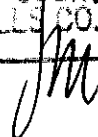


Travis L. Thompson, ISB #6168
BARKER ROSHOLT & SIMPSON LLP
113 Main Ave. West, Suite 303
Twin Falls, Idaho 83301-6167
Telephone: (208) 733-0700
Facsimile: (208) 735-2444

Attorneys for David T. Keele

2004 SEP 28 PM 4: 54
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 

**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

Case No. 39576

Subcase No. 34-13851

**AFFIDAVIT OF DAVID T. KEELE
IN SUPPORT OF MOTION TO FILE
LATE NOTICE OF CLAIM**

State of Idaho)
County of Custer) ss

DAVID T. KEELE, being first duly sworn upon oath, deposes and states as follows:

1. I am the claimant in the above-listed subcase and make the following affidavit upon my personal knowledge of the facts and circumstances set forth herein below.

2. I purchased 110 acres in Custer County from Jack and Suzanne Edelman in 1999. My property is generally described as follows: SWNE, SENE, NESE, and NWSE of Section 8, Township 4 North, Range 24 East, Custer County, Idaho. Jack and Suzanne Edelman retained approximately 250 acres. Antelope Creek runs through the parcel owned by the Edelmanns.

AFFIDAVIT OF DAVID T. KEELE

Appurtenant to my property are irrigation water rights #34-932 for 3.1 c.f.s. from Antelope Creek with a March 1, 1884 priority date, and #43-413C for .4 cfs from Antelope Creek with a May 15, 1891 priority date (partial decrees issued for both rights on December 29, 1997). I divert water from Antelope Creek through a common ditch that crosses the Edelmans' and Jon Manetta's properties.

3. The Edelmans mistakenly failed to file a notice of claim for stockwater purposes for the parcel that I now own. It is my understanding that the Edelmans did not willfully fail to file a stockwater claim when they owned the property. It is my understanding that water for stockwater purposes has been diverted from Antelope Creek during the non-irrigation season to this parcel since it was homesteaded in the late 1800s. Accordingly, I have claimed a priority date of March 1, 1884 to correspond with my first decreed irrigation water right. My neighbors, Jack Harrop, who has lived in the area for over twenty years, and John King, who has lived in the area all of his life (80 years), have confirmed this winter stockwater use and diversion from Antelope Creek. I did not file a claim for stockwater use when the Basin 34 Report was issued to the Court in 1992 because I did not own the property at that time.

4. The former watermaster for Water District No. 34, Douglas Rosenkrance, told me that I would never be denied water for stockwater use in the non-irrigation season. However, since that watermaster retired, the Idaho Department of Water Resources (IDWR) has informed me that I need a water right to continue watering my cattle during the winter. I have relied upon this water for my cattle the last five years and am filing this late notice of claim to secure the stockwater right as requested by IDWR.

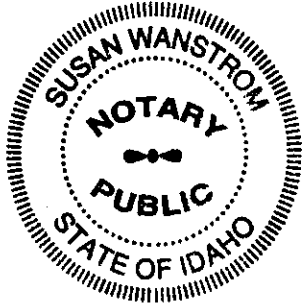
DATED this 24 day of September 2004.

David T. Keele
David T. Keele

STATE OF IDAHO)
County of Butte) ss.

On this 24 day of Sept, 2004, before me, a Notary Public for said County and State, personally appeared DAVID T. KEELE, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she 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.



Susan Wanstrom
NOTARY PUBLIC FOR IDAHO
Residing at: Arco, ID
My commission expires: 09-16-08