

RECEIVED

JUN 15 2005

LAW OFFICES OF

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Department of Water Resources

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**IDAHO FALLS OFFICE**

477 SHOUP AVENUE  
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‡ALSO MEMBER IL BAR

June 13, 2005

Snake River Basin Adjudication Clerk  
Twin Falls County  
P.O. Box 2707  
Twin Falls, Idaho 83303-2707

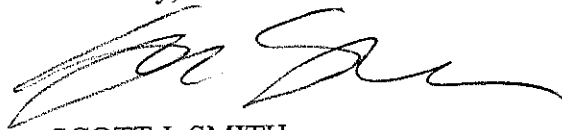
RE: SRBA Case No. 39576  
Subcase 29-13710  
Our File No. 32161

Dear Clerk:

Please find enclosed for filing in the above matter, the original Amended Affidavit of Michael J. Foltz submitted for the purpose of correcting errors in Mr. Foltz' original affidavit. Please also find enclosed for filing a copy of the Warranty Deed from Michale J. Foltz and Bette L. Foltz to Charles W. Carpenter and Helen P. Carpenter, Trustees, recorded in Bannock County, Idaho, on November 14, 2003, as Instrument No. 20330709.

Thank you for your assistance in this matter. Please do not hesitate to call if you have any questions.

Sincerely,



SCOTT J. SMITH

SJS/jm

Enc.

c: Helen Carpenter

SCANNED

JUN 15 2005

AMENDED AFFIDAVIT OF MICHAEL J. FOLTZ

STATE OF IDAHO )  
 : ss  
County of Bannock )

|                                                                                         |
|-----------------------------------------------------------------------------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |
| JUN 14 2005                                                                             |
| By _____ Clerk<br>Deputy Clerk                                                          |

MICHAEL J. FOLTZ, after first being duly sworn upon oath, deposes and states as follows:

1. I am a citizen of the United States, resident of Bannock County, Idaho, of legal age, and competent to be a witness.
2. In the year 1975, I purchased approximately 5.26 acres of real property located at 2163 N. Inkom Road, Inkom, Idaho.
3. From the time I purchased the property in 1975 until I sold it to Helen Carpenter in 2003, my neighbors on Inkom Road and I took turns flood irrigating our properties from an irrigation ditch that ran past our properties. Every year throughout the irrigation season I irrigated my property one day per week for twenty-four (24) hours. Every year since at least 1975 the water in the ditch was diverted from Jackson Creek in the spring until Jackson Creek dried up. Jackson Creek typically dried up sometime between the end of May and the middle of June, but occasionally it ran until the end of June or dried up early in May. After Jackson Creek dried up each year, the water in the ditch was diverted from Rapid Creek throughout the remainder of the irrigation season.
4. The point of diversion for the ditch on Rapid Creek was about one mile farther up the ditch than the point of diversion on Jackson Creek, and the ditch from Rapid Creek runs directly through the Jackson Creek channel. Every year it was necessary to remove debris from the ditch on the other side of Jackson Creek before the water could flow through from Rapid Creek to mine and my neighbors' properties.

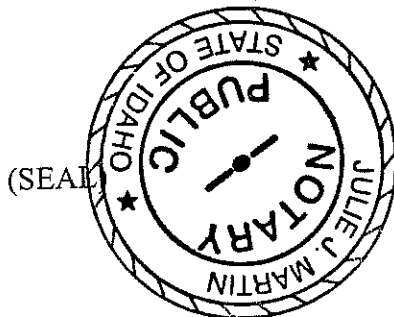
5. In the mid to late 1980's I was required to file a water right as part of the Snake River Basin Adjudication. I filed a claim on Rapid Creek but did not even think to file a claim on Jackson Creek. I did not believe it was necessary to file a claim on Jackson Creek because the ditch from Rapid Creek to my property passed through the Jackson Creek channel, and because Jackson Creek is a tributary to Rapid Creek.

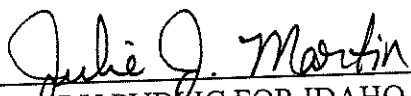
FURTHER SAITH AFFIANT NAUGHT.

DATED this 3<sup>rd</sup> day of May, 2005.

  
MICHAEL J. FOLTZ

SUBSCRIBED AND SWORN TO before me on this 3<sup>rd</sup> day of May, 2005.



  
NOTARY PUBLIC FOR IDAHO  
Residing at: Blackfoot  
Commission expires: 11-01-06

re-record to add legal description  
**WARRANTY DEED**

20330709

20330534

For Value Received **MICHAEL J. FOLTZ**, an unmarried person and **BETTE L. FOLTZ**, an unmarried person

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

**CHARLES W CARPENTER, TRUSTEE and HELEN P CARPENTER, TRUSTEE OF THE CARPENTER FAMILY REVOCABLE TRUST DATED 6/12/99**

whose address is: Box 5005 Sandu, ID 83370,

Hereinafter called the Grantee, the following described premises situated in Bannock County, Idaho, to-wit:

**SEE ATTACHED LEGAL DESCRIPTION**

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

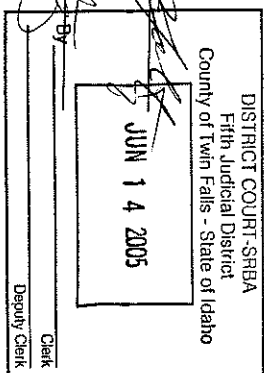
Dated: 11/04/03

DISTRICT COURT-SRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho

20330709

**MICHAEL J. FOLTZ**

**BETTE L. FOLTZ**



RECORDED AT REQUEST OF  
FEE 6.00 DEPUTY msj  
FIRST AMERICAN TITLE

2003 NOV 14 AM 11 23

OFFICIAL RECORD BK# 841  
LARRY W GIAN RECORDER  
TWIN FALLS COUNTY IDAHO

STATE OF Idaho

ss.

COUNTY OF BANNOCK

On this 11<sup>th</sup> day of November, 2003, before me Sheila Garrett, personally appeared **MICHAEL J. FOLTZ** and **BETTE L. FOLTZ**, known or identified to me (or proved to me on the oath of), to be the person(s) whose name(s) ARE subscribed to the within instrument, and acknowledged to me that THEY executed the same.

Notary Public of Idaho  
Residing at Ingham, Idaho  
Commission Expires: 09/17/05

**SCANNED**

JUN 15 2005

SHEILA GARRETT  
NOTARY PUBLIC  
STATE OF IDAHO

1ST UPDATE

2-2

20330709

Order No.: P43078

ATTACHED LEGAL DESCRIPTION

PARCEL 1:

THE NORTH 100 FEET OF THE EAST 239.2 FEET OF LOT 6, BLOCK 1, MURDOCK  
SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT  
THEREOF, RECORDED APRIL 11, 1973 AS INSTRUMENT NO. 507025.

PARCEL 2:

LOT 6, LESS THE NORTH 100 FEET OF THE EAST 239.2 FEET OF LOT 6, BLOCK 1, MURDOCK  
SUBDIVISION, BANNOCK COUNTY, IDAHO, AS THE SAME APPEARS ON THE OFFICIAL PLAT  
THEREOF, RECORDED APRIL 11, 1973 AS INSTRUMENT NO. 507025.

SCANNED  
JUN 15 2005