

73-4101

Kenneth Madsen
248 Pahsimeroi Road
Ellis, Idaho 83235

RECEIVED
AUG 25 2004
DEPARTMENT OF
WATER RESOURCES

Dear Roxanne:

As per our phone conversation last Wednesday, I am sending our findings as well as Don Gregory's on water rights in the Pahsimeroi valley. I know I need to talk with you and work on ours more so please call me with a time and date that I can meet you in Challis or Salmon. I don't work Fridays so if that is convenient for you it would be best for me, but I can also come at another time, if needed.

Here is the background information: We bought 386 acres from Charles Boge in 1981. Later, around 1984, we filed on a DLE that would finish 1/4 of our circle pivot. We were not granted it. We filed again and were not granted the DLE. Later we transferred the water back to the lands it had originally been on. In 1998, we sold most of the place, 330 acres to Jean Hammond who transferred the water rights to her name in 1999. Due to nonpayment, we received the place back in 2002 and transferred the rights back to us.

We have the decreed right for 200 inches no. 73-84 and the licensed right to 78 inches, no. 73-2163, directly out of the Pahsimeroi River. Our stock rights are tied to the 200 inches in question 73-4101, and the diversion point is the same as that directly from the river, which is wrong. The name of the ditch is also different, but O'neil Creek and Big Spring Creek are the same ditch. My questions are, do we need to research the stock water right? And do we need to file on domestic water for the original house, as Jean Hammond still has it in her name?

I have found and enclosed the original homestead document and numbers. Mr. Kline purchased 240 acres of our 386 acre ranch and the record states that he had rights to water for agriculture, etc., etc. Do I need to find the other 160 acre plot and the record of the homestead? I know that I can find this at the courthouse in Salmon if needed. The 14 acres that we are short in our ranch was kept by Woodrow Conklin when he sold it to Boge. Mr Conklin is mentioned in the document that Don Gregory has enclosed on old water records for Ellis Ditch in Custer County, which is not the county we live in.

Mrs Rose Johnson could also verify that this ranch had cattle and irrigated land if need be, since she was also a neighbor to our ranch. In fact, the ranch once had a dairy on it as proved by the old milking barn on the property.

These are my findings, and concerns. Please review them and let me what else is needed to prove right #73-41101.

Sincerely,
Judy and Kenneth Madsen

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

08/05/2004

WATER RIGHT NO. 73-4101

PROVE PRIORITY

Owner Type	Name and Address
Current Owner	JUDITH MADSEN
Current Owner	KENNETH MADSEN
	248 PAHSIMEROI RD
	ELLIS, ID 83235
	(208)876-4218
Original Owner	NORMA JEAN HAMMOND
	PO BOX 1207
	CHALLIS, ID 83226
	(208)879-2471

Priority Date: 07/27/1900

Basis: Statutory Claim

Status: Active

Source	Tributary
BIG SPRING CREEK	PAHSIMEROI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/01	10/31	4 CFS	
STOCKWATER	1/01	12/31	0.14 CFS	
Total Diversion			4.14 CFS	

Location of Point(s) of Diversion:

BIG SPRING CREEK	SWSE	Sec. 26	Township 15N	Range 21E	LEMHI County
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aka Oneil Ditch

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
15N	21E	5		NWNW	15		SWNW	32						
				NWSW	27		SWSW	25						
		6	1	NENE	15	2	NWNE	11		SWNE	8		SENE	33
				NESE	23		SESE	11						

Place of Use Legal Description: STOCKWATER same as IRRIGATION

Total Acres: 200

Remarks:

1.	General	ORIGINAL STATUTORY CLAIM DESCRIBED A PLACE OF USE FOR A POTENTIAL USE OF DLE LANDS. HOWEVER, THAT DLE HAS NOT YET APPROVED. *CHANGED OWNERSHIP PER REQUEST/JH-1-19-99*
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Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 73-4101

WATER RIGHT NUMBER: 73-4101

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	NORMA JEAN HAMMOND PO BOX 1207 CHALLIS, ID 83226 (208)879-2471
Current Owner	JUDITH MADSEN 248 PAHSIMEROI RD ELLIS, ID 83235 (208)876-4218
Current Owner	KENNETH MADSEN 248 PAHSIMEROI RD ELLIS, ID 83235 (208)876-4218

Priority Date: 07/27/1900

Basis: Statutory Claim

Status: Active

<u>Source</u>	<u>Tributary</u>
BIG SPRING CREEK	PAHSIMEROI RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/01 to 10/31	4.000 CFS	
STOCKWATER	1/01 to 12/31	0.140 CFS	
	<u>Total Diversion:</u>	4.140 CFS	

Location of Point(s) of Diversion

BIG SPRING CREEK	SW1/4SE1/4	Sec. 26, Twp 15N, Rge 21E, B.M.
LEMHI County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	21E	5						15.0	32.0			27.0	25.0						99.0
15N	21E	6	15.0	11.0	8.0	33.0								23.0			11.0		101.0
			L 1	L 2															

Total Acres: 200

STOCKWATER same as IRRIGATIONConditions of Approval:Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 73-4101

1. General ORIGINAL STATUTORY CLAIM DESCRIBED A PLACE OF USE FOR A POTENTIAL USE OF DLE LANDS. HOWEVER, THAT DLE HAS NOT YET APPROVED.
CHANGED OWNERSHIP PER REQUEST/JH-1-19-99

Comments:

THE UNITED STATES OF AMERICA
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Desert Lands

Certificate No. 614.

WHEREAS, JOSEPH G. KLINE has deposited in the GENERAL LAND OFFICE of the United States a Certificate of the Register of the Land Office at Hailey, Idaho, whereby it appears that full payment has been made by the said Joseph G. Kline according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the Public Lands," and the acts supplemental thereto, for the Lot two and the south half of the northeast quarter and the northeast quarter of the southeast quarter of Section six in Township fifteen north of Range twenty-one east of the Boise Meridian, Idaho, containing one hundred sixty acres, according to the Official Plat of the Survey of the said lands, returned to the GENERAL LAND OFFICE by the Surveyor General, which said Tract has been purchased by the said Joseph G. Kline:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAVE GIVEN AND GRANTED, and by these presents DO GIVE AND GRANT, unto the said Joseph G. Kline and to his heirs, the said Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said Joseph G. Kline and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the sixteenth day of August, in the year of our Lord one thousand nine hundred and seven and of the Independence of the United States the one hundred and thirty-second.

((SEAL))
1766866

By the President: Theodore Roosevelt
By F. M. McKean, Secretary
Fred Dennett
Acting Recorder of the General Land Office.
WASHINGTON, D. C. APR 12 1939
R. S. Clinton
Acting Recorder

Recorded at the request of Preston Thatcher April 18, 1939 at 40 minutes past 4 o'clock P. M., in Book 34 of Deeds page 549 Records of Lemhi County, Idaho.

By Margaret Shoup Deputy
Fee: \$1.00
W. W. Simmonds
County Recorder

-----Instrument No. 51309-----
Homestead Certificate No. 1051 Application 1253 123

THE UNITED STATES OF AMERICA
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Hailey, Idaho, whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Simon P. Jones has been established and duly consummated, in conformity to law, for the South half of the South East quarter, the South East quarter of the South West quarter and the Lot numbered seven of Section six in Township fifteen North, of Range twenty-one East of Boise Meridian in Idaho containing one hundred and fifty-four acres and fifty-six hundredths of an acre according to the Official Plat of the Survey of said Land, returned to the General Land Office by the Surveyor General.

NOW KNOW YE that there is, therefore, granted by the United States unto the said Simon P. Jones the tract of land above described: To have and to hold the said tract of Land with the appurtenances thereof, unto the said Simon P. Jones and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I Theodore Roosevelt, President of the United States of America, have caused these letters to be made Patent and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand at the City of Washington, the seventeenth day of March, in the year of our Lord one thousand nine hundred and three, and of the Independence of the United States the one hundred and twenty seventh

((L. S.))
1766866
DEPARTMENT OF THE INTERIOR GENERAL LAND OFFICE WASHINGTON, D. C. APR 12 1939
I hereby certify that this photograph is a true copy of the patent record which is in my custody in this office.
((SEAL))

By the President, T. Roosevelt
By F. McKean, Secretary
C. H. Brush, Recorder of the General Land Office.
R. S. Clinton Acting Recorder

Recorded at the request of Preston Thatcher April 18, 1939 at 41 minutes past 4 o'clock P. M., in Book 34 of Deeds page 549 Records of Lemhi County, Idaho.

By Margaret Shoup Deputy
Fee: \$1.00
W. W. Simmonds
County Recorder

Hailey 04081 THE UNITED STATES OF AMERICA,
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, a Certificate of the Register of the Land Office at Hailey, Idaho, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of JOSEPH G. KLINE has been established and duly consummated, in conformity to law, for the West Half of the Southwest Quarter of Section Five in Township Fifteen North of Range Twenty-one East of the Boise Meridian, Idaho, containing eighty acres, according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the United States unto the said claimant the tract of land above described; To have and to hold the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, William H. Taft, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed. GIVEN under my hand, at the City of Washington, the sixth day of June in the year of our Lord one thousand nine hundred and twelve and of the Independence of the United States the one hundred and thirty-sixth.

Seal.

By the President: Wm. H. Taft.

Recorded: Patent Number 272982

By M.P. LeRoy, Secretary.

H.W. Sanford, Recorder of the General Land Office.

Recorded at the request of Jacob A. Kline, Jan 6th, 1913, at 50 minutes past 2 o'clock P.M., in Book W of Deeds, page 92, Records of Lemhi County, Idaho..

J.H. Padgham Jr.
County Recorder

Deputy.

Instrument No. 13024

THIS INDENTURE, Made this eleventh day of November in the year of our Lord one thousand nine hundred and twelve between Tony Rabenort and Mary Rabenort his wife of near May County of Lemhi State of Idaho the parties of the first part, and Abel S. Cotter of May County of Lemhi State of Idaho the party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Nine hundred and fifty dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate situated in May County of Lemhi, State of Idaho, to wit: One certain piece or parcel of land situated in Lemhi County and more particularly described as commencing at a point one hundred (100) feet north of the Southwest corner of Lot One (1) in Section thirty (30) in Township fifteen (15) N of Range twenty two (22) E.B.M. Thence North 125 feet parallel with the East line of said lot one, thence East at right angles 232 feet parallel with the South line of said lot one, thence South at right angles 125 feet, thence West at right angles 232 feet to the place of beginning. Together with all buildings on said lot except the small frame building in rear of blacksmith shop.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity of the said parties of the first part:

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever. And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

In Witness Whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the Presence of

T.H. Rabenort (SEAL)

H.H. Cochran, Saloma J. Cleveland.

Mary Rabenort (SEAL)

State of Idaho)

County of Lemhi) ss

On this 11 day of November in the year 1912, before me Saloma J. Cleveland, a Notary Public in and for said County, personally appeared Tony Rabenort and Mary Rabenort his wife known to me to be the persons whose name 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.

Seal.

Saloma J. Cleveland

My term expires Aug. 28, 1914.

Notary Public.

State of Idaho)

County of Lemhi) ss

I hereby certify that this instrument was filed for record at request of J.H. Padgham, at 11 minutes past 3 o'clock P.M., this 8th day of Jan'y A.D. 1913, in my office, and duly recorded in Book W of Deeds at page 92.

J.H. Padgham Jr.

Ex-officio Recorder

Deputy

R21E

32	33
5	4

BLM

DLE
filed for -
Not granted

Madsen Ranch
enclosed in

