

J. W. CROWTHER
Attorney at Law
21 North State
Preston, Idaho 83263
Telephone: 852-2610

RECEIVED

JUN 8 1979

Department of Water Resources
Eastern District Office

BEFORE THE DIRECTOR OF THE DEPARTMENT OF
WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 13-4109 IN THE NAME OF) EXCEPTION TO CLAIM OF
JERRY D. HAWKES.) WATER RIGHT

COMES NOW, Franklin Cub River Pumping Company, by and through its duly authorized officer and does hereby except to the above referenced claim for 2.0 cfs of water from the overflow tributary to Franklin Culinary Reservoir. Said exception is based on the fact that said pumping company has a decreed right to all of the tributary seepage and flow of Maple Creek into Cub River, except that portion of said creek belonging to Maple Creek Pioneer Irrigation Company. Any interest of the above named claimant is limited to such interest as he may own in said Maple Creek Pioneer Irrigation Company.

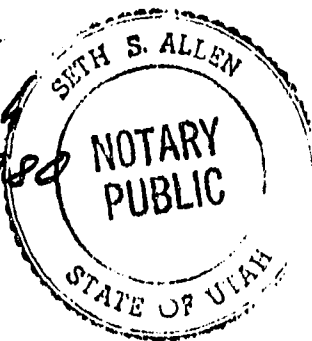
DATED: This 6th day of June, 1979.

D. Roy Geddes
D. Roy Geddes - Chairman
Franklin Cub River Company Pumping
Company

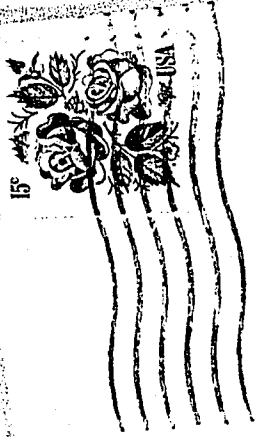
Glen H. Larsen
Glen H. Larsen - Secretary

SUBSCRIBED AND SWORN to before me this 6th day of June, 1979.

Seth S. Allen
Notary Public
Residing at: Richmond, Utah
Commission expires: July 6, 1980



Wm H. Larsen
RFD #1
Richmond, Utah
84333



Director of the Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho
83401

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 Jerry D. Hawkes

(Name of Claimant)

Box 102, Franklin, Idaho 83237

(Mailing Address)

Telephone No. 646-2423

(Zip Code)

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) January 20, 1902

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)
Overflow from Franklin culinary reservoir water tributary to

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

	(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
			(Mo., Day)	(Mo., Day)
Quantity	<u>2.00 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>5/1</u>	To <u>11/1</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

- (4) TOTAL QUANTITY USED.

(cfs, gpd, AFA)

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

SE 1/4 SE 1/4, Sec. 16 Twp. 16S Rge. 40E B.M., County of Franklin

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. Describe any changes in the system and give the date of the change. Dam and Ditches

- (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.	NE1/4				NW1/4				SW1/4				SE1/4				TOTAL
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
16S	40E	21	4	5													6	6.9	9.0
		16																	12.9

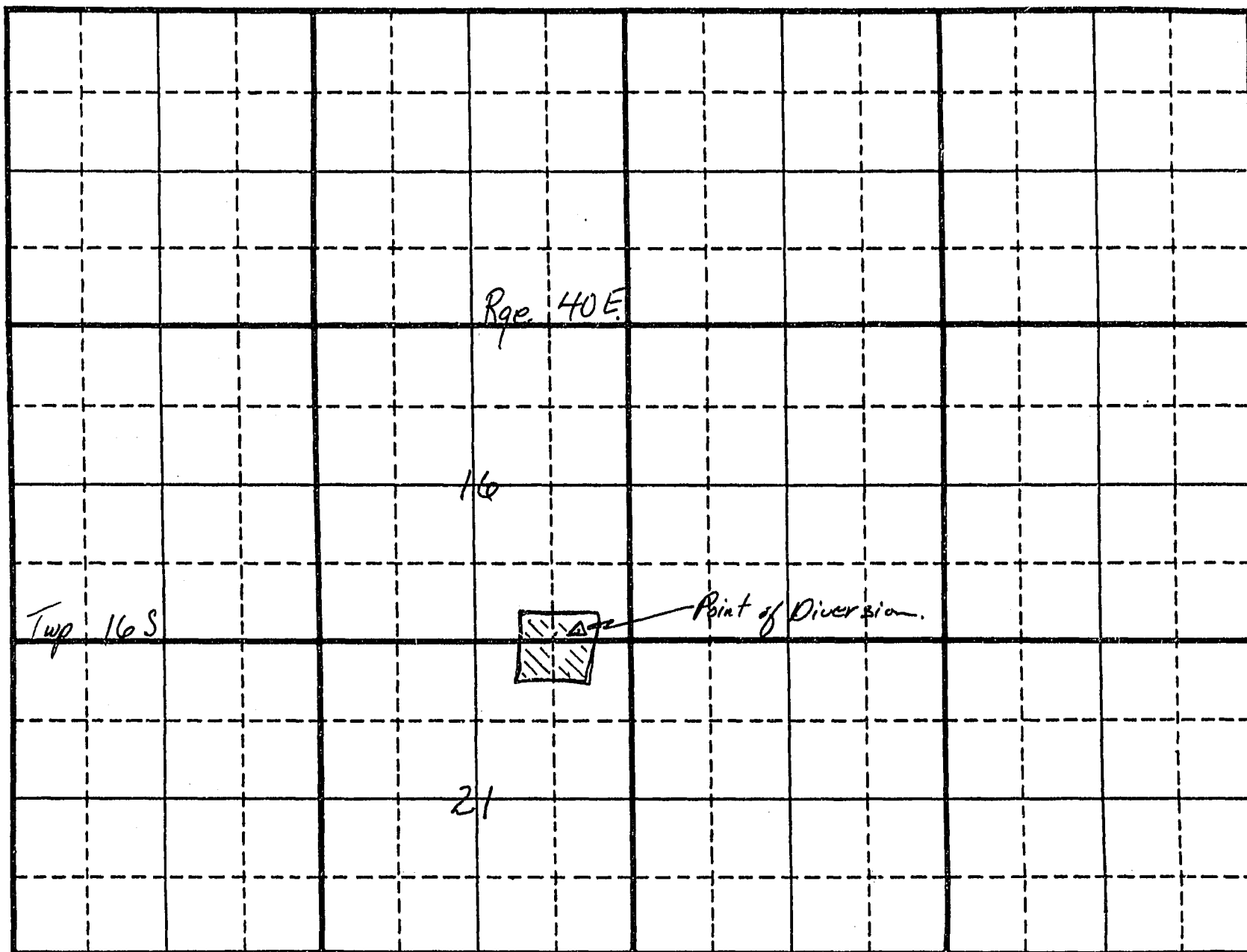
No. of acres 21.9

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

NOTE: Include here the type and number of stock watered:

- (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 Franklin) 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 4th day of May

Jerry D. Harber
(Claimant)

Connie Westover
Notary Public
Residing at Preston, Idaho

Bond
My commission expires 7/28/82

Received by BR dh 5-7-79 FOR DEPARTMENT USE ONLY
Prelim. check by eme Date 5/4/79 Exception filed by: _____ Date _____
\$20.00 fee received by dh Date 5-7-79 #11856 Forwarded to claimant by: _____
Published in Preston Citizen
Dates May 17 & 24, 1979

No 883

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

J. Walter Ross

being duly sworn,

deposes and says:

That he is the Co-Publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; 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 of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

May 17, 1979, and ending
with the issue of May 24, 1979.

Fee \$ 17.02

Subscribed and sworn to before me this 4th day
of June, 1979.

Kevin O. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 8, 1982

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:

13-4109

HAWKES, JERRY D.

Box 102, Franklin, ID 83237

Source: OVERFLOW tributary to FRANKLIN CULINARY RESERVOIR

Priority Date: 01/20/1982

Amount: 2.00 CFS

Diversion Point: SESE Sec 16 T 16S R 40E, FRANKLIN Co.

Use: IRRIGATION (2.00 CFS) from 05/01 to 11/01

Place of Use: NENE NWNE Sec 21 T 16S R 40E

SWSE Sec 10 T 16S R 40E FOR 22 ACRES

Diversion Means: DAM AND DITCHES

And exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho 83401.

C. STEPHEN ALLRED
Director

Published 5/17 & 5/24/79.
Legal 555

87-A
RECEIVED

JUN 7 1979

Department of Water Resources
Eastern District Office

Form 243a
11/78

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: ARK

Right Number _____ Applicant Terry D. Hawkes

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 Ernest Carlson Date 6/11/79

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By Jani Date 6/28/79

May 3, 1979

Jerry D. Hawkes
P. O. Box 102
Franklin, Idaho 83237

Dear Mr. Hawkes:

Pursuant to our telephone conversation on May 2, 1979, enclosed please find a typed claim to a water right which requires your notarized signature. Please review the claim to insure the legal description for the point of diversion is correct and initial any changes you make.

When you feel the claim is in proper form, return it to this office, accompanied by the statutory claim fee of \$20.00. We shall then be glad to resume processing of this document.

Respectfully submitted,

ERNEST M. CARLSEN
Water Resource Analyst

EMC:dh

Enclosure
Attachment: Check 97-23/\$20.00

April 16, 1979

Jerry D. Hawkes
Box 102
Franklin, Idaho 83237

Dear Mr. Hawkes:

Enclosed you will find your claim to a water right you recently submitted to this office, your personal check in the amount of \$20.00, and a typed claim which, for your convenience, has been partially completed with information provided by your original.

In Item 1, you must indicate a month, day, and year as to when the water was first put to a beneficial use. In Item 6, it is necessary to list the number of acres irrigated in each 40-acre tract. The map on the back should show the lands irrigated and the point of diversion.

When you have completed these items, please sign the typed claim in the presence of a notary public and return it to this office, accompanied by the statutory claim fee of \$20.00. We will then be glad to resume processing of this document. Should you have any questions regarding this matter, please feel free to contact this office.

Respectfully,

RODNEY A. PARKER
Sr. Water Resource Agent

RAP:dh

Attachment
Enclosure

April 13, 1979

RECEIVED

APR 16 1979

Bill Rhoads

Department of Water Resources
Eastern District Office

Senior Resource Analyst

Dear Bill

This water I want to file on, is the overflow from the Franklin City Calogony Reservoir. This water flowed into our Irrigation Ditch, but now that we have put in pipeline, it just runs into my Pasture because the ditch has been filled in.

Since I have talked to you on the phone, I have had a hard time getting to see the man that has a copy of the water right to Maple Creek, I am to get a copy next week, I will send one to you then. It is the first ditch company in the State of Idaho, I think you will find it most interesting.

Sincerely

Jerry Hansen

May 7, 1979

Jerry D. Hawkes
P. O. Box 102
Franklin, Idaho 83237

Dear Mr. Hawkes:

Re: Claim to a Water Right

Attached herewith is Departmental receipt No. 11854 in the amount of \$20.00 for the above referenced claim.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC;dh

Attachment

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:

13-4109.

HAWKES, JERRY D.,

BOX 102, FRANKLIN, ID 83237

Source: OVERFLOW tributary to FRANKLIN CR. RIVER

Priority Date 01/20/1901

2.00 CFS

Diversion Point: SESE Sec 16 T 165 R 40E, FRANKLIN Co.

Use: IRRIGATION (2.00 CFS) from 05/01 to 11/01

Place of Use: NENE NWNE Sec 21 T 165 R 40E SWSE SESE Sec 16 T 165 R 40E
FOR 22 ACRES

Diversion Means: DAM AND DITCHES

Any exception to any claim of water right may be filed with
the Director of the Idaho Department of Water Resources, 1515 Lincoln
Road, Idaho Falls, Idaho 83401.

C. STEPHEN ALLRED

Director

Published 5/17 & 5/24/79.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

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

MAY 11, 1979

Preston Citizen
Box 472
Preston, Idaho 83263

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 JUNE 4, 1979.

Yours truly,

RONALD D. CARLSON
Supervisor

Encl.

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Eastern Region

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

JUNE 4, 1979

JERRY D. HAWKES
BOX 102
FRANKLIN

ID 83237

RE: Claim No. 13-4109

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

JOHN V. EVANS
Governor
C. STEPHEN ALLRED
Director

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

June 11, 1979

Jerry D. Hawkes
Box 102
Franklin, Idaho 83237

RE: Claim No. 13-4109

Dear Sir:

Enclosed is a copy of an exception filed in connection with your above-referenced claim. This exception is filed in accordance with the provisions of Section 42-244, IDAHO CODE, which states the following in part:

"At any time after filing a claim under the provisions of the previous 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 resources 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 confirmation or final censorship the described rights.

If we may be of any further assistance, feel free to contact us.

Sincerely,

RONALD D. CARLSON
Regional Supervisor

RDC/dh

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

JOHN V. EVANS
Governor
C. STEPHEN ALLRED
Director

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

June 11, 1979

Glen H. Larsen, Secretary
Franklin Cub River Co. Pumping Co.
Rural Route #1
Richmond, Utah 84333

RE: Claim No. 13-4109

Gentlemen:

We have received your correspondence concerning the above-referenced Claim to a Water Right. The following is a quote from the provisions under which this Claim has been filed (Section 42-244, IDAHO CODE):

"At any time after filing a claim under the provisions of the previous 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 resources 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 confirmation or final censorship the described rights.

If we may be of any further assistance, feel free to contact us.

Sincerely,

RONALD D. CARLSON
Regional Supervisor

RDC/dh



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

June 13, 1979

J. W. Crowther
Attorney at Law
21 North State
Preston, Idaho 83263

Dear Sir:

Re: Claim to Water Right No. 13-4109

We have received the exception dated June 6, 1979, filed in behalf of Franklin Cub River Company Pumping Company 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 me.

Very truly yours,

/s/ RONALD D. CARLSON
Supervisor, Eastern Region

RDC:dh