

75-4088

AFFIDAVIT

I, Ronald L. Cooper of Anchorage, Alaska do solemnly swear that my below statement pertaining to the early surface water use history of property on the north fork of Tower Creek (Twp 23N, R 22E: SE ¼ of NE ¼ of Section 8, and SW ¼ and S ½ of NW ¼ of Section 9) is true:

"As I stated in "Centennial History of Lemhi County, Volume III" page 804, " In the late 1800's, Dan and Bill Thornburg, twin brothers from North Carolina, came to Boyle Creek and lived on the ranch one-half mile up the Left Fork." Dan Thornburg was my great-grandfather and to the best of my family recollection, that surface water usage for beneficial use was begun in approximately 1892. They farmed the land for hay, vegetable garden and started a large apple orchard, all of which required ditches for gravity irrigation from the creek. The original cabin was a log structure with a lean-to and was built west of the present barn and below the irrigation ditch. Bill's wife Sarah Saphronia died on the ranch December 19, 1905. On February 7, 1905, Dan's daughter (my grandmother Lula) married Erle Embley and they ranched the area at the head of the east fork. In 1910, my mother Thelma Embley was born.

Note: Tower Creek was first known as Cherry Creek, then Boyle Creek for many years until the Forest Service renamed it to conform to the name given it by the Lewis & Clark Expedition.

Because the Thornburg's had developed extensive irrigation ditches, hayfields, orchard and garden areas, it is believed that the twins applied for ownership of this property under the Homestead Act and "posted notice" of water rights in those early years, but I believe that records of those events were either not acted on or were misplaced in County filings. Sometime in early 1906, Orson and Verna Kellog (my grandfather's sister) purchased the Thornburg property and built the present-day two-story house from sawn lumber. Certificate of Register for the property was granted to the Kellog's a few years later."

IN WITNESS WHEREOF,

Ronald L. Cooper Date July 29, 2005

Ronald L. Cooper

State of Alaska)

ss

County of _____

On this 29th day of July, 2005, before me, the undersigned a Notary Public in and for said State, personally appeared Ronald L. Cooper known to me the person whose name is subscribed to within instrument, and acknowledged to that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year in this certificate first above written.

Susan M. Vancil

Notary Public for Alaska. Residing at Anchorage, AK
My Commission Expires: 9/13/06

Susan M. Vancil, Notary Public
State of Alaska

My Commission Expires 9/13/2006

State of Idaho

County of Lemhi

To all concerned:

Notice is hereby given:

1st That H. O. Billings Esq. Chas. E. Regnier of Lemhi County, State of Idaho, hereby claim the use of the waters of the North Fork of Boyle Creek to the extent of One $\frac{1}{2}$ Acre 1 $\frac{1}{2}$ Lay cubic feet per second. 2^d It is intended to divert said water at or near the point where a copy of this notice is posted. 3rd more definitely described as follows: Four hundred $\frac{1}{2}$ fifty-five $\frac{1}{2}$ one lay 45 5 $\frac{1}{2}$ rods north of the point where the North Fork of Boyle Creek join $\frac{1}{2}$ eighteen rods more or less. South of Winchester house on the North Fork of Boyle Creek. 3^d The purpose for which said water is intended to be used is for irrigation. The place of intended use is along the North Fork of Boyle Creek. 4th It is intended to divert said water by means of Canal. The general course of the proposed canal is South. The length of the proposed canal is three hundred $\frac{1}{2}$ twenty (320) rods more or less. It is intended to use said water for irrigating the following described lands. One hundred $\frac{1}{2}$ twenty (120) acres along the North Fork of Boyle Creek. 5th It is intended to have the water for dividend $\frac{1}{2}$ use of said water as aforesaid. completed within two years.

Witness our hand at Boyle Creek. Idaho. this 19th day of March 1898.

H. O. Billings }
Chas. E. Regnier. } Co-claimants.

State of Idaho }
County of Lemhi } ss.

That H. O. Billings being first duly sworn depose & say: That he is of lawful age and one of the claimants of the Water Rights mentioned in the foregoing notice. & whose name is subscribed thereto. That the aforesaid notice and notice are true and that the original notice of which the foregoing is a true copy. was posted in a conspicuous place at or near the place of intended diversion (as provided by law) on the 13th day of March 1898. at 19 minutes past 4 o'clock P.M.

H. O. Billings

Subscribed and sworn to before me this 1st day of April 1898. And I further certify that on the date last aforesaid given personally appeared before me the applicant above named. & known to me to be the person whose name is subscribed to the within instrument.

I acknowledge to me that he executed the same. In Witness Whereof, I have hereunto set my hand & affixed my seal the day & year with this certificate first above written.

J. P. Clough
County Recorder.

STATE OF IDAHO,
County of Lemhi. } ss.

I hereby certify that this instrument was filed for record at request of

H. O. Billings

at minutes past 1st day of April A. D. 1898. In my office, and recorded in book B of Water Rights 273.
J. P. Clough
County Recorder.

Quitclaim Deed.

Instrument, No. 6114

This Indenture, Made the 24th day of October in the year of our Lord one thousand nine hundred and seven

between

William J. Thornburg

of Boyle Creek County of Lemhi and State of Idaho, the party of the first part, and

John H. Dryer

County of Lemhi State of Idaho of Boyle Creek
 WITNESSETH, that the said part Y of the first part, for and in consideration of the sum of Dollars, Five Hundred in hand paid by the said part Y

lawful money of the United States to him in hand paid by the said part Y of the second part, the receipt of which is hereby acknowledged, does REMISE, RELEASE and forever QUITCLAIM unto the said part Y of the second part, and to his heirs and assigns, the following described real estate, situated on Boyle Creek in the County of Lemhi and State of Idaho, to-wit:

That certain possessory claim on the public domain of the United States, known as the Billings Ranch, and extending along Boyle Creek for a distance of one mile, between two and three miles from the public road extending along the Salmon River; together with the buildings, corrals, fencing and other improvements thereon, and also all ditches and water rights used in connection therewith, and particularly that certain water right from Boyle Creek, described in the notice thereof of record in Book "B" at page 273 of Water rights in the office of the Recorder of Lemhi County, Idaho.

together with all the tenements, hereditaments and appurtenances thereunto belonging, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest property, possession, claim and demand whatsoever as well in law as in equity, of the said part Y of the first part, of, in or to the said premises, and every part and parcel thereof.

TO HAVE AND TO HOLD, all and singular the said premises, with the appurtenances

unto the said part Y of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, the said part Y of the first part has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of

W. C. Smith

William J. Thornburg (SEAL)

(SEAL)

STATE OF IDAHO,
 County of Lemhi } ss.

On this 24th day of October 1907, before me W. C. Smith

a Clerk of the District Court in and for said County, personally appeared

William J. Thornburg

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same; and on this day of

1907, before me, the officer above described, personally appeared

known to me to be the person whose name is subscribed to the within instrument, described as a married woman, and upon an examination without the hearing of her husband, I made her acquainted with the contents of the instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

W. C. Smith

Seal

Clerk of the District Court

STATE OF IDAHO,
 County of Lemhi, } ss.

I hereby certify that this instrument was filed for record at request of John H. Dryer

at minutes past 3 o'clock P.M., this 24th day of October A. D. 1907, in my office, and duly recorded in Book 0 of Deeds at page 190

W. C. Smith