

State of Colorado
County of Denver) ss.

AFFIDAVIT OF ROY R. MOORE, JR.
(Apple Spring Claim)

I, Roy R. Moore, Jr., being first duly sworn, upon oath state that:

1. I am the General Partner of Rocking M Cattle Co., a limited partnership ("Rocking M").

2. Rocking M acquired the ranch land in Washington County, Idaho in about 1972. Currently, Rocking M owns an undivided 22.8% interest in the ranch property and Magness Racing Ventures, Inc. ("Magness") owns an undivided 77.2% interest.

3. There is an old fruit tree orchard (apple, apricot and plum trees) located along Dennett Creek, in SE quarter of SE quarter of Section 12. To my knowledge and belief, based on the apparent age of the trees, this orchard has been there from the time this area was homesteaded and developed in the early 1900s. Based on the priority dates of other water rights in the area, this would be from about 1908. There is a spring (called "Apple Spring") in that area that was used historically to irrigate the orchard.

4. In about 1980, Rocking M constructed a dwelling (called the "Lodge") at the edge of the Brownlee Reservoir, north of the mouth of Dennett Creek. (See the attached Map). The Lodge is a private dwelling and is not used for commercial purposes.

5. At the time the Lodge was constructed, water was diverted from Apple Spring to the Lodge via a pipeline that runs parallel to the Creek. The pipeline follows the Creek to an old point of diversion, crosses the Creek and runs parallel and between the Creek and the road to the Lodge. See the attached Map. The pipeline is buried most of the way.

6. The water is piped through the Lodge via a three-inch pipe and then is discharged onto a slope/draw where it waters some yard and trees before sinking. Water is also used for stockwater at the Lodge location.

7. The orchard is still watered somewhat by the spring, but the trees are no longer maintained.

8. There is no longer a domestic component to water right 69-2012.

9. I have reviewed this statement and have made all changes and corrections that I feel are necessary. This statement accurately reflects my knowledge about the ranch property, Apple Spring, historic use of water from Apple Spring, and current use of spring water at the Lodge. I understand that I am signing this affidavit under oath before a notary public. I swear under penalty of perjury that this statement is true and correct to the best of my knowledge and belief.

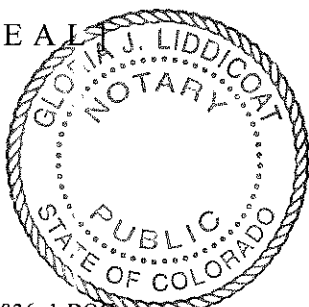
FURTHER THE AFFIANT SAYETH NAUGHT.

Date: March 19 2006

Roy R. Moore, Jr.
Roy R. Moore, Jr.

Subscribed and sworn to before me this 15th day of March, 2006.

[SEAL]



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My Commission Expires _____

Gloria J. Liddicoat
Notary Public for Colorado
Residing at Denver
My Commission Expires 9-14-09