

MEMO

DATE: January 26, 2005

TO: Harold Jones

FROM: Cindy Bird

SUBJECT: Steven's Decree

When I was looking at the Daniel Miller rights (27-26) I ran across a document that might be of interest to you when looking at the Fox and Whitten water under 27-23 with an 1880 priority date.

Gary Wright owns property that use to belong to Daniel Miller but conveyed Fox and Whitten water. It is not clear however how much of which water was conveyed. Did John D. Kent have 40 inches of Fox and Whitten 1880 water and 35 inches of Fox and Whitten 1885 water to convey to R. A. Thomson?

Is the 30 inches of water conveyed to George Wright from Susan Whitten in January of 1918 valid? Is this water in addition to the Fox and Whitten water conveyed to John D. Kent?

Gary Wright has not filed a claim for the Daniel Miller water. He may need to come into the office and file a claim for Daniel Miller (27-26) water. Gary has filed on 90 inches of Fox and Whitten 1880 water and 41 inches of Fox and Whitten 1885 water.

James Marriott and Kim Gunderson also own some of the Daniel Miller (John Kent) land and they have filed on both the Daniel Miller water and Fox and Whitten (1885) water.

June 26, 1940

Re: 13428 - R. A. Thomson
Blackfoot, AO-F11

Mr. Ross A. Soward
Secretary-Treasurer, 8-D
Blackfoot, Idaho

Dear Mr. Soward:

We have your letter of June 22nd in which you request information as to the waters decreed for this property.

The original application and appraiser's report give very little information concerning water rights but the appraiser's report indicates that there was supposed to be 60 inches of decreed water with this property.

Upon checking into the abstract I find that in the case entitled "Fred S. Stevens, et al, Plaintiffs, vs. Eastern Idaho Water Co., et al Defendants" in the District Court of the 5th Judicial District in and for the County of Bingham, Idaho, by decree entered August 1, 1891, 100 inches of the waters of Blackfoot River, with priority of April 1, 1883 was decreed to Daniel Y. Miller, and 1500 inches of the waters of Blackfoot River with priority of June 1, 1885 was decreed to A. Whitten and Susan E. Whitten, P. D. Fox and William Howard. Our abstract of the decree does not show for which property these rights were decreed.

However, Daniel Y. Miller appears to have been the owner of the property being sold to Mr. Albert L. Bell on contract at this time.

By deed dated January 30, 1900, recorded in Book X, page 533, records of Bingham County, Idaho, Daniel Miller conveyed this property to John D. Kent "together with 25 inches of water out of Blackfoot River in Bingham County, Idaho, at low water mark as per decree of the 5th Judicial District Court of said County, dated August 1st, 1891."

By deed dated September 27, 1910, recorded in Book 19, at page 482, records of Bingham County, Idaho, John D. Kent conveyed this property

Kent - Albert Bell Property

The other portion of the Albert L Bell property - W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 13, Township 3S Range 34E was deeded to James Marriott then deeded to the following persons:

Michael Main (See page 10)
644 W 300 S
Blackfoot, ID 83221,

Paul & Linda De McDaniel (See page 11 & 12)
275 S 625 W
Blackfoot, ID 83221,

Tricia L Gay (See page 13 & 14)
639 W 275 S
Blackfoot, ID 83221

and

Kim Gundersen - WATER RIGHT NO. 27-26E (See page 15)
648 W 300 S
Blackfoot, ID 83221.

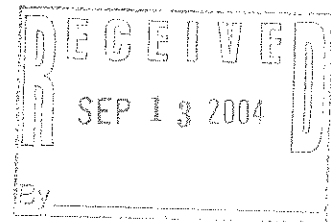
No specific water rights were mentioned in the property deeds (see below), however there were 25 inches of the Daniel Y Miller decree on the Albert Bell property not deeded with the portion of property deeded to Gary Wright. It appears that the owners of this property would have claim on this 25 inches of water.

Note: Water Right 27-26D (James Marriott) claimed 1.2 CFS and Water Right 27-26E (Kim Gundersen) Claimed 0.8 CFS; however, there was only 25 inches (0.5 CFS) of the decreed water deeded to this property.

The deed from Kent to Thomson did also mention 100 inches of appropriated water in addition to the decreed water. (Whatever that means?)

Based on the 25 inches of the Daniel Miller decree remaining of the 20 acres (W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13 TS 3S Range 34E) it appears that each acre would be entitled to 1.25 inches of the decree since none of the deeds mentioned a specific water right transfer.

ORIGINAL



Daniel Y Miller Property & Water Rights

April 17, 1889

140

United States To Daniel Y. Miller.

4-17-1889

Final Receiver Receipt, No. 812 Application made
Furnished
April 17th 1889,

Received of Daniel Y. Miller the sum of six
dollars cents being the balance of judgment
required by law for the entry of Lot one and two
and 1/4th of Sec. 24, the 3/4th of Sec. 13 in
Twp. 3, S. R. 34 E. B. M. and Lot 1 of Sec. 19 in
Twp. 3, S. R. 35 E. B. M. containing one hundred and
fifty eight 1/2 acres under sec. 2291 of the Revised
Statutes of the U.S.
\$6.00

John Montgomery
Receiver.

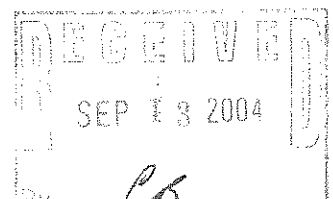
Recorded at the request of
Barnaback and Lamb. April 20, 1889.
at 4-50 P.M.

Leah Robetham, Recorder.
By J. B. B. B. B. Deputy.

ORIGINAL

2

G:\basin27\stevens27\26danielmiller\danielmillerdecree-originaldistribution



Daniel Y Miller Property & Water Rights

27 January 1894

THE UNITED STATES OF AMERICA.

Secret Land
Certificate No. 527

To all to Whom these Presents shall Come--GREETING:

WHEREAS, Daniel Y. Miller
of Bingham County Idaho
has deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Blackfoot, Idaho whereby it appears that full payment has been made by the said Daniel Y. Miller according to the provisions of the Act of Congress of the 24th of April, 1820, entitled, "An Act making further provisions for the Sale of the Public Lands," and the acts supplemental thereto, for the

East half of the Southeast quarter of section thirty
ten in township three south of range thirty
four east of Boise Meridian in Idaho, contain
ing eighty acres.

according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General, which said Tract has been purchased by the said Daniel Y. Miller

NOW, KNOW YE, 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 Daniel Y. Miller 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 they may belong unto the said Daniel Y. Miller 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 proprietor of a vein or lode, to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Grover Cleveland 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 twenty seventh day of January, in the year of our Lord one thousand eight hundred and ninety four, and of the Independence of the United States the one hundred and eighteenth.

BY THE PRESIDENT: Grover Cleveland
By Mr. McKean Secretary.
Recorded Yd. 9a Page 16 L. D. Lamm Recorder of the General Land Office.

Filed for record at 4 o'clock 0 M. Feb 23 A. D. 1894 and recorded at the request of D. Y. Miller
By Wes F. Hagon Deputy. Recorder

1-27-1894

ORIGINAL

1

Sill basin 27/stevens 27/26 Daniel Miller / Daniel Miller
decree- original

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3.2

Daniel Y Miller Property & Water Rights

25 inches of Daniel Y Miller Decree

1-30-1900

Daniel Y. Miller,
Annie H. Miller,
TO
John D. Kent.

THIS INDENTURE, made the 30th day of January in the year of our Lord 1901 between Daniel Y. Miller and Annie H. Miller his lawful wife of the County of Bingham and State of Idaho the part 100 of the first part, and John D. Kent of the County of Bingham and State of Idaho the part 1 of the second part.

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of Seven hundred and fifty DOLLARS lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents GRANT, SELL, BARGAIN and CONVEY and CONFIRM unto the said party of the second part, and to his heirs and assigns forever, all the certain lot or piece or parcel of land situate, lying and being in the County of Bingham and State of Idaho and bounded and described as follows, to-wit:

The West half of the Southwest quarter of the Southeast quarter (W-1/2 NW-1/4 SE-1/4) section thirteen (13) and the West half of the Northwest quarter of the Northwest quarter (W-1/2 NW-1/4 of NW-1/4 of NE-1/4) and the West half of lot two (2) of section twenty-four (24) in township three (3) south of range thirty-four (34) east of the Boise Meridian, containing sixty-one and sixty one hundredths acres (61.66/100), together with twenty-five (25) inches of water out of the Blackfoot River, in Bingham County, Idaho, at low water mark as per decree of the Fifth (5th) Judicial District Court of Bingham County, Idaho, dated August First (1st) 1891, together with all ditches and ditch right away thereunto appertaining.

Together with all and singular the tenements, hereditaments and appurtenances therunto belonging or in any wise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereto incident, unto the said party of the second part, and to his heirs and assigns forever, and the said party of the first part and their heirs, and the said premises in quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said party of the first part and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hand and seal the day and year first above written.

Given, sealed and delivered in the presence of
Geo. L. Wall.

Daniel Y. Miller. (SEAL)
Annie H. Miller. (SEAL)
Geo. L. Wall. (SEAL)

STATE OF IDAHO, }
County of Bingham, } ss. I DO HEREBY CERTIFY that on this 30th day of January in the year of 1901, before me, Geo. L. Wall, Notary Public, known to me to be the person in and for said County and State, personally appeared Daniel Y. Miller, whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he executed the same.

AND I DO HEREBY CERTIFY that: On this 30th day of January, in the year of 1901, before me, Geo. L. Wall, Notary Public, in and for said County and State, personally appeared Annie H. Miller, known to me to be the person whose name is subscribed to the within and foregoing instrument, described as a married woman, the wife of the above named Daniel Y. Miller, and upon an examination separate and apart from and without the hearing of her said husband, I read her acquainted with the contents of the instrument, and thereupon, without the hearing of her said husband, she acknowledged to me that she executed the same and that she does not wish to retract such recognition.

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

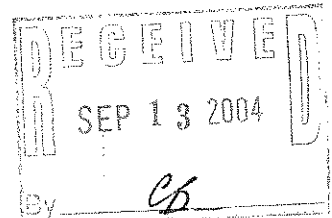
Geo. L. Wall,
Notary Public

My commission expires Oct. 22nd 1901

Recorded at the request of John D. Kent, October 16th 1901, at 1:15 minutes past 11 o'clock A.M.

Geo. F. Cason, Recorder.
By J. H. Cason, Deputy.

ORIGINAL



Kent - Albert Bell Property

482

WARRANTY DEED

BOOK NO. 19

9-27-1910

This Indenture, Made this 27th day of September in the year of our Lord one thousand nine hundred and ten between John D. Kent and Amanda C. Kent his wife of the County of Blaine and State of Idaho the first part, and R. A. Thompson of the County of Blaine and State of Idaho the part of the second part, WITNESSETH, That the said part first, for and in consideration of the sum of Sixty six hundred and no/100 (\$6600.00) Dollars, have granted, sold, conveyed and confirmed unto the said part second, his heirs and assigns forever, all the certain lot, piece or parcel of land situate, being and lying in the County of Blaine and State of Idaho, and bounded and described as follows, to-wit:

The west half (W₁) of the southwest quarter (SW₁) of the southeast quarter (SE₁) of section thirteen (13) and the west half (W₁) of the Northwest quarter (NW₁) of the Northeast quarter (NE₁) and the West half (W₁) of Lot two (2) all of Section twenty four (24) in Township three (3) South of range thirty four (34) East of Boise Meridian in Idaho containing 61.61 acres; together with 100 inches of appropriated water right out of Blackfoot River and 25 inches of decreed water right in low water season; Also all ditches and ditch rights of way.

Together with all and singular the tenements, hereditaments and appurtenances thereto in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereto incident, unto the said part second, his heirs and assigns forever, and the said part first, his heirs and assigns, against the said part second, his heirs and assigns, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

W. H. Stuffelbeem

John D. Kent
Amanda C. Kent

SEAL OF IDAHO
County of Blaine

I, W. H. Stuffelbeem, Clerk of the County of Blaine, do hereby certify that on this 27th day of September in the year 1910, before me, the said W. H. Stuffelbeem, John D. Kent and Amanda C. Kent his wife, personally appeared the said John D. Kent and Amanda C. Kent, who acknowledged to me that they executed the foregoing instrument for the purposes and consideration therein expressed.

W. H. Stuffelbeem

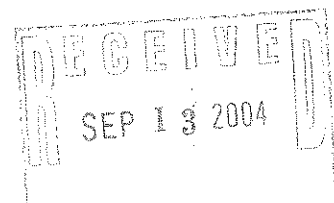
Notary Public

My commission expires March 22, 1911 at 10:00 A. M.

Recorded at the office of W. H. Stuffelbeem March 22, 1911 at 10:00 A. M.

W. H. Stuffelbeem

ORIGINAL

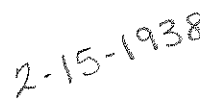


John D Kent to R.A. Thomson – 27 September 1910

1-20-1938

ORIGINAL

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RECEIVED
SEP 3 2004
BY

Kent - Albert Bell Property

WARRANTY DEED
1-26-1945
THIS WARRANTY DEED, made this 26th day of January, 1945, between THE FEDERAL LAND BANK OF SPOKANE, a corporation organized and existing under the act of Congress known as the Federal Land Bank Act, as amended, with its principal place of business in the City of Spokane, State of Washington, the party of the first part, and Albert W. Bell, his wife, parties of the second part,

WITNESSETH: That the party of the first part, for and in consideration of the sum of one dollar (\$1.00) and other good and valuable considerations, receipt of which is hereby acknowledged, does by these presents Grant, Bargain, Sell, Convey and warrant to the parties of the second part, and to their heirs and assigns forever, the following described real estate, situate in the County of Bingham, State of Idaho, to wit:

The West half of the Southwest Quarter of the Southwest Quarter of Section Thirteen, and the West half of the Northwest Quarter of the Northeast Quarter, and the West half of Lot Two in Section Twenty-four, all in Township Three South of Range Thirty-four East of the Boise Meridian;

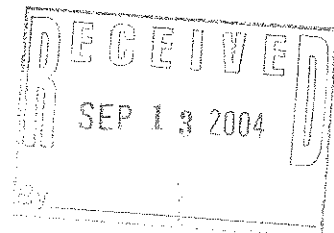
44.40 I.R.S. attached and cancelled.

Together with all the tenements, hereditaments, rights, privileges and appurtenances therunto belonging, and all waters and water rights, and all watering and irrigating canals and fixtures which are appurtenant to or incident to the ownership of said premises, but nothing herein contained shall be construed as a warranty of any water right.

To have and To hold said premises unto the parties of the second part, their heirs and assigns forever, subject to the following:

1. Unpaid taxes, assessments and water charges, including but not limited to those levied or imposed by the United States Reclamation or Indian Service or by any water or irrigation or drainage district or company, and all other unpaid charges, liens or assessments imposed by or pursuant to law on the above described property, including any and all deferred charges, becoming due subsequent to the year 1936.
2. Any lien imposed by law by reason of the outstanding indebtedness of any drainage, irrigation or other special improvement district; and any lien or encumbrance revived or placed

ORIGINAL



Kent - Albert Bell Property

Kim Gundersen

483126

WARRANTY DEED

Order No.: 3029900127-L

FOR VALUE RECEIVED

James M. Marriott and Colleen Marriott, Husband and Wife

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Kim C. Gundersen and Tamara J. Gundersen, Husband and Wife

whose current address is

1671 Frontage Rd. Blackfoot, ID 83221

the grantee(s), the following described premises, in Bingham County, Idaho, TO WIT:

Parcel 1:

Part of the West Half of the Southwest Quarter of the Southeast Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 13, Township 3 South, Range 34 East of the Boise Meridian, Bingham County, Idaho described as follows:

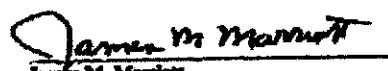
Beginning at the South Quarter corner of said Section 13 and running thence North 89°13'51" East 224.90 feet along the section line to the Southwest corner of the property as described in Instrument No. 427243; thence along the boundary of said property the following three (3) courses: (1) North 00°46'09" West 246.26 feet; thence (2) North 89°13'51" East 180.85 feet; thence (3) South 14°36'41" East 253.63 feet to the South line of said Section 13; thence North 89°13'51" East 193.95 feet along said South line to the East line of said West Half of the Southwest Quarter of the Southeast Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 13; thence North 00°29'33" East 639.68 feet along said East line to the centerline of an existing irrigation ditch; thence South 86°51'44" West 661.53 feet along said existing irrigation ditch to the West line of said West Half of the Southwest Quarter of the Southeast Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 13; thence South 00°29'37" West 612.33 feet along said West line to the Point of Beginning.

SUBJECT TO an existing County Road right-of-way along the South side of the above described parcel.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is the owner(s) in fee simple of said premises; that they are free from all encumbrances Except Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: September 14, 1999


James M. Marriott


Colleen Marriott

State of Idaho

County of Blaine

483126

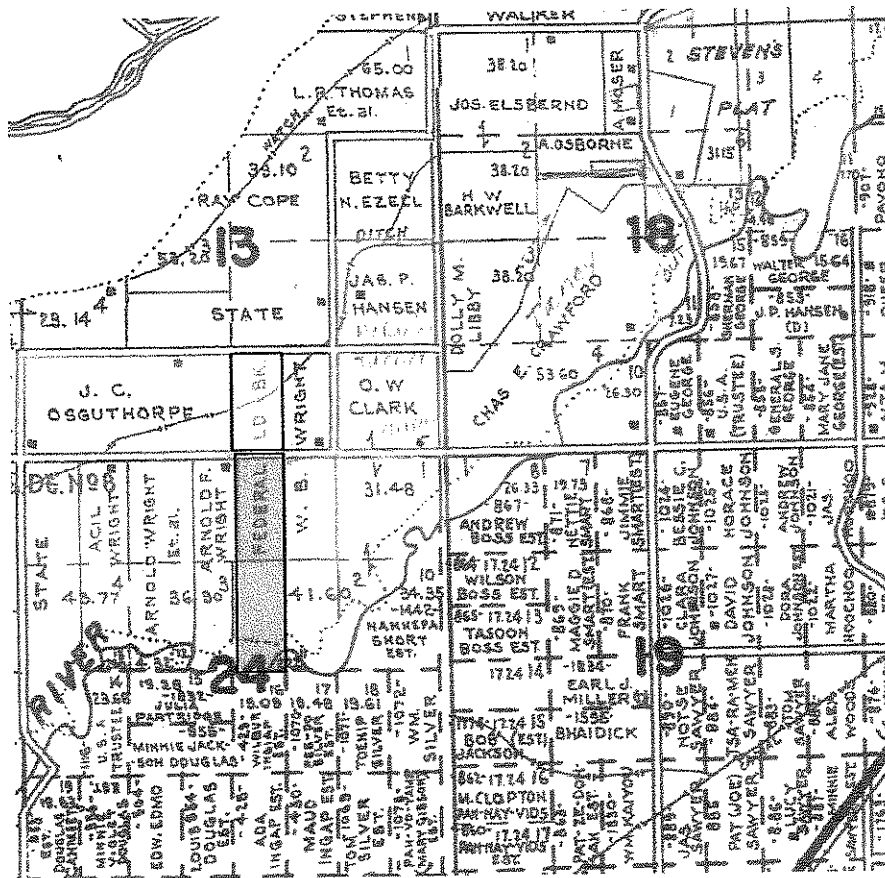
Kim Gundersen

9-14-1990

14

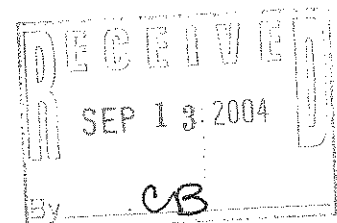
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Reference: See the **Daniel Miller** file for initial data on the distribution of the 100 inches of the decreed water.



- See page 9 of this document for summary of Bell to Marriott 25 inches of Daniel Y Miller Decree.

ORIGINAL



9:11 basin 27 / Stevens 27 / 26 Daniel Miller

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
27	26	A	Decreed	Active	1885-03-25	0.58	BLACKFOOT RIVER	IRRIGATION	STECKLEIN, LA VERELLE (Current)	wrAdjudicationClaim
27	26	C	Decreed	Active	1884-10-01	0.42	BLACKFOOT RIVER	IRRIGATION	POWERS, CHARLIE M (Current)	wrAdjudicationClaim
27	26	D	Decreed	Active	1884-10-01	1.2	BLACKFOOT RIVER	IRRIGATION	MARRIOTT, COLLEEN R (Current); MARRIOTT, JAMES M (Current)	wrAdjudicationClaim
27	26	E	Decreed	Active	1884-10-01	0.8	BLACKFOOT RIVER	IRRIGATION	GUNDERSEN, KIM CALVERT (Current)	wrAdjudicationClaim
27	26		Decreed	Active	1884-10-01	2	BLACKFOOT RIVER	DOMESTIC, IRRIGATION	MILLER, DANIEL Y (Current)	wrWaterRight