

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE BEAR RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 79576

RECEIVED

FEB 10 2023

IDWR/Preston

Ident. Number: 13-4106
Date Received: 2/10/2023
Receipt No: P000016
Claim Fee: \$60.00
Received By: MB

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

GERALD C COLE
5527 E GLENDALE RD
PRESTON ID 83263

Phone: (208) 852-2969

AND/OR

KATHLEEN J COLE
5527 E GLENDALE RD
PRESTON ID 83263

Phone: (208) 852-2969

2. Date of Priority: 9/24/1892

3. Source:
SPRING

Trib. to:
SHEEP CREEK

4. Point of Diversion:

Township	Range	Section	¼ of ¼ of ¼	Lot	County	Type
15S	40E	14	SE SE		FRANKLIN	

5. Description of diverting works:

CONCRETE SPRING BOX ^{which} ~~TO~~ RUNS TO TWO HOUSES THROUGH A 6" PIPE, OVERFLOW FEEDS INTO
A DITCH WHICH IS USED TO IRRIGATE FIELDS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A
DOMESTIC	1/01	12/31	0.04		
IRRIGATION	04/01	11/01	1.5		

7. Total Quantity Appropriated is:

1.5 C.F.S. and/or A.F.A.

8. Non-irrigation uses:

WATER USE FOR 2 HOMES.

9. Place of use:

DOMESTIC within FRANKLIN County

Township	Range	Section	¼	of	¼	Lot	Acres
15S	40E	14	SE		SE		

IRRIGATION within FRANKLIN County

Township	Range	Section	¼	of	¼	Lot	Acres
15S	40E	14	SE		SE		1.6
15S	40E	23	NE		NE		7.9

Total Acres = 9.5

10. Do you own the property listed above as place of use? Yes

11. Other Water Rights Used:

12. Remarks:

Priority Date Explanation:

WHEN WATER USE FIRST BEGAN FOR THE HOUSE.

13. Basis of Claim: Beneficial Use and Statutory Claim

14. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the BEAR River Basin Adjudication." (b.) I/We do ____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Shirley E. Cole Date: 2/10/23

Date: _____

REAL ESTATE SALE CONTRACT

THIS AGREEMENT, Made this 7th day of September in the year A. D., 1971
by and between EUGENE C. COLE and RHEA G. COLE, husband and wife,
of the County of Cache, State of Utah, hereinafter called Seller and GERALD C. COLE and KATHLEEN J. COLE, husband and wife, of the County of Franklin, State of Idaho hereinafter called Buyer;

WITNESSETH: Seller agrees to sell to the Buyer, on the performance of the agreements of the Buyer as hereinafter mentioned and convey, or cause to be conveyed by the legal owner or owners thereof, by good and sufficient Warranty Deed, free of liens and incumbrances, excepting those of record, and any that may have attached by reason of any act or deed of Buyer, and excepting any lien to which this agreement is expressly made subject, the following described real estate situated in the county of and State of Idaho, to-wit:

Beginning at the Southeast corner of the NE1/4 of Section 23, Township 15 South, Range 40 East of the Boise Meridian, and running thence West 320 rods; thence North 240 rods; thence East 80 rods; thence South 80 rods; thence East 80 rods; thence North 160 rods; thence East 50 rods, more or less, to County road, thence Southeasterly along said County road to a point on East line of said Section 23 which is 140 rods North of place of beginning, thence South 140 rods to place of beginning.

Also, commencing at East side of County road to point 24 rods West of Southeast corner SE1/4 of Section 14, Township 15 South, Range 40 East of the Boise Meridian, thence running Northwesterly along East side of said County road to North line of SE1/4 of Section 14; thence East 10 rods, more or less, to Northeast corner NW1/4SE1/4 of said Section 14; thence North 80 rods; thence East 15 rods, more or less, to center of Cub River and Worm Creek Canal, thence Southeasterly along center of said Canal following the meanderings thereof to Southeast corner SE1/4NE1/4 of said Section 14; thence running East 11.5 rods; thence South 81 rods; thence West 11.5 rods; thence South 16 rods to North side of a private road; thence Southwesterly along North side said private road 70 rods, more or less, to the place of beginning.

1st recorded water right to the 2 cert streams described as follows:

Recorded September 24, 1892, Oneida County, Idaho,

1 Spring with its source on the NE1/4 of Section 14, Township 15 South, Range 40 East of the Boise Meridian, the 2nd spring or stream with its source on the SW1/4 of the above described Section EXCEPT therefrom the following, to-wit: SW1/4SW1/4 of Section 14, Township 15 South, Range 40 East of the Boise Meridian. ALSO EXCEPT, NW1/4, and SW1/4NE1/4 of Section 23, Township 15 South, Range 40 East of the Boise Meridian.

ALSO, commencing at a point 1100 feet West of the Southeast corner of NE1/4 of Section 23, Township 15 South, Range 40 East of the Boise Meridian, running thence North 1320 feet; thence West 220 feet; thence North 700 feet; thence West 1320 feet; thence South 700 feet. thence East 1320 feet; thence South 1320 feet; thence East 220 feet to the place of beginning. ALSO EXCEPTING, Commencing at the Southwest corner SE1/4 of Section 14, Township 15 South, Range 40 East of the Boise Meridian, running thence North 110 rods; thence East 4 rods; thence South 110 rods; thence West 4 rods to the place of beginning.

Together with a right of way in common with others over the NW1/4SE1/4 of Section

Buyer agrees to buy said described premises and pay Seller therefor, the sum of \$28,000.00
DOLLARS,
TWENTY-EIGHT THOUSAND AND NO/100 - - - - -
payable in lawful money of the United States, and in manner as follows, to-wit: (\$ -0-)
on delivery of this contract, the receipt whereof is hereby acknowledged, and the balance of \$28,000.00
DOLLARS
in Annual installments, with interest thereon from September 7, 1971 at the rate of
Five (5) per cent per annum, payable Annually and as follows, to-wit:

The first payment will be due and payable on November 1, 1971, leaving a balance of \$27,000.00. The Buyer will assume the unpaid balance of the above-listed contract with Howard Glover, which is \$11,150.00 as of this date, leaving a balance due the seller of \$15,850.00. The Buyer will pay this balance of \$15,850.00 to the Seller in annual payments of \$1,000.00 plus interest on the unpaid balance as follows:

\$1,000.00 plus interest on the unpaid balance on November 1, 1972.
\$1,000.00 plus interest on the unpaid balance on November 1, 1973,
and annually thereafter until paid in full.

1. Time and the punctuality of payment are of the essence and a material part of this contract, and in the event of a failure to comply with the terms hereof by Buyer, the Seller shall be released from all obligations in law or in equity to convey said property. In the event the Buyer shall fail to comply with the terms and conditions of this contract, the Seller shall give notice thereof to the Buyer of such default, by certified mail to Buyer advising Buyer in what respects he has failed to comply with the terms and conditions of this agreement. In the event the Buyer fails to comply with the terms of this agreement so specified within 60 days after receipt of such notice by certified mail from Seller, then and in that event all payments previously made under the terms and conditions of this contract by Buyer shall be considered as rentals and damages and retained by Seller, to the extent permitted by law, and Seller may take immediate possession of said property and shall resume full title, ownership and control of said premises. It is further understood and agreed that in the event the Buyer fails to comply with the terms hereof within 60 days after receipt of such notice, as herein provided then and in such event, the Seller may at his election declare the entire remaining unpaid balance of this contract due and payable forthwith, and recover said balance from Buyer, if necessary by legal proceedings. This remedy shall be considered an optional remedy and not as a waiver of any right or remedy that the Seller would otherwise have at law or in equity to enforce the performance of this agreement, or to recover damages for breach thereof.

2. It is expressly agreed that if Buyer shall promptly make the payments herein stipulated and shall pay all accrued interest as the same becomes due, and shall also pay all taxes and assessments levied and assessed against said property, the Seller, on receiving the sums due under the terms of this contract, will execute and deliver, or cause to be executed and delivered by the legal owner or owners thereof to the Buyer, or his assigns, a Warranty Deed conveying the above described property and will also deliver a policy of title insurance, insuring Buyer in the full purchase price thereof, in accordance with this agreement, to be procured by the Seller at his expense, which policy shall be delivered to the Buyer on recordation of a warranty deed conveying said property to Buyer.

IN WITNESS WHEREOF, the said parties to this agreement have hereunto signed their names, the day and year first above written.

Gerald C. Cole

Kathleen J. Cole

Eugene J. Cole

Anna M. Cole

STATE OF IDAHO,

County of Franklin } ss.

On this 7th day of September, in the year 19 71

before me, the undersigned, a notary public in and for State of Idaho, personally appeared EUGENE C. COLE and RUEA G. COLE, husband and wife, and GERALD C. COLE and KATHLEEN J. COLE, husband and wife known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Eugene J. Cole
Notary Public.

Residing at Quincy, Idaho

My commission expires January 1, 19 73

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Gerald D. Cole

(Name of Claimant)

Route #3, Preston, Idaho 83263

(Mailing Address)

Telephone No. 852-2969

(Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) September 24, 1892

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

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

unnamed spring tributary to Sheep 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, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive) (Mo., Day) (Mo., Day)	
Quantity	<u>0.04 cfs</u>	Use <u>Domestic</u>	Period of Use From <u>1/1</u>	To <u>12/31</u>
Quantity	<u>0.42 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>4/1</u>	To <u>11/1</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

- (4) 0.46 cfs TOTAL QUANTITY USED.

(cfs, gpd, AFA)

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

SE 1/4 SE 1/4, Sec. 14 Twp. 15S Rge. 40E B.M., County of Franklin

Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Spring box with pipe to homes and overflow is used for irrigation.

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

T	R	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTAL
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
15S	40E	14															4		4
		23	3																3

No. of acres 7

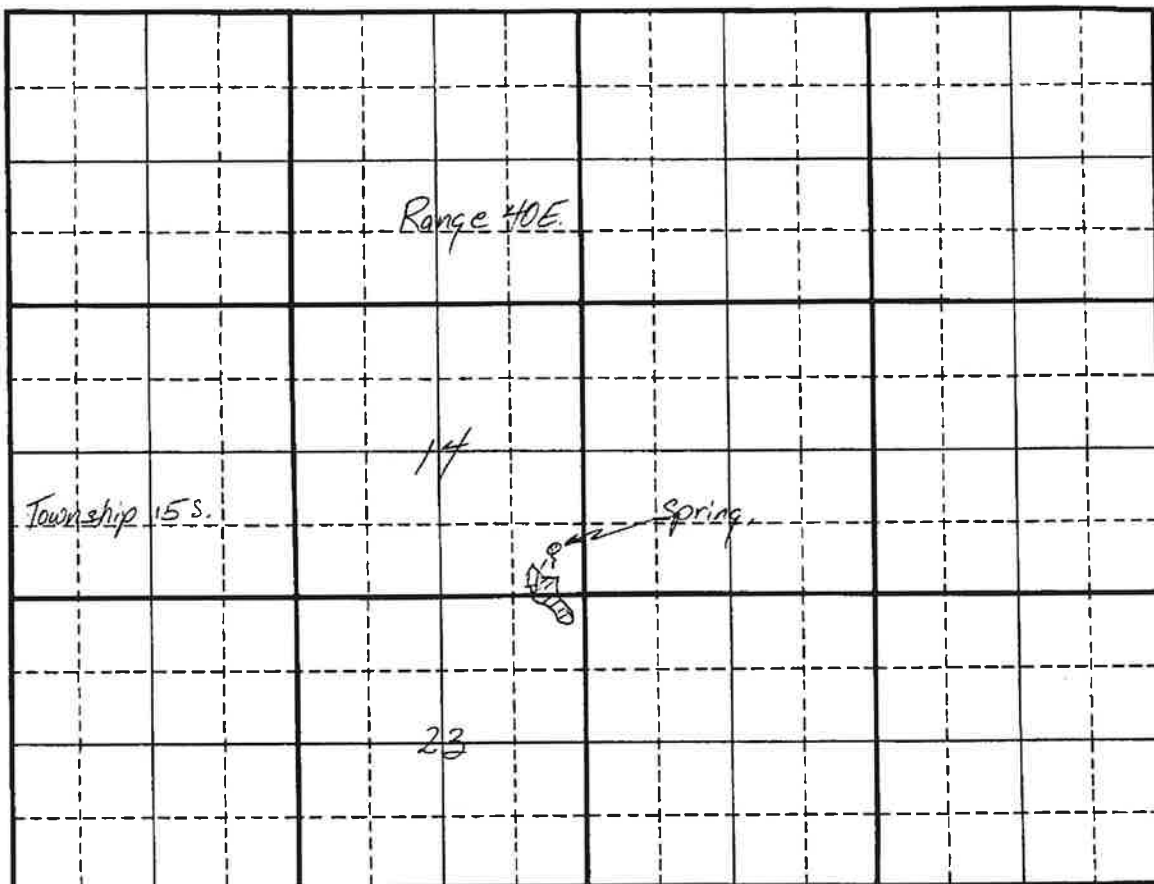
B) If water is used for other than irrigation, fully describe that use, being as specific as possible: Culinary water for two homes, yards, and gardens.

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

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

MICROFILMED

(8) Remarks _____



Scale: 2 inches equal 1 mile.

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

State of Idaho)
County of FRANKLIN) ss.

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

Donald C. Cole
(Claimant)

Sworn to before me this 9th day of MARCH, 1979

Sally Hansen
Notary Public
Residing at Preston, Idaho

My commission expires March 1, 1980

FOR DEPARTMENT USE ONLY

Received by <u>dh</u>	Date <u>3-12-79</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>EMC</u>	Date <u>3/12/79</u>		claimant by:	
\$20.00 fee received by <u>dh</u>	Date <u>3-12-79</u>	#12950		
Published in <u>Preston Citizen</u>				
Dates <u>March 22 & 29, 1979</u>				