

June 23, 2004

**THEONE OR MADELINE MAUPIN
PO BOX 570
ASHTON ID 83420**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 21-10753

Dear Claimant (s):

The Idaho Department of Water Resources is nearing the beginning of water rights review in Basin 21, the Henry's Fork drainage. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

Your claim, as referenced above, claims a Priority Date of DEC 31 1902, from GROUNDWATER.

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled **"Evidence of Priority"**. The pamphlet describes the types of evidence which are acceptable and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled **"What Kind of Evidence is Required"** and **"Some Examples of Documents Which May Be Evidence of the Priority Date"**. **PLEASE READ THE ENCLOSED PAMPHLET.**

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other elements of the Notice of Claim have been or soon will be conducted by Department personnel.

AFFIDAVIT

STATE OF IDAHO)
) ss.
County of Bonneville)

I, **CHERYL MANGINELLI**, do hereby state that I am the great granddaughter of James A. ("J.A.") Atchley. I am also the granddaughter of William B. ("Bill") Atchley and the daughter of Madeline Laura Atchley Maupin ("Madeline"). With regard to the beneficial use of the groundwater set forth in SRBA Water Right Claim 21-10753, I state the following:

1. My great grandfather homesteaded in the Green Timber area of Fremont County, Idaho, in 1901. A home was built and a domestic well was drilled to provide water to the home. A residence is still located on the premises.

2. My grandfather inherited the real property and associated water rights from his father and continued to farm the land for the entirety of his lifetime. In 1978, my grandfather built a cellar with a humidifier for storing potatoes.

3. My mother, Madeline, inherited the real property and associated water rights from her father. She and my dad continued the farming operation and used the cellar until they retired in 1992.

4. Since my parents' retirement, the real property has been leased and the cellar used by tenants for storing potatoes.

5. My father is now deceased and the rental income from the real property and cellar is a major source of my mother's retirement income.

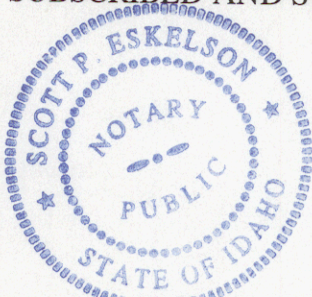
6. The cellar has been and remains insured to this day.

Signed as of this 4 day of Aug., 2004.

Cheryl Manginelli
CHERYL MANGINELLI

SUBSCRIBED AND SWORN TO before me this 4 day of Aug., 2004.

(seal)



Scott P. Eskelson
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 10-25-04

Law Offices of
MARTIN & ESKELSON, PLLC

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August 12, 2004

Allen B. Ruberry, Sr. Water Resource Agent
Adjudication Bureau
Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

RECEIVED

AUG 13 2004

Department of Water Resources
Eastern District Office

Re: Evidence of Priority for SRBA Water Right Claim 21-10753

Dear Mr. Ruberry:

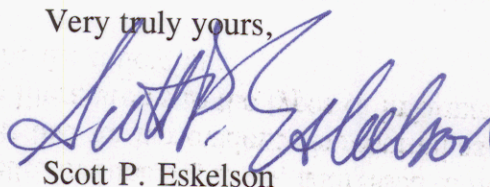
I am writing in response to your letter of June 30, 2004, addressed to my client, Theone or Madeline Maupin. Therein you indicate that further evidence is required as proof of priority in this matter. You also forwarded some literature as to the types of information which might be acceptable. Therefore, enclosed will be the following:

1. A copy of the patent to the property issued to James A. Atchley, who originally homesteaded the land.
2. An Affidavit from Cheryl Manginelli, Mr. Atchley's great granddaughter, describing the circumstances of the use of this water.

If this information does not suffice for your purposes, please advise and we will see if there is anything further we can obtain. Because the well has been used for so long, there is obviously no well driller's log, etc. available. In addition, Theone Maupin is now deceased and Madeline Maupin, who is quite elderly, is residing in Parkwood Meadows Assisted Living Center. She does not have any other information that would be of help in this matter.

We appreciate hearing from you.

Very truly yours,


Scott P. Eskelson

Enclosures

cc: Cheryl Manginelli

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No. 9836

6/301

301

THE UNITED STATES OF AMERICA

17608

Homestead Certificate No. 5517

Application 9344

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 Blackfoot, Idaho

that, pursuant to the Act of Congress approved May 10, 1902, To Secure Homesteads on Actual Settlers on the Public Domain, and the acts supplemental thereto, the claim of James A. Otisley

has been established and duly consummated in conformity to law, for the east half of the southeast quarter of Section Twenty-four, Township Four North, Range Forty-three 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 James A. Otisley

the tract of land above described: TO HAVE AND TO HOLD THE SAID TRACT OF LAND, with the appurtenances thereof, unto the said James A. Otisley

and his heirs forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and right to ditches and reservoirs used in connection with such water rights, so long as 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 mine 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, this fifth day of December, 1917, in the year of our Lord one thousand nine hundred and one, and of the Independence of the United States the one hundred and eighty-third.

BY THE PRESIDENT, Theodore Roosevelt

By J. H. Thompson, Secretary

Recorded Vol. Page 486

April 22, 1917

Filed for Record at Blackfoot, Idaho, on April 22, 1917, and recorded at the request of James A. Otisley

By J. H. Thompson, Secretary

Best copy Available!