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AUG 09 2005

DEPARTMENT OF
WATER RESOURCES

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CLYDE G. NELSON

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P.O. Box 797
SODA SPRINGS, IDAHO 83276

CLYDE G. NELSON

August 4, 2005

Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83707-9815

Attention: Roxanne Brown
Sr. Water Resource Agent
Adjudication Bureau

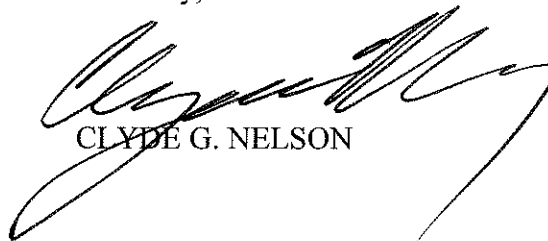
Re: Water Right No. 75-04010 / Evidence of Priority Date

Dear Ms. Brown:

Reference is made to your letter of June 29, 2005, requesting Evidence of Priority Date in regard to Water Right No. 75-04010. In support thereof, I am enclosing three Affidavits, the first of which is from my mother Jennie Nelson, the second from my cousin Paul Cornaby, and an affidavit from myself. Please review the same. If you feel that further information is necessary, I can obtain additional affidavits from my brothers. The property was homesteaded with a patent being received in 1921. My great-uncle Ed Gwyther lived on the property before he actually purchased it in 1926.

Again, if you feel that the Department may require further verification of the Date of Priority, please contact me. Otherwise, I will assume that these will suffice. The address to which all further communications should be sent in regard to this claim is set forth above. Thank you for your assistance.

Sincerely,



CLYDE G. NELSON

CGN:sh
Enc.

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DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR TWIN FALLS COUNTY

In Re SRBA)
)
Case No. 39576)
)
_____))

Subcase No. 75-04010

AFFIDAVIT OF JENNIE NELSON

STATE OF IDAHO)
) ss:
COUNTY OF CARIBOU)

Jennie Nelson, being first duly sworn, deposes and says:

1. I was born April 28, 1909, and was raised in Vernal, Uintah County, Utah. My husband Herman and I have owned property located in Lemhi County, Idaho, at Lake Creek, a tributary of the Salmon River, in Sections 19 and 30, Township 23 North, Range 17 East, B.M. in H.E.S.426 since November 4, 1944, when we purchased it from my mother, Mary Gwyther Johnson. Herman and I lived on this property for many years. I continue to reside there each year for a portion of the year.
2. Prior to our acquisition of the property, the property was owned by my mother who acquired the property from her brother, my uncle, William Gwyther. William Gwyther inherited the property from his brother John Gwyther who died on December 24, 1938. John inherited the property from his brother Edward Gwyther who died on July 29, 1934. The property was first homesteaded by Charles R. Putt who received a patent dated September 28, 1921. The property was inherited as part of Mr. Putt's estate by one Patrick Lennan on or about January 17, 1924. Mr. Lennan conveyed the property to my uncle Edward Gwyther in 1926.

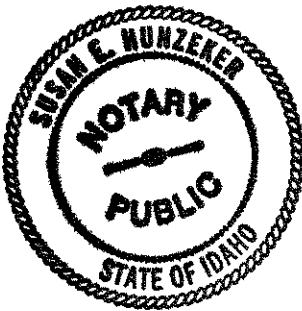
3. A stream known as Lake Creek runs through the property described in paragraph 1 above. The water from Lake Creek is utilized for the irrigation of adjacent grounds and has been so for as long as I can remember. My uncles Edward Gwyther and John Gwyther irrigated the property for hay, potatoes, orchard, and grass for grazing cattle and horses. The water was also used to provide stock water for these animals. My husband and I irrigated the property from Lake Creek since acquiring the same, and my sons, Bryce, Van, and Clyde, have continued to irrigate the property to the present time.
4. Water from Lake Creek has also been used as a domestic supply for two homes on the property described above. The first home was built in the early 1920's, and the second home was built in 1961-1962. Edward Gwyther, John Gwyther, my husband and I, and my son Van have actually lived on the property. My other sons and their families have used the property extensively for the last 50 years. I recall visiting the property with my husband in the 1930's, and hay, potatoes and an orchard were being grown, and livestock was being grazed. The land was irrigated from Lake Creek. The livestock were watered from Lake Creek.
5. There are three primary ditches for irrigation on the property, which are described in the Claim to a Water Right dated November 30, 1972, filed with the Department of Water Resources. The representations contained in that document are true and correct to the best of my knowledge. My husband and I, our sons, and caretakers have maintained these ditches. We continue to irrigate the land at the present time. The property requires a great deal of water due to its rocky-sandy soil and steep terrain.

6. I presently live alone in my apartment located at 351 South 1 West, Apt. #26, Soda Springs, Idaho, 83276. I manage my own business affairs, care for myself, drive an automobile, play bridge, am active on the internet, and am fully aware and knowledgeable of the facts set forth in this affidavit. I also continue to reside at the Lake Creek property described above each year for a portion of the year.
7. In addition to my personal knowledge, I am aware that my uncle Ed occupied this property in the early to mid 1920's after World War I. Uncle Ed had been seriously wounded in World War I and desired to have a place where he could farm, raise cattle, and be free of any embarrassment from wounds he received in the war. I am aware from talking with my mother, and various other relatives in the Gwyther family, that Uncle Ed and his predecessors grew hay, potatoes and other produce upon the property, farmed the same, had a herd of cattle upon the property and irrigated the land and watered livestock from Lake Creek. This was common knowledge in our family.

DATED this 27 day of July 2005.

Jennie Nelson
Jennie Nelson

SUBSCRIBED AND SWORN to before me this 27th day of July 2005.



Susan E. Hunzeker
Notary Public in and for the State of Idaho
Residing at Soda Springs, Idaho
My Commission Expires: 07/01/08

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AUG 09 2005

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR TWIN FALLS COUNTY

In Re SRBA)
Case No. 39576)
_____)

Subcase No. 75-04010

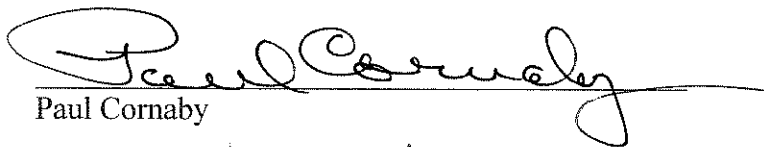
AFFIDAVIT OF PAUL CORNABY

STATE OF WASHINGTON)
COUNTY OF CALLAM) ss:

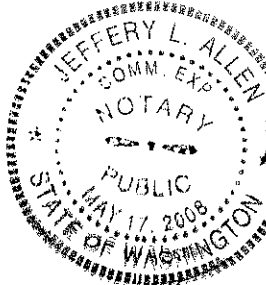
COMES NOW Paul Cornaby, upon oath duly deposes and says:

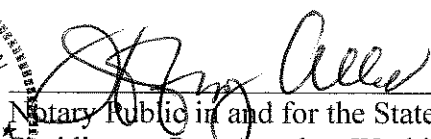
1. I am the son of Les and Mary Cornaby. My mother, now deceased, was a sister to Jennie Nelson. Jennie Nelson is the owner of property located at the mouth of Lake Creek and the Salmon River.
2. I can recall being on the Lake Creek property now owned by Jennie Nelson in 1935. My father, mother, and I had traveled down river that year in order to help my great-uncle John (Jack) Gwyther harvest hay upon the property. We had to walk to the property as there was no road.
3. This was a memorable occasion for me as I recall riding a pony on the property while my parents assisted in the harvesting of the hay crop, I recall dynamiting being done on the other side of the river by the C.C.C. which was constructing a road along the river. The sound of the dynamite scared the pony which I was riding.
4. Hay, potatoes, and garden produce were being grown upon the property. In addition, my great-uncle had an orchard on the property. I recall the haying being done with horses and hay sleds owned by my great-uncle. I also recall cows upon the property. My father, mother, and I stayed in a tent on the property. Uncle Jack occupied the homestead cabin.

DATED this 28th day of July 2005.


Paul Cornaby

SUBSCRIBED AND SWORN to before me this 28th day of July 2005.




Notary Public in and for the State of Washington
Residing at Port Angeles, Washington
My Commission Expires: 5-17-08

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR TWIN FALLS COUNTY**

In Re SRBA)
)
Case No. 39576)
)
_____)

Subcase No. 75-04010

AFFIDAVIT OF CLYDE NELSON

STATE OF IDAHO)
) ss:
COUNTY OF CARIBOU)

Clyde Nelson, being first duly sworn, deposes and says:

1. I was born April 28, 1943, and was raised in Boise, Idaho. I presently reside at 1766 Cedar View Drive, Soda Springs, Idaho. Herman and Jennie Nelson, my mother and father, owned property in Lemhi County, Idaho, at Lake Creek, a tributary of the Salmon River, in H.E.S.426. They have owned the property since November 4, 1944, when it was purchased from my grandmother, Mary Gwyther Johnson.
2. My father and mother continuously used this property after they purchased it in 1944. They also had caretakers on the property. One of the caretakers was Charles Harkey and another caretaker was a Colon Smith. My parents and the caretakers used water from Lake Creek for domestic supply for the cabin located on the property and irrigated from the creek for hay, potatoes, garden and orchard as well as grazing ground for cattle.
3. I started going up to the Lake Creek property in the late 1940's when I was a small child. I can recall from the late 1940's or early 1950's that this property was being irrigated from Lake Creek, and livestock was being watered from the creek. In addition, I am aware that the water is used from Lake Creek for both cabins on the property. My parents constructed a second home on the property in the early 1960's.

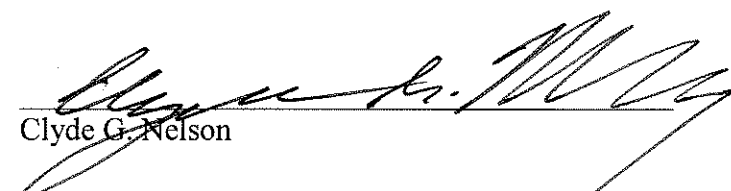
4. I have regularly gone to the Salmon property to visit my parents who resided much of the year on the property. I am aware that they continued to irrigate the property growing crops and watering horses, an orchard and grazing ground. I am also aware they continued to use water for domestic supply in both homes.

I participated in the irrigation of this property on numerous occasions. We used a flood irrigation procedure, and I helped cleaned ditches on the property. The use of the water has continued to the present time. While I have not been on the property this year, I was on the property last year, and the property was irrigated during that time.

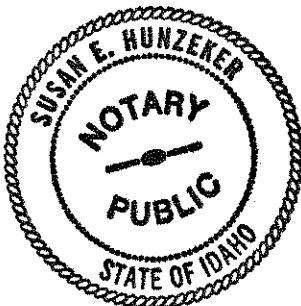
5. It is common knowledge that my great-uncle Edward Gwyther first irrigated this property in the early 1920's. It is also common knowledge that this irrigation continued and that hay, potatoes, gardens, and grazing ground were irrigated from Lake Creek. Also, it is common knowledge that livestock was grazed on the property which were watered from Lake Creek.

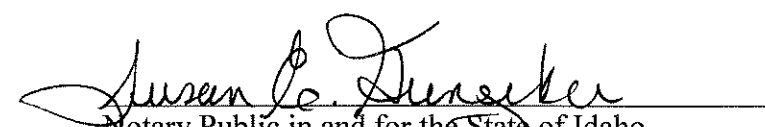
6. There are no other water users on Lake Creek.

DATED this 4th day of August 2005.


Clyde G. Nelson

SUBSCRIBED AND SWORN to before me this 4th day of August, 2005.




Notary Public in and for the State of Idaho
Residing at Soda Springs, Idaho
My Commission Expires: 7/1/08