

RECEIVED

SEP 14 2005

August 23, 2005

Department of Water Resources

Re: Claim # 75-04078B

State of Idaho
Department of Water Resources
PO BOX 83720
Boise, ID 83707-9815

Enclosed is the cert. filed
proof of beneficial use I recently
obtained from the Lemhi Co.
Courthouse, to be added
to my f. b. e. *Robert Howard*

In response to your letter of June 29, 2005 the following information is submitted in support of the Beneficial Use claim for irrigation purposes with priority date of 05/11/1893. Unfortunately, since I currently reside temporarily in Southern Utah, I do not have immediate access to either the records and legal documents stored at my home in Salmon (which I still own), nor to the Lemhi County Courthouse records. **I hereby request an extension of at least 60 days to complete this letter of response and obtain the necessary collaborating documentation.**

The claim is based on physical evidence still clearly visible on the property. Our lot, Lot 20, Chinook Subdivision was once part of the original Shoup Ranch. It was later part of what is now known as the Sims Ranch. To the best of my knowledge, the Sims Ranch was subdivided in the late 1970s or early 1980s. The ditch, known locally as the Fife Ditch (or more recently the Edwards Ditch) remained and has diverted water from the Salmon River on a continuous basis since 1893 for irrigation purposes, primarily on the Fife property to the north of the Williams Creek Road.

This claim pertains to only about 7 acres of the total 8.5 acres of the property. A old lateral ditch off the Fife Ditch (from which the diversion structure was removed prior to my ownership of the property) was used for many years until the diversion structure was removed to irrigate the lower part of my property (and crosses under the Williams Creek Road to irrigation a portion of the Fife Ranch property, now operated under a lease arrangement by Paul Edwards). That ditch is still clearly visible above the lower 7 acres of my property and capable of carrying water.

I do not know the date that the original diversion structure was removed, but Rex Tollman (deceased), former owner of the adjacent Tollman Ranch, told me when I bought the property in 1988 that flood irrigation of the lower 7 acres of my property had continued uninterrupted from the Fife Ditch after that, using another diversion structure (a culvert blocked by plywood) about 100 yards below the former diversion structure. Mr. Tollman himself irrigated the lower 7 acres of my property on a regular basis from 1988 to about 1995, in exchange for the hay it produced. My wife Nancy and I have grazed llamas and horses on that part of our lot since 1988, and we continued to irrigate the property every year until 2003, when the culvert structure we used as a point of diversion was removed from the Fife Ditch by Paul Edwards (without the permission of the owner of the property that is was located within-another lot owner in the Chinook Subdivision). At about the same time, we moved to Utah, rented the property, and have

as yet been unable to re-establish a point of diversion in the ditch (thought we plan to do so when we return to Idaho in 2006).

Therefore-to the best of my knowledge, the lower 7 acres of my property (below the old lateral ditch) has been continuously irrigated from the Fife Ditch until 2003, and should share the priority date established by the Water Court for that ditch under this adjudication (which I believe to be 1893).

It is also requested that the Court note that only portions of three lots in the Chinook Subdivision share this distinction (those below the old lateral ditch). Evidence exists that the remainder of the subdivision, including the upper 1 and 1/12 acres of my lot, was historically flood (and later sprinkler) irrigated mostly by wastewater (and spring water) from the Tollman Ranch, which originates in Perreau Creek (and perhaps some from Williams Creek)-not from the Fife Ditch. Therefore, this claim should NOT be construed to pertain to that upper bench (the vast majority) of the Chinook Subdivision-nor should any finding pertaining to claims in that area be extrapolated to include the lower 7 acres of my property below the old lateral ditch.

I would appreciate your early acknowledgement of my request for additional time to research this claim further and provide additional evidence for the adjudication. Thank you for your consideration.

Sincerely,

ROBERT A RUSSELL

Geo. L. Shoup

Desert Lands &
Certificate No 2, 51

The United States of America, presents shall come, Greeting;

Whereas George L. Shoup of Lemhi County, Idaho, has deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Natick, Idaho whereby it appears that full payment has been made by the said George L. Shoup, according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the Public Lands and the acts supplemental thereto, for

The South-East quarter of the North-West quarter; the South-West quarter of the North-East quarter; the East half of the South-West quarter and the lots numbered two; three; four; five; six; seven; eight; nine; eleven and thirteen of Section Six, and the lots numbered one, five and six of Section seven, in Township twenty North of Range twenty-two East of Boise Meridian in Idaho, containing five hundred and eighty-eight acres, and twenty-eight hundredths of an acre according to the Official Plat of the Survey of the said Lands, returned to the General Land Office by the Surveyor General, which said Tract has been purchased by the said George L. Shoup

Now Knowye, That the United States of America, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said George L. Shoup and to his heirs, the said Tract above described:

To have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said George L. Shoup and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietors of the property of water or lands to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law.

In testimony whereof I, Benjamin Harrison, President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the twelfth day of January, in the year of our Lord one thousand eight hundred and ninety-three and of the Independence of the United States the one hundred and seventeenth

(Seal)

By the President: Benjamin Harrison

By E. M. Garland, Asst Secretary

Recorded Vol. 2 Page 57. S. P. Roberts, Recorder of the General Land Office

Recorded at the request of Geo. L. Shoup May 11th 1893, at 45 minutes past 10 o'clock A.M. in Book G of Deeds page 17 Records of Lemhi County, Idaho.

Timothy Dore
County Recorder