

29-4006 & 29-2302.

9/24/02 2:30pm Loren Smith visited my office to discuss the letter requesting evidence of priority for 29-4006.

Loren said the original system in 1956 when the examiner was out had a buried 6 or 8" pipe to an open ditch in the SENESEW of section 26. The open ditch ran west to a point east of the river between the NWSE & NESE in section 27. At that point they had a tractor with a PTO pump, pump the water north through a portable alum. pipe and irrigated with handlines. The hand lines ran east & west to irrigate the land in SWNE, SENE, NWSE and NESE of section 27.

Loren called Dyke Electric and in 1958 is when they purposed the 75 hp pump, and had it installed by Dyke Electric. The serial number of the pump is F-269469. At that time they buried a steel mainline west to irrigate the property with handlines that ran north & south.

In 1992, the installed a pivot and irrigate the corners with handlines.

In 1958, stopped irrigating to the river in the NESE of section 27, and put the land in SWNW of section 26 into production.

See attached drawing on the contractors map.

Lester Smith is Loren's grandfather. His dad Delmo was buying this property on contract in 1951. He finally paid it off in 1955, when he received his warranty deed.

Delmo rented (leased) the ground from Lester in 1951, but it wasn't until 1955 that he made arrangements to purchase the property.

THIS INDENTURE MADE THIS 2 day of December, 1955, between Lester Smith and Bregretta Smith, husband and wife, of Bancroft, Caribou County, Idaho, parties of the first part, and Delmo Smith and Mada Smith, husband and wife, of Bancroft, Caribou County, Idaho, parties of the second part.

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of TEN AND NO/100 (\$10.00) dollars, lawful money of the United States of America, and other valuable considerations, to them in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, do by these presents, grant, bargain, sell and convey and confirm unto said parties of the second part, to their heirs and assigns forever; all those certain lots, pieces or parcels of land situate, lying and being in the County of Caribou, State of Idaho, bounded and more particularly described as follows, to-wit:

All of that property in the Southwest one-quarter ( $SW\frac{1}{4}$ ) of Section 26, Township 7 South, Range 38 East of the Boise Meridian, lying and being southerly and Easterly of the Kelly Road as the same now exists: also

The South half of the Northeast quarter, the North half of the Southeast quarter of Section 27; the Southeast quarter of the Northwest quarter, the East half of the Southwest quarter, and the Southwest quarter of the Southeast quarter of Section 23: all in Township 7 South, Range 38 East of the Boise Meridian, in Caribou County, Idaho.

Together with the following property:

2000 shares of water in the Kelly Topence Canal Company; 50 shares of Stock in the Chesterfield Land and Livestock Company.

for the sum of \$35,000.00 which amount shall be paid as follows, to-wit:

\$2000.00 shall be paid upon the signing of this agreement and be a down payment, and the sum of \$2112.40 to be paid on or before the 1st day of December, 1956, and on or before the 1st day of 1957.

of the first, to the said premises in the quiet and peaceable possession of the said parties of the second part, to their heirs and assigns against the said parties of the first part and against all and every person or 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.

1st Lester Smith

1st Bregretta Smith

STATE OF IDAHO )  
                                  : ss.  
COUNTY OF CARIBOU )

On this 7th day of December, 1955, before me, the undersigned, a Notary Public, and for said state, personally appeared Lester Smith and Bregretta Smith, husband and wife, of Bancroft, Caribou County, Idaho, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

[Signature]  
Notary Public  
Residence: Soda Springs, Idaho  
Commission Expires: 4-10-57

STATE OF IDAHO }  
County of Caribou } SS 110752

I Hereby certify that this instrument was filed  
at the request of Lester Smith  
at 10:25 o'clock P M this 18 day of  
December 1955 in my office and duly

---

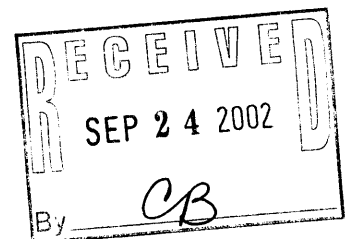
Fairbanks Morris  
Motor - Installed  
1958 - Dykes  
Electric -

SERIAL # F-269469

Type - QZKV

Spec - 0605

Frame - 045PV





State of Idaho

**DEPARTMENT OF WATER RESOURCES**

15 West Center Street, Soda Springs, ID 83276

Phone: (208) 547-3993 Fax: (208) 547-3939 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

September 6, 2002

Loren Smith  
Smith Family Partnership  
2651 Kelly Toponce Road  
Bancroft, ID 83217

REF: Snake River Basin Adjudication Claim  
A29-4006

Subject: Evidence of Priority

**RESPONSE DATE: October 7, 2002**

Dear Loren,

As part of the licensing process a state examiner visits the property to determine if the water was put to beneficial use under the permit. In the examiners report for the well under 29-2302 on July 10th, 1956 he described a 30 hp Westinghouse motor, serial number 17-22V163 and an 8" discharge into a closed system to the east to the fields by sprinklers. This statement conflicts with both your recollection of the open ditch and the Statutory Claim (29-4006) filed by your dad in March of 1969, where he described a 75 hp pump and 2600 feet of 8 and 5/8's inch steel pipe. The 1/2 mile of pipe would be just enough to get to the property line and not enough to get the pond you described in the NWSE of section 27.

Sometime between when the examiner visited the property in 1956 and the 75 hp pump was installed is when it appears that the additional 160 acres was irrigated. If the 75 hp pump was installed in 1969, which falls after the 1963 mandatory permit statute, as indicated on the statutory claim then the adjudication claim would be recommended as an enlargement to the license. If it was developed prior to the 1963 mandatory permit statute then it could be recommend as a beneficial use claim but it would be restricted to the flow measured by the examiner with the 30 hp pump. This would mean that the additional 160 acres could be irrigated but it would be restricted to the 1.6 cfs under the license.

To establish existence of irrigation of the additional 160 acres, you must submit persuasive evidence of when the 75 hp pump was installed. This office must receive your

response by the response date shown above. If you have any additional questions, please feel free to contact me at 547-3993.

Respectfully,

Cindy E. Bird  
Adjudication Bureau

Enclosures: Copy of Statutory Claim 29-4006  
Copy of Examiners report on 29-2302



State of Idaho

DEPARTMENT OF WATER RESOURCES

15 West Center Street, Soda Springs, ID 83276

Phone: (208) 547-3993 Fax: (208) 547-3939 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

July 15, 2002

Smith Ranch Family Partnership  
2651 Kelly Toponce Road  
Bancroft, ID 83217

REF: Snake River Basin Adjudication (SRBA) Claim 29-4006

Subject: Evidence of Priority

Dear Mr. Smith,

In reviewing the evidence of priority for statutory claim 29-4006 I have some additional questions. Statutory claim 29-4006 claims the same point of diversion as license 29-2302. The priority date under this license is September 10<sup>th</sup>, 1951 but your statutory claim claimed a priority date of June 1, 1951. How is that possible? If the claimed irrigated acres under the statutory claim was being irrigated prior to the land under the license it should have been claimed under the licensed. But this was not done and there was no reference to this additional land in the examiners report that was done in 1957.

So some additional clarification is needed to make a recommendation to the SRBA court on this statutory claim. The evidence of priority submitted in the file from Hazel Croney states that the land in "township 7 south, range 38 east, section 27, NE SWNE SENE, SE SWSE SESE, since 1951" was irrigated in 1951. This however doesn't jive with the license. If you have any additional questions please feel free to contact me at 547-3993. I look forward to hearing from you.

Sincerely;

Cindy E. Bird  
Adjudication Bureau

*Pip... m...*

*When was 75 hys p... installed?  
enlargement after 1952*