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AUG 23 2005

DEPARTMENT OF
WATER RESOURCES

August 23, 2005

Re: Water Right Numbers 37-856, 37-2780, 37-2778 and
37-7754

Dear Carter,

Enclosed are three affidavits and a
Gooding County District Court Decree concerning
the above water rights for Bray Lake Ranch.

Sincerely,

Helen DeMoss
Bray Lake Ranch
P.O. Box 61
Bliss, ID 83314
(208) 352-4385

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AUG 25 2005
DEPARTMENT OF
WATER RESOURCES

AFFIDAVIT

BE IT ACKNOWLEDGED, that Gary A. DeMoss of 1350S 842E, Bliss, Idaho 83314, the undersigned deponent, being of legal age, does hereby depose and say under oath as follows:

My wife Helen and I purchased Bray Lake Ranch in June of 1990. At that time I took over duties as watermaster and operator of the Bray Lake water system. The previous owner of Bray Lake Ranch was Idaho State Bank. James E. Kevan was president of the Glenns Ferry branch of Idaho State Bank and S. Donald Rowe was the property manager for Bray Lake Ranch. Mr. Rowe was authorized to sign all necessary documents involving Bray Lake Ranch water rights for the Idaho Department of Water Resources. Mr. Rowe and Mr. Kevan informed me of the historical operation of the Bray Lake water and irrigation system. They told me that the time of exclusive use of Dry Creek water for diversion to Bray Lake was from November 1 to April 1. Water right holders in the Gooding valley had the right to Dry Creek water from April 1 to October 31 and they used approximately 10 cfs of water. The right for Bray Lake to divert water was year round and if the flow of Dry Creek allowed, I could divert any excess more than 10 cfs to Bray Lake.

From 1990 to present I have been the sole operator of the Bray Lake water system. I have repaired and maintained the Bray Lake diversion on Dry Creek, the canal from Dry Creek to Bray Lake, the Bray Lake Dam, the canal from Bray Lake to Bray Lake Ranch, and the Bray Lake Ranch irrigation system. I have diverted water from Dry Creek to Bray Lake from November 1 to April 1 every year without any interference with the exception of one year, 1992 (see August 11, 2005 Affidavit of Gary A. DeMoss, copy attached). From 1973 through 1995, Don and Marilee Bellamy owned water right #37-859A out of Dry Creek, below the Bray Lake diversion. They did not call for water before April 1 and they did not have any complaints of how I managed the water. I have never been told by anyone during my operation of the system that they did not receive any of their rightful water.

During April 1 to November 1 when there is sufficient water to meet the demands of downstream water users on Dry Creek, it has been my practice to divert water excess to their needs from Dry Creek to refill Bray Lake. A thunderstorm over the Dry Creek drainage can run the canal from the Dry Creek diversion to Bray Lake storage full for twelve hours and run half full for another twelve hours. I have never received any protests of this practice, but have received praise for reducing the effects of flood damage in the Dry Creek drainage where it meets the Gooding valley. From reading Soil Conservation Service historical data, one of the benefits of rebuilding the Dry Creek diversion and enlarging Bray Lake was flood control.

Most years a significant portion of the diversion from Dry Creek to storage in Bray Lake has come during the time period between March 15 and April 1. If other water users are permitted to call for water or otherwise interfere with diversions from Dry Creek to storage in Bray Lake during the November 1 to April 1 period then this will alter the historical practice and will irreparably harm the Bray Lake storage water rights.

To my knowledge all past practices have been conducted the same as mine and there have been no calls or protests from our practices from 1990 to present.

And I affirm that the foregoing is true except as to statements made upon information and belief, and as to those I believe them to be true.

Witness my hand under the penalties of perjury this 23rd day of August, 2005.

Monaileen M Allen

Signature of Witness

Monaileen M Allen

Name of Witness

1854 S 750 E Bliss, Id 83314

Address of Witness

Gary A De Moss

Signature of Deponent

GARY A DeMOSS

Name of Deponent

PO Box 61 BLISS IDAHO 83314

Address of Deponent

STATE OF Idaho
COUNTY OF Gooding

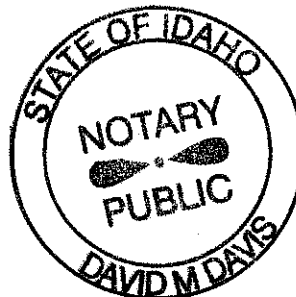
On 8/23/05 Before me, David M. Davis, personally appeared
Gary A DeMoss, personally known to me (or proved
to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the
within instrument and acknowledged to me that he executed the same in his authorized capacity,
and that by his signature on the instrument the person, or the entity upon behalf of which the
person acted executed the instrument.

WITNESS my hand and official seal.

Affiant ☒ Known ☐ Unknown
ID Produced _____

Signature David M. Davis
Comm. Expires 8/25/11

(Seal)



AFFIDAVIT

BE IT ACKNOWLEDGED, that Gary A. DeMoss of 1350S 842E, Bliss, Idaho 83314, the undersigned deponent, being of legal age, does hereby depose and say under oath as follows:

In February of 1992 a person unknown to me pulled the boards on our diversion dam on Dry Creek and stopped the flow of water to Bray Lake. I called Corey Skinner of IDWR in Twin Falls. He contacted the watermaster in Gooding Valley and reported to me that the official irrigation season in the Gooding area started April 1, and I had the right to divert the water until April 1. Mr. Skinner stated I could lock the diversion or call the sheriff. Since I have no way of locking the diversion, I called the Gooding Sheriff's office. May Kinney answered the call and said her husband, Vic Kinney, was diverting the water, there was no need for the involvement of the Gooding Sheriff, and suggested that I call Vic. I went back up to the diversion and Vic Kinney was waiting for me. We had a talk about the water and agreed that he would not take any water before April 1 unless Bray Lake was already full. He knew I had the right to divert the water until April 1 of each year. It was an amicable meeting and we both agreed to work together.

And I affirm that the foregoing is true except as to statements made upon information and belief, and as to those I believe them to be true.

Witness my hand under the penalties of perjury this 11th day of 2005.

Monaleen Allen

Signature of Witness

Monaleen Allen

Name of Witness

1854 S 750 E Bliss, Id 83314

Address of Witness

Gary A DeMoss

Signature of Deponent

GARY A DeMOSS

Name of Deponent

PO Box 61 Bliss ID

Address of Deponent

STATE OF Idaho
COUNTY OF Gooding

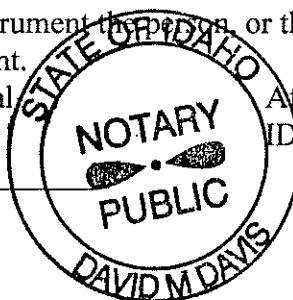
On 8/11/2005 Before me, David M. Davis, personally appeared

Gary A DeMoss, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted executed the instrument.

WITNESS my hand and official seal

Signature David M. Davis

Comm. Expires: 8/25/05



Affiant ☒ Known ☐ Unknown
ID Produced _____

(Seal)

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AUG 25 2005
DEPARTMENT OF
WATER RESOURCES

AFFIDAVIT

BE IT ACKNOWLEDGED, that David S. Miller of 1607 11th Ave. East, Twin Falls, Idaho 83301, the undersigned deponent, being of legal age, does hereby depose and say under oath as follows:

I managed Bray Lake Ranch for Idaho State Bank from 1985 through 1988. I became the Gooding County District Court appointed watermaster (case no. 3656) on August 4th, 1986. Dry Creek was diverted into Bray Lake for irrigation storage from November 1st through March 31st of each year. Any amount after April 1st that exceeded the amount of water required by the downstream users could be diverted into Bray Lake for additional irrigation storage. The other Dry Creek water right holders did not call for water or otherwise interfere with diversions from Dry Creek into Bray Lake between November 1st and March 31st of each year.

And I affirm that the foregoing is true except as to statements made upon information and belief, and as to those I believe them to be true.

Witness my hand under the penalties of perjury this 22nd August day of 2005.

Lodie M. Steen
Signature of Witness

David S. Miller
Signature of Deponent

Lodie M. Steen
Name of Witness

David S. Miller
Name of Deponent

4104 4th ave. E. Twin Falls, Id.
Address of Witness 83301

1607 11th Ave E Twin Falls, Id
Address of Deponent 83301

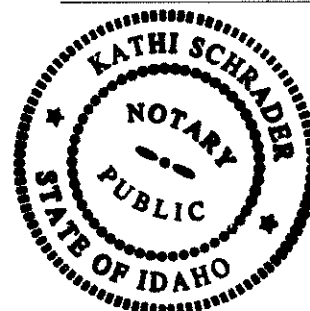
STATE OF Idaho
COUNTY OF Twin Falls

On August 22, 2005 Before me, Kathi Schrader, personally appeared David S. Miller, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted executed the instrument.

WITNESS my hand and official seal.

Signature Kathi Schrader

Affiant ☒ Known ☐ Unknown
ID Produced HB 163032G Id DL
(Seal)



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DEPARTMENT OF
WATER RESOURCES

AFFIDAVIT

BE IT ACKNOWLEDGED, that Gary A. DeMoss of 1350S 842E, Bliss, Idaho 83314, the undersigned deponent, being of legal age, does hereby depose and say under oath as follows:

In February of 1992 a person unknown to me pulled the boards on our diversion dam on Dry Creek and stopped the flow of water to Bray Lake. I called Corey Skinner of IDWR in Twin Falls. He contacted the watermaster in Gooding Valley and reported to me that the official irrigation season in the Gooding area started April 1, and I had the right to divert the water until April 1. Mr. Skinner stated I could lock the diversion or call the sheriff. Since I have no way of locking the diversion, I called the Gooding Sheriff's office. May Kinney answered the call and said her husband, Vic Kinney, was diverting the water, there was no need for the involvement of the Gooding Sheriff, and suggested that I call Vic. I went back up to the diversion and Vic Kinney was waiting for me. We had a talk about the water and agreed that he would not take any water before April 1 unless Bray Lake was already full. He knew I had the right to divert the water until April 1 of each year. It was an amicable meeting and we both agreed to work together.

And I affirm that the foregoing is true except as to statements made upon information and belief, and as to those I believe them to be true.

Witness my hand under the penalties of perjury this 11th day of 2005.

Monaleen Allen
Signature of Witness

Monaleen Allen
Name of Witness

1854 S 750 E Bliss, Id 83314
Address of Witness

Gary A. DeMoss
Signature of Deponent

GARY A DeMOSS
Name of Deponent

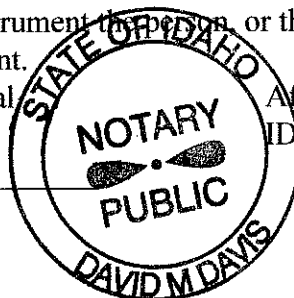
PO Box 61 Bliss ID
Address of Deponent

STATE OF Idaho
COUNTY OF Gooding

On 8/11/2005 Before me, David M. Davis, personally appeared
Gary A DeMoss, personally known to me (or proved
to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the
within instrument and acknowledged to me that he executed the same in his authorized capacity,
and that by his signature on the instrument the person, or the entity upon behalf of which the
person acted executed the instrument.

WITNESS my hand and official seal Affiant ☒ Known ☐ Unknown
ID Produced _____

Signature David M. Davis
Comm. Expires: 8/25/05



(Seal)

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AUG 25 2005
DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING.

HOWARD H. KELSO,

Plaintiff,

-vs-

LEONARD STROUT,

Defendant.

D E C R E E

Now on this 8th day of July, 1945, the above matter came duly on hearing in court being in regular session; the Honorable D. H. Sutphen, Judge, present and presiding. The plaintiff, Howard H. Kelso, present in person and by his attorneys, Bissell & Bird, and the defendant not being present.

Whereupon the defendant heretofore filed a demurrer, which said demurrer was by the said defendant withdrawn, and defendant refused to plead further; And whereas, the said defendant by his attorneys aforesaid having refused to plead further, upon motion of the plaintiff, the default of the defendant for failure to plead was duly entered, and the matter came duly on for hearing as on default.

Whereupon plaintiff introduced his evidence and rested.

The defendant by the making of such default having waived the making of findings of fact and conclusion of law; and the court being fully advised in the premises it is hereby ordered, adjudged, and decreed that the plaintiff and defendant are the joint owners of that certain artificial reservoir, commonly known as the Bray's Lake Reservoir, located on Sections 25, 26, 35, 36, Twp. 4 S. R. 13 E. 1 M. The boundary lines of such said reservoir being shown by the map submitted with the reservoir filing originally filed in the United States Land Office, Hailey, Idaho, and now on file in the United States Land Office at Blackfoot, Idaho. Said file being denominated as reservoir file map, Hailey Land Office, #162, which said map is hereby especially referred to and

made a part of this decree with the same force and effect as if actually attached hereto.

Together with that certain ditch which diverts water from Dry Creek into the said Bray's Lake Reservoir, which said ditch diverts water from Dry Creek at a point near the SE corner of Sec. 6, Tnp. 4 S.R. 14 E.M., and then extending in a southwesterly direction approximately five miles to the said Bray's Lake Reservoir at a point in the NW 1/4 SW 1/4 Sec. 25, Tnp. 4 S.R. 14 E.M.

That the plaintiff is the owner of an undivided one-fifth interest in and to said reservoir and ditch, and of the right to use one-fifth of the water diverted by said canal and impounded in said reservoir.

That said defendant, Leonard Strout, is the owner of four-fifths interest in said reservoir, ditch and water.

That the water so diverted from Dry Creek is impounded and reservoired during the high water season, or flood water season of Dry Creek, to be used and applied to the irrigation of the lands of plaintiff and defendant during the irrigation season of each year, beginning on April 1, and ending October 31, of each year.

That it is necessary, in order to irrigate the lands of the plaintiff and defendant that such water aforesaid be impounded in said reservoir, and diverted during the irrigation season for use upon the lands of the plaintiff and defendant.

It is ordered, adjudged, and decreed, that in order to administer the said ditch, reservoir, and impounded water, that it is essential and necessary that a suitable person be appointed to divide and distribute the water aforesaid during each irrigating season to the plaintiff and defendant in accordance with their rights aforesaid. To wit; one-fifth to the plaintiff and four-fifths to the defendant. It is further ordered, adjudged, and decreed that the expense of maintaining the diversion ditch, reservoir structure, control works, and diversion works from said reservoir, be apportioned

and assessed to and against the plaintiff and the defendant in accordance with their several interests. That is to say, that the plaintiff shall pay one-fifth of such expenses including the salary of the person designated by the court as watermaster, and that the defendant shall pay four-fifths of such expenses.

It is further ordered, adjudged, and decreed that some suitable person shall be, by the court, designated and appointed as watermaster for the irrigation season of 1945. And that A. H. Henderson of Bliss, Idaho, be appointed as such watermaster to serve in such capacity until the first day of April 1946. That the said Henderson, or in case of his refusal to act as such watermaster, then such person who is by the court appointed to so act, shall make a preliminary estimate of the necessary costs and expenses of maintaining and operating said ditch and reservoir for the irrigation season of the year, 1945. And that before either party is entitled to withdraw water from said Bray's Lake Reservoir, he shall pay to the said Henderson, or such other person who may be appointed, his proportion of the estimated costs of such operation.

It is further ordered, adjudged, and decreed that the court shall retain jurisdiction of this action, for the purpose of enforcing this decree, and that on or before the opening of the irrigating season of each succeeding year, the court may appoint some suitable person as watermaster to operate and control said water, ditch, and reservoir for the ensuing years. Said appointment be made upon request of either party upon five days notice.

It is further ordered, adjudged, and decreed that the defendant and his successors in interest, and the plaintiff and his successors in interest be perpetually enjoined and restrained from withdrawing any stored water from said reservoir during the non-irrigating season, viz; between October 31 and April 1 each year hereafter. And from, in any way, interfering with the watermaster in performing his duties. That the person appointed by this court to take charge of, manage, regulate, and control such reservoir, and

-1-

the waters therein, be and hereby is empowered to lock and keep locked and regulate the discharge gate from said reservoir during the irrigation season. Such person be further empowered to deliver to the plaintiff and defendant their proportionate share of the water impounded in said reservoir, during the irrigation season of each year hereafter. That such person be further authorized and empowered to manage, repair, and clean and maintain such diversion ditch and such reservoir; to demand and receive of the plaintiff one-fifth of the expenses incurred in such operation and demand and receive four-fifths of such expenses so incurred from the defendant. That the person appointed shall be and here is authorized and empowered to withhold and refuse to make delivery of water to either party hereto until such estimated costs of maintenance apportioned to each party for the current year shall have been paid.

Dated at Coaling, Idaho this 8 day of May, 1945.


District Judge

IN THE DISTRICT COURT

Of the Fourth Judicial District of the State of Idaho,

In and for the County of Gooding

HOWARD H. KELSO

Plaintiff

vs.

LEONARD STROUT

Defendant

Case No. 3656

I, the undersigned, Clerk of the District Court of the Fourth Judicial District of said State, in and for said County, do hereby certify the foregoing to be a true copy of the judgment entered in the above entitled action, and recorded in Judgment Book 7 of said Court, page 270. And I further certify that the foregoing papers hereto annexed constitute the Judgment Roll in said action.

WITNESS my hand and the seal of said Court this 20th

day of August, A. D. 1915.

Bert Bowler

Clerk.

By

Deputy Clerk.