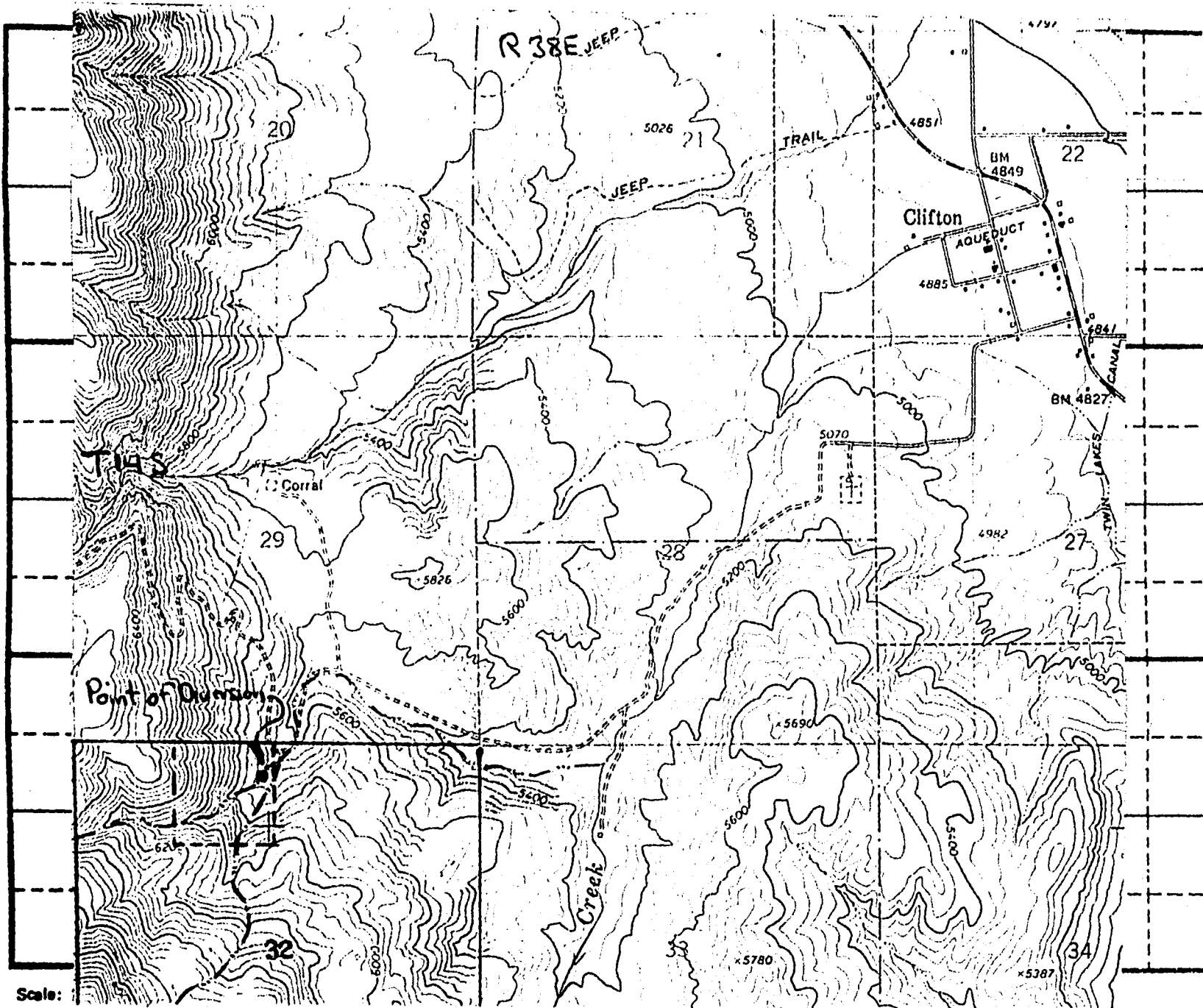


- (8) Remarks Springs purchased from Clifton Irrigation Co. in 1919. Use of springs by City was mentioned in Clifton Irrigation Co. vs Dept. of Reclamation decree dated 2-08-1930.

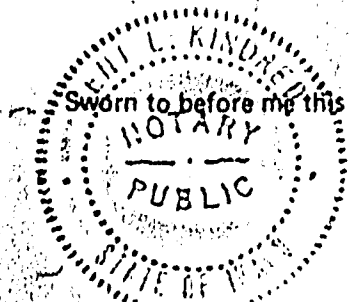


Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

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.

By Blanche Henderson
(Claimant) City Clerk



Sworn to before me this 17 day of November, 1982
My commission expires 11/24/84

Kent L. Kindred
Notary Public
Residing at Preston

FOR DEPARTMENT USE ONLY			
Assist. by <u>HWS</u>	Received by <u>Qu</u>	Date <u>11-19-82</u>	Exception filed by:
Prelim. check by <u>HWS</u>	Date <u>11-22-82</u>	Fowarded to claimant by:	Date
\$30.00 fee received by <u>Qu</u>	Date <u>11-22-82</u>	<u>22590</u>	
Published in <u>Preston Citizen</u>	Lynn M. Davis	CW	1-3-83
Dates <u>12/9 - 12/16/82</u>			

CLIFTON, a Municipal Corporation

Plaintiffs

vs

DECREE

DEPARTMENT OF RECLAMATION

State of Idaho; Albert F.

Henderson and Albert C. Carlson

Defendants

This action came on regularly for hearing this 30th day of January, 1930, upon the petition of the Plaintiffs, and the stipulation of the defendant Albert F. Henderson and his Attorney L. R. Morgan; and the default of Defendant Albert C. Carlson for not answering and the defendant Department of Reclamation, also failed to answer; and it appearing that all of the defendants were served with the certified copies of the documents and petition of plaintiffs on appeal from the orders and Licenses issued by the Department of Reclamation.

Witnesses were sworn on behalf of the Plaintiffs and documentary evidence was introduced, and Plaintiffs rested; and no testimony was introduced on behalf of the Defendants or any of them; a stipulation was filed herein on behalf of defendant Albert F. Henderson.

The Court having made and filed herein its findings of Fact and Conclusions of law, from which it found the issues herein in favor of the said Plaintiffs and against the defendants, which said Findings of Fact and Conclusions of Law are made part hereof, and the Court being fully advised in the said premises,

It is hereby ordered, adjudged and decreed That water License No. 16935 for Permit No. 16935, issued to Albert C. Carlson, for capacity of 0.1 Second foot of water for water from what was designated Pea Nut Springs, entered of record in Volume 6 of Licenses, at page 3589, on the 12th day of Sept. 1929, confirming dates from July 19, 1928, point of diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 32 Twp. 14 S.R. 38 E.B.M. Franklin County, Idaho, be and the same is hereby cancelled, annulled and held for naught. 13-2117

It is hereby ordered, adjudged and decreed that water License No. 16884 for Permit No. 16884, issued to Albert F. Henderson, for Capacity of 0.1 Second foot of water for water from what was designated Hog Back Springs, entered of Record in Volume 6, at page 3588 (Office of Reclamation, Boise, Idaho) on the 29th day of August, as per the order of Aug. 23rd, 1929, confirming dates from May 23rd, 1928, point of diversion in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 32, Twp. 14 South, Range 28 E.B.M., Franklin County, Idaho, be and the same is hereby cancelled, annulled and held for naught. 13-2115

It is further ordered, adjudged and decreed that said waters in said License described, have been used by Plaintiffs since 1869 and decreed to Plaintiffs in that certain suit in equity, wherein Utah Power & Light Co. was Plaintiff and Last Chance Canal Company et al defendants, which decree is recorded in Franklin County, Idaho, in Book of Judgments, page 385, section 500 that the said waters are tributary to Clifton Creek, and used by Plaintiffs as aforesaid and piped to Plaintiff Village of Clifton and used by the inhabitants of said Village ever since the year 1915.

That the defendants have no right, title or interest in or to said Springs or any part thereof.

That Plaintiffs are to provide pursuant to the terms of the stipulation filed as aforesaid, a watering Place for Defendant Henderson and the Public in General upon

and the Court being fully advised in the said premises,

13-2117

It is hereby ordered, adjudged and decreed That water License No. 16935 for Permit No. 16935, issued to Albert C. Carlson, for capacity of 0.1 Second foot of water for water from what was designated Pea Nut Springs, entered of record in Volume 6 of Licenses, at page 3589, on the 12th day of Sept. 1929, confirming dates from July 19, 1928, point of diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 32 Twp. 14 S.R. 38 E.B.M. Franklin County, Idaho, be and the same is hereby cancelled, annulled and held for naught.

13-2115

It is hereby ordered, adjudged and decreed that water License No. 16884 for Permit No. 16884, issued to Albert F. Henderson, for Capacity of 0.1 Second foot of water for water from what was designated Hog Back Springs, entered of Record in Volume 6, at page 3588 (Office of Reclamation, Boise, Idaho) on the 29th day of August, as per the order of Aug. 23rd, 1929, confirming dates from May 23rd, 1928, point of diversion in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 32, Twp. 14 South, Range 28 E.B.M., Franklin County, Idaho, be and the same is hereby cancelled, annulled and held for naught.

It is further ordered, adjudged and decreed that said waters in said Licenses described, have been used by Plaintiffs since 1869 and decreed to Plaintiffs in that certain suit in equity, wherein Utah Power & Light Co. was Plaintiff and Last Chance Canal Company et al defendants, which decree is recorded in Franklin County, Idaho, in Book One of Judgments, page 385, section 500 that the said waters are tributary to Clifton Creek, and used by Plaintiffs as aforesaid and piped to Plaintiff Village of Clifton and used by the inhabitants of said Village ever since the year 1915.

That the defendants have no right, title or interest in or to said Springs or any part thereof.

That Plaintiffs are to provide pursuant to the terms of the stipulation filed as aforesaid, a watering Place for Defendant Henderson and the Public in General, upon right of way to be furnished by said defendant, the right of ingress and egress thereto and therefrom not to be obstructed by fences or otherwise.

Dated this 8 day of February, 1930.

Jay L. Downing
District Judge.

A copy of the foregoing decree and of the Findings of Fact, conclusions of Law, Received by the undersigned Attorney for the Defendant Albert F. Henderson this 5th day of February, 1930.

L.R. Morgan

875
DEC 30 1982

No 1751

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

Dec 9, 1982, and ending with the issue of Dec 16, 1982

Fee \$ 18.20

Subscribed and sworn to before me this 31st day of December, 1982

Ken D. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 1, 1986

RECEIVED

JAN 7 1983

Department of Water Resources
Eastern District Office

NOTICE OF CLAIMS TO WATER RIGHTS

The following claim(s) have been filed on water right(s) created by diversion and beneficial use:

13-4213

CITY OF CLIFTON
BOX 26, CLIFTON, ID 83228
Source: PEANUT SPRING tributary to CLIFTON CREEK
Source: LOADING SPRING tributary to CLIFTON CREEK

Priority Date: 01/01/1919

Amount: 0.50 CFS

Diversion Point: NENW Sec. 32 T 14S R 38E, FRANKLIN Co.

Place of Use: Water is used within the City limits of Clifton

Use: MUNICIPAL (0.50 CFS) from 01/01 to 12/31

Diversion Means: COLLECTION BOXES, PIPELINES & TANKS

Exceptions to a claim may be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402.

KEN DUNN, Dir.

Published 12/9 & 12/16/82.

Legal No. 175 -28L- Published December 9, 16, 1982.

EXCEPTION TO WATER CLAIM

DEC 28 1982

Department of Water Resources
Eastern District Office

TO: The Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, ID 83401

LYNN DAVIS, as Exceptor, states as follows:

1. The name and address of Exceptor is LYNN DAVIS,
Clifton, Idaho 83228.

2. The water claim protested is number 13-4213 made by
the City of Clifton, Box 26, Clifton, Idaho 83228. Source:
Peanut Spring to Clifton Creek. Diversion point: Northeast
Northwest, Section 32, Township 14 South, Range 38 East, Franklin
County. Place of water use: within the City limits of Clifton.
Use: municipal .5 cubic feet per second from January 1 to
December 31. Diversion means: Collection box, pipelines, and
tanks.

3. Exceptor's exceptions to the proposed water claim
are as follows:

a. Exceptor has continually used a portion of the water
from said Spring through a pipeline which runs from said
collection box onto Exceptor's adjoining property to two faucet
outlets for watering livestock and for culinary use.

b. The District Court of the Sixth Judicial District of
the State of Idaho and for the County of Franklin, by Order in
Case No. 3755 has declared that the Exceptor (1) has used said
water periodically through the years and has not abandoned the
same. (2) That Exceptor and his successor in interest have a
decreed right to the use of the water from said Spring.

c. Any claim to water right of claimant is subject to
the exception herein stipulated to by Exceptor.

DATED This 23rd day of December, 1982.

Lynn m Davis
LYNN DAVIS
Clifton, Idaho

STATE OF IDAHO)
County of Franklin)

On this 23rd day of December, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared LYNN DAVIS, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

Cindy Rawlings
NOTARY PUBLIC for State of Idaho
Residing at Preston, Idaho

WILLIAMS & CASTLETON

LAW OFFICES

24 NORTH STATE - P. O. BOX 191

PRESTON, IDAHO 83263

December 24, 1982

J. Dennis "J. D." Williams
Lowell D. Castleton
Dallin J. Phillips

RECEIVED

DEC 28 1982

Department of Water Resources
Eastern District Office

Telephone:
(208) 852-2680

To: Idaho Department of Water
1515 Lincoln Road
Idaho Falls, ID 83401

Please note:

This form letter is used to
expedite communications. You
need direct your attention
only to the items marked.

Re: Lynn Davis vs. Clifton Irrigation Company
Our File No. 376.5B

____ Enclosed is information/pleadings relating to the
above matter.

____ For your information.

____ Please review and file in your records.

____ Please record in the county records and return.

____ Please file in the Court record of the above case.

____ Please review and call us to discuss over the telephone.

____ Please sign and return ____ all but one copy.
____ all copies.

____ Enclosed is the information you requested.

XX Please file the enclosed document.

Enclosures:

Exception to Water Claim

November 12, 1982

City of Clifton
c/o Blanch Henderson, Clerk
Box 26
Clifton, Idaho 83228

Dear Mrs. Henderson:

Enclosed is the claim to a water right for the City of Clifton. Please review it and if everything seems correct sign and have the claim notarized. Please put your title as city clerk above your signature.

You can send the completed claim with a fee of \$30.00 to this office for processing.

Sincerely,

HAROLD W. JONES
Sr. Resource Agent

HWJ:bp

Enclosure

13-4213

CITY OF CLIFTON

BOX 26. CLIFTON. ID 83228

Source: PEANUT SPRING tributary to CLIFTON CREEK
LOADING SPRING tributary to CLIFTON CREEK

Priority Date: 01/01/1919

Amount: 0.50 CFS

Diversion Point: NENW Sec 32 T 145 R 38E. FRANKLIN Co.

Place of Use: Water is used within the City limits of Clifton

Use: MUNICIPAL (0.50 CFS) from 01/01 to 12/31

Diversion Means: COLLECTION BOXES. PIPELINES & TANKS

NOTICE OF CLAIMS TO WATER RIGHTS

The following claim(s) have been filed on water right(s) created by
diversion and beneficial use:

Exceptions to a claim may be filed with the Director, Dept. of Water
Resources, 150 Shour Ave., Suite 15, Idaho Falls, Idaho 83402.

KEN DUNN, Dir.

Published 12/2⁹ & 12/16/82.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

DECEMBER 1, 1982

The Preston Citizen
P. O. 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 DECEMBER 27, 1982.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

Form 243a
11/78

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: HWT

Right Number 13 4273 Applicant City of Clifton

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.

Dec. 27, 1982

FINAL REGIONAL PROCESSING REVIEW:

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

By EMC Date 1-03-83
1-12-83

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By KW Date 1/17/83

-Suite 15

December 28, 1982

RE: Claim to a Water Right No. 13-4213 CITY OF CLIFTON
Application for Permit No. 13-7371 SMITH

Preston Citizen
P.O. Box 472
Preston, Idaho 83263

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on December 9 and 16, 1982.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

-Suite 15

January 3, 1983

RE: Claim to a Water Right No. 13-4213 CITY OF CLIFTON

Lynn M. Davis
Clifton,
Idaho 83228

Dear Mr. Davis:

We have received the exception dated December 23, 1982, filed against the above referenced claim to a water right. The following is a quote from the provisions of the Idaho Code under which this claim has been filed:

42-225b. Recording of claims by department----Corrections.----

.....
At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Administration (renamed Department of Water Resources, July 1, 1974) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: Williams & Castleton

-Suite 15

January 3, 1983

RE: Claim to a Water Right No. 13-4213

City of Clifton
c/o Blanch Henderson, Clerk
Box 26
Clifton, Idaho 83228

Dear Ms. Henderson:

Enclosed please find a copy of the exception filed in connection with the above referenced claim. The following is a quote from the provisions of the Idaho Code under which this claim has been filed:

42-225b. Recording of claims by department-----Corrections.-----

.....
.At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Administration (renamed Department of Water Resources July 1, 1974) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

DECEMBER 27, 1982

CITY OF CLIFTON
BOX 26
CLIFTON

ID 83228

RE: Claim No. 13-4213

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

RECEIVED
JAN 17 1983

Department of Water Resources