

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: A75-04471
Date Received: 3/ 8/1995
Receipt No: ED 20756
Received By: JO

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: SILVER PEAK RANCH TRUST 208-756-3368
Address: C/O MYRTHUS AUSTIN/RON AUSTIN
TRUSTEES
1029 HWY 93 N
SALMON ID 83467

2. Date of Priority: APR 1, 1941

3. Source: WASTE WATER Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
22N	22E	31		NE	SW		LEMHI
				SE	SW		LEMHI
				NW	SE		LEMHI

5. Description of diverting works:
HEADGATE & DITCH

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 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
22N	22E	31	NE	NE		IRR	4.0

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A7504471



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
22N	22E	31	SE	NE		IRR	40.0
			NE	SE		IRR	10.0
			Section Acres				54.0
		32	NE	NW		IRR	4.0
			NW	NW		IRR	4.0
			SW	NW		IRR	40.0
			SE	NW		IRR	17.0
			NE	SW		IRR	3.0
			NW	SW		IRR	12.0
			Section Acres				80.0
			Total Acres				134.0

11. Place of use in counties: LEMHI

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

13. Other Water Rights Used:

14. Remarks:

CHANGED OWNERSHIP 3/8/95/JT/DW

15. Basis of Claim: STATUTORY CLAIM

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 Trustee of
Silver Peak Ranch Trust, that I have signed the foregoing
Organization
document in the space below as Trustee of
Title
Silver Peak Ranch Trust and that the statements contained in the
Organization
foregoing document are true and correct.

Myrthos Austin
Signature of Authorized Agent

Trustee / Silver Peak Ranch Trust
Title and Organization

3-8-95
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 8th day
of March 19 95

Betty J. Thompson
Notary Public

Seal

Residing at _____
My Commission Expires _____

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RECEIVED

MAR 13 1995

AFFIDAVIT

Department of Water Resources
Eastern District Office

AFFIDAVIT Re: Claim to Water Right No. 75-04471

I/We hereby certify that I/We knew Matthias Austin, and was well acquainted with him prior to the time he bought a parcel of land from the Gilmore Pitts Burg Railroad Co. Ltd. in about 1940. I/we know the location of said land; the discription thereof attached hereto. I/we know and certify that Matthias watered said land with water from Jesse Creek each year until he sold his property to his brother Myrthus Austin.

I/we know and certify that Myrthus Austin and sons have watered said land annually with water from Jesse Creek from the time he bought said property.

Elden Stokes
Elden Stokes

Veda Stokes
Veda Stokes

Said Jesse Creek water was "Applied to a beneficial use prior to the 1963 and 1971 dates...Such rights are called use or constitutional rights...(and) are recognized by law". (Publication by the department of water resources) Therefore I understand that this is a constitutional water right.

Myrthus Austin

SUBSCRIBED AND SWORN To before me this 10th day of March 1995.

Kim Blake
Salmon, Idaho
9/1/99

RECEIVED

MAR 13 1995

Re; Claim to water right No. 75-04471

Department of Water Resources
Eastern District Office

+ - - - - Source - - - - - +							+ - - - - Tributary - - - - -			
JESSE CREEK							SALMON RIVER			
+ - - - - Point of Diversion - - - - -										
Tw	Rng	Sec	Tract	Lot	RFlg	County				
21N	22E	1	SW NW		(59)	LEMHI				
22N	22E	31	NE SW		(59)	LEMHI				
			NW SE		(59)	LEMHI				
+ - - - - Water Use - - - - -										
Code	Description	Period From	Period To	Diversion Rate	Diversion Volume					
01 - IRRIGATION		04/01	11/01	1.940						
+ - - Total Div. Rate - - +							+ - - Total Div. Volume - +		+ - - Total Consumptive Use - +	+ - - KW Usage -
1.940									335.0	
+ - - - - Place of Use - - - - -										
Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County		
22N	22E	31	NE NE		4.0	01	IRRIGATION	(59) LEMHI		
22N	22E	31	SE NE		40.0	01	IRRIGATION	(59) LEMHI		
22N	22E	31	NE SE		10.0	01	IRRIGATION	(59) LEMHI		
22N	22E	32	NE NW		4.0	01	IRRIGATION	(59) LEMHI		
22N	22E	32	NW NW		4.0	01	IRRIGATION	(59) LEMHI		
22N	22E	32	SW NW		40.0	01	IRRIGATION	(59) LEMHI		
22N	22E	32	SE NW		17.0	01	IRRIGATION	(59) LEMHI		
22N	22E	32	NE SW		3.0	01	IRRIGATION	(59) LEMHI		
22N	22E	32	NW SW		12.0	01	IRRIGATION	(59) LEMHI		
Total Acres:					134.0					
+ - - Diversion Means - HEADGATE, 2 DITCHES, FLOOD IRRIGATION										

I hereby certify that the above is a true copy of the land owned by the Silver Peak Ranch Trust.

Myrtus Austin
Myrtus Austin

SUBSCRIBED AND SWORN To before me this 10th day of March 1995

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NOV 18 1996

Kim Blake
Salmon ID
9/1/99

Re: Claim to Water Right No. 75-04471

Page Two

JANUARY 12, 1995

JOHN AUSTIN
1029 HWY 93 N
SALMON ID 83467-3406

RE: CHANGE IN OWNERSHIP FOR 75-4471 *E020756*

Dear Mr. Austin:

We are returning your Change of Water Right Ownership form because we do not have a Notice of Claim #A75-04471 filed in the Snake River Basin Adjudication (SRBA).

We do have a Notice numbered A75-10475 filed that is based on two deceed rights and covers the same 134 acres. If you wish to have the ownership changed on that right, please submit the form again with Claim #A75-10475 referenced.

You may also wish to file a Notice of Claim for 75-04471. I have enclosed the claim form for your convenience. Silver Peak Ranch can complete the form, then have Myrthus sign in the presence of a Notary and return the form with a check for \$100.00 (\$50.00 filing fee, and \$50.00 late fee).

If you have any questions regarding this matter, please do not hesitate to contact this office (525-7161).

Respectfully,

Jo Thompson
Adjudication Secretary

Enclosure

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NOV 18 1996

1978, the Idaho legislature passed a law (Idaho Code 42-243) which requires that all water rights in Idaho be recorded by 1983. To accomplish this, the law (1) requires the Idaho Department of Water Resources to notify water users of their need to record their water rights and (2) requires water users to comply with the law by recording their water rights with the Idaho Department of Water Resources by 1983.

What is a water right?

In its simplest form, a water right is the private use of Idaho's public water.

Prior to 1963, a person could receive title to a portion of public water without written documentation. The person merely had to divert a specific amount of water from its source and apply the water to a beneficial use. There are many beneficial uses recognized by Idaho law -- irrigation, domestic, stockwater, industrial and power production, to name a few. It is this type of unrecorded water right which the 1978 Idaho legislature declared must be recorded by 1983.

Since 1963, a law has been in effect that requires a permit from the Idaho Department of Water Resources

before groundwater (water from a well) can be developed as a water right except when used only for the domestic needs of one household and small stockwater wells. Since 1971, a comparable mandatory permit system has been in effect for all uses of surface water (water from a river, stream, creek, lake or spring), including domestic and stockwater use.

One of the most important parts of a water right is its priority date. This is the date that the water was first applied to a beneficial use. Idaho law states, "the first in time is first in right." Therefore, an individual who first uses water has a right that is superior to the right of someone who later uses water from the same source.

What if the priority date of my water right is after 1963 or 1971?

The only water rights that can be legally recognized and recorded as a claim to a water right in this five-year project are groundwater rights developed before March 25, 1963, and surface water rights developed before May 20, 1971. Water users who developed water rights after these dates must file an application for a permit with the Idaho Department of Water Resources, if they have not already done so.

The major difference between a claim to a water right and an application for a permit is in how the priority date is established. The priority date that is recorded as part of the claim is a historical date that shows the first date of actual use of the water. An application for a permit, on the other hand, receives its priority date on the day it is filed with the Idaho Department of Water Resources.

Why record all the water rights in Idaho?

It is estimated that there are about 100,000 unrecorded water rights in Idaho that have been established by individuals who applied water to a beneficial use prior to the 1963 and 1971 dates. Such rights are called use or constitutional rights. Although use rights are recognized by law, they pose problems both for the water user and the state.

A major problem for a water user with a use right is that he often has little evidence that he has a water right until his right is decreed or adjudicated in a court of law, often a lengthy and costly procedure. When a water user goes to court in a dispute over water, a judge will require him to produce evidence of his water right. The judge then issues a decree which determines how the water will be distributed among the water users involved in the dispute.

Use rights are a problem for the state because they represent a portion of water about which little is

known. For the Idaho Department of Water Resources to effectively administer the future use of Idaho's water resources, more must be known about exactly how much water is being used and for what purposes.

There are several good reasons for having all the water rights in the state on record.

- A water user can present his claim, which is kept on permanent file at the Idaho Department of Water Resources, in support of his water right if he should ever need to submit such evidence to a court.
- The state will have a better indication of whether or not there is water available for use by those who may want to develop a water right in the future.
- The information about water use will be available to all who need it to make informed decisions about a valuable and increasingly scarce natural resource -- water.

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