

Oct 26 2004

To: State of Idaho department of water resources
From: Don E Brown
For: Clarification of water claims

My father Earl G. Brown filed a "claim to a water right" that was notarized on June 29, 1984. I don't know all of the reasons he finally filed, but I know that on previous occasions he had been encouraged by others including myself to file a claim. His feelings were since he pumped from open ground water he didn't need to file for anything.

The fact that he filed a claim after so many years was good but the fact that the claim was very inaccurate is definitely bad. The problems with the claim included a serious under estimate of the total irrigated acreage, some of the claim not even on my father's property, some of it where trees are and not being irrigated even to this date and the indicated point of diversion not even being on his own property.

I can recognize my father's signature well and where he signed, as claimant on the notarized document is definitely his signature. Why my father ever signed such an inaccurate statement is totally beyond me. I can say that the indicated areas on the map and acres written weren't in his handwriting.

Please let first point out the errors on the original document and later explain the actual irrigated areas.

1. The 9 acres claimed on section 18 NE quarter SE quarter should be in the slot directly south of where it is located on the map with the south border adjacent to the Lowder canal which is the irrigation canal that is used by the water users to the west and north of the Earl and Ruth Brown farm that I inherited. Part of that section is cottonwood trees and has never been irrigated. On that section is one of the ground water diversion points once used to irrigate part of the farm.
2. The 4 acres claimed on section 17 NW quarter SW quarter is totally understated with the east portion of that piece as shown is actually timber. That field is and has been for many years a section of around 22 acres of irrigated hay ground.
3. The 10 acres claimed on section 17 SE quarter SW quarter as drawn has more than half of it not even on our property. Also the diversion point that our water is pumped from isn't even shown within our property boundary.
4. The field directly north of the acreage noted in item 3 above and the 15 acre field in section 17 SW quarter SE quarter wasn't claimed. This field is directly north of the Levee and is around 40 acres. That field was in my teen years was used as potato field. It has been for many years since a alfalfa field.

5. The field directly south of the area mentioned in items 3 and 4 above and south to the Lowder canal wasn't even claimed and is around 10 acres.
6. What is called the Lowder Slough on the 1984 water right claim signed by my father is and has been filled up with dirt in most of the sections since I was a small boy. I believe the diversion canal that is in use by my neighbors to the west and north of our farm for irrigation is now called the louder canal. It goes north on the east border of the south corner of our property in section 20 until it cuts across our farm going in a northwesterly path until it leaves our property. The most unbelievable part of the original claim is the total lack of a claim for all the irrigated land that is south of the Lowder canal. The big field north of my current residence was the very first field to be opened up and irrigated. That field was irrigated from the diversion point mentioned in item 3 above VIA a ditch. The ditch starting at the diversion point, was at first a dirt one running to the west then south and across the Lowder canal through a flume, it then goes to the west to the west property line on the south side of the Lowder canal. The exact path of the dirt ditch to the flume across the Lowder canal was changed as the figurations were changed. The ditch was replaced by a cement one in around 1956. I believe a Mr. Lott put in the cement ditch. I have been unable to locate him. I talked to some of the Lott families in the telephone directory and from them learned that he if I have the right one died 5 years ago.
7. We have 269 acres of deeded land. Of that around 200 acres have been irrigated for many years.
8. Many changes were made in the configuration of the fields. Not in acres irrigated but mainly in the consolidation of smaller fields into larger ones. This was possible and accomplished due to my father owning a land leveling business. Most of the later changes were to go from a wet irrigating to sprinkling systems.
9. I grew up on the farm, moving there in 1949 when I was eight years old. As a result I know more about what was farmed and irrigated than anyone else still around. I worked there first weeding potatoes and later doing much of the planting, irrigating and harvesting on the farm as my father was very busy with his land leveling business. I worked on the farm until the Federal Aviation Administration employed me after finishing two years at Ricks College. My parents, grandfather and all of the original hired hands are all gone now. A great wish of mine would be for those people to be able to be here and clear up the totally flawed and inadequate water rite claim filed on June 29 1984.
10. I have included a map of our farm with the fields as they are currently. Almost all the acreage was farmed in the early years. One of the small fields that is part of a larger one was the ground that my father let me farm as a FFA agriculture project as a high school student.

11. I have also included the ground water diversion points we used. Diversion point #1 was the one used more than any other. Diversion point #2 is the most recent used point.
12. I mentioned in item 10 above that some land wasn't farmed earlier. This was a narrow edge of land on the eastern border of the farm in the area south of the Lowder canal that was left in trees. I can't set a date in my mind when that was changed. It was however after I was employed by FAA.
13. I can't actually say the exact number of acres irrigated due to the irregular shapes of the different fields.

A handwritten signature in dark ink, appearing to read "Charles R." with a stylized, flowing script.

W 1/2 E

FIELD 5

GROUND WATER
DIVERSION PT #2

FIELD 1

FIELD 3

GROUND WATER
DIVERSION PT #4

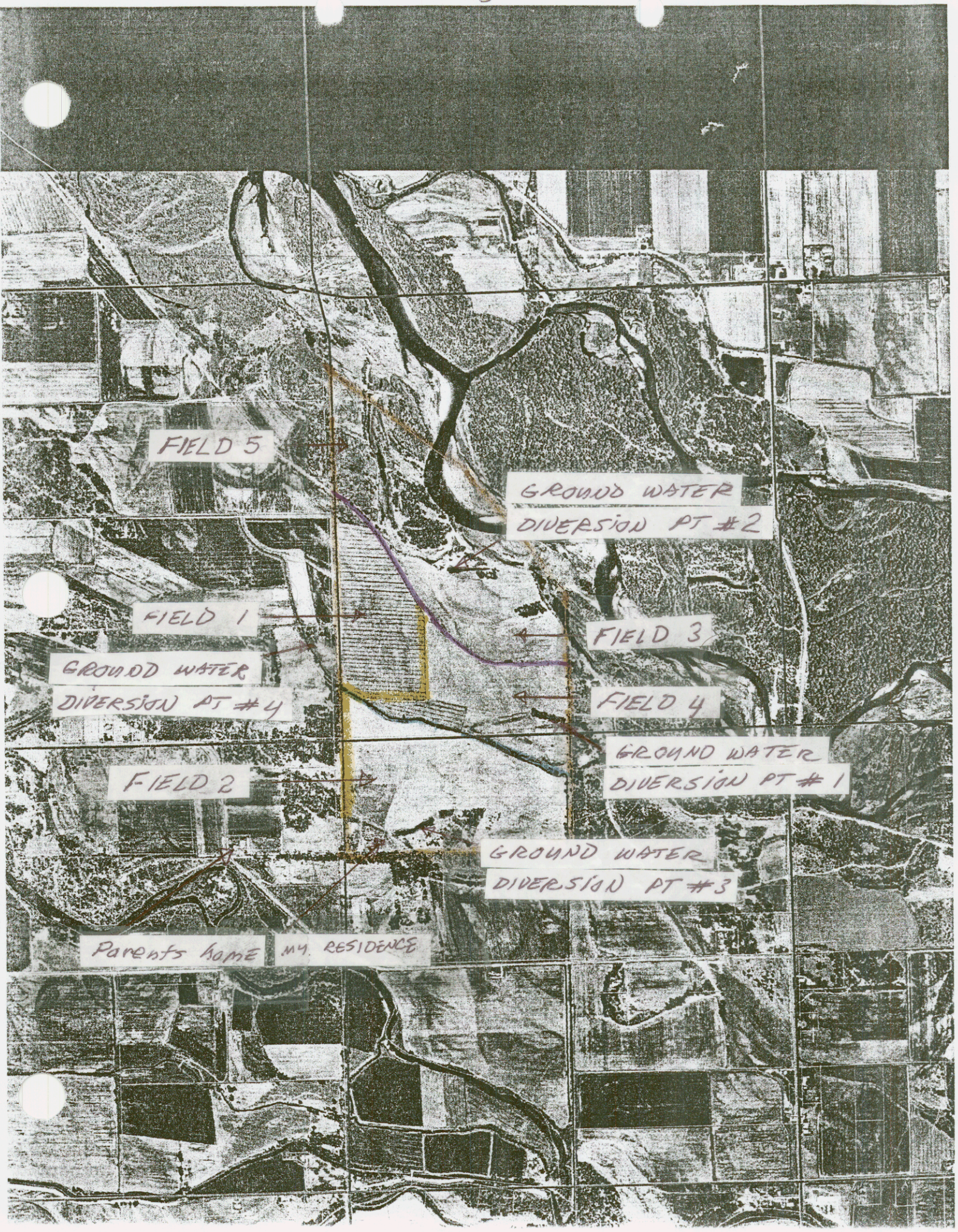
FIELD 4

FIELD 2

GROUND WATER
DIVERSION PT #1

GROUND WATER
DIVERSION PT #3

Parents home MY RESIDENCE



10/25/2004

To whom it may concern:

We are writing this in regard to the farmland owned by Don Brown, inherited from his father Earl Brown. We have been neighbors for 50 or more years. We have worked with Earl and for him at different times. Our son has hunted and fished by and on this farm for a number of years.

We have observed him irrigating with small ditches and sprinkler systems on the land bordering ours, so we could see and know what he was irrigating. Earl did lots of bulldozing work and we watched him make the smaller fields into bigger fields and level them to make it easier to irrigate them all. It is still being irrigated today as it was back then.

Derwin Chase
Betty J. Chase
Steve D. Chase

DERWIN CHASE
BETTY CHASE
STEVE CHASE

208- 538-7707

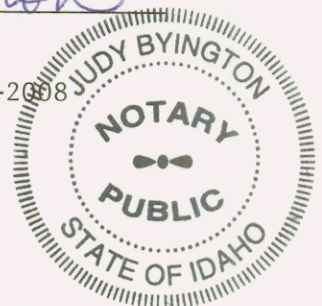
STATE OF IDAHO
COUNTY OF BONNEVILLE

ON THIS 26TH DAY OF OCTOBER, 2004, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED DERWIN CHASE AND BETTY CHASE AND STEVE CHASE KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL.

Judy Byington
NOTARY PUBLIC FOR IDAHO
RESIDING AT RIRIE, IDAHO

MY COMMISSION EXPIRES 10-4-2008



October 7, 2004

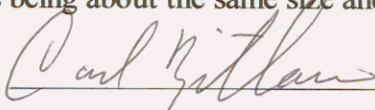
To Whom it may concern:

Re-guarding the Brown farm located approximately 7 to 8 miles East of Rigby Idaho and currently owned by Don Brown, I have been a lifelong resident and current owner of a nearby farm and have continuously observed the operation of the Brown farm since the I was a teenager in the 1950's. In addition to farming within sight of the Brown farm for 50 plus years, I have hunted and fished in this area over this period of time on and near the Brown farm as both our farms border the South Fork of the Snake River. The Lowder Slough Canal, which serves our farm, flows through the middle of the Brown farm and I have participated in canal maintenance over this same period and observed the operation of the Brown farm.

In the 1950's I observed the Browns raising irrigated crops by pumping water out of well pits dug in several locations on their farm. At first many small fields were irrigated out of numerous small ditches, with ongoing land leveling and combining of the small fields into larger fields taking place in the earlier years, the dirt ditches eventually being replaced with concrete ditches. When sprinkler systems became readily available, the Browns converted to sprinkler irrigation, still pumping out of the well pits, as they are currently doing.

When my father died in the Fall of 1976, I took over the bull-dozer maintenance of the Lowder Slough Canal for many years, dozing the Canal through the Brown farm each year. To my best recollection, the Brown farm looked about the same in 1977 and many years prior as it does today, the fields being about the same size and shape, all being irrigated.

Carl Zitlau
538-7140



INDIVIDUAL ACKNOWLEDGMENT

STATE OF IDAHO)
) SS
COUNTY OF JEFFERSON)

On this 29TH day of OCTOBER, in the year 2004, before me THE UNDERSIGNED, a notary public in and for the State of Idaho, personally appeared CARL ZITLAU, known or identified to me (or proved to me on the oath of _____), to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.


Notary Public for IDAHO

Residing at _____

My commission expires _____

JASON S. BENEDICT
NOTARY PUBLIC
STATE OF IDAHO

JASON S. BENEDICT, NOTARY PUBLIC
RESIDING AT: IDAHO FALLS, IDAHO
MY COMMISSION EXPIRES: 11/21/2008

REVENUE STAMPS

QUITCLAIM DEED

For Value Received

DON E. BROWN as Personal Representative of the Estate of
EARL B. BROWN

do hereby convey, release, remise and forever quit claim unto

DON E. BROWN and LUAINA BROWN, husband and wife

the following described premises, to-wit:

SEE ATTACHMENT

together with their appurtenances.

Dated:

Don E. Brown 11-3-98

Don E. Brown as Personal Representative
of the Estate of Earl G. Brown

Microfilm No. 293896
13 Day November 19 98
At 950 O'Clock A.M.
CONNIE M. KELLER
Jefferson Co., Recorder
Fee \$ 6.00 st. Deputy
Recorded at Request of
John Kasher

STATE OF UTAH COUNTY OF Wasatch

On this 3rd day of November, 19 98,
before me, a notary public in and for said State, personally
appeared

Don E. Brown as Personal Representative
of the Estate of Earl G. Brown

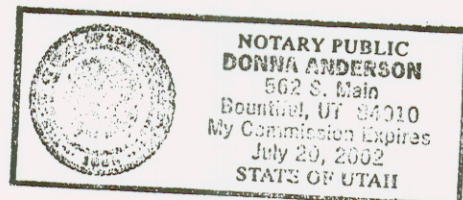
known to me to be the person who name is
subscribed to the within instrument, and acknowledged to
me that he executed the same.

Donna Anderson
Notary Public

Residing at Paris Idaho
Comm. Expires July 20, 2002 Utah

RECEIVED BY
ASSESSOR

ATTING
11-13-98 Time 2:10 p.m.



ATTACHMENT
Legal Description

Parcel 1: The north one-half of the northwest quarter of Section 20, Township 4 North, Range 40 EBM.

Parcel 2: Lots 2, 3 and the west one-half of the southwest quarter, and the southeast quarter of the southwest quarter of Section 17, Township 4 North, Range 40 EBM.

Parcel 3: That certain part of the southeast quarter of the southeast quarter lying north and east of Lowder Slough of Section 18, Township 4 North, Range 40 EBM.

Parcel 4: A parcel 17 by 13 rods in the southwest corner of the northeast quarter of the northeast quarter of Section 19, Township 4 North, Range 40 EBM.

Recorded at the request of Don E. Brown. Mail tax notices to Don E. Brown, 833 East Mill Street, Bountiful, UT 84010.

Recorded by _____ Book _____ Page _____ Ref.: _____

QUIT-CLAIM DEED

G. Ruth Brown, Grantor, of Bountiful, Davis County, State of Utah, hereby QUIT-CLAIMS to Don E. Brown and Luaina Brown, as joint tenants with rights of survivorship, Grantees, of Bountiful, Davis County, State of Utah, for the sum of Ten Dollars and other good and valuable consideration, the following tracts of land in Jefferson County, State of Idaho:

Parcel 1: The north one-half of the northwest quarter of Section 20, Township 4 North, Range 40 EBM.

Parcel 2: Lots 2, 3 and the west one-half of the southwest quarter, and the southeast quarter of the southwest quarter of Section 17, Township 4 North, Range 40 EBM.

Parcel 3: That certain part of the southeast quarter of the southeast quarter lying north and east of Lowder Slough of Section 18, Township 4 North, Range 40 EBM.

Parcel 4: A parcel 17 by 13 rods in the southwest corner of the northeast quarter of the northeast quarter of Section 19, Township 4 North, Range 40 EBM.

WITNESS the hand of the Grantor, this 5th day of April, 1995:

G. Ruth Brown
G. Ruth Brown, GRANTOR

STATE OF UTAH)
: ss
COUNTY OF SALT LAKE)

On the 5th day of April, 1995, G. Ruth Brown personally appeared before me, a Notary Public of the State of Utah, and acknowledged that she is the signer of the within Quit-Claim deed, and that she executed the same.

281257
Mileage No. _____
19 On _____ 1996
At _____ O'clock _____ PM
CONNIE M. KELLER
Jefferson Co. Recorder
Fee \$ 3.00 \$4 Deputis
Recorded at Request of
Don E. Brown

RECEIVED BY
ASSESSOR
For PLATTING
Date: 11-26-1996
Kristi A. Jorgenson
Notary Public
KRISTI A. JORGENSON
Notary Public
STATE OF UTAH
My Comm. Exp. JUN 30, 1996
124 S 600 E SLC UT 84102

C.

Don Brown H 801 293 -8337
W 901 320 2293

TOTAL P.01