

Claim No. 17 4020

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

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 Le Vell Neal
(name of claimant)
of Stone, Idaho
(mailing address), claims a right to the diversion and beneficial use of

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Springs and sub-water which have been made tributary to Deep Creek by a hand-dug channel.
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantities	Amount	<u>2.1</u>	Use	<u>Irrigation</u>	Period of Use:	From	<u>March 1</u>	To	<u>Dec. 31</u>
indefinite.	Amount	<u>0.1</u>	Use	<u>Stockwater</u>	Period of Use:	From	<u>March 1</u>	To	<u>Dec. 31</u>
See attached	Amount		Use		Period of Use:	From		To	
letter dated									
2/27/74.		(cfs, gpm yearly)		(dom., irri., stock, etc.)					(both dates inclusive)

- (3) Total quantity of water claimed: 2.2 cubic feet per second, or XXXXXXX acre feet per annum, and/or _____ gallons per minute. (approx. 1000 gpm)
- (4) Priority claimed: (the date water was first applied to beneficial use) March 1, 1914

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)

NW ¼ NE ¼, Sec. 15 Twp. 16S Rge. 32E B. M. County of Oneida

Additional points of diversion: SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 15, T. 16S, R. 32E, B.M.

- 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. Dams and culverts. See attached statement.

- (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 105

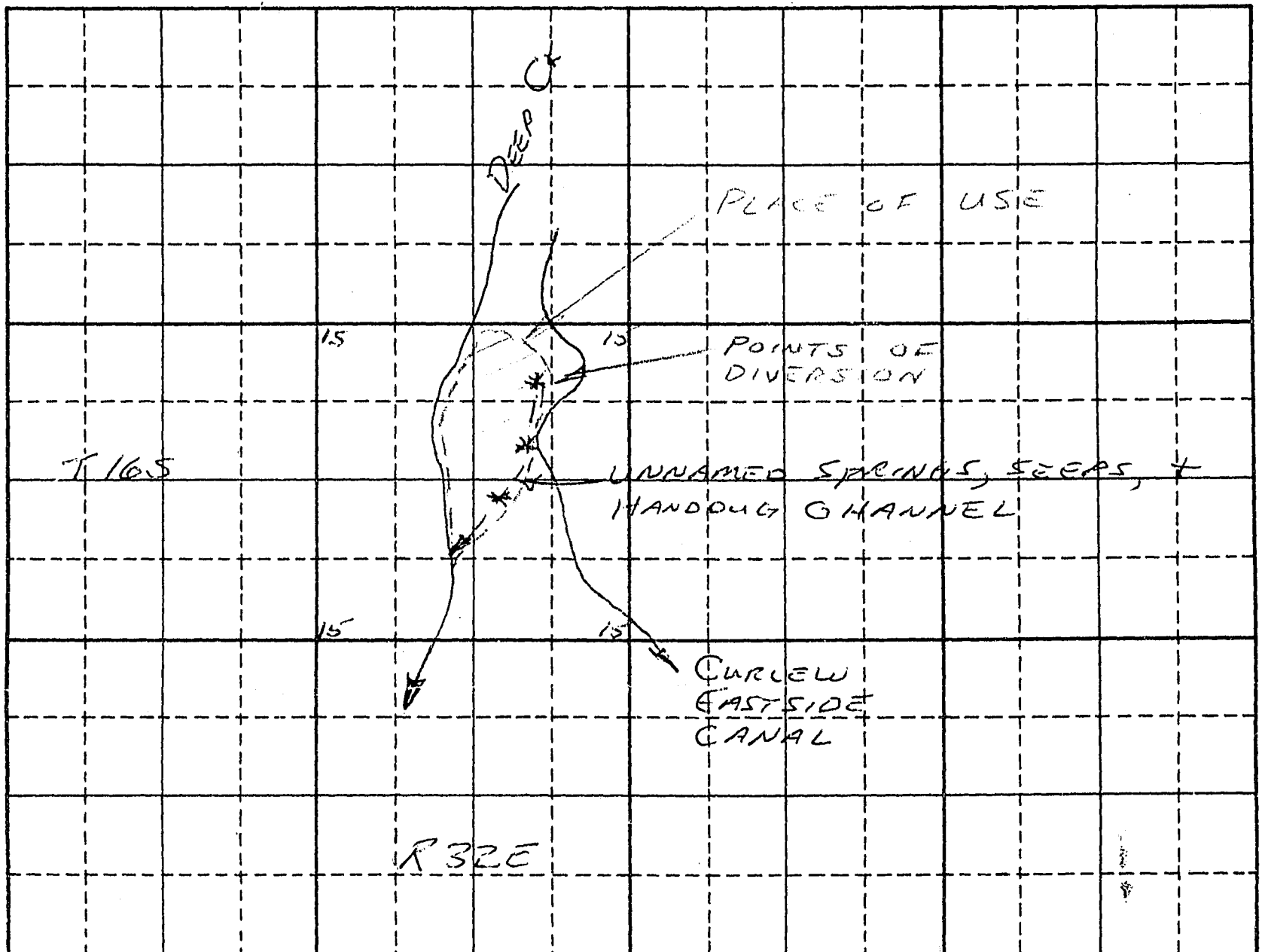
- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible:

Stockwatering for 300 head of beef cows and calves.

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

N.A.

(8) Remarks Mr. Herman McDevitt's letter dated 2/27/74 is hereby made a part of
this claim.



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

ss.

County of _____

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 28th day of February, 1974.

Herman McDevitt
(Claimant)

[Signature]
Notary Public

Residing at Boise, Idaho

My commission expires _____

For Department Use Only

Received by MB Date 3-27-74 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by [Signature] Date 3/28/74 claimant by: _____
\$10.00 fee received by MB Date 2-28-74
Approved for publication by MB 4/15/74 RECEIPT #12760
Published in [Signature]
Dates 4/15/74 4/15/74 OB

Claim No.

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

Section 42-225a, Idaho Code

Notice is hereby given that

(name of claimant)

of Stone, Idaho, 83280

(mailing address)

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) **Springs & sub-water;**

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

Upper culvert 15" culvert full

Lower culvert 15"

Amount

- (3) Total quantity of water claimed: _____ cubic feet per second, or _____ acre feet

- (4) Priority claimed: (the date water was first applied to beneficial use) Neal was born

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water

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

SW ¼ NE ¼, Sec. 15 Twp. 16S Rge. 32 E. B. M. County of Oneida

Additional points of diversion: NE 1/4 of SE 1/4 of Sec.15, Twp.16S,

- B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field.

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is

[illegible]

Total No. of acres

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

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

17 4046

(8) Remarks _____

[illegible]

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.

County of Bannock ss.

Lepee Neal
(Claimant)

February _____, 1974
Ken J. Millett
 Notary Public for Idaho
 Residing at Pocatello, Idaho

For Department Use Only

17 4020

RECEIVED

APR 15 1974

Department of Water Administration
Eastern District Office

**NOTICE OF CLAIM
TO A WATER RIGHT
NO. 17-4020**

Notice is hereby given that LeVell Neal, Stone, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 2.2 cubic feet per second of water from springs and sub-water tributary to Deep Creek with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 15, T. 16S, R. 32E, B.M., Oneida County.

The water is claimed to be used from Mar. 1 to Dec. 31 for the irrigation of 105 acres and stock-watering purposes for 300 head of cows with a priority of March 1, 1914; all uses within the W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 15, T. 16S, R. 32E, B.M.

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

R. KEITH HIGGINSON
Director

Published in the Idaho Enterprise, Malad City, Idaho on April 4 and April 11, 1974. *cb*

AFFIDAVIT OF PUBLICATION

State of Idaho
County of Oneida, ss.

Norma Beck being first duly sworn on her oath, states: That she is *clerk* of the Idaho Enterprise, a newspaper of general circulation in Oneida County, Idaho published weekly at Malad, 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 said Idaho Enterprise was at all of the times of publication of said notice a newspaper of general circulation made up of at least four pages of at least five columns each, printed from type matter or stereotyped forms of at least seventeen and three fourths inches depth, and said newspaper during all of the times of publication aforesaid had more than 200 bonafide subscribers thereto living within the county of Oneida in which said newspaper was published at regular intervals not less frequently than once a week.

That the annexed notice was published 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 *4* day of *April*, 19*74* the date of the last publication being the *11* day of *April*, 19*74*

Norma Beck

Subscribed and sworn to before me this *12th* day of *April*, 19*74*

H. H. Mayhew
Notary Public, residing at Malad, Idaho

My Commission expires the *10* day of *Oct*, 19*77*

Costs:

34 lines at 23c per line first insertion \$ *7.82*

lines tabulated at 34 $\frac{1}{2}$ c per line \$

15c per line each subsequent insertion \$ *5.10*

TOTAL \$ *12.92*

(Rates for legal notices are fixed by Idaho law)

17 4020

McDEVITT AND McDEVITT

ATTORNEYS AT LAW

7TH & LANDER

POST OFFICE BOX 4747

POCATELLO, IDAHO 83201

B. A. McDEVITT
HERMAN J. McDEVITT
ROBERT M. JOHNSON

February 27, 1974

AREA CODE 208
TELEPHONE 233-4121
RECEIVED

FEB 28 1974

Mr. Norman C. Young
District Engineer
Department of Water Administration
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Department of Water Administration
Eastern District Office

Re: Protest against Licensing of
Permit No. G-33477/17-2063
in the name of Harvey J. Harris

Dear Mr. Young:

In the recent hearing in the above matter in Malad, about a month ago, you suggested that we file a claim to water rights or the same information as would be required on a claim to water rights, for the lands of LaVell Neal. I have attempted to do this and have had Mr. Neal sign a claim form.

As to water measurements, at 2 places and 2 separate springs, he had put in a 15 inch culvert years ago. It has always flowed about 1 inch from the top of the 15 inch culvert. I don't know how much water that is. The springs and diversions and use are in the sections and townships shown in the lands of the entire bottom lands and pasture ground. I don't know if we filled these out correctly. Kindly let me know if you need additional information.

Historically, there are several large springs on the eastern side of the valley that were diverted by the settlers to the hay-grounds. These had no regular outlet to Deep Creek. The outlet now in existence, which follows the eastern edge of the meadow, was dug by hand with shovels, and the excess water allowed to escape into Deep Creek. In addition, the groundwater level was right at the surface to 2 or 3 inches below the ground surface, which allowed most of the meadow to sub-irrigate. Mr. Neal claims all the water from the springs and right to a water table, as indicated. We may need some help from your Engineers in actually quantifying the water which runs through the culverts.

All the water that runs through the upper culvert is diverted onto the meadow, and additional water generates from springs and finds its way into the hand-dug outlet in

17 4000

Mr. Norman C. Young
February 27, 1974
Page 2

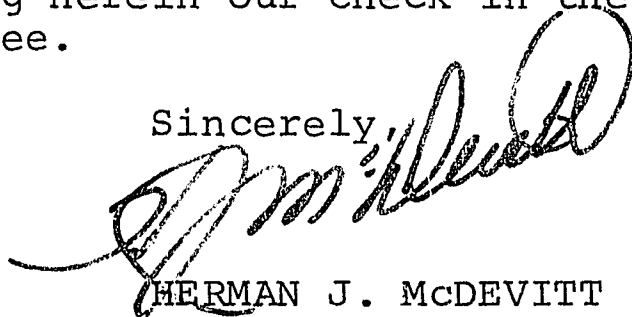
such a quantity as to again fill a 15 inch culvert about 300 yards downstream, where it is again diverted out onto the meadow.

Please feel free to fill in the engineering data on the enclosed application. If land descriptions are needed, we will have to take them from the aerial photographs.

This entire letter may be appended to the application under Part 8 (Remarks), and should be included as part thereof.

I am enclosing herein our check in the amount of \$10.00 to cover your fee.

Sincerely,



HERMAN J. McDEVITT

HJM:chi

Enclosures

cc: Bobby D. Fleenor

17 4020

March 11, 1974

Re: Claim to a Water Right No. 17-4020 LeVell Neal

Mr. Herman J. McDevitt
Attorney at Law
P. O. Box 4747
Pocatello, ID 83201

Dear Mr. McDevitt:

Attached herewith is departmental receipt No. 12760 in the amount of \$10.00 for the above referenced claim, which was received in this office on February 28, 1974.

For Administrative purposes, it is necessary that a water right be quantified and for that reason, I have taken the liberty of retyping Mr. Neal's claim with some additional information which I hope will more fully describe his use. I realize that it is very difficult to put numbers on a use such as that being made by Mr. Neal. Do not hesitate to change any of the numbers, should you not agree with them. The diversion rates I have suggested are based upon the amount normally required for the uses involved. The irrigation diversion rate is 0.02 c.f.s. per acre for the 105 acres that appear to be irrigable. The acreage was taken from a rather small aerial photo we have at this office. The diversion rate for stockwater is based upon 300 head of beef cattle and their calves. I cannot find in any of my notes the number of animals Mr. Neal usually has and took this value only from memory. The priority date listed, March 1, 1914, is based upon a use being started at least 60 years ago. I, also, took the liberty of adding one additional point of diversion based upon review of the aerial photos.

Please have Mr. Neal sign the retyped claim, if you are satisfied that the claim adequately describes Mr. Neal's project.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:mb
Enclosures

17 4020

RECEIVED

McDEVITT AND McDEVITT

ATTORNEYS AT LAW

7TH & LANDER

POST OFFICE BOX 4747

POCATELLO, IDAHO 83201

MAR 27 1974

Department of Water Administration

Eastern District Office

AREA CODE 208

TELEPHONE 233-4121

B. A. McDEVITT
HERMAN J. McDEVITT
ROBERT M. JOHNSON

March 26, 1974

Mr. Norman C. Young
District Engineer
Department of Water Administration
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Protest against Licensing of
Permit No. G-33477/17-2063
in the name of Harvey J. Harris

Dear Mr. Young:

Enclosed you will find the original Claim for Water Right, which I had forwarded to Mr. Neal for execution. I thought it had been returned to you previously but found it on my desk.

Also, I am enclosing an Objection to some Interrogatories which Mr. Scott submitted to us. If you or any of the people in the Department feel that you are prepared to proceed with the use of Interrogatories and Depositions and Requests for Admissions in these administrative matters, prior to hearing on the merits, kindly advise me, as I have a lot of things I have wanted to ask Mr. Harris for a long time.

The only thing upon your Claim to Water Right that I would object to would be the priority date of March 1, 1914. We know that the waters from the springs and the hand-dug ditches and the sub-irrigation waters because of the high water-table were in existence for many years prior to that date. Mr. Neal mentioned in a letter a period of 60 years, because of his age. Actually, when I went over the matter with him, from

17 4020

Mr. Norman C. Young
March 26, 1974
Page 2

his observations of the ground, it is apparent that the conditions that he described had already a long history as of the Spring of 1914. I don't see, though, how it could affect much under this proceedings.

Sincerely,



HERMAN J. McDEVITT

HJM:chi

Enclosures

17 4020

NOTICE OF CLAIM TO A WATER RIGHT

NO. 17-4020

Notice is hereby given that LeVell Neal,
Stone, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 2.2 cubic feet per second ~~acre feet per annum~~ XXXXXXXXXXXXXXXXXXXX
of water from springs and sub-water tributary to Deep Creek
with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 15, T. 16S,
R. 32E, B.M., Oneida County.

The water is claimed to be used from Mar. 1 to Dec. 31 for the
irrigation of 105 acres and stockwatering purposes for 300 head of cows
with a priority of March 1, 1914;
all uses
~~XXXXXXXXXXXXXXXXXXXX~~
the place of use is within the W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 15,
T. 16S, R. 32E, B.M.

Any exception to this claim of water right may be filed with the Idaho
Department of Water Administration, 240 South Holmes, Idaho Falls, Idaho,
83401.

R. KEITH HIGGINSON

Director

Published in the Idaho Enterprise, Malad City, Idaho
on April 4 and April 11, 1974.

*374-24
MB-7
Caled 4-3-74
CB-A.*

17 4020

March 29, 1974

RE: Claim to a Water Right No. 17-4020 - Neal

Idaho Enterprise
P.O. Box 205
Malad City, Idaho 83252

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,

NORMAN C. YOUNG
District Engineer

NCY:CB

Enc: Legal Notice (1)

Bill submitted 4-15-74 by MB

17 4020

**NOTICE OF CLAIM
TO A WATER RIGHT
NO. 17-4020**

MS
Notice is hereby given that LeVell Neal, Stone, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 2.2 cubic feet per second of water from springs and sub-water tributary to Deep Creek with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 15, T. 16S, R. 32E, B.M., Oneida County.

The water is claimed to be used from Mar. 1 to Dec. 31 for the irrigation of 105 acres and stock-watering purposes for 300 head of cows with a priority of March 1, 1914; all uses within the W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 15, T. 16S, R. 32E, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, 240 South Holmes, Idaho Falls, Idaho, 83401.

R. KEITH HIGGINSON
Director

Published in the Idaho Enterprise, Malad City, Idaho on April 4 and April 11, 1974.

17 4020

DELMORE CANAL COMPANY

Stone, Idaho

April 11, 1974

RECEIVED

APR 16 1974

Idaho Department of Water Administration
240 South Holmes
Idaho Falls, Idaho 83401

Department of Water Administration
Eastern District Office

Attention: R.T. Higginson, Director

Re: Water Application #17-4020
LeVell Neal
Stone, Idaho

PROTEST

Gentlemen:

Protest is hereby made and notice thereof given to the claim of water right filed by LeVell Neal of Stone, Idaho, under application No. 17-4020, claiming a water right established by diversion and application for 2.2 cubic feet per second of water from springs and sub water tributary to Deep Creek, with point of diversion in the NW 1/4 NE 1/4, SW 1/4 NE 1/4, NW 1/4 SE 1/4, Section 15, Township 16 South, Range 32, E.B.M., Oneida County, as set forth in particular in the published notice of claim to a water right in the Idaho Enterprise in Malad City, Idaho, on April 4 and April 11, 1974.

Kindly advise the undersigned company when the above matter is set for hearing, so that said company can appear and present its evidence in support of this protest.

Yours truly,

DELMORE CANAL COMPANY

By: Ron Skidmore
Ron Skidmore, President

cc/LeVell Neal

17 4020

April 16, 1974

Re: Claim to a Water Right No. 17-4020 LeVell Neal

Mr. Ron Skidmore, Pres.
Delmore Canal Company
Stone, Idaho 83280

Dear Mr. Skidmore:

This office is in receipt of your letter of April 11, 1974, noting your exception to the above referenced claim to a water right. A claim to a water right is filed by a water user that is developing a right by diversion and beneficial use under the constitutional method. Thus, the document filed by Mr. Neal merely indicates that he claims to have used the water in the manner as advertised since the date listed. He is not applying for an application for permit and will not receive a recorded water right from this Department as a result of his filing the claim. Thus, the Department of Water Administration does not hold a hearing when an exception is filed on a claim to a water right. The exception is merely included in the same file with the claimants document for consideration during any future court determination. It is unlikely that the court would consider your exception unless it is filed in affidavit form with your signature notarized. Although your letter will be included in the file in its present form, I would recommend that you follow the procedures as set forth in Section 42-225 of the Idaho Code and file your exception in affidavit form.

Enclosed please find a copy of the Water Users Handbook and Section 42-225, Idaho Code. If you have any questions concerning this matter, do not hesitate to contact this office.

Very truly yours,

RONALD D. CARLSON
Asst. to the District Engineer

RDC:mb

Enclosures
cc: LeVell Neal
bc: Bob Fleenor

17 4020

1515 Lincoln Road

April 22, 1974

C Re: Claim to a Water Right No. 17-4020

Mr. LeVell Neal
Stone, Idaho 83280

Dear Mr. Neal:

P The Department of Water Administration 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.

Y 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
Asst. to the District Engineer

RDC:MB
Enc: Copy of Claim

17 4020

DELMORE CANAL COMPANY

Stone, Idaho

April 11, 1974

Idaho Department of Water Administration
240 South Holmes
Idaho Falls, Idaho 83401

Attention: R.T. Higginson, Director

Re: Water Application #17-4020
LeVell Neal
Stone, Idaho

PROTEST

Gentlemen:

Protest is hereby made and notice thereof given to the claim of water right filed by LeVell Neal of Stone, Idaho, under application No. 17-4020, claiming a water right established by diversion and application for 2.2 cubic feet per second of water from springs and sub water tributary to Deep Creek, with point of diversion in the NW 1/4 NE 1/4, SW 1/4 NE 1/4, NW 1/4 SE 1/4, Section 15, Township 16 South, Range 32, E.B.M., Oneida County, as set forth in particular in the published notice of claim to a water right in the Idaho Enterprise in Malad City, Idaho, on April 4 and April 11, 1974.

Kindly advise the undersigned company when the above matter is set for hearing, so that said company can appear and present its evidence in support of this protest.

Yours truly,

DELMORE CANAL COMPANY

By: Ron Skidmore
Ron Skidmore, President

cc/LeVell Neal

17 4020

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

EASTERN DISTRICT OFFICE



Cecil D. Andrus
Governor
R. Keith Higginson
Director

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

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

April 16, 1974

BDF

Re: Claim to a Water Right No. 17-4020 LeVell Neal

Mr. Ron Skidmore, Pres.
Delmore Canal Company
Stone, Idaho 83280

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Enclosed please find a copy of the Water Users Handbook and Section 42-225, Idaho Code. If you have any questions concerning this matter, do not hesitate to contact this office.

Very truly yours,

RONALD D. CARLSON
Asst. to the District Engineer

RDC:mb

Enclosures

cc: LeVell Neal
bl: Bob Fleenor

17 4020

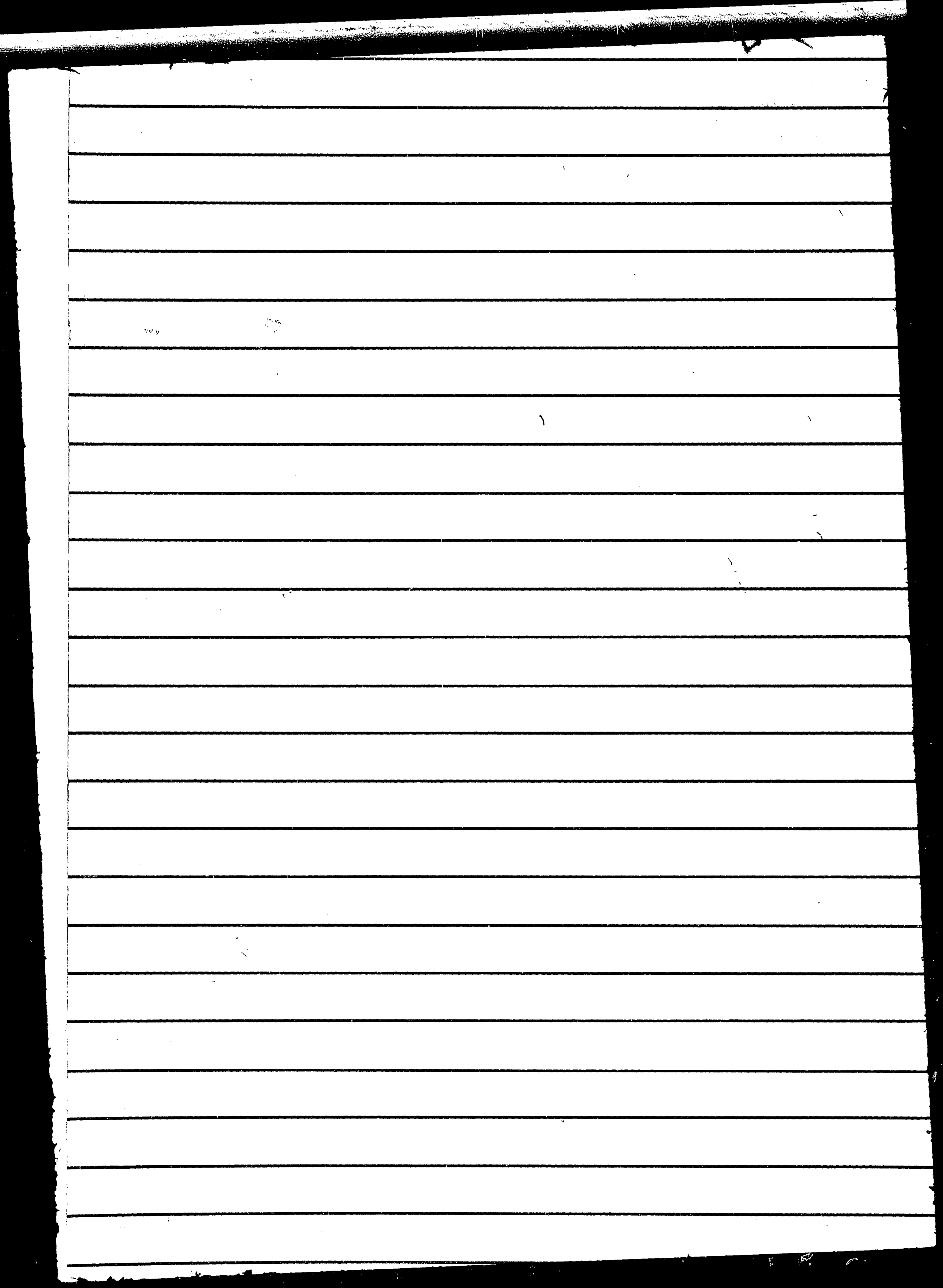


EXHIBIT "A"

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT, OF THE STATE
OF IDAHO, COUNTY OF ONEIDA.

CURLEW IRRIGATION AND RESERVOIR)
COMPANY, a corporation,)

Plaintiff,)

--vs--)

D E C R E E

PRATT IRRIGATION COMPANY, LIMITED,)
a corporation,)

Defendant. }

This cause coming on regularly to be heard before the Court on the 15th day of December, 1914, T. E. Ray, Esq., appearing as attorney for the plaintiff and T. D. Jones, Esq., appearing as attorney for the defendant, and it being made to appear to the court that the said parties have adjusted the disputes between them at issue in this action, and have made and entered into a written agreement of settlement thereof, and the said parties in open court having stipulated that the terms of said agreement shall be made the decree of the court in this action;

NOW THEREFORE, in consideration of the premises, and on motion of the attorneys for the respective parties herein, it is hereby ORDERED, ADJUDGED AND DECREED:

1. That the said plaintiff, Curlew Irrigation and Reservoir Company, is the owner of and entitled to the use of all the natural flow of the said Curlew Creek, distributed at its headgates into the laterals of its canal system as follows:

115 miner's inches in its north lateral

747 miner's inches in its east lateral,

312 miner's inches in its west lateral

19 miner's inches in its Arbon Meadows' lateral,

320 miner's inches in its sinks' lateral.

during the irrigation season beginning April 20th and ending September 20th, except as hereinafter mentioned, each and every year,

and during the remainder of the year said plaintiff, Curlew Irriga-

THATCHER & YOUNG
ATTORNEYS
OGDEN, UTAH

tion and Reservoir Company, is the owner of and entitled to the use of such quantity of the flow of said stream through its said east and west laterals sufficient to supply the needs of its stockholders for household, culinary and stock purposes.

It is understood that a miner's inch means a flow of water measured under a four inch pressure.

2. That the said defendant, Pratt Irrigation Company, Limited, is the owner of a dam and reservoir situate on said Deep or Curlew Creek above all the above named laterals, except the first mentioned, for the storage of the unappropriated waters flowing in said stream and of the right to impound and use said waters, that is all the flow of said stream, except that owned and used by the plaintiff, Curlew Irrigation and Reservoir Company, during the times aforesaid and as hereinafter mentioned.

3. That since the construction of said reservoir the natural flow of said stream is impounded in said reservoir which prevents the free flow of said natural stream down the channel thereof to the said headgates and laterals of the plaintiff, Curlew Irrigation and Reservoir Company, as it has formerly done at all seasons of the year; that since said construction and impounding of said waters as aforesaid a considerable flow of water in said stream occasioned through seepage from said reservoir has developed below said reservoir; now it is adjudged that hereafter in supplying the water owned and used by the plaintiff, Curlew Irrigation and Reservoir Company, and its stockholders as aforesaid, that any seepage water flowing in said stream at the headgates of the said plaintiff, Curlew Irrigation and Reservoir Company, or which may be pumped into its said laterals above the place of use of said waters, shall be taken, received and considered by said plaintiff, Curlew Irrigation and Reservoir Company, as in lieu of the natural flow of said stream, so long as it, the said plaintiff, Curlew Irrigation and Reservoir Company, shall in fact receive the same, or it shall be permitted to divert or receive the same into its said laterals, and said Pratt Irrigation Company, Limited, defendant, shall be required to deliver

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through the headgate of its said reservoir only such quantity of water as will make up any deficiency to supply the quantities to which the said plaintiff, Curlew Irrigation and Reservoir Company, is entitled at its said headgates as hereinbefore mentioned and hereinafter provided; it is understood, however, that said full quantity of water hereinbefore and hereinafter mentioned shall always be supplied either from said seepage or from said reservoir, or both.

4. Whereas the Utah-Idaho Land and Water Company, a corporation, is the owner of a dam and reservoir on said stream above the headgates of said plaintiff, Curlew Irrigation and Reservoir Company, at Arbon Meadows and the Sinks hereinbefore mentioned, and is by decree of court required to deliver the flow and quantity of water above mentioned at said headgates beginning the first day of March and ending the first day of October of each and every year, it is adjudged in respect thereto that the said defendant, Pratt Irrigation Company, Limited, may make such arrangements as it deems best with said Utah-Idaho Land and Water Company for the measurement of the waters flowing down said stream for supplying the said waters required at said head gates, during said time, providing, however, this stipulation shall in no wise release said defendant, Pratt Irrigation Company, Limited, from supplying a sufficient flow to deliver the quantities aforesaid at its said headgates; and provided, further, that the said defendant, Pratt Irrigation Company, Limited, shall have the privilege of using the name of the said plaintiff, Curlew Irrigation and Reservoir Company, at its own cost and expense, if deemed necessary to litigate said matter with the said Utah-Idaho Land and Water Company.

5. It is adjudged that for the purpose of carrying out the stipulations of this contract that the said parties to this DECREE, on or before the first day of February of each and every year, shall employ a water master who shall be a resident of the neighborhood, residing near or below said reservoir, and whose compensation shall not exceed ^{THATCHER & YOUNG} ~~per~~ month \$25.00. In the event said ^{LAWYERS}

parties shall be unable to agree upon a man for water master on or before the time aforesaid, then within ten days after the said first day of February the plaintiff, Curlew Irrigation and Reservoir Company, shall designate in writing to the defendant, Pratt Irrigation Company, Limited, the name of an arbitrator chosen by it, and the defendant, Pratt Irrigation Company, Limited, shall within ten days thereafter designate to the plaintiff, Curlew Irrigation and Reservoir Company, the name of an arbitrator chosen by it, and in case said arbitrators cannot agree, they shall select a third, and a majority of said three arbitrators shall name a suitable person residing at or near or below said reservoir in said neighborhood to act as water master for one year from February first preceding. If either of the parties hereto neglects to designate the arbitrator to be chosen by it within the times aforesaid, then the other party hereto shall have the right to designate the second arbitrator herein provided for, and said arbitrator shall proceed as above provided to select a water master. The duties of said water master shall be to measure the water delivered and to be delivered to the plaintiff, Curlew Irrigation and Reservoir Company, by the defendant, Pratt Irrigation Company, Limited, as aforesaid, and to control the headgate of said reservoir and cause the delivery and furnishing of said quantity of water through said headgate as will carry out the terms of this judgment. Said water master shall supply, during the nonirrigation season, such quantity of water from said reservoir, in addition to said seepage water through said east and west laterals, as in his judgment may be required for the household, culinary and stock purposes aforesaid, provided, that during the winter season, when the waters flowing in said east lateral shall freeze therein, he shall be required to supply only such quantities as shall flow and supply for the purposes aforesaid down to a point one-half mile south of the Utah-Idaho State line.

If at any time a water master chosen by the agreement of the parties shall prove unsatisfactory to either of the parties hereto and said parties are

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OGDEN, UTAH

unable to agree upon another, then such

dissatisfied party may designate the name of an arbitrator and within ten days thereafter the other party shall designate the name of another arbitrator, or failing to do so, the dissatisfied party may select such second arbitrator and the procedure thereafter shall be as above provided for the selection of a new water master, and they shall select and designate some other person as water master and the person so chosen shall act thereafter for the remainder of the current year, that is until the first day of February following.

6. IT IS FURTHER ORDERED AND ADJUDGED that in the event the said defendant, Pratt Irrigation Company, Limited, or the owners thereof of water described as belonging to the said north lateral at any of the said headgates below said reservoir, and divert the same into any of said lower laterals, the said defendant, Pratt Irrigation Company, Limited, may do so, provided, such quantity so delivered to be delivered and supplied at said headgates and in said laterals.

It is further ordered that each of the parties hereto pay its own costs.

Done in open court this 15th day of December, 1914.

Chas. O. Stockslager

Judge.

Exhibit B

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO IN AND FOR THE COUNTY OF ONEIDA

CURLEW IRRIGATION AND RESERVOIR
COMPANY, a corporation,
Plaintiff,

vs.

DELMORE CANAL COMPANY, a corporation,
et al,
Defendants,

and

G. B. WADE and C. E. HARRIS,
Interpleaded Defendants

Filed August 9, 1948
John H. McAllister
Clerk
Both Et Judgment Page 79

JUDGMENT

This cause came on regularly to be heard before the Court, sitting without a jury, the Honorable Jay L. Downing presiding, on the 28th day of June, 1937, with A. L. Merrill, Esquire, and LeRoy B. Young, Esquire, appearing as attorneys for the plaintiff, and Jones, Pomeroy & Jones appearing as attorneys for the defendants, and after evidence had been introduced by the plaintiff, it was made to appear to the Court that the respective parties had adjusted the dispute between them at issue in this action, and that they had entered into a tentative agreement of settlement thereof; that it would be necessary to continue the hearing of said cause, without date, in order to have said agreement properly drawn and presented to the respective corporations for approval and to thereafter carry on the investigations specifically provided for in said proposed agreement in order to obtain the necessary data upon which to frame a final decree; thereupon upon motion of counsel for the respective parties, the further hearing was continued without date.

It now appearing to the Court from evidence introduced this day that on the ____ day of May, 1938, said parties, pursuant to said tentative understanding, entered into the following agree-

ment, to-wit:

Agreement

THIS AGREEMENT made and entered into this 21st day of May, 1938, between the CURLEW IRRIGATION AND RESERVOIR COMPANY, a corporation of Oneida County, Idaho, and its Board of Directors, Parties of the First Part, and DELMORE CANAL COMPANY, a corporation of Oneida County, Idaho, and its Board of Directors, Parties of the Second Part, WITNESSETH:

WHEREAS, under date of December 15, 1914, the District Court of the Fifth Judicial District of the State of Idaho, in and for Oneida County, in the case of Curlew Irrigation and Reservoir Company, a corporation, plaintiff, versus Pratt Irrigation Company, Ltd., a corporation, defendant, entered its certain decree adjudicating the water rights of the respective corporations in and to that certain stream known as Curlew Creek, which said decree is hereby referred to and by reference made a part hereof; and

WHEREAS, Delmore Canal Company, of parties of the second part, has succeeded to the interests of the said Pratt Irrigation Company and is bound by the terms and provisions of said decree; and

WHEREAS, certain differences have heretofore existed and are now existing between the respective parties hereto growing out of, and in connection with the construction of certain of the provisions of said decree and the respective rights, duties and obligations of each thereunder; and

WHEREAS, because of said differences and disputes, said Curlew Irrigation and Reservoir Company, as plaintiff, filed in the court hereinbefore referred to on or about the // day of April, 1936, its complaint against the said Delmore Canal Company, Lewis R. Cannon, Andrew Anderson, William R. Bunderson, Ray Rowe and Clifford Neal, as its directors, and Fred Hurd, water master, acting pursuant to the terms of said decree, as defendants, by which complaint plaintiff sought to have said decree of December 15, 1914, construed and enforced, and to recover damages against said defendants; and

WHEREAS, issues were joined by the filing of an answer by certain of said defendants; and

WHEREAS, thereafter, pursuant to order of said Court, G. B. Wade and C. E. Harris, claimants to certain rights on said stream, were brought in as interpleaded defendants, and thereafter said Wade and Harris filed therein their and each of their respective claims in and to the use of a portion of said waters, and issues were duly joined thereon, all of which said files, pleadings and proceedings in the case last referred to are hereby referred to and by reference made a part hereof; and

WHEREAS, on the 28th day of June, 1937, said cause last referred to came on regularly for hearing before the Honorable J. L. Downing, District Judge, and evidence was submitted by plaintiff on the 28th and 29th days of June, 1937; and

WHEREAS, said cause was thereupon continued and the proceedings temporarily abated in order to permit the respective parties to compromise and settle all of said difficulties and disputes pertaining to said decree, and provide, if possible, a method for a more efficient and satisfactory enforcement of its terms and provisions,

NOW, THEREFORE, in consideration of the foregoing premises, and the promises of the respective parties hereto,

IT IS MUTUALLY AGREED AS FOLLOWS, to-wit:

1. That all matters for consideration are without prejudice to the suit now pending, and if a final agreement is not made, said suit shall continue without impairment of the rights of either party.

2. Pending negotiations, and during the period for determining seepage losses, as hereinafter provided, 320 miners' inches of water, as fixed in the 1914 decree, shall be delivered by second parties at the Sinks Lateral, and likewise 19 miners' inches shall be delivered at the Arbon Meadows Lateral.

3. Within a reasonable time after the signing of this agreement, and after the selection of a competent engineer, a suitable measuring device shall be installed in the natural channel under the direction and supervision of said engineer, to be hereafter selected, at or near Larkins Bridge where the cemetery road crosses said natural channel about a mile North of the state highway at Snowville, Box Elder County, Utah, (which said point shall hereafter be referred to as the point of delivery) and a scientific study shall immediately be undertaken by said engineer, or under his direction, to determine as accurately as possible the precise quantity of water which must be delivered at said point of delivery to insure at all times during the irrigation season a continuous flow of 320 miners' inches at the Sinks Lateral and 19 miners' inches at the Arbon Meadows lateral when conveyed through said natural channel. In making said scientific study to determine the quantity of water which must be delivered at said point of delivery to provide for a continuous flow of 320 miners' inches at the Sinks Lateral and 19 miners' inches at the Arbon Meadows lateral, sufficient measurements shall be taken by said engineer, or under his direction, during the irrigation season for the period of time herein mentioned to arrive at the reasonable average flow that shall be delivered at the point of delivery to provide for the delivery of 320 miners' inches at the Sinks Lateral and 19 miners' inches at the Arbon Meadows lateral. In order to determine the amount of actual loss between said point of delivery and the laterals at the said Arbon Meadows and Sinks Laterals, respectively, said natural channel shall be cleaned and maintained between said respective points at the expense of first parties in a reasonably clean condition and the water flowing therein shall be confined at all times within the banks of said natural channel. Provided that each of the parties hereto shall each select one person to go upon and over the channel between said points as often as requested by the party so selected by the second party to determine whether said channel is in a reasonably clean condition and the water confined within its banks, and if the said parties so selected fail to agree the said parties so selected shall immediately select a disinterested party who shall examine the channel and his decision on said matter shall be final.

4. When the quantity of loss between said points has been computed and determined to the satisfaction of the engineer, then said Delmore Canal Company, its officers and agents, the water master or other agency charged with the distribution of the waters of said stream, shall thereafter deliver the quantity flow so computed as aforesaid at said point of delivery during the irrigation season; that is, from March first to September thirtieth, inclusive, of each and every year thereafter, and said Delmore

Canal Company shall be responsible for all expense incurred in or incident to the delivery of said quantity flow so fixed and determined as aforesaid at said point of delivery. First parties agree to accept said computed and determined amount at said point of delivery as a full compliance with the terms and provisions of the said decree of December 15, 1914, in so far as the same relates to or affects the Arbon Meadows and Sinks Laterals, and first party shall be responsible thereafter for any and all loss sustained, or expenses incurred incident to or in any manner connected with the delivery of said water beyond said point of delivery.

5. WHEREAS, it will be necessary from time to time for the second parties to clean the natural channel above mentioned between the dam of the second parties and the point of delivery herein mentioned, and that the first parties herein have the right and easement over the lands through which the said stream flows in said channel for the flow of water to its respective points of diversion, and by reason thereof, have the right to clean the said natural channel and remove obstructions from the bed of the stream so as to permit the water to freely flow therein to its respective points of diversion, it is therefore agreed that in the event the second parties are denied the right to go upon and over the lands through which said channel runs between said dam and said point of delivery to clean the same, that the parties of the second part shall have the right and privilege of using the name of the first parties at second parties own cost and expense to institute such action as may be necessary or proper against any or all of the owners of the land through which said channel runs between said points, to secure the right to clean said channel.

6. Any and all rights acquired on said stream by the Utah-Idaho Land and Water Company shall be unaffected by the terms and conditions of this agreement.

7. The rights of the said Wade and Harris shall be fixed and determined by a decree of said court in the action now pending, and such rights, when so determined, shall not be affected by the terms and provisions of this agreement.

8. All expenses incurred in the installation of said measuring device at the point of delivery, as well as expenses incurred through the scientific study of said stream for the purpose of determining the necessary data upon which to base the quantity flow required at said point of delivery, shall be borne equally by the two companies.

9. Said study shall be concluded and final reports submitted thereon, if possible, by not later than September 1, 1940.

10. It is recognized that increased seepage immediately below the reservoir has caused and will hereafter cause increased expense in cleaning, maintaining and repairing the East and West laterals above the point where the respective weirs and measuring devices are now installed. It is agreed that the care and maintenance of that portion of said laterals above the said weirs, as now installed on each lateral, shall be placed under the control and jurisdiction of the general water master and said water master shall, as a part of his duties, maintain each of said laterals, above the weirs, in a reasonably good condition and reasonably free from moss or other obstructions during the irrigation season. He shall keep separate accounts of the costs of maintenance and repair and present the same to the secretary of each company, and the costs so incurred by him as aforesaid shall be borne equally by

the respective parties hereto.

11. First parties will waive any and all claims for damages under the present suit, as well as damages arising at any time prior to the execution of this agreement.

12. This agreement shall always be construed with reference to said decree of December 15, 1914, and except as expressly modified herein, said decree shall continue to be binding upon all parties.

13. When said engineer shall have completed his study and made his report thereon, the terms and provisions of this agreement shall be embodied in a final decree, and the same shall be signed by the presiding judge and entered as a final settlement of the pending suit.

14. Said engineer shall be chosen and his terms of employment and compensation fixed by the officers of the two respective companies, provided that if they can not agree, then he shall be chosen and his compensation fixed and determined by the presiding judge of the court in which this action is now pending and his decision thereon shall be final, and said engineer shall thereafter act under the direction and supervision of said court.

IN WITNESS WHEREOF, the parties to this agreement have hereunto set their hands the day and year first above written.

Witnesses:

CURLEW IRRIGATION AND RESERVOIR COMPANY

By Alfred Rose

President

By Edmund Hurd

Secretary

Jesse Olson

E. E. Harris

W. Earl Freeman

Directors

Parties of the first part

Witnesses:

DELMORE CANAL COMPANY

By Andrew Anderson

President

By W. A. Bunker

Secretary

Collyard F. Neal

Charles E. Mason

J. F. Flood

Directors

Parties of the second part

And it further appearing to the Court that pursuant to the provisions of said agreement, last above referred to, and particularly Paragraph three (3) thereof, the said parties employed one George D. Clyde, a competent civil engineer, who thereupon

installed a suitable measuring device at or near Larkin's Bridge where the cemetery road crosses said natural channel approximately one (1) mile north of the said highway at Snowville, Box Elder County, Utah, for the purpose of making a scientific study to determine the precise quantity of water which must be delivered at said point to insure at all times during the irrigation season a continuous flow of nineteen (19) miner's inches at the Arbon Meadows and three hundred twenty (320) miner's inches at the Sinks Lateral, and that said engineer thereupon began said study and continued the same until the end of the irrigation season of 1939, at which time he made a written report to said parties showing the average yearly quantity channel loss between the said Larkin's Bridge and the said Arbon Meadows and Sinks Lateral to be Seventy eight (78) miner's inches; and it further appearing to said court that the said report of said engineer was accepted by said parties hereto as the basis upon which to enter the final decree herein;

NOW, THEREFORE, the plaintiff, Curlew Irrigation and Reservoir Company, appearing by its counsel, LeRoy B. Young, Esquire, and the defendant Delmore Canal Company appearing by its counsel, Jones, Pomeroy & Jones, on this 9th day of August 1940, and presenting to the court this decree for the court's approval; and it appearing that the interpleaded defendants, G. B. Wade and C. E. Harris, failed to appear, either in person or by their attorneys; and said matter having been fully considered by the court, and findings of fact and conclusions of law having been expressly waived; and upon motion of the attorneys for the plaintiff and defendants herein,

IT IS HEREBY ORDERED ADJUDGED AND DECREED that the respective claims of G. B. Wade and C. E. Harris, interpleaded defendants, be and the same are hereby dismissed without prejudice.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that the said decree specifically referred to in plaintiff's com-

plaint herein and heretofore entered by this court on the 15th day of December, 1914, between the plaintiff and the Pratt Irrigation Company, predecessor in interest of the defendant, Delmore Canal Company, be and the same is hereby modified in the following respects, to-wit:

A. That the point of delivery of the waters flowing, and hereafter to flow, in the natural channel for the Arbon Meadows and Sinks Lateral water rights is hereby fixed at the Larkins' bridge where the cemetery road crosses said natural channel, approximately one (1) mile north of the state highway at Snowville, Box Elder County, Utah, and the plaintiff and defendant shall, at their equal and joint expense, hereafter maintain at said "point of delivery", a suitable measuring device designed for the accurate measurement of the waters flowing in said natural channel at said point.

B. That the said plaintiff, Curlew Irrigation and Reservoir Company, is the owner of and entitled to have distributed to it in the natural channel at said "point of delivery", between the 1st day of March, and the 30th day of September of each and every year hereafter, a continuous flow of Four Hundred Seventeen (417) miner's inches, in lieu of the provisions of the said original decree awarding plaintiff nineteen (19) miner's inches at the Arbon Meadows lateral and Three Hundred twenty (320) miner's inches at the Sinks Lateral.

C. That said defendant, Delmore Canal Company, shall hereafter bear all expenses incurred incident to, or in any manner connected with the delivery of said water through said natural channel to the said "point of delivery", and the plaintiff, Curlew Irrigation and Reservoir Company, shall likewise hereafter be responsible for any and all loss of water flowing through said natural channel below said "point of delivery" for use in the Arbon Meadows and Sinks Lateral, and the plaintiff, Curlew Irrigation and Reservoir Company, shall bear all expenses incurred incident to, or in any manner connected with the delivery of said water from said "point of delivery", to the said Arbon Meadows and Sinks Laterals.

D. That the defendant, Delmore Canal Company, shall have the privilege of using the name of the plaintiff, at its own cost and expense, to institute suit, if deemed necessary at any time hereafter, to go over and upon the lands through which said natural channel flows above said "point of delivery" for the purpose of cleaning, repairing, straightening, or otherwise improving or working on said channel.

E. The above referred to "point of delivery" being located on the natural channel at a point above the Utah-Idaho Land and Water Company reservoir, the provisions of Paragraph Four (4) of said original decree are hereby vacated and set aside, but any and all rights acquired on said stream by the said Utah-Idaho Land and Water Company shall be unaffected by the terms and conditions of this decree.

IT IS FURTHER ADJUDGED AND DECREED that the cleaning, repairing and maintaining of the East and West laterals of the plaintiff, above the point where their respective weirs and measuring devices are now installed, shall be placed under the control and jurisdiction of the water master, and said water master shall, as a part of his duties, maintain each of said laterals above said weir in a reasonably good condition and reasonably free from moss and other obstructions during the irrigation season beginning April 20 and ending September 20, and the cost so incurred by him shall be borne equally by the plaintiff, Curlew Irrigation and Reservoir Company, a corporation, *It is further decreed that plaintiff shall maintain & keep in repair the weir on the East Lateral & defendant shall maintain & keep in repair the weir on the West Lateral* and the defendant Delmore Canal Company, a corporation.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff is not entitled to recover any judgment for damages against the defendants, or either of them, and the action is hereby dismissed as to the defendants Lewis R. Cannon, Andrew Anderson, William R. Bunderson, Ray Roe, Clifford Neal and Fred Hurd.

IT IS FURTHER DECREED that each party shall pay its own costs.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the said original decree of December 15, 1914, and each and all of its terms and provisions, except only as herein modified, shall remain in full force and effect, notwithstanding the entry of this supplemental decree.

DATED this 9th day of August, 1940.

James M. Farrell
District Judge

RECEIVED

DEC 18 1974

Department of Water Resources
Eastern District Office

AFFIDAVIT OF EXCEPTION TO CLAIM OF
WATER RIGHT

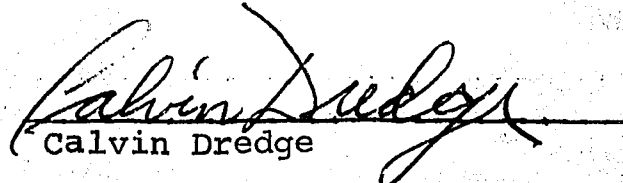
STATE OF IDAHO)
 :SS
County of Oneida)

CALVIN DREDGE, being first duly sworn, deposes and states:

That he is an officer and director of Curlew Irrigation Company, a corporation, and, pursuant to the provisions of Idaho Code section 42-225b, makes this Affidavit of Exception to that certain Claim of Water Right of Lavell Neal, dated February 28, 1974, and filed with the State of Idaho, Department of Water Administration on said date, and claiming a right to use of certain quantities of water from Deep Creek, Oneida County, Idaho.

That Curlew Irrigation Company is a corporation engaged in the business of irrigation and operation of irrigation and reservoir facilities, and having its address at: c/o Thomas Larkin, Secretary, Snowville, Utah.

That said corporation is one of the decreed water-right holders of all the natural flow of said Deep Creek and its tributaries, Oneida County, Idaho, pursuant to decrees dated December 15, 1914 and June 28, 1937, attached hereto as Exhibits A and B, respectively. That the Claim of Water Right of Lavell Neal, referred to herein, is erroneous and of no merit in that the aforesaid decrees decree all rights and interests in and to the waters of said Deep Creek and its tributaries to Curlew Irrigation Company and others mentioned in said decrees, which does not include Lavell Neal or any predecessor in interest of Lavell Neal.


Calvin Dredge

SUBSCRIBED AND SWORN to before me this 3rd day of
December, 1974.

Handa Edwards
Notary Public for Idaho
Residing at:

LAW OFFICES OF
RACINE, HUNTLEY & OLSON

CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201
TELEPHONE [208] 232-6101

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON

D. JAMES MANNING
W. MARCUS W. NYE

December 12, 1974

RECEIVED

DEC 18 1974

Department of Water Resources
Eastern District Office

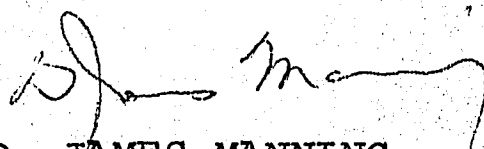
Mr. Norman Young
Department of Water Administration
240 South Holmes
Idaho Falls, Idaho 83401

Re: In the Matter of Protest
re Harvey J. Harris

Dear Mr. Young:

Herewith for filing pursuant to Idaho Code Section 42-225(b)
Affidavit of Exception to claim of water right executed by
Calvin Dredge on behalf of Curlew Irrigation Company.

Very truly yours,


D. JAMES MANNING

DJM:jc

CC: Mr. Herman McDevitt
Mr. Kent Foster

December 19, 1974

RE: Claim to a Water Right No. 17-4020 LeVELL NEAL

Mr. D. James Manning
Attorney at Law
P.O. Box 1391
Pocatello, ID 83201

Dear Mr. Manning:

We have received the exception dated December 18, 1974, filed in behalf of Curlew Irrigation 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 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 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
Acting District Engineer

RDC:MB

cc: Curlew Irrigation Company
Calvin Dredge

BDF
file

Please
file

December 19, 1974

RE: Claim to a Water Right No. 17-4020

Mr. LeVell Neal
Stone
Idaho 83280

Dear Mr. Neal:

Enclosed please find a copy of the exception filed by D. James Manning, in behalf of the Curlew Irrigation Company in connection with your Claim No. 17-4020. 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 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 question regarding this matter, please contact us.

Very truly yours,

RONALD D. CARLSON
Acting District Engineer

RDC:MB

Enclosure

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON

D. JAMES MANNING
W. MARCUS W. NYE

LAW OFFICES OF
RACINE, HUNTLEY & OLSON
CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201
TELEPHONE [208] 232-6101

December 24, 1974

DEC 30 1974

Department of Water Resources

RECEIVED

DEC 26 1974

Department of Water Resources
Eastern District Office

Mr. Ronald Carlson
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

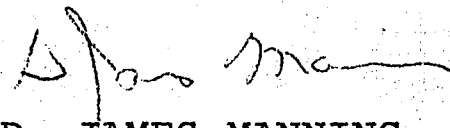
Re: Claim to a Water Right No. 17-4020
LaVell Neal

BDF
ok to file

Dear Mr. Carlson:

Thank you for your letter of December 19, 1974 on the above matter. I understand the purpose of the section of the Idaho Code which you refer to in your letter and I realize that these sections of the code just contemplate filing of information to assist the department of water resources in cataloging and surveying water rights in the State of Idaho, and that conflicting claims are simply filed and no hearing or final disposition is made on them. It was only our intention to establish in your records that we oppose the claim to water right of Mr. Neal. We are uncertain whether we sent only an original copy or duplicate copies of the Affidavit and supporting decrees, so I am enclosing herewith an additional copy.

Very truly yours,


D. JAMES MANNING

DJM:jc

cc: Mr. Cal Dredge

RECEIVED

DEC 26 1974
Department of Water Resources
Eastern District Office

AFFIDAVIT OF EXCEPTION TO CLAIM OF
WATER RIGHT

STATE OF IDAHO)
 : ss
County of Oneida)

CALVIN DREDGE, being first duly sworn, deposes and states:

That he is an officer and director of Curlew Irrigation Company, a corporation, and, pursuant to the provisions of Idaho Code section 42-225b, makes this Affidavit of Exception to that certain Claim of Water Right of Lavell Neal, dated February 28, 1974, and filed with the State of Idaho, Department of Water Administration on said date, and claiming a right to use of certain quantities of water from Deep Creek, Oneida County, Idaho.

That Curlew Irrigation Company is a corporation engaged in the business of irrigation and operation of irrigation and reservoir facilities, and having its address at: c/o Thomas Larkin, Secretary, Snowville, Utah.

That said corporation is one of the decreed water-right holders of all the natural flow of said Deep Creek and its tributaries, Oneida County, Idaho, pursuant to decrees dated December 15, 1914 and June 28, 1937, attached hereto as Exhibits A and B, respectively. That the Claim of Water Right of Lavell Neal, referred to herein, is erroneous and of no merit in that the aforesaid decrees decree all rights and interests in and to the waters of said Deep Creek and its tributaries to Curlew Irrigation Company and others mentioned in said decrees, which does not include Lavell Neal or any predecessor in interest of Lavell Neal.

151 Calvin Dredge
Calvin Dredge

SUBSCRIBED AND SWORN to before me this 3rd day of
November, 1974.

Ms. Linda Edwards
Notary Public for Idaho
Residing at:

