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

In Re SRBA	)	Subcase No. 29-00604A
	)	
Case No. 39576	)	AFFIDAVIT OF JOSEPHINE P. BEEMAN
_____	)	

STATE OF IDAHO	)
	) ss:
COUNTY OF ADA	)

I, Josephine P. Beeman, being first duly sworn upon oath, depose and state:

(1) My name is Josephine P. Beeman of the firm Beeman & Associates, P.C., and I am competent to testify to the matters set forth herein.

(2) I am the attorney for R. Scott Wells and Brandy Wells on matters relating to the claim of water right, no. 29-00604A, in the SRBA.

(3) In 2002, I was retained by R. Scott Wells to provide legal assistance on various issues relating to his water rights, including water right 29-00604A.

(4) Following completion of a Hubble Analysis performed by Associated Earth Science, Inc., on June 11, 2003, Mr. Wells contacted my office to discuss with me follow-up work on this water right claim, 29-00604A. At the time Mr. Wells contacted my office, I was not

available due to the unexpected death of my father on June 11, 2003. During this time, I was assisting with funeral arrangements, estate matters, and related personal matters, some of which required extended absences from the office including travel to Fresno, California. I was not available again until after July 10, 2003, by which time the director's report for Basin 29 had already been issued.

(5) Following the events outlined in the above paragraph, I was able to discuss with Mr. Wells the director's report issued for 29-00604A. Based upon my review of the director's report and my discussion with Mr. Wells, I determined that there were errors with respect to the priority date, purpose of use, and period of use elements for water right 29-00604A. On behalf of Mr. Wells, I filed an objection to those elements.

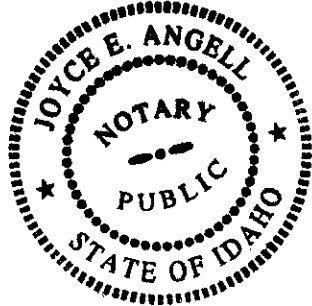
(6) Attached as Exhibit A to my affidavit is a true and correct copy of the decree issued in *United States v. Skeem*, (D. Idaho Eastern Div.) (Apr. 7, 1920) that I obtained from the Idaho Department of Water Resources.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 20th day of April 2004.

Josephine P. Beeman
JOSEPHINE P. BEEMAN

SUBSCRIBED AND SWORN before me on this 20 day of April 2004.



Joyce E. Angell
Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires: 7-29-08

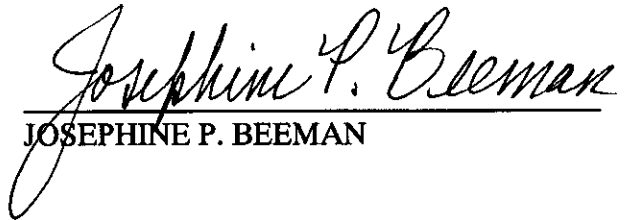
CERTIFICATE OF SERVICE

The undersigned certifies that on the 20th day of April 2004, a true and correct copy of the within document was sent to the following person(s) by U. S. Mail:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resources Division
550 W. Fort Street, MSC 033
Boise, ID 83724



JOSEPHINE P. BEEMAN

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27-11-1.

*Indian
Creek*

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE
DISTRICT OF IDAHO, EASTERN DIVISION.

United States of America,
and Thurman J. Hoffine,

Complainants,

vs.

C. B. Skeem, Marcus Skeem,
S. H. Cotterel and L. L.
Walker,

Defendants.

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DECREE.

The above entitled cause having heretofore been submitted upon stipulation of facts entered into by and between the respective parties thereto, through their attorneys and solicitors of record, and thereafter the said cause having been by order of court referred for the taking of further testimony touching certain material matter at issue therein; and thereafter, on the 8th day of October, A. D., 1919, said cause having been finally submitted for decision, and the briefs of the respective parties having been duly filed and considered, and the court being now fully advised in the premises;

IT IS NOW, THEREFORE, ORDERED, ADJUDGED, AND DECREED, that the United States of America, in its capacity as guardian for those certain tribal Indians, its wards, in the complaint herein named, to-wit, Tindore, Mogozaah, Robert Tindore, Pattish, Tsacacrobe, Havedore Tindore and Fee Emb, has a right to the use of the waters of Indian Creek superior and prior to all rights of use of the defendants herein, or of any of them, to the extent of one ^{and three fifths} second feet of water;

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EXHIBIT

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of the said amount, ^{29-0603-0.40} one-fourth thereof is hereby ordered and decreed held by the said United States of America for the purpose of irrigation and domestic use upon allotment No. 17 of the Fort Hall Indian Reservation, held in trust by the United States for Tsacorobe, and ²⁹⁻⁰⁶⁰⁴ one-half of said amount for like use upon allotment No. 14 of said reservation likewise held in trust for Hevedore Tindore, and ²⁹⁻⁰⁶⁰⁵ the remaining one-fourth of said amount for like use upon allotment No. 15 likewise held in trust for Tee Emb; the term all waters of Indian Creek, as used herein, shall be understood to mean and include also the waters of all springs arising in and adjacent to the bed or channel of said stream.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that neither the United States of America nor the aforesaid allottees, Tindore, Mogoza, Robert Tindore and Pattish, have any right whatever to the use of any of the waters of said creek as hereinbefore defined with which to irrigate any of the lands embraced in allotments Nos. 11, 12, 13 and 14 of the Fort Hall Indian Reservation.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that, subject to the prior and superior rights of the United States as hereinbefore decreed and defined, the defendants C. S. Skoem and S. H. Cotterel, the latter having been heretofore substituted in place of the original defendants Leroy Lewis and C. L. Bishop, have jointly, share and share alike, the right to use ~~the~~ second feet of the waters of said Indian Creek, said right being of the priority of, and dating from, June 1, 1908, ~~and~~ all water used pursuant to such right to be diverted at the present point of diversion, in the

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northwest quarter of the northeast quarter of section 6, township 8 south, range 36 east, Boise Meridian, and all waters so diverted to be used for irrigation and domestic purposes upon lot 1 in section 5, lot 4 in section 4, both in township 8 south, and the southeast quarter of the southeast quarter of section 32, and the southwest quarter of the northwest quarter of section 33, both in township 7 south, and all in range 36 east of Boise Meridian, and belonging to the defendant U. S. Skeem, and lot 3 of section 4 in township 6 south, and the northwest quarter of the southwest quarter, and the northeast quarter of the southwest quarter, and the southeast quarter of the southwest quarter of section 33, in township 7 south, and all in range 36 east of Boise Meridian and belonging to S. H. Cotterel.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that, subject to the prior and superior rights of the United States as hereinbefore decreed and defined, the defendant Marcus Skeem shall have the right to the use of one-tenth of one second foot of the waters of Indian Creek, which right is of the priority of, and dates from, June 1, 1908, and the further right to the use of one second foot of the waters of said Indian Creek, which last decreed right is of the priority of, and dates from, June 1, 1910, all the water used pursuant to above said rights to be diverted at the present point of diversion near where certain springs arise in and adjacent to the bed or channel of said Indian Creek, at a point about one-half mile from the southern boundary of the land of the United States comprised in the allotments hereinbefore described,

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all waters so diverted to be used for irrigation and domestic purposes upon the southwest quarter of the northwest quarter, and the northwest quarter of the southwest quarter, and the southwest quarter of the southwest quarter of section 28, and the northwest quarter of the northwest quarter of section 23, all in township 7 south, range 36 east, Boise Meridian.

AND IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that, subject to the prior and superior rights of the United States hereinbefore decreed and defined, the defendant L. E. Walker shall have the right to the use of eight-tenths of one second foot of the waters of said Indian Creek, which right is of the priority of, and dates from, June 1, 1911, all waters used pursuant to such right to be diverted at the present point of diversion near the springs last referred to and described as in, and adjacent to, the bed or channel of said Indian Creek at a point about one-half mile from the southern boundary of the aforesaid allotments, and all water so diverted to be used for irrigation and domestic use upon the southwest quarter of the northwest quarter and the northeast quarter of the southwest quarter of section 28, township 7 south, range 36 east of Boise Meridian.

Pursuant to stipulation to such effect hereinbefore duly made by the respective parties hereto, it is ordered that this cause be dismissed as to the defendant Nelson Skeem.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that all rights of use herein decreed in and to the waters of said Indian Creek shall be exercised by all and each of the

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parties holding such rights pursuant hereto, only when it shall be reasonably necessary to use water from said stream for the purposes of irrigation and domestic use upon the lands to which each respective right herein decreed is respectively made appurtenant.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that when at any time the waters flowing in any part of the channel of said stream would not, by the natural flow of such waters, reach the point or points of diversion of any user or users, which points are herein established, then such water may be appropriated and used by those water users whose points of diversion are reached by such waters, without regard for the priority of use, if any, herein decreed and established in favor of the plaintiff or any of the defendants whose points or points of diversion would not be reached by such water in its natural flow as aforesaid.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that no artificial means shall be used to check the natural flow of said stream, or to cause it to sink or percolate into the bed of said stream, and so preventing the waters from reaching any lower user in their natural flow; but in the exercise of the rights herein decreed, such means ^{as are necessarily} ~~as necessary~~ may be employed by any of said water users to effect a proper diversion of said waters at the point or points, and for the purposes, herein adjudged and decreed.

Each party hereto and his agents and successors in interest are enjoined from diverting, using, or in any way interfering with the waters of said stream in violation of the rights of any other party. This decree is binding on all parties.

Judge.

Dated, April 7th, 1920.

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