

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: A22-00646
Date Received: 7/11/1995
Receipt No: E021264
Received By: Ar.

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: SALLY MARGARET BEVER 517-463-2400
Address: 317 WARWICK DR
ALMA MI 48801

2. Date of Priority: JUN 1, 1890

3. Source: DEEP CREEK Trib. to: DRAKE CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
03N	45E	8	NW	NE	NW		TETON

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	1.100		

7. Total Quantity Appropriated is:
1.100 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 of	Lot	Use	Acres
03N	45E	5	SW	SW		IRR	20.0
			SE	SW		IRR	19.0

20.0 NOV 06 1996

A2200646

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	39.0
		8	NE	NW	IRR	15.0
			NW	NW	IRR	1.0
					Section Acres	16.0
					Total Acres	55.0

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

A22-00199, A22-00643, A22-00644

14. Remarks:

P/U SEE DESCRIPTION IN DECREE.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

VICTOR KUNZ

Decree Plaintiff

JAMES KUNZ.

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: _____

MICROFILMED

NOV 06 1995

For Individuals:

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

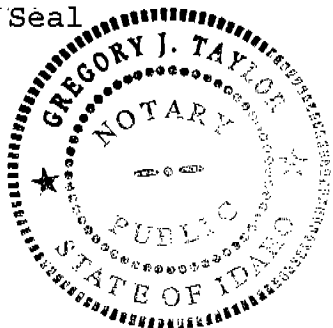
Signature of Claimant(s): S Margaret Bever Date: 7-11-95

Date: _____

State of Idaho)
County of Bonnerille) SS.

Subscribed and sworn (or affirmed) before me this 11th day
of July 19 95 Gregory J. Taylor
Notary Public

Seal



Residing at Edisto Falls
My Commission Expires 3/3/98

MICROFILMED
NOV 06 1995

8 26.2

8 68

5 40

10 36.3

37
288

NHEL

NHEL

NHEL

NHEL

HEL
22

3 14.8

NHEL

20

5 38.3

6 19.2

337
T582

AZZ-00646

HEL

77 29

2

T
3
N

HEL

R45E

NHEL

13.2

4

259
T508

20

19

PWT

6 5

8

15

PWT

PD

2 628

326 NHEL

BLAIR GROVER
GROVER & ARCHIBALD
102 North Clark
P.O. Box 36
Rigby, Idaho 83442-0036
(208) 745-6653

RECEIVED

AUG 28 1995

Department of Water Resources
Eastern District Office

IN THE DISTRICT COURT OF THE TWELFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

(NOW THE SEVENTH JUDICIAL DISTRICT)

VICTOR KUNZ and ERMA KUNZ,)
husband and wife,)
)
Plaintiff,)
)
vs.)
)
JAMES KUNZ, et al., and)
ELVA TAYLOR, et al.,)
Defendants.)
_____)

Civil No.: 1453

STIPULATION

A22-00644
-00645
-00647
-00646
-00199B.

COMES NOW the undersigned, and hereby claim and represent to the court:

1. The undersigned, Rodney Taylor and _____ Taylor, his wife, hereinafter Taylors, are successors in interest to the defendant Elva Taylor, and are now owners of the property described in paragraph 4 of the Findings of Fact, to wit:

S1/2N1/2NE1/4, S1/2NE1/4 of Sec. 7; and S1/2N1/2NW1/4, S1/2NW1/4 of Sec. 8,
all in Township 3 North, Range 45 E.B.M., in Teton County, Idaho

Rodney Taylor is the natural son of the defendant Elva Taylor and entered into an agreement to purchase the property from her in 1968. He has been farming it and in continuous possession of the same since that date.

2. Keith Beaver and Peggy Beaver, his wife, hereinafter Beaver, are successors in interest to a portion of the property owned by the plaintiffs Victor and Erma Kunz, to wit:

RECORDED
NOV 06 1995

There have been several transfers of said property since it was owned by plaintiffs. Beavers acquired their interest in the portion described herein in 1989.

3. Taylors as successor in interest to defendant Elva Taylor claim:

A. That neither plaintiffs nor any of their successors in interest have ever used any of the waters of Little Spring Creek; that Beavers' land is higher than the ditches and diversions and it is impossible now and always has been for the water of Little Spring Creek to gravity flow onto Beavers' land as described herein.

B. That neither plaintiffs nor their predecessors in interest have used any water from Deep Creek since 1968.

C. That every year continuously since 1968, Taylors have used not less than 20 inches of the flow of Little Spring Creek, and all of Deep Creek to irrigate their lands described in paragraph 1, throughout each irrigation season.

D. Beavers have therefore forfeited their rights to Little Spring Creek and Deep Creek and Taylors have, by diversion and application to beneficial use, acquired the right to the same.

4. Beavers as partial successors to plaintiff dispute the claims of Taylors and deny that any water rights subject to the Judgment and Decree herein have been forfeited, and further deny that Taylors have acquired the water rights subject to the Judgment and Decree by diversion and application to beneficial use.

Both parties, however, recognize the uncertainty and expense of litigation, and agree that it is each of their interests to resolve their claims and denials by this stipulation and request that the court modify the Judgment and Decree entered herein as follows:

5. Paragraph 1, commencing near the bottom of page 2, should be deleted and the following substituted therefore:

There is hereby established, decreed and confirmed to Taylors the right to 20 inches of the natural flow of the waters of Little Spring Creek, also known as Little Springs and South Springs, with a priority of June 1, 1890, to irrigate the property of Taylors throughout the irrigation season described as follows: S1/2N1/2NE1/4, S1/2NE1/4 of Sec. 7; and S1/2N1/2NW1/4, S1/2NW1/4 of Sec. 8, all in Township 3 North, Range 45 E.B.M., in Teton County, Idaho.

6. That paragraph 2 of said judgment of decree, appearing in the middle of page 3, remain in full force and effect.

7. That paragraph 3, located near the bottom of page 3 of said judgment and decree, be eliminated.

8. That paragraph 4, located near the bottom of page 3, and paragraph 5, located on page 4 of said judgment and decree, be eliminated, and that there be substituted therefore, the following:

Taylors and Beavers shall rotate the use of the natural flow of Deep Creek, with a priority date of June 1, 1890, as follows:

A. The parties agree to rotate the use of all the waters of Deep Creek alternating weekly with Taylors to have the last seven days (week) of May of each calendar year, Beavers the first seven days of June (week) of each calendar year, with the weekly rotation thereafter.

B. If either party elects not to use said water during all or any part of the rotation, the other party shall be entitled to do so provided, however, that neither party shall lose or gain any rights to or from the other as a result of not using the water and allowing the other to use it during the rotation. It is the intent of this paragraph that if one party is not using the water, said party shall not lose any rights to the other; that the party using said water during the others' rotation does not gain any rights by doing so.

C. Taylors agree the water shall be used on the following described property during the irrigation season: S1/2N1/2NE1/4, S1/2NE1/4 of Sec. 7; and S1/2N1/2NW1/4, S1/2NW1/4 of Sec. 8, all in Township 3 North, Range 45 E.B.M., in Teton County, Idaho.

D. Beavers agree they will use the water on the following described property during the irrigation season:

9. Paragraph 6, on page 4 of the judgment and decree shall remain in full force and effect.

10. The parties further agree:

A. This stipulation is intended to be binding upon the parties hereto, their successors and assigns.

B. Either party may record this stipulation in Teton County, Idaho.

C. The stipulation shall be presented to the court, and filed, and the parties hereby request the court to modify the judgment and decree dated June 17, 1966, as provided herein. If for any reason, the court is unwilling to modify as provided herein, the parties nevertheless agree on behalf of themselves and their successors to be bound by the provisions herein, and hereby direct the water master of Water District 1 to deliver the water as set forth herein.

D. If the court does modify the judgment and decree as set forth herein, either party may record the judgment and decree as modified.

E. Whether modified by the court or not, either party may use this stipulation (and/or the modified judgment and decree) in the pending Snake River Basin Adjudication, and both parties agree to be bound by the provisions herein in said Snake River Basin Adjudication. Either may, therefore, amend their claim in the SRBA consistent with the provisions herein.

DATED this _____ day of August, 1995.

TAYLORS

BEAVERS

RODNEY TAYLOR

KEITH BEAVER

PEGGY BEAVER

NOV 1995

STATE OF IDAHO)
)ss
County of)

On this _____ day of August, 1995, before me, the undersigned, a Notary Public in and for said state, personally appeared Rodney Taylor and _____ Taylor, known to me to be the persons whose names are subscribed to the foregoing, 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 acknowledgment first above written.

(seal)

Notary Public for Idaho
Residing at Rigby, Idaho
Commission Expires:

STATE OF IDAHO)
)ss
County of)

On this _____ day of August, 1995, before me, the undersigned, a Notary Public in and for said state, personally appeared Keith Beaver and Peggy Beaver, known to me to be the persons whose names are subscribed to the foregoing, 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 acknowledgment first above written.

(seal)

Notary Public for Idaho
Residing at Rigby, Idaho
Commission Expires:

MICROFILMED
NOV 06 1990