

2005 FEB 10 AM 10:46
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	)	Subcase No.: 65-08002
	)	
Case No. 39576	)	ORDER OF REFERENCE TO SPECIAL
	)	MASTER THEODORE R. BOOTH
	)	
	)	

On February 10, 2005, this Court received correspondence from Steven P. Gray, regarding the above-captioned water right claim. A copy of the correspondence is attached to this **Order**. The original of the correspondence was file stamped, docketed as received, and lodged in the subcase file. Where the water right claim was previously uncontested, a subcase file was created for the correspondence. Where a **Partial Decree** was previously entered for the water right claim, the **Partial Decree** was also included in the subcase file.

THE FOLLOWING ARE HEREBY ORDERED:

1. That Theodore R. Booth is appointed Special Master to preside over the above-captioned water right claim for the following purposes:
 - a. To determine the intended purpose of the correspondence and the legal significance of the correspondence, if any. For example, the Special Master may determine whether the correspondence constitutes a motion to correct a clerical error pursuant to I.R.C.P. 60(a), or a motion to set aside a **Partial Decree(s)** pursuant to I.R.C.P. 60(b), etc.;
 - b. To determine whether the correspondence complies with **SRBA Administrative Order 1 (AOI)** and the Idaho Rules of Civil Procedure or whether additional time should be granted to allow the party to file an appropriate motion with the Special Master and/or to obtain counsel in the matter; whether the matter should be dismissed on its face; or to determine whether the matter would be more appropriately processed administratively through the Idaho Department of Water Resources;

determine whether the matter would be more appropriately processed administratively through the Idaho Department of Water Resources;

c. If the correspondence is ultimately deemed a sufficient motion, or in the event a new motion is filed in compliance with the applicable rule(s), the Special Master shall conduct all proceedings necessary to issue a recommendation as to the underlying merits. For example, if the Special Master concludes a *Partial Decree(s)* should be set aside or amended, the recommendation should not only include that the *Partial Decree(s)* be amended or set aside, but should also include how the elements of the water right should be partially decreed.

2. The original of this *Order* shall be placed in the subcase file and the file transferred to the Special Master for proceedings consistent with this *Order*.

3. The Special Master shall issue a *Special Master's Report and Recommendation* on the matter consistent with *AOI*.

IT IS SO ORDERED.

DATED February 10, 2005.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE TO SPECIAL MASTER THEODORE R. BOOTH was mailed on February 10, 2005, with sufficient first-class postage to the following:

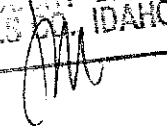
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

ELWOOD H GRAY
MARY ANNE GRAY
1305 JOHNSON ST
BOISE, ID 83705
Phone: 208-345-9280

Steven P. Gray
PO Box 3687
Kodiak, AK 99615

Julie Murphy

1011
LODGED

2005 FEB 10 AM 10:16
DISTRICT COURT-SRBA
TWIN FALLS IDAHO
FILED 

February 5, 2005

Clerk of the District Court
SRBA
Twin Falls District Court
Twin Falls, Idaho 83303-2707

Re: Change of Ownership of Decreed Water Right 65-8002

Dear Clerk of Court:

I received a letter from the Department of Water Resources regarding my request for the change of ownership of a decreed water right from my parents, Elwood "Woody" H. Gray and Mary Anne Gray to me and my wife (Steven P. Gray and Mary Gray). After speaking with Ms. Danni Smith of that office, she suggested that I write to the court and request that the legal description of the location of the water right be corrected so that the transfer can be finalized.

It appears that there was a mistake or typographical error in my father's original application. I ask the court to allow the mistake to be corrected and that the correction be made effective as of the date of my late father's original application. I do not have a copy of my father's original application but I believe he sent that in the 70s. My uncle had owned the lot before my folks bought it. Although believe that he was the original purchaser of the lot in the late 60s, I am confident that it was my father who sent in the original application because I recall him telling me that he had done so. I do not know whether it was my father who made the mistake or whether there was a clerical error when the application was entered, but regardless as to whose mistake it was, a mistake was made and I ask that it be corrected.

The correct legal description of our lot should have placed the lot in the southwest quarter of the northwest quarter. The SW1/4 and NE1/4 were reversed and, as a result, the description mistakenly stated the lot was in the northeast quarter of the southwest quarter rather than the southwest quarter of the northwest quarter. The rest of the legal description is correct including, most importantly, identifying the lot as 4A-16 and the subdivision as CR-4, as well as identifying the correct township, range and section.

Letter to Twin Falls District Court
February 5, 2005
Page 2 of 2

The correct legal description of our 1.0 acre lot is as follows:

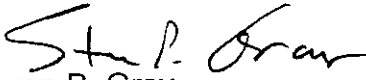
Lot 4A-16, SUBDIVISION CR-4, Valley County, Idaho according to the Valley County Recorder's Book No. 10 of Miscellaneous Records thereof filed in Valley County on August 16, 1961, Instrument No. 57151, Located in the **SW1/4 NE1/4**, Sections 19, Township 15 North, Range 3 East, Boise Meridian.

Attached is a copy of the deed with the correct legal description. Also attached is the Adjudication Claim Profile which otherwise correctly identifies our lot. Again, the only mistake was inverting or reversing the SW1/4 and NE1/4.

Inverting NE1/4 with the SW1/4 is a fairly easy thing to do since one would normally expect the dominate section quarter to be stated first but this isn't the way legal descriptions are read. I hope this error can be corrected.

Thank you for your consideration of this matter.

Sincerely yours,


Steven P. Gray
P.O. Box 3687
Kodiak, Alaska 99615

(907) 486-4543 (home)
(907) 486-8505 (work)
(907) 486-2777 (fax)

enclosures:

cc: Ms. Danni Smith
Department of Water Resources
322 East Front St.
P.O. Box 83720
Boise, ID 83720-0098

QUITCLAIM DEED

FOR VALUE RECEIVED, Mary Anne Gray does hereby convey, release, remise and forever quitclaim unto Steven Philip Gray and Mary Anne Gray, husband and wife, whose current address is Box 3687, Kodiak, Alaska 99615, the following described premises, to-wit:

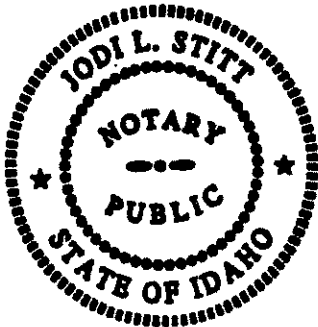
LOT 4A-16, SUBDIVISION CR-4, VALLEY COUNTY, IDAHO ACCORDING TO THE VALLEY COUNTY RECORDER'S BOOK NO. 10 OF MISCELLANEOUS RECORDS THEREOF FILED IN VALLEY COUNTY ON AUGUST 16, 1961, INSTRUMENT NO. 57151, LOCATED IN THE SW 1/4 NE 1/4, SECTION 19, TOWNSHIP 15 NORTH, RANGE 3 EAST, BOISE MERIDIAN.

DATED: February 10, 1999.

Mary Anne Gray
MARY ANNE GRAY

STATE OF IDAHO)
County of Ada) : ss.

On this 10th day of February, 1999, before me, a notary public in and for the said State, personally appeared MARY ANNE GRAY, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.



Jodi L. Stitt
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires 2-16-2004

238489
Dud
1 Nov 3.00
Mugler
FEB 2 19

DATE: 08/11/99
PAGE: 1

Stage: DECREED

VALLEY County

SE

Place of use location for DOMESTIC is the same location as described for: IRRIGATION

Non-Irrigation Uses: 1 HOME

Other Rights: AJUDICATION CLAIM FOR CISTERN(GROUNDWATER)09/26/88

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources)::

Conditions of Approval:

N10 - THE QUANTITY OF WATER DECEDED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE

N12 - THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Dates:	Exam Made Date:	Verified Date:	08/11/1999	Objection Filed Date:
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Misc: Water District Number: 65 Field Inspection Flag:

Comments: Date: 08/11/1999 User-ID: KMWALKER Subject: COPIED FROM REMARKS
PAGE 551, VOLUME 2-SURFACE WATER, PROPOSED FINDINGS PALETTE RIVER