

**RECEIVED**  
**AUG 17 2004**  
**DEPARTMENT OF**  
**WATER RESOURCES**

P.O. Box 2365  
Idaho Falls, ID 83403-2365  
August 12, 2004

Roxanne Brown  
Sr. Water Resource Agent  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83707-9815

RE: Evidence of Priority – Claim Nos. 73-4028, 73-4083, 73-4085, and 73-4086

Dear Ms. Brown:

In response to your letter of July 26, 2004, the following evidence of priority is provided for the referenced claims.

The priority date (4/1/1948) for Claim No. 73-4028 is based on the enclosed copy of a ditch construction and water use agreement entered into by Morse Creek water users. The agreement has been marked Claim No. 73-4028 and consists of five pages.

The priority date (6/1/1903) for Claim No. 73-4083 is based on the priority date for the wastewater source. The wastewater source is the water used to irrigate Lot 3 Sec 6 Twp. 14N Rge. 22EBM as specified in the decree (for Spring Creek) entitled "J. B. Morrow, et. al. vs. Joseph Wagoner, et. al." dated April 1, 1910, and recorded in Book B of Judgments, Page 1, Records of Lemhi County, Idaho.

The priority date (5/25/1944) for Claim No. 73-4085 is based on the attached copy of the bill from the well driller, White and Hollensteiner. The one-page bill has been marked Claim No. 73-4085.

The priority date (4/1/1920) for Claim No. 73-4086 is based on the date of the warranty deed for the property that is the source of the wastewater. The warranty deed from the State of Idaho to M. A. Brown is found in Book 129 of Deeds Page 73, Records of Lemhi County, State of Idaho.

Sincerely,



George Santee

Enclosures: As Noted.

*If you don't need these papers  
Please return them to me J.E.S.*

AGREEMENT

Claim No. 73-4028

THIS AGREEMENT, Made and entered into this 9th day of May, 1947 by and between GEORGE SANTEE, a single man, party of the first part, MARY HORN, a widow, party of the second part, EMMA LITERAL and M. R. LITERAL, wife and husband, parties of the third part, J. A. LATIMER and MADELL S. LATIMER, husband and wife, parties of the fourth part, and VINA THOMPSON, a widow and JAMES THOMPSON, parties of the fifth part.

WITNESSETH:

THAT, WHEREAS, by Decree of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Lemhi in the matter of J. D. Brown, et al, Plaintiffs vs George Grubb, et al, Defendants, Recorded July 20, 1912 in Book B of Judgments, page 78, Records of Lemhi County, Idaho, the waters of Morse Creek in Lemhi County, State of Idaho were regularly decreed, and

WHEREAS, by said Decree the parties hereto, or their predecessors in interest, became entitled to certain decreed waters of said Morse Creek with certain priorities therein set forth, to which Decree particular reference is hereby made and the same is incorporated herein, in full as though set forth at length, and

WHEREAS, parties hereto are desirous and intend to build a ditch designed to carry the waters so decreed to them, viz: 652 inches, more or less, as hereinafter more completely set forth.

NOW, THEREFORE, in consideration of the premises, and in further consideration of the benefits which they will receive by reason of the construction of said ditch, the parties hereto, each and several, bind themselves, their heirs, executors, administrators and assigns, to pay their proportional part of the cost of said ditch construction as hereinafter set forth which shall be allotted to or assessed against them in the manner hereinafter set forth, to-wit:

|                      |                           |
|----------------------|---------------------------|
| First party -----    | 127/652 part of the total |
| Second party -----   | 45/652 part of the total  |
| Third parties -----  | 230/652 " " " "           |
| Fourth parties ----- | 160/652 " " " "           |
| Fifth parties -----  | 90/652 " " " "            |

Said assessments as above set forth shall be made and all payments due thereunder shall be paid by the parties hereto on or before July 1, 1947 to George Santee,

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party of the first part herein, who is hereby designated as trustee of said funds to receive and disburse the same according to the terms of this agreement.

All parties to this Agreement, each for himself or herself, hereby constitute and appoint George Santee as their attorney and agent with full power to act for them in all matters covered by this agreement until all purposes of this agreement have been fully accomplished, and all such acts of said agent shall be fully binding upon each and every party of this Agreement and upon his, her or their heirs, executors, administrators or assigns.

Said agent is hereby instructed to retain and employ a suitable contractor to build the ditch according to specifications agreed upon between said agent and a qualified engineer of the State of Idaho Department of Reclamation. Said agent shall employ a reclamation engineer for the purposes of making necessary surveys, including staking out of the location of the proposed ditch, taking of the levels, preparation of the estimates, specifications and contracts governing the construction of the same, together with an itemized estimate of cost and file a report with said agent which shall be presented to a meeting of the parties hereto called for that purpose.

Said agent shall deal with and he is hereby empowered so to deal with, all government or State Agencies lending assistance to said ditch construction, giving and granting to said agent power to receive monies and apply the same to the construction cost, to sign receipts and to execute instruments necessary for such government expenditure.

Said agent is further empowered and granted herewith the right and power to pay out monies received by him for the purposes of this agreement of furtherance of the construction program according to the specifications attached hereto and marked Exhibit A.

It is mutually agreed between the parties hereto that the said ditch shall be constructed from a point mutually agreed upon, 17,000 feet more or less to a point near the Northeast corner of Section 31, T. 15 N. R. 22 E. B. M.; that said portion of the ditch shall be concrete laid three inches thick on a suitable base; that said ditch shall have a 12" bottom and 16" sides built on a 45 deg. angle; that it shall end in a pit or pool in a suitable manner to provide points of diversion for four smaller ditches; that one of such ditches known as the Santee-Horn ditch shall be constructed of 3" concrete with 12" bottom and 10" sides on a 45 deg. angle from the pit or pool above described along a line now

laid out and agreed upon according to specifications agreed upon with said State Reclamation Engineer to the present weirs and ditches of said George Santee and Mary Horn; that the expense of concreting and constructing the Santee-Horn ditch shall be borne by all parties hereto as above set forth; that all of the other three smaller ditches to be built or already existing at the end of the big concrete canal or ditch, shall be the sole responsibility of the respective parties using them and no responsibility shall attach to the parties to this agreement to construct these three small ditches under any term of this agreement.

It is further mutually agreed that the pool or pit/<sup>above</sup>referred to and called for in Exhibit A, to be constructed at the lower end of the larger concrete ditch shall be so constructed as to provide outlets for four smaller ditches with suitable measuring devices, headgates and weirs; that the four smaller ditches shall consist of the followings: the Santee-Horn ditch, jointly owned by the party of the first part and parties of the second part, to be concreted as above referred to; the other three said ditches respectively shall be those of the parties of the third part, parties of the fourth part and parties of the fifth part respectively. The construction cost of the concrete headgates and weirs of all four of these smaller ditches shall be borne by the respective owners of the said ditches.

It is further mutually agreed that each party shall have the exclusive right to use all the water decreed to him through the said ditches, as regulated by the water master, subject to existing or other agreements or modifications of his right, during the irrigating season of each and every year; provided, however, that the cost of repairing and maintaining the ditch shall be borne by the parties hereto, their heirs or assigns, according to the respective share of water received through said ditch and as set forth in this agreement. If any party hereto fails to pay his share of the cost of construction or maintaining said ditch as herein set forth, he shall forthwith forfeit, after a ten day notice to pay has been served upon him, all rights, title and use to the said ditch until said delinquency shall have been paid.

It is further mutually agreed among the parties hereto as follows:

1. Decreed waters of Santee and Horn shall be conveyed to beginning of concrete canal through so-called Literal Ditch and all parties hereto shall unite in enlarging said ditch to carry the 402 inches necessary to cover the

Santee, Horn and Literal rights; provided, however, that other methods of transporting the Santee and Horn waters to said concrete canal may be agreed upon.

2. The Thompson waters shall be conveyed to the head of the concrete ditch through the so-called "Latimer Ditch".

3. All construction shall be subject to approval of the State Reclamation Engineer and the Construction Contract with the Contractor shall so provide.

4. Delivery of waters through these proposed ditches shall be under control of the District Water Master and made in accordance with Decreed rights except where modified by agreement of the parties hereto.

5. All surplus or high water carried through the concrete canal shall be distributed by the Water Master in accordance with the respective shares which the parties to this agreement have in the ditch as evidenced by this agreement and as set forth on page one hereof where the assessable shares of the parties hereto are itemized.

6. This agreement and all provisions hereof shall be binding upon the heirs, executors, administrators, successors or assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

Geo. Santee  
First party

May Horn  
Second party

Emma Literal  
Third party

W. B. Literal  
Third party

Latimer  
Fourth party

Madell S. Latimer  
Fourth party

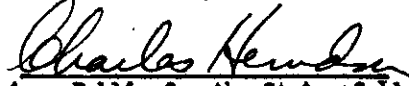
Vina Thompson  
Fifth party

James Thompson  
Fifth party

STATE OF IDAHO :  
: ss.  
County of Lemhi :

On this 10 day of July 1947, before me, the undersigned, a Notary Public in and for said State, personally appeared, George Santee, Mary Horn, Emma Literal, M. R. Literal, J. A. Latimer, Madell S. Latimer, Vina Thompson and James Thompson, known to me to be the persons whose names are subscribed to the within instrument, 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 certificate first above written.

  
Notary Public for the State of Idaho  
Residing at Salmon, Idaho.

Mr. George Santee  
CHALLIS, IDAHO

*Paid  
5/25/44*

May 25, 1944

*Paid Pete 1000  
for Bathroom.  
120 some ft  
Well.*

Dear Sir:

We have completed drilling your well. The well is slightly over 43 feet deep. There is 21 feet of water in the well. The old well had caved in to fifteen feet deep.

Following is how we figured your bill;

|                                     |                 |
|-------------------------------------|-----------------|
| 43 feet casing at \$1.75 per foot   | \$75.25         |
| 28 feet drilling at \$2.50 per foot | 70.00           |
| Total                               | <u>\$145.25</u> |

would you please send your check to us at  
Salmon, Idaho. Box 383

WHITE AND HOLLNSTEINER