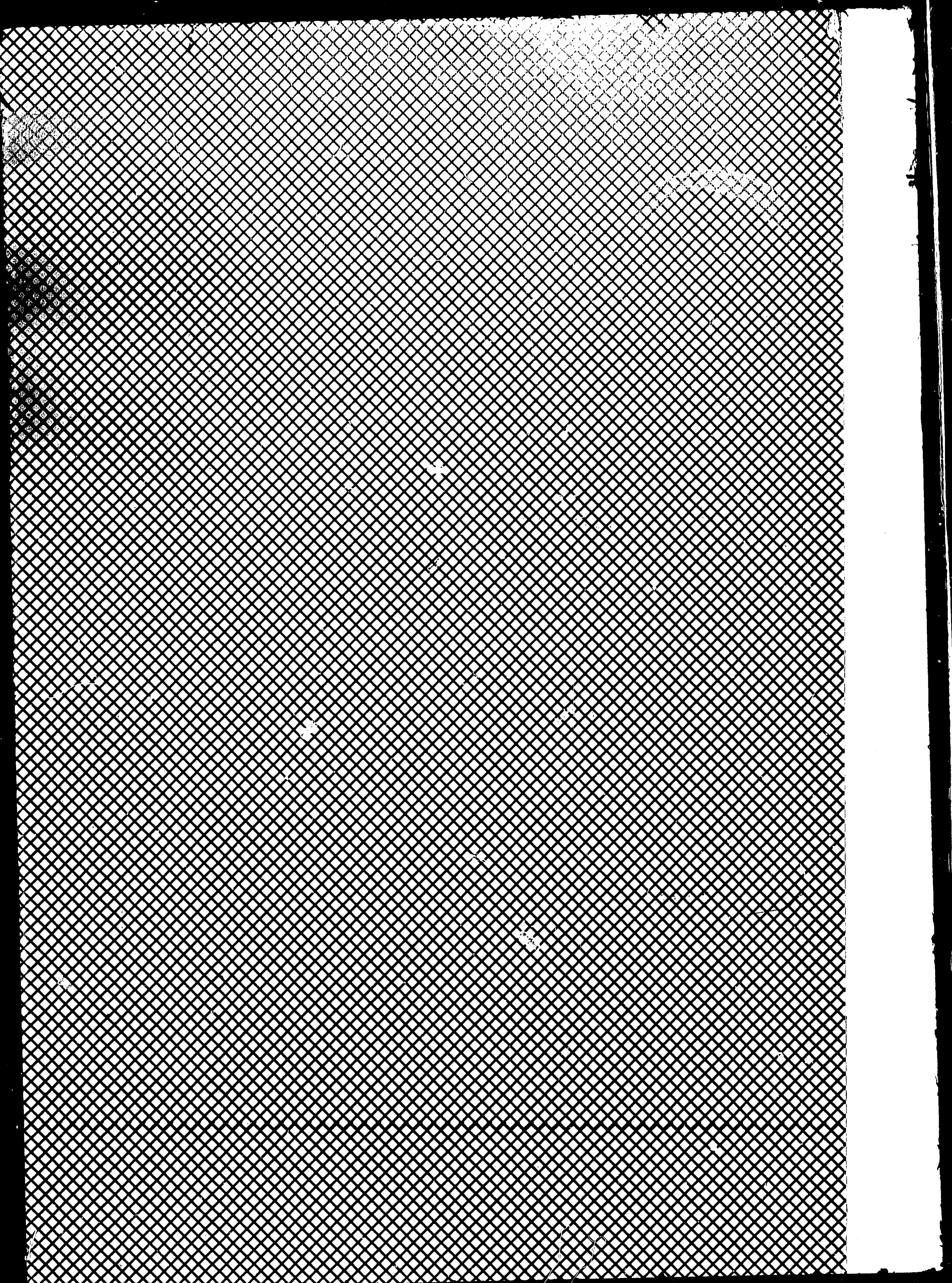
Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:CD

Enclosure

cc: Randall Budge, Attorney



RECEIVED

April 20, 1978

APR 21 1978

Department of Water Resources

Commissioner of Reclamation
Boise, Idaho

Dear Sir:

In May, 1934 we wrote to you regarding the rights of water from the Birch Spring and the Densmore Spring and Densmore Creek. This water was used on the property belonging to H. Wendell Smith and G. Sivell Smith, both of Grace, Idaho. Mr. Grover Hogan and Howard Thatcher were trying to claim rights to the water to use it on land below the Smith property.

*Find water rights
on these lands & for the
names, please*

After some controversy over the water, Mr. H. Wendell Smith wrote and received a letter from the Bureau of Reclamation stating that the Hogans and Thatchers could not take the water, that it rightfully belonged to the Smiths.

A few years ago the home of Mr. H. Wendell Smith was broken into and this ^{letter} is missing. Would you still have a copy of this letter in your files, and if so, would you be kind enough to send a copy of same to Mr. Smith. Another controversy over the water has arisen and we would appreciate any help you can give him because there is a court proceeding on May 3, 1978.

Mr. Smith's address is R.F.D. 1, Box 111, Grace, Idaho 83241. Thank you for your effort in his behalf.

Sincerely,

Mrs. Leola S. Nielsen
(Daughter of Mr. Smith)
4150 South 2700 East
Salt Lake City, Utah 84117

4/25/78
*Sent one
copy of 13-4064*

File