

Holmes, Christopher

From: TJ Budge <tj@racineolson.com>
Sent: Tuesday, January 6, 2026 6:15 PM
To: Holmes, Christopher
Cc: Edgel, Justin; Tessa Sparrow
Subject: RE: Bear River Adjudication Claim No. 11-4120

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Chris,

Thank you for pointing me to 42-246. We are working to find someone with personal knowledge of when water use began under 11-4120.

I would be happy to visit with you about Bennington Irrigation. I have a trial in Boise next week, and I will be in Boise for the IWUA annual convention January 19-22, so it will need to be sometime after that. Please call Tessa to schedule a time that works for both of us.

Thanks,

T.J. Budge

RACINE OLSON

201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204

Office: (208) 232-6101 | Direct: (208) 478-3467 | Cell: (208) 705-0826 | racineolson.com

Assistant: Tessa Sparrow | Direct: (208) 478-3444 | tessa@racineolson.com

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From: Holmes, Christopher <Christopher.Holmes@idwr.idaho.gov>

Sent: Tuesday, January 6, 2026 3:53 PM

To: TJ Budge <tj@racineolson.com>

Cc: Edgel, Justin <justin.edgel@idwr.idaho.gov>; Tessa Sparrow <tessa@racineolson.com>

Subject: RE: Bear River Adjudication Claim No. 11-4120

Good afternoon TJ,

Statutory claims cannot serve as priority date evidence per Idaho Code § 42-246. Because of this, statutory claims require the same type of priority evidence as needed to confirm beneficial use claims. The statutory claim process provided an avenue for water users to submit additional water right evidence to support their statutory claim that would be saved in a physical/digital backfile for the department to be used in future adjudications (like the BRBA). Some statutory claims have additional priority date evidence submitted such as affidavits, aerial images, etc. but it is common for claimants to have not included any additional evidence. Statutory claims may be used as statements by the claimant for the quantity and season of use at the time of filing the statutory claim, but the department maintains the ability to determine the historical accuracy of the statutory claim elements and whether

further evidence is required. It is very common for statutory claims to be grossly erroneous, such as claims for “2 acres of irrigation year round for 500 cfs”. In these instances, the statutory claim is not acceptable evidence for quantity or season of use.

Regarding your diversion rate question, during the adjudication process the department encourages claimants to file the actual quantity diverted historically. An effort should be made by claimants to determine that diversion rate as accurately as possible. The department standard of .02cfs per acre may be appropriate for many situations, but this assumption may lead to inaccuracies underestimating or overestimating diversion rates.

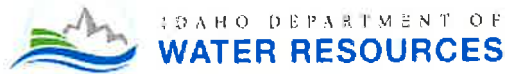
Feel free to reach out if you have any further questions.

On a separate note, I would like to schedule a phone call within the next 1-2 weeks to discuss Bennington Irrigating Company's BRBA claim 11-4226. Is there a time or day that works best for you?

Sincerely,

Christopher Holmes

Christopher Holmes
Water Resources Supervisor
Idaho Department of Water Resources, Preston Field Office
325 East 600 South, Suite 300
Preston, ID 83263
(208) 701-7201 | Christopher.Holmes@idwr.idaho.gov



From: Edgel, Justin <justin.edgel@idwr.idaho.gov>
Sent: Tuesday, January 6, 2026 3:29 PM
To: Holmes, Christopher <Christopher.Holmes@idwr.idaho.gov>
Subject: FW: Bear River Adjudication Claim No. 11-4120

Chris,

Here is the forwarded email that we discussed.

Justin

From: TJ Budge <tj@racineolson.com>
Sent: Wednesday, December 31, 2025 10:49 AM
To: Edgel, Justin <justin.edgel@idwr.idaho.gov>
Cc: Tessa Sparrow <tessa@racineolson.com>
Subject: RE: Bear River Adjudication Claim No. 11-4120

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Hi Justin,

To give you an update, we are in the process of obtaining an affidavit to support the claim for 11-4120.

With regard to diversion rate, there has not historically been a measuring device in place. The statutory claim filed by William A. Jenson was for 2.42 cfs which equates to 0.02 cfs/acre on 121 acres. Where there has not historically been a measuring device in place, my understanding is that 0.02 cfs/acre is used by default, is that correct?

Lastly, I was surprised to see that the Department's "Evidence of Priority" brochure state that a statutory claim does not provide evidence of the priority date claimed. Is there a court decision or IDWR memo explaining the basis for this? If not, can you explain the Department's reasoning for not accepting a statutory claim (a sworn statement) as evidence of priority?

Thanks,

T.J. Budge

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From: Edgel, Justin <justin.edgel@idwr.idaho.gov>

Sent: Tuesday, November 25, 2025 9:10 AM

To: TJ Budge <tj@racineolson.com>

Subject: Bear River Adjudication Claim No. 11-4120

RESPONSE DEADLINE DATE: January 2nd, 2026

Dear Representative,

Idaho Department of Water Resources (IDWR) has received your water right adjudication claim number 11-4120. After reviewing your claim, these items need to be addressed:

1. Date of Priority: You claimed a priority date of 4/15/1968. To confirm this priority date, please provide evidence of historical use of the rate of diversion, irrigated acres, source, point of diversion, and place of use. The statutory claim filed in 1981 by William A. Jenson also did not provide priority date evidence.

Included is "Evidence of Priority" brochure which gives examples of documents that may be evidence. If you are unable to locate any evidence, a personal affidavit may be written that mentions historically known year that water use began, rate of diversion, irrigated acres, source, point of diversion, and place of use. This can be written by anyone with knowledge of prior irrigation use.

If you would like to contact me, my telephone number is (208) 701-7203 and my email is justin.edgel@idwr.idaho.gov. If I do not hear from you or receive additional evidence by January 2nd, 2026, your claim may be recommended as disallowed.

Sincerely,

Justin Edgel

Water Resource Agent

Preston Field Office

325 East 600 South, Suite 300 Preston, ID 83263

(208) 701-7203 | justin.edgel@idwr.idaho.gov



IDAHO DEPARTMENT OF
WATER RESOURCES

Enclosure: Copy of Notice of Claim to a Water Right 11-4120
Evidence of Priority Brochure