

Claim No. 13-04320

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
CLAIM TO A WATER RIGHT**

Section 42-243, Idaho Code, authorizes the filing of a claim to a water right established by diversion and application of water to beneficial use for domestic uses as defined in Section 42-111, Idaho Code. The filing of this claim does not confirm the water right claimed.

Notice is hereby given that Chatterton's Lazy JC Ranch + Steven B. Chatterton
(Name of Claimant)
5203 Maple Creek Rd Franklin, ID 83237 Telephone No (208) 646-2461
(Mailing Address) (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 the water was first applied to beneficial use) Aug. 15, 1875
A claim is not acceptable on a surface water source with a priority later than May 20, 1971.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
- Spring tributary to Maple Creek

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, af)		(Domestic, Stock, Etc.)		(Both dates inclusive) (Mo., Day) (Mo., Day)	
Quantity	0.04 cfs	Use	Domestic	Period of Use From	1-1 to 12-31
Quantity	0.01 cfs	Use	Stockwater	Period of Use From	1-1 to 12-31
Quantity		Use		Period of Use From	to

4. 0.04 cfs TOTAL QUANTITY USED.
(cfs, af)

5. A) Location of point of diversion is NW ¼ of SE ¼ of NW ¼, Govt. Lot _____
Sec. 14 Township 16S Range 40E B.M. Franklin County; additional points of diversion
if any:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Pump & pipeline - 1" plastic pipe, 3/4 hp pump

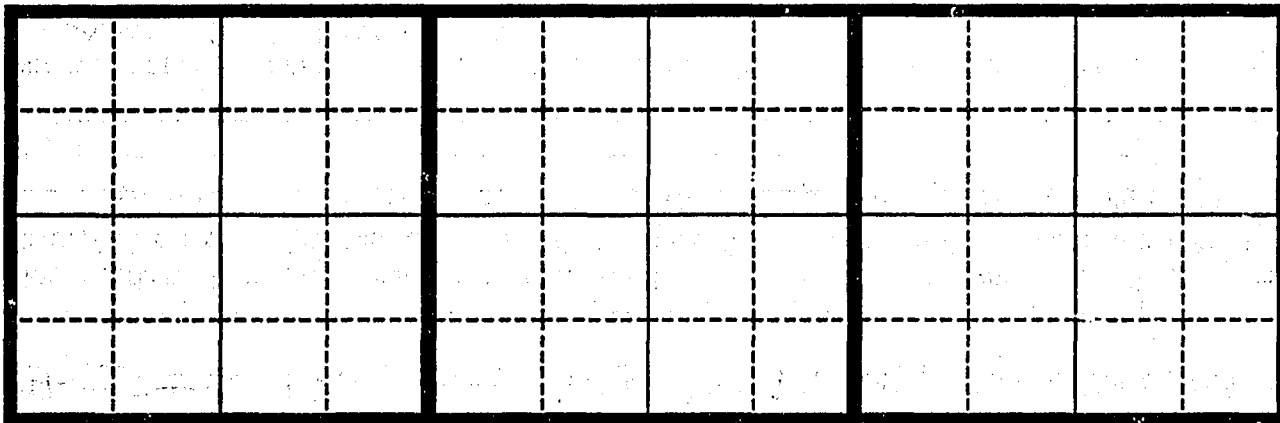
6. **A) Describe place of use within each 40-acre tract in the appropriate box using the following symbols in the appropriate tract. D - domestic, S - stockwater, X - other**

[illegible]

B) Fully describe the use, being as specific as possible: At present it is being used to service a home and some dairy facilities. Originally it was used for drinking water for the first school built in Cherryville and stock when Drip Creek dries up.

NOTE: Include here the type and number of stock watered: Dairy - 50 hd Horses - 2 hd

7. Remarks: A school was built in Cherryville in the mid-1870's. This spring supplied water for school. In approximately 1917 the school terminated + the building was used as a churchhouse. It acquired property in 1966 + developed the spring for the house + barns.



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. Attach an aerial photograph of the place of use if available.

State of Idaho)

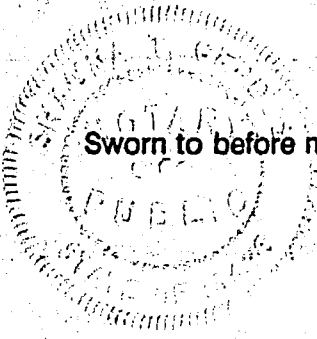
County of FRANKLIN)

ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing 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.

Chatterton's Lazy J Ranch, LLC
by Steven B. Chatterton
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 20th day of APRIL, 19 95.



Shauna T. Geddes
Notary Public
Residing at: PRESTON

My commission expires: 11-3-2000

FOR DEPARTMENT USE ONLY

Received by WM
Prelim. check by WM
\$100.00 receipted by HWS
Receipt # E020990

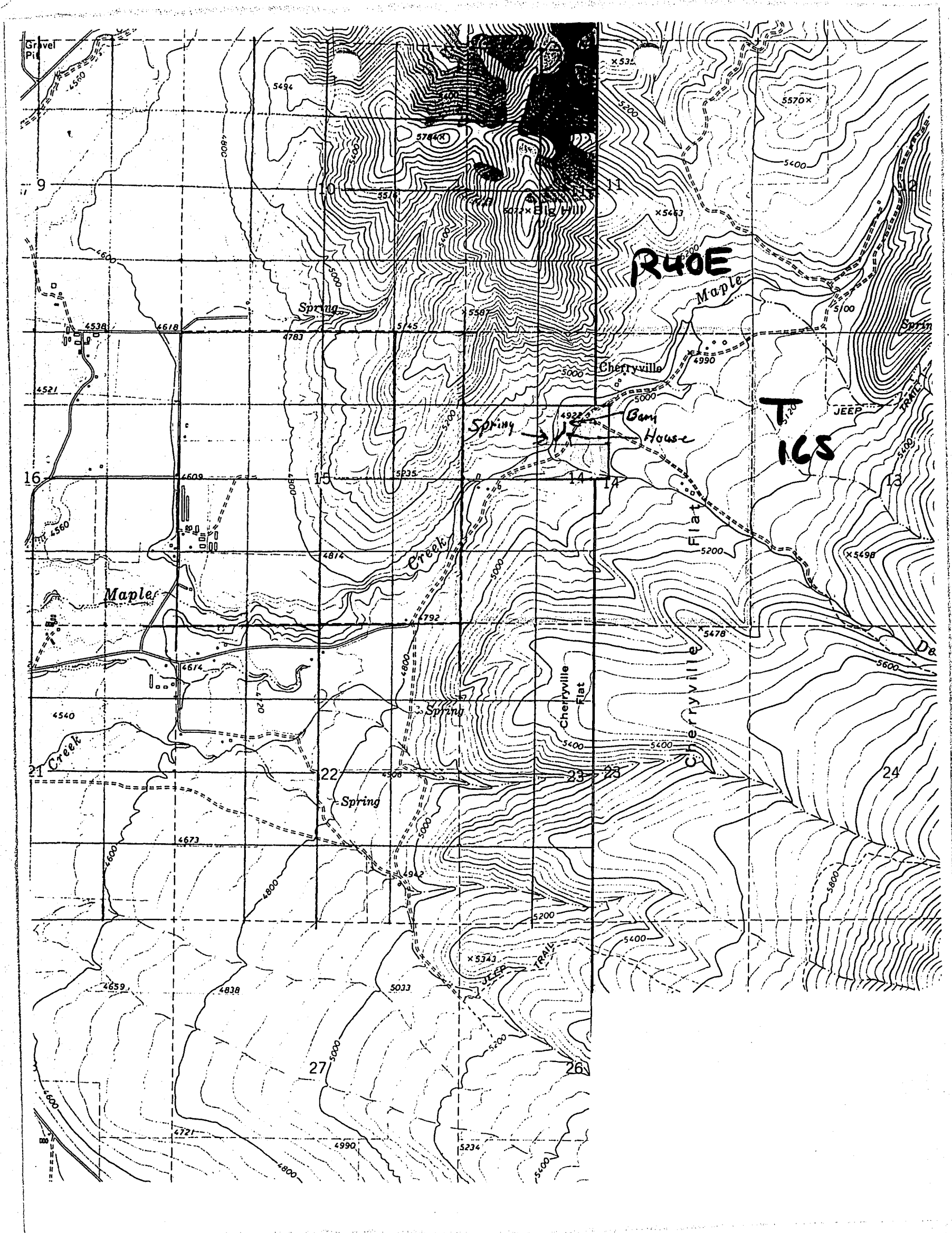
Date 5/4/95
Date 5/11/95
Date 5-5-95

Published in Preston Citizen

May 18 1995 6-18-95

Exceptions filed by Franklin Maple Creek Tr.

Dates 6-13-95



A. L. MERRILL (1886-1961)
R. D. MERRILL (1893-1972)
W. F. MERRILL
D. R. GALLAFENT
S. S. DUNN
D. R. WIGHT
N. R. SMITH
D. C. NYE*
K. L. HAWKINS*
*ALSO ADMITTED IN UTAH

MERRILL & MERRILL
CHARTERED
COUNSELORS AND ATTORNEYS AT LAW
109 NORTH ARTHUR - 5TH FLOOR
P.O. BOX 991
POCATELLO, ID 83204-0991

TELEPHONE
208-232-2286
TELEFAX
208-232-2499

May 2, 1995

RECEIVED

MAY 04 1995

Department of Water Resources
Eastern District Office

Dept. of Water Resources
Attn: Al Ruberry
900 N. Skyline Dr.
Idaho Falls, ID 83402

RE: Chatterton Estate

Dear Mr. Ruberry:

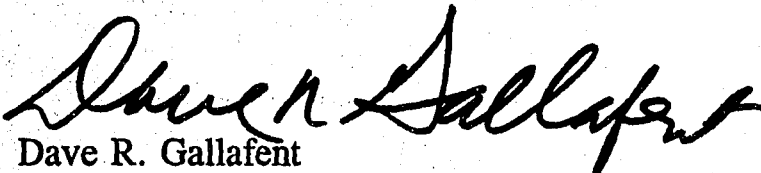
I am sending to you with this letter the three Chatterton water rights claims, each of which includes the changes that you requested in your letter to me of April 7. I also enclose the Chatterton's check in the sums of \$300.00 to cover the filing fee.

Please let me know if there is anything else required in order to properly file these claims.

Thanks for your assistance in this matter.

Sincerely yours,

MERRILL & MERRILL, CHARTERED


Dave R. Gallafent

DRG/dbw/2299

c: Steve Chatterton



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MAY 23, 1995

THE PRESTON CITIZEN
P.O. BOX 472
PRESTON, ID 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. 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 12, 1995.

Yours truly,

Rita Bodell
Secretary

Encl.



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JUNE 14, 1995

CHATTERTONS LAZY J C RANCH
C/O STEVEN B CHATTERTON
5203 MAPLE CREEK RD
FRANKLIN, ID 83237

Re: Claim No. 13-04320

Dear Claimants(s):

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 the information or evidence added at any time. Please refer to the claim identification number when corresponding with the 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.

Sincerely,

RONALD CARLSON
Eastern Regional Manager

rb
Enc

IN THE
SUPREME COURT
OF THE STATE OF IDAHO

THE VILLAGE OF FAIRVIEW,
a municipal corporation,
Plaintiff and Appellant,
vs.

NO.
.....

Franklin Maple Creek Pioneer
Irrigation Company, a corporation;
Charles Baker; Village of
Franklin, a municipal corporation;
Franklin Mill & Elevator
Company, a corporation; Ivan
Woodward; S. B. Wright; Pete
Wickham; P. G. Whitehead; T.
R. Howarth; Pearl Robinson;
Cecil Woodward; Garnet Woodward;
William Stockdale; Ossie
Lowe; Syril Lowe; Douglas Oliver-
son; John Gibson; Wallace
Chatterton; Mathias Bowcut;
Bert Marshall; Glen Allen; Le-
land Scarborough; Bert Hawkes;
Defendants and Respondents.

Brief of Respondents

Appeal from the District Court of the Fifth
Judicial District of the State of Idaho,
in and for the County of Franklin

JUDGE JAY L. DOWNING, Presiding
HON. JAY L. DOWNING, District Judge

Arthur W. Hart, Esq.

Residing at Preston, Idaho

Merrill & Merrill

Residing at Pocatello, Idaho

Attorneys for Appellant

P. J. Evans, Esq.

Residing at Preston, Idaho

Attorney for Respondents

venor John C. Whitehead, appellant's predecessor in interest aforesaid, filed a petition and complaint in intervention, wherein he claimed the right to 160 inches of water on lands not affected in this suit, and in addition 8 miner's inches of water for garden and orchard. (See F.485, also defendant's exhibit 1) At the time of this suit and decree said John C. Whitehead had a home on the land on which the springs herein involved were used, built in 1900, according to testimony introduced on behalf of appellant in the instant case, (F.105) and had used the waters from these springs in said home from the year 1900, and had used the waters to irrigate said orchard and garden from the year 1883. (F.85 & 91) Yet in spit of these alleged facts, in the final decree entered in said action, said John C. Whitehead was only allowed a flood water right of 2.5 cubic feet per second to use on other lands than those mentioned in the instant case, but was not allowed any water for use on said garden or orchard, although it is now claimed he had used said water from said springs to irrigate said garden and orchard for 22 years before the entry of said decree in 1905, and had had water piped into his home for five years before the entry of said decree. The rights and priorities decreed in that decree were as follows: (Appellants' exhibit "A")

To Franklin Maple Creek Pioneer Irrigation Company, a corporation, 6.8 cubic feet per second in said Maple Creek, as of date of 1860.

To the Dixie Bench Ditch, 3.98 cubic feet per second, as of the date of 1862.

To John Gayman, .2 cubic foot per second, as of date 1872.

To the Flack Ditch 5.45 cubic feet per second as of date 1876.

To the Franklin Maple Creek Pioneer Irrigation Company, a corporation, ²/₄ cubic feet per second, as of date 1877.

To William Woodward, .8 cubic feet per second, as of date, 1881.

To Levi Oliverson, .6 cubic feet per second as of date, 1882.

To Joseph Catterton, et al, 11.4 cubic feet per second as of date, 1883.

To John C. Whitehead, 2.5 cubic feet per second as of date of 1887.

To Franklin Maple Creek Pioneer Irrigation Company, a corporation, 4 cubic feet per second, as of date, 1887. 1887

To Samuel Morgan, 4 cubic feet per second, as of date, 1894.

So that in the decree in the Flack case in 1905, 41.73 cubic feet per second of the waters of Maple Creek were awarded to various claimants, while through most of the irrigation season each year, there was not enough water flowing in said creek to provide sufficient water to satisfy the first primary right in said creek of 6.8 cubic feet per second, and of this amount 31.23 cubic feet per second were prior to those allotted to said John C. Whitehead, predecessor in interest to appellant herein as aforesaid.

The springs involved in this controversy, are known and referred to throughout these

FRANKLIN MAPLECREEK PIONEER IRRIGATION COMPANY
%3647 E MAPLECREEK ROAD
FRANKLIN, ID 83237

June 1, 1995

Re: Chatterton's Lazy JC Ranch
Notice of Claim to Water Right
13-04320
13-04321

RECEIVED

JUN 13 1995

Department of Water Resources
Eastern District Office

Director, Dept. of Water Resources
Eastern Region
900 N Skyline
Idaho Falls, ID 83402

Dear Sir:

As officers of the Franklin Maplecreek Pioneer Irrigation Company, we are filing this protest on the notice of claims listed above which were published in the Preston Citizen May 31, 1995.

All tributaries of the Maple Creek have been filed on by our company as first water right users; with the Dixie Bench Ditch as second right users; and with John Gayman and the Flack Ditch as third and fourth water right users. In total there have been eleven water rights filed on Maple Creek. (See Supreme Court ruling enclosed, pages 6 & 7) These waters have been decreed and allocated out to these various ditch companies and their stockholders for irrigation purposes.

In reference to #13-04321, the Deep Creek is actually a tributary of the Maple Creek.

We are filing this protest in order to protect the waters which rightfully belong to our stockholders.

SINCERELY,

FRANKLIN MAPLECREEK PIONEER IRRIGATION CO.

Jerry Hawkes
Jerry Hawkes, President

Bob A. Hobbs
Bob A. Hobbs, Vice-President

Orval D. Durrant
Orval D. Durrant, Secretary

State of Idaho
County of Franklin

Subscribed and sworn to before me this 12th day of June, 1995.

Residing at Swan Lake, ID
My Commission expires 8/9/97

Shirley Hadley
(Notary)



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

July 10, 1995

STEVE B CHATTERTON
CHATTERTON'S LAZY JC RANCH
5203 MAPLE CREEK RD
FRANKLIN ID 83237

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RE: Claim to a Water Right #13-04320, 13-04321, & 13-04322

Dear Claimant:

Enclosed please find a copy of an 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 describe rights

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

Respectfully submitted.

Harold Jones sb
HAROLD JONES
Water Right Supervisor
HJ/rb
enc

July 10, 1995

FRANKLIN MAPLECREEK PIONEER IRRIGATION CO
3647 E MAPLECREEK RD
FRANKLIN ID 83237

RE: Claim to a Water Right 13-04320 & 13-04321

Dear Mr. Hawkes, Hobbs, & Durrant:

We have received the exception 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.

Respectfully submitted,

HAROLD JONES
Water Right Supervisor

HJ/rb

Exceptions to a claim may be filed with the Director, Dept. of Water
Resources, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402.

KARL J. DREHER, Director

Published: 6/ 1/1995 & 6/ 8/1995

13-04320

CHATTERTONS LAZY J C RANCH
C/O STEVEN B CHATTERTON
5203 MAPLE CREEK RD
FRANKLIN, ID 83237

Source: SPRING

Tributary: MAPLE CREEK

Diversion Pt: NWSEW Sec 14 T 16S R 40E in FRANKLIN County.

Use: STOCKWATER	(	0.010 CFS)
DOMESTIC	(	0.040 CFS)
Total Diversion:	(	0.040 CFS)

Date Filed: 8/15/1875

In: FRANKLIN County
T16S R40E S14 SENW

875

4070

4070

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 31, 1995, and ending
with the issue of June 7, 1995
J. Walter Ross

Fee \$ 50.63

Subscribed and sworn to before me this 7 day
of June, 1995.

Kelly M. Pickel
Notary Public, Residing at Preston, Idaho

My Commission Expires Aug 14 2001.

NOTICE OF CLAIMS TO WATER RIGHT

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

13-04320
CHATTERTONS LAZY J C RANCH
C/O STEVEN B CHATTERTON
5203 MAPLE CREEK RD
FRANKLIN, ID 83237
Source: SPRING
Tributary: MAPLE CREEK
Diversion Pt: NWSNW Sec 14 T 16S R 40E in FRANKLIN County.
Use: STOCKWATER (0.010 CFS)
DOMESTIC (0.040 CFS)
Total Diversion: (0.040 CFS)
Date Filed: 8/15/1875
In: FRANKLIN County T16S R40E S14 SENW

13-04321
CHATTERTONS LAZY J C RANCH
5203 MAPLE CREEK RD
FRANKLIN, ID 83237
Source: SPRING
Tributary: DEEP CREEK
Diversion Pt: SWNENE Sec 24 T 16S R 40E in FRANKLIN County.
Use: STOCKWATER (0.040 CFS)
DOMESTIC (0.040 CFS)
Total Diversion: (0.080 CFS)
Date Filed: 4/1/1883
In: FRANKLIN County T16S R40E S14 NESE

Exceptions to a claim may be filed with the Director, Dept. of Water Resources, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402.

KARL J. DREHER, Director
Legal No. 4070 — Publish May 31, June 7, 1995.