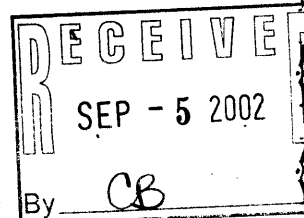


NO. 303.

ABSTRACT OF TITLE TO

The South half of the Southeast quarter of Section thirty-two (32), Township nine (9) South, Range thirty-six (36) East of the Boise Meridian in Idaho, containing eighty (80) acres, according to the official plat of the survey of the said lands returned to the General Land Office by the Surveyor General.

Together with any and all water, water rights, ditches and canals used, had and enjoyed in connection with said premises, and particularly ten (10) inches of the waters of Birch Creek, and one-half of the waters of Marley Creek.



Prepared for Dudley P. Armstrong,
August 17, 1905.

FILED 4

MORTGAGE.

Mortgagor, — Dudley P. Armstrong and Ada R. Armstrong, his wife.
Mortgagee, -- The Bannock Abstract, Deposit & Trust Company, a corporation.
Date, — June 1, 1911.
Consideration, -- Three Hundred Fifty (\$350.00) Dollars.
Recorded, -- July 14, 1911, 9:54 A. M., in Book "15" of Mortgages at page 415, of the Records of Bannock County, Idaho.
Acknowledged, — Before Edward Murphy, a Notary Public in and for Bannock County, Idaho, July 11, 1911. (Seal)
Witness, -- Edw. Murphy, Harry Hanson.

DESCRIPTION AND REMARKS.

The South half of the Southeast quarter of Section 32, Township 9 South, of Range 36 East of the Boise Meridian, in Idaho, containing 80 acres, according to the official plat of the survey of the said lands returned to the General Land Office by the Surveyor General.

Together with any and all water, water rights, ditches, canals and aqueducts used, had and enjoyed in connection with said premises and particularly 10 inches of the waters of Birch Creek and one half of the waters of Marley Creek.

This Grant is intended as a Mortgage to secure the payment of one certain promissory note for \$350.00, due five years after date with interest thereon at the rate therein specified.

FEB 14

AGREEMENT.

This Agreement, *Made and entered into the* twelfth *day of* April *in the year of our Lord one thousand eight hundred and ninety-* nine *hundred and two,*
BETWEEN Gwendolin Marley, widow, of Robin, County of Bannock
and State of Idaho, the party of the first part, and David Armstrong and
Dudley P. Armstrong of the same place,

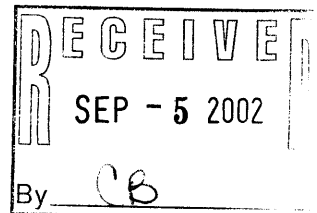
the parties of the second part.

WITNESSETH, that the said party Y *of the first part, in consideration of the covenants and agree-*
ments on the part of the said parties of the second part, hereinafter contained, agree s *to sell and convey*
unto the said parties of the second part, and the second parties agree to buy all that certain lot
piece or parcel of land, situate, lying and being in personal property in the
County of Bannock *and State of Idaho, and bounded and particularly described as follows, to-wit:*

One four-room log house with shingle roof; one log stable with dirt roof, one log granary with dirt roof; 200 rods of wire fence, and all other improvements situate on the south half of the southeast quarter and the south half of the southwest quarter of section 32, township 9 south of Range 36 east, together with all the right, title and interest of, the, party of the first part, of, in, or to the waters of Birch Creek, the same being about twenty inches, as shown by the water location made by said Gwendolin Marley and recorded in the office of the Recorder of said Bannock County. Together with all the right, title and interest of the said party of the first part in and to the waters of Marley Creek in said Bannock County.

S $\frac{1}{2}$ SE Sec. 32
S $\frac{1}{2}$ SW

Given and signed in presence of



To Melvin Henderson; one cubic foot of water per second of the waters of Birch Creek dating from July 1st 1879.

To the intervenor, Gwenlion Marley; two-fifths of a cubic foot per second of the water of Birch Creek dating from July 1st 1879. ^{20 inches} (0.40)

To Mary Davis; three-tenths of a cubic foot per second of the water of Birch Creek dating from April 1st 1881.

To Mark R. Lawrence; one-tenth of a cubic foot per second of the water of Birch Creek dating from July 1st 1888.

To Thomas Marley; three-tenths of a cubic foot per second of the water of Birch Creek dating from July 1st 1889.

That William Stinger is not entitled to any of the waters of said Birch Creek.

That the several amounts of water above decreed be measured and distributed to the said parties at their several points of diversion from the natural channel of the said Birch Creek except the right decreed in the said Lost Creek.

That the said waters of Birch Creek be measured under the Weir system in cubic feet per second of time. It is further ordered that each of the said parties to this suit construct and maintain at their several points of diversion respectively, substantial and uniform boxes, headgates and weirs for the measurement of their said water.

It is further ordered, adjudged and decreed that each and every of the said parties to this suit, their agents, attorneys, assignees and grantees, be and they are hereby restrained and perpetually enjoined from in any manner interfering with the waters of the said Birch Creek and of the said Lost Creek or exercising any other or greater rights with reference to the said waters than as herein decreed to the said parties respectively.

It is further ordered that each party to this suit pay his own costs.

Dated this 13th day of March, 1902.

Joseph C. Rich.

Judge of District Court.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK.

James Henderson, Benjamine)
W. Henderson and James Hen-)
derson, Jr., partners un-)
der the firm name and style)
of James Henderson and Sons,)
and Melvin Henderson,)
Plaintiffs,)

VS.

Thomas Marley, Mark R. Law-)
rence, William Stinger, Mary)
Davis, and Gwenlion Marley)
(intervenor),)
Defendants.)

This cause having been commenced on May 7, 1901, and thereafter all the parties having duly entered their appearance, W. T. Reeves, Esq. and F. S. Dietrich, Esq., appearing for the plaintiffs, S. C. Winterson, Esq. appearing for Thomas Marley, William Stinger and the intervenor, Gwenlion Marley, and Messrs. Terrill & Guheen appearing for the defendants, Mark R. Lawrence and Mary Davis; And thereafter it was stipulated by the counsel for the respective parties that the cross complaints and the complaint in intervention should be deemed and treated as duly denied with the same force and effect as if verified answers thereto were duly filed.

And thereafter the Court having heard the evidence adduced by the several parties in support of their respective claims and the counsel for the respective parties having made their arguments and the Court being fully advised in the premises and having made and filed herein its findings of fact and conclusions of law.

Now, therefore, in accordance with its findings and conclusions, it is ordered, adjudged and decreed that the waters of Birch Creek and Lost Creek, both of which said creeks are situated in Bannock County, State of Idaho, be and the same are hereby distributed and decreed to the several parties to this suit for beneficial purposes and uses in amounts and of the dates with priority of rights as follows, to-wit:--

To James Henderson, Benjamine W. Henderson and James Henderson, Jr., partners under the firm name and style of James Henderson and Sons; all of the waters of the said Lost Creek and one and one-tenth cubic feet per second of the waters of Birch Creek dating from July 1st 1879.

GRANTOR:

Mrs. Gwendolin Marley, Single.
(Signed, Mrs. Gwendelin Marley.)

GRANTEE:

Dudley P. Armstrong.

Kind of Instrument, - - - - -Quit Claim Deed.

Date of Instrument, - - - - -April 14, 1903.

Consideration, - - - - -Five Hundred (\$500.00) Dollars.

Recorded, - - - - -June 24, 1905, at 3.57 P.M. in
Book "15" of Deeds at Page "302" Records of

Bannock County, State of Idaho.

Acknowledged before F.M.Larson, Justice of the Peace in and for Robin
Precinct, Bannock County, Idaho, April 14, 1903.

Witness, - - - - -F.M.Larson.

DESCRIPTION AND REMARKS:

All the certain right, title and interest of the party of the first
part, of, in, or to the waters of Birch Creek, the same being about
twenty inches as shown by the water location made by said Gwendolin
Marley and recorded in the office of the Recorder of said Bannock County.

Together with all the right, title and interest of the said party
of the first part, in, and to the waters of Marley Creek in said Ban-
nock County.



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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 30, 2002

A29-04168

Nancy Armstrong

P.O. Box 1441

Olympia, Washington 98507

RE: EVIDENCE OF PRIORITY

Dear Claimant (s):

The Idaho Department of Water Resources has recently begun its water right review in Basin 29. The Notice(s) of Claim identified with the number shown above in the "address" label and at the "end" of this letter has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Notice. The date the water was first put to use, known as the priority date, has not been confirmed by a license, Decree, or Permit. For this reason, proof must be provided supporting the priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

It is important that each element of the Notice be substantiated. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

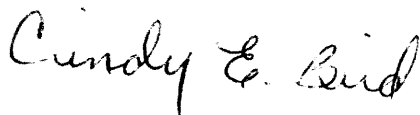
For your reference, I have enclosed the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is Required**" and "**Some examples of Documents Which May Be Evidence of the Priority Date**".

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. **Field exams to verify other items of the Notice need to be conducted by the Department personnel.**

.....
The Department cannot recommend the court decree the Notice if no evidence of a priority date is submitted.
.....

Please submit the documentation supporting the priority date by September 20, 2002, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact me at 547-3993.

Respectfully,



Cindy E. Bird
Adjudication Bureau

Enclosure: Brochure on "Evidence of Priority"
Copy of Claim(s) A29-04168