

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 SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A21-00172
Date Received: 3/24/1989
Receipt No: E006473
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: EGBERT FARMS 208-652-3689
Address: C/O Z J OR KEVIN EGBERT
PO BOX 844
ASHTON ID 83420

2. Date of Priority: DEC 6, 1893

3. Source: HENRYS FORK, SNAKE RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09N	42E	14	SE	SE	SW		FREMONT
		22	SE	SE	NW		FREMONT

5. Description of diverting works:
PUMPS TO MAINLINE WITH LATERALS AND SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.500		

7. Total Quantity Appropriated is:
2.500 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 540.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

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10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09N	42E	14	NW	SW		IRR	36.0
			SW	SW	6	IRR	20.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09N	42E	14	SE	SW	7	IRR	20.0
			Section Acres				76.0
		22	SW	NE		IRR	40.0
			SE	NW	6	IRR	30.0
			NE	SW		IRR	38.0
			NW	SE		IRR	32.0
			Section Acres				140.0
			Total Acres				216.0

11. Place of use in counties: FREMONT

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
A21-07214, A21-07278.

14. Remarks:
TR. #3118.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 8/11/1980

EGBERT FARMS INC.
Decree Plaintiff

ARTHUR LARSEN
vs Decree Defendant

16. 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 Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

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For Organizations:

I do solemnly swear or affirm that I am President of
Title
Egbert Farms, that I have signed the foregoing
Organization
document in the space below as President of
Title
Egbert Farms and that the statements contained in the
Organization
foregoing document are true and correct.

as President

39 Egbert
Signature of Authorized Agent

Egbert Farms
Title and Organization

9 Feb. 1995
Date

State of Idaho)
County of Bonerville.) SS.

Subscribed and sworn (or affirmed) before me this 9 day
of February 19 95
Ernest Calan.
Notary Public



Residing at Little Falls, MO
My Commission Expires 6-14-2000.

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#120

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 SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

RECEIVED

Ident. Number: A21-00172
Date Received: 1/18/1989
Receipt No: E006473
Received By: _____

MAR 23 1989

Department of Water Resources
Eastern District Office

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EGBERT FARMS
Address: C/O Z.J. OR KEVIN EGBERT
P.O. BOX 844
ASHTON, ID

208-652-3689

83420

A2100172

2. Date of Priority: JUN 01, 1957

3. Source: HENRYS FORK, SNAKE RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
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		22	SE	SE	NW		FREMONT

5. Description of diverting works:
PUMPS TO MAINLINE WITH LATERALS AND SPRINKLERS

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09N	42E	14	NW	SW		IRR	36.0

A21-00172

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Date: 01/23/89

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OCT 20 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09N	42E	14	SW	SW	6	IRR	20.0
			SE	SW	7	IRR	20.0
			Section Acres				76.0
		22	SW	NE		IRR	40.0
			SE	NW	6	IRR	30.0
			NE	SW		IRR	38.0
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Case Number:
Court :
Decree date: 8/11/1980

EGBERT FARMS INC.
Decree Plaintiff

ARTHUR LARSEN
Decree Defendant

vs

16. 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 Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am President of Egbert Farms Inc. that I have signed the foregoing document in the space below as President of Egbert Farms Inc. and that the statements contained in the foregoing document are true and correct.

29 Egbert
Signature of Authorized Agent
Pres. Egbert Farms Inc.
Title and Organization
16 Feb. 1989
Date

State of Idaho

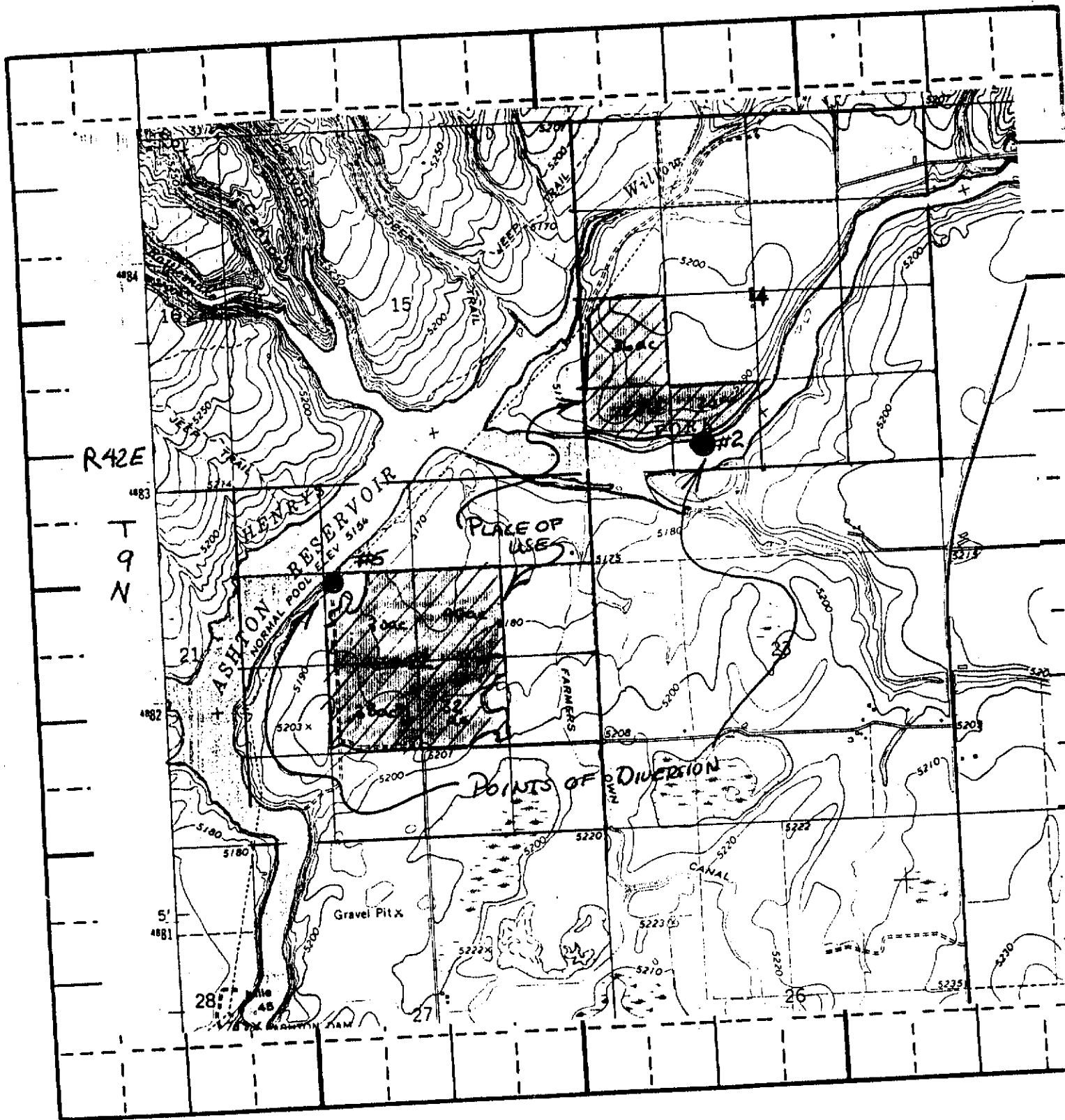
County of Bonneville)
SS.

Subscribed and sworn (or affirmed) before me this 16th day
of February 19 89

Anthony S. Olech
Notary Public

Seal

Residing at Idaho Falls
My Commission Expires 9/12/1994



SCALE: 2 inches equal 1 mile. Draw plan in ink.

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OCT 20 1992

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS.

LAW OFFICES

HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING

P. O. BOX 129

IDAHO FALLS, IDAHO 83401

TELEPHONE 523-0620

AREA CODE 208

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)

WILLIAM S. HOLDEN
R. VERN KIDWELL
FRED J. HAHN
TERRY L. CRAPO
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
RANDALL K. BARTON
MICHAEL D. CRAPO
JAMES D. HOLMAN

June 19, 1980

Mr. Z. J. Egbert
Egbert Farms
Ashton, Idaho 83420

Re: Seeleys Summary Supplemental Adjudication
on Willow Creek

Dear Z. J.:

I am enclosing with this letter copies of some papers I just received from Lynn Hossner on behalf of the Seeleys. I know it has been quite some time since we have heard anything on this matter, even though from time to time the Department, has mentioned to me that they have continued to wonder why Judge Burton never scheduled a hearing on their motion to have the court's order amended or to have a new trial.

In any event, after you have had an opportunity to review these documents, if you would like, please feel free to call and we will discuss whether you wish to take any action.

Yours very truly,



Kent W. Foster

KWF:jt

Encl.

*Materials
that developed
after 1ST hearing.*

Mr. Z. J. Egbert
June 22, 1992
Page 2

For the present however, it does not appear that the Department will be able to do you any good on the 1893 priority from Willow Creek for this season. Perhaps you will get some benefit from the Department's actions with respect to rights in Skunk Creek, but in order to pump the two pumps on either side of the mouth of Willow Creek, it looks like you would need to acquire sufficient storage in some manner.

As always, if you have further thoughts or questions, please feel free to call at your convenience. I think when Eric gets some further input from the Boise office, he will contact us as well and perhaps we can visit further at that time.

Yours very truly,



Kent W. Foster

#0138.00/srs

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FALLS OFFICE

FRED J. HAHN
KENT W. FOSTER
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GAYLE A. SORENSON, P.A.
DONALD L. HARRIS
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
KUMEN L. TAYLOR
JAMES K. SLAVENS

WEST ONE BANK
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

KEY FINANCIAL CENTER
702 W. IDAHO SUITE 610
BOISE, IDAHO 83702

TELEPHONE (208) 343-0820
TELEFAX (208) 343-8078

BOISE OFFICE

WM. LYMAN BELNAP, P.A.
RANDALL B. REED
RONALD D. CHRISTIAN

ARTHUR W. HOLDEN
(1877-1967)
ROBERT B. HOLDEN
(1911-1971)
TERRY L. CRAPO
(1939-1982)
WILLIAM S. HOLDEN
(1907-1988)

June 22, 1992

Mr. Z. J. Egbert
1473 Highway 20
Ashton, Idaho 83420

Dear Z. J.:

I have now had an opportunity to review the documents in our closed file and to discuss the matter briefly with Eric Verner at the Idaho Department of Water Resource office. It looks like it might be possible to argue that the lawsuits filed in 1977 never finally resolved the issue of 125 miner's inches of 1893 water from Willow Creek. Judge Burton did enter a decree awarding Egbert Farms a 1957 water right for 125 miner's inches in the Henry's Fork and also awarded a decree to the Seeleys for 275 miner's inches of 1893 priority water in Willow Creek and 125 miner's inches of 1947 water in Willow Creek. Possibly the issue of another 125 miner's inches in Willow Creek with an 1893 priority was not finally disposed of and could still be determined by the adjudication court in the Snake River Basin Adjudication proceeding.

After speaking with Eric, it appears you have done all that can be done at this time by filing the necessary SRBA claims. Eric says he has inquired of the Boise office to see if the Department feels it can recommend the claim for the 125 miner's inches of 1893 water when the Director's Report is prepared. I expect you will hear from Eric when he gets some indication from Boise. It is difficult to speculate what the Department might conclude and I suppose there is about as much likelihood they would recommend in favor as against.

WILLIAM S. HOLDEN
R VERN KIDWELL
FRED J. HAHN
TERRY L. CRAPO
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
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AREA CODE 208

ARTHUR W. HOLDEN (1877-1967)

ROBERT B. HOLDEN (1911-1971)

June 17, 1977

Mr. Arthur Larsen
Water Master
Water District No. 1
P. O. Box 1099
Idaho Falls, Idaho 83401

Re: Z. J. Egbert - Rights on Willow Creek

Dear Art:

I am writing this letter to confirm some of the things I have communicated to you by telephone, so that both of us will have a better record and understanding of our conversation, and the facts as I understand them.

You are already aware that there is a small stream named "Willow Creek", which is a tributary to the North or Henry's Fork of the Snake River north of Ashton, Idaho, the waters of which have been used for many years by our client, Mr. Z. J. Egbert or his predecessors in interest, and Mr. Richard Seeley, or his predecessors in interest. Both the Egberts and the Seeleys appear to agree as to the essential facts, which I have attempted to state as follows:

?
On December 6, 1893, the Spratling brothers, former owners of much of this property, filed for record in Fremont County, a Water Location Notice claiming an appropriation of the waters of Willow Creek in the amount of 200 inches of the waters of the east branch, and 200 inches of the waters of the west branch, for a total of 400 inches. The water was claimed for use on lands which are now owned by the Seeleys, and none of which is owned by the Egberts. As near as we can determine, about the mid 1950's, a transfer of a portion of this water right was effected, which resulted in the use of approximately 125 inches of this right upon lands now owned by the Egberts. The transfer was apparently effected by the installation by the Egberts of two pumps in the Henrys Fork of the Snake River, (1 above the mouth of Willow Creek, and 1 below). The waters of Willow Creek no longer used by the Seeleys, (approximately 125 inches of the original 400 inch claim) have been used by the Egberts for the sprinkling of approximately 235 acres of the Egbert property.

Unfortunately, although this transfer was effectuated, it appears never to have been formalized. It also appears that while the right has been used and transferred as we have described it

NOV 05 1977

Mr. Arthur Larsen
June 17, 1977
Page Two

was never made a part of the Rexburg Decree. Both parties have continued to use the water on the understanding described above, and have now realized that it is desirable to have these rights formalized by means of a summary supplemental adjudication proceeding. It is our understanding that Mr. Lynn Hossner represents the Seeleys, and will be filing such an action on their behalf for the adjudication of 275 inches of the particular rights, and we will, of course, be filing an action for a summary supplemental adjudication of the balance of the right, that is 125 inches, on behalf of the Egberts. I think it has also been understood that while the rights have the same priority date, the Seeleys have a preference to their 275 inches. In other words, the Seeleys divert their water from Willow Creek upstream from its mouth, and Egberts are only entitled to the additional 125 inches, so long as that amount or some portion thereof is available at the mouth of the creek as it empties into the Henrys Fork.

I believe it is a fair statement that there are no other water users who are or can be injured by either the Seeleys or the Egberts use of the waters at Willow Creek under these claimed rights, and it is our understanding that your office will allow these users to continue to divert under the 1893 priority, so long as it is available, on the condition that they proceed as rapidly as is possible to complete the summary supplemental adjudication proceedings. You will, of course, be receiving copies of the Summons and Complaints being prepared in this matter within the next few days, since, of course, the water master is the statutory defendant in such a proceeding.

We trust that this information will be helpful to you, and if you have any further questions, please feel free to contact us at your convenience.

Yours very truly,

Kent W. Foster

KWF:jt

cc: Lynn Hossner, Esq.
Z. J. Egbert

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