

Walker Law Office

Attorneys at Law

232 E. Main St.
P.O. Box 828
Weiser, ID 83672

Lary C. Walker
Delton L. Walker

RECEIVED
APR 19 2006
DEPARTMENT OF
WATER RESOURCES
Telephone (208) 414-0390
Facsimile (208) 414-0404

April 17, 2006

CRAIG L SAXTON
DEPARTMENT OF WATER RESOURCES
PO BOX 83720
BOISE ID 83720-0098

RE: Snake River Basin Adjudication (SRBA) claim 67-4542

Dear Mr. Saxton

Enclosed please find Mr. Wiggins Affidavit.

Please call if you need more information or have questions.

Thank you.

Sincerely,

WALKER LAW OFFICE

April C. Rupe

April C. Rupe
Legal Assistant to Lary C. Walker

LCW/acr

AFFIDAVIT OF KERMIT WIGGINS

I, Kermit L. Wiggins, being first duly sworn on oath, deposes and says:

1. My wife Joana Wiggins and I purchased a 40 acre tract of land from Wilbert Maddox and Mae Marie Maddox the 28th of August, 1970, a copy of that deed is attached as exhibit A and incorporated herein.

2. On May 1st, 1992, my wife and I purchased a second tract of land which joined the above tract from Jack and Della Rippen consisting of a little in excess of 40 acres as described in exhibit B attached.

3. These two parcels of land join each other and were irrigated out of the same diversion, ditches and irrigation system. Water was diverted out of Rush Creek approximately a quarter of a mile above the northern boundary of my property, was transported to what appeared to be old existing ditches and conveyed the water to my property which was a little above the river.

4. The ditches also extended through my property to the Rippen 40 acres supplying water from the same diversion point to the Rippen 40 acres.

5. When I purchased the property from Mr. Maddox, I received an abstract of title showing the chain of title to these two 40 acre tracts of land, beginning with John Cuddy, the first owner down through Mr. and Mrs. Maddox.

6. The first entry in the abstract of title was a land patent deed to John Cuddy dated and filed December 31, 1873. A copy of this abstract is attached as exhibit C.

7. When I purchased the property, Mr. Maddox was very old and his neighbor Glenn Farrens had operated the property for a period of years and was very familiar with the irrigation system. Mr. Farrens walked around the property and showed me how the irrigation diversion works, ditches and property which was irrigated.

8. Mr. Farrens was familiar with the property and had lived in the area all his life. I believe Mr. Farrens was proximally 65 years old at the time he showed me the irrigation system.

9. The above referenced abstract of title shows that Mr. Cuddy applied for and posted notice of a claim of water rights dated September 21, 1869, when he was in possession of the 80 acre tract of land, which I now own, because the federal law required the homesteader be on the tract of land for five years prior to the homestead deed.

10. The notice of filing was registered in book 1 page 1 and was therefore the earliest water rights on Rush Creek. Sometime after I purchased the property I checked these records and personally observed and copied these documents, consisting of a copy

of the recording book page and the notice of water rights attached as exhibits D & E contained in the Washington County records.

11. These two documents are identical to those attached to your letter of February 24, 2006. Further, I researched the Muir vs. Allison records along with my attorney Lary C. Walker of Weiser, Idaho and found that the party, who owned the property during the entire Muir vs. Allison proceedings was Charles Wallace and his wife Esther.

12. Mr. Wallace paid irrigation taxes to Cambridge Irrigation District as is referenced in that abstract of title and used the water during that time. Mr. Wallace then sold the property to Mr. Maddox from whom I bought the property.

13. This affidavit is prepared as supplemental support to the water rights claim number 67-4542.

14. When I change the point of diversion from the location approximate one-quarter mile above my property further up Rush Creek, as evidenced in the files of the Department of Water Resources, I made formal application for those changes as would be evidenced by your records.

15. At the same time that I changed the diversion, I also made application to store water in a pond so that I could divert water out of Rush Creek during the early run off-season while there was adequate water to fill my pond without taking from other water rights.

16. When the water of Rush Creek got too low to satisfy my water rights, I then emptied water out of my pond back into the creek in amount equal to what I diverted out of my upper diversion. That is if I took out 200 inches from my upper diversion of Rush Creek I returned 200 inches out of my pond into Rush Creek based on the exchange of use application which I filed with the department which was approved.

17. I am in the process of preparing an application for transfer of water rights when I sold some property to Brett Newbold. Subsequent to the purchase of the above 80 acres, I purchased 160 acres from Mr. Farrens, the son of Glenn Farrens above referenced.

18. That property had separate water rights associated with it. At the time of the sale of the property Mr. Newbold and I agreed that I would install a separate diversion system parallel to the earlier diversion system established and divert water to my ponds and 80 acres based on the water rights that remained with that property. Mr. Newbold retained the first diversion with the original water rights appurtenant to the Farrens' property.

19. Approximately 1 year after the sale to Mr. Newbold, I established that new diversion pipeline which carries the above cuddy water from the same diversion point to

my ponds and my 80 acres. In addition, I irrigated additional 40 acres which is associated with lesser water rights, which should not be confused with the original cuddy water rights on my 80 acres.

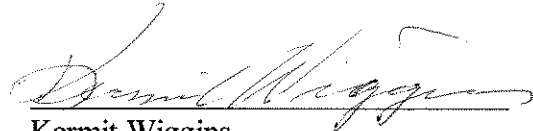
20. The water rights associated with the Farrens 160 acres remained with that property and is irrigated through the original diversion pipeline which has no connection with either my ponds or my 80 acre water right since I installed a separate pipeline in 2001.

21. Because there was not adequate water to benefit both my home place and the newly purchased Farrens' property which was subsequently sold to Mr. Newbold, it was my intention and understanding that the original water rights remained associated with my home place which I transferred as 4184 which was finalized in 1994.

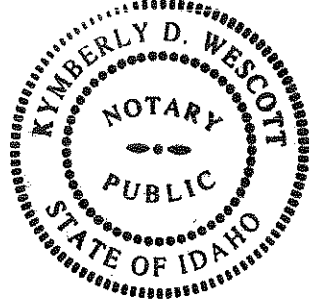
22. This supplement affidavit and my application to transfer water right is for the purpose of keeping the original water rights associated with 67-4514 with my homestead and 80 acres, and all water rights associated with the original Farrens tract of land should be transferred to Brett Newbold.

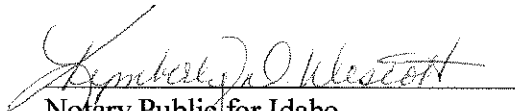
23. I submit this affidavit in support of both the original cuddy and pond storage water rights with the intent of having each tract of land preserved the water rights originally associated with each track. The supporting documentation is documents which are recorded in Washington County and are therefore authenticated as public records documents.

DATED this the 12th day of April 2006


Kermit Wiggins

SUBSCRIBED AND SWORN to before me this 12th day of April 2006




Notary Public for Idaho
Residing at: Weiser
My Commission Expires: 05/17/2010

WARRANTY DEED

WILBERT MADDOX, ET UX

TO

KERMIT WIGGINS, ET UX

DATED: August 28, 1970

INSTRUMENT NO. 115338
STATE OF IDAHO, COUNTY OF WASHINGTON
Filed for record at the request of

Washington County Title Co.

16 Min. past 4:00 o'clock P. M.
21st day of November 1978

99 of Deeds pg 718
BY COUNTY Recorder Fee \$1.00

Pauline Brown

Idaho First National Bank
P. O. Box 230
Weiser, Idaho 83672

INDEXED COMPARED

WARRANTY DEED

FOR AND IN CONSIDERATION OF the sum of One Dollar and other good and valuable consideration in hand paid to WILBERT MADDOX and MAE MARIE MADDOX, husband and wife, of Washington County, State of Idaho, Grantors, by KERMIT WIGGINS and JOANA WIGGINS, husband and wife, of Washington County, State of Idaho, Grantees; the Grantors do hereby grant, bargain, sell and convey unto the Grantees, the following described real estate situated in Washington County, State of Idaho, to-wit:

The Northwest Quarter of the Southeast Quarter of Section Ten (10) in Township Fifteen (15) North, Range Three (3) West of Boise Meridian, and together with any and all water and water rights and irrigation works of whatever nature, used upon, connected with or in anywise appurtenant to said premises.

SAVE AND EXCEPT, the residence and immediate outbuildings around the residence, and that portion of the above described real estate upon which the residence and immediate outbuildings are located. The residence and outbuildings hereinabove immediately described shall be reserved unto the parties of the first part for the natural life of both parties of the first part, or in the event that said parties of the first part shall become so incapacitated due to poor health that they cannot remain on the premises, then the residence and outbuildings will pass to the parties of the second part. The foregoing determination is to be made by two physicians qualified to practice medicine in the State of Idaho. They shall furnish their opinions to the parties of the second part in writing.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises, and that they will warrant and defend the same from all lawful claims whatsoever.

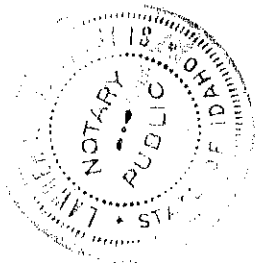
DATED This 18th day of August, 1970.

Wilbert Maddox

Ma Marie Maddox

STATE OF IDAHO)
County of Washington) ss

On this 18th day of August, 1970, before me, a Notary Public in and for said State, personally appeared WILBERT MADDOX and MAE MARIE MADDOX husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.



Lawrence J. Higgins
Notary Public
Residing at: Weiser, Idaho

WARRANTY DEED

INSTRUMENT NO. 154299
PAGE 1 OF 1

For Value Received JACK L. RIPPEN and DELLA RIPPEN, husband and wife,
AND ARNOLD RIPPEN, a single man, AKA ARNOLD M. RIPPEN

the grantor^s, do hereby grant, bargain, sell and convey unto KERMIT L. WIGGINS and JOANA WIGGINS, husband and wife,

whose Address is: P.O. Box 86, Cambridge, ID 83610

the grantees, the following described real estate situated in Washington County,
State of Idaho, to-wit:

A parcel of land in Section 10, Township 15 North, Range 3 West
of the Boise Meridian, in Washington County, Idaho, as follows:

SW1/4SE1/4

And a portion of SE1/4SE1/4 of Section 10, Township
15 North Range 3 West of the Boise Meridian more
particularly described as follows:

BEGINNING at the Northwest corner of said SE1/4SE1/4;

Thence South 89 degrees 02' 46" East along the North line
of said SE1/4SE1/4, a distance of 10.00 feet;

Thence South 0 degrees 17' 19" West along a line 10.00
feet Easterly of and parallel with the Westerly boundary
of said SE1/4SE1/4, a distance of 1319.52 feet to a
point on the South boundary of said SE1/4SE1/4;

Thence North 89 degrees 01' 59" West along said South
boundary, a distance of 10.00 feet to the southwest
corner of said SE1/4SE1/4;

Thence North 0 degrees 17' 19" East along the Westerly
boundary of said SE1/4SE1/4, a distance of 1319.52 feet
to the POINT OF BEGINNING.

This parcel is subject to all easements and rights-of-
way existing on or of record.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees,
their heirs and assigns forever. And the said Grantor s do hereby covenant to and
with the said Grantee s, that they are the owners in fee simple of said premises; that said
premises are free from all incumbrances with the exception of A LIFE ESTATE IN THE
HOUSE AND OUTBUILDINGS, DRIVEWAY, YARD AND GARDEN AREAS IN ARNOLD
RIPPEN.

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated this 1st day of MAY, 19 92

Jack L. Rippen
Jack L. Rippen

Della Rippen
Della Rippen

Arnold M. Rippen
Arnold Rippen

STATE OF IDAHO, COUNTY OF Washington
On this 12 day of May, 19 92
before me, a notary public in and for said State, personally
appeared Jack L. Rippen
Arnold M. Rippen

Jack L. Rippen
known to me as the person whose name s
subscribed to the within instrument, and acknowledged to
me that he has executed the same.

Notary Public
Residing at WEISER, Idaho
Comm. Expires 1-1-93

STATE OF IDAHO, COUNTY OF WASHINGTON

I hereby certify that this instrument was filed for record at
the request of WEISER VALLEY TITLE

at 43 minutes past 15:00 o'clock pm.,
this 6TH day of MAY
19 92, in my office, and duly recorded in BOOK
of Deeds at BOOK # 154299

Mary Kautz

Ex-Officio Recorder

By Carol R. Hurst Deputy.
Fees \$ 3.00
Mail to: WEISER VALLEY TITLE

INSTRUMENT NO.

Comp. Index
Comp. Rel.
Film
Compare
Card Rel.
Bk. Rel.
Update
Return

CAPTION

No. 7910

ABSTRACT OF TITLE

To the following described real estate situated in the County of Washington, State of Idaho, and described as follows, to-wit:

The Northwest Quarter of the Southeast Quarter of Section Ten (10) in Township Fifteen (15) North of Range Three (3) West of the Boise Meridian.

Prepared By
Washington County Title Co
Weiser, Idaho

EXHIBIT C

PAGE 1 OF 1

Names	Water	Date	Book	Page
Cuddy John & Co	Rush Creek	Sep 16 1889	1	1
Colson James	" "	Aug 20 1880	"	30
Cass Harrison	Cottonwood "	May 20 1881	"	33
Cornett Jacob	Fall Creek	June 14 1883	"	71
Chaffee M D	Little River	" 18 1883	"	73
Childs Henry E.	Horset Creek	Aug 17 1883	"	79
Colson J. & Anthony	Winer River	June 18 1884	"	106
Cuddy John	Winer River	Aug 19 1884	"	110
Cuddy John	Winer "	Aug 13 1885	"	134
Carrick Thos & Etal.	Goose Creek	July 23 1886	"	153
Clay C. H. & Etal.	Mingit Creek	June 10 1885	"	137
Colson James & Etal.	Clay, Etal Creek	May 28 1886	"	150
Campbell Norman H.	Indian Creek	May 9 1887	1	172
Clark, J. W.	Little Salmon	June 11 1885	1	174
Clay Thomas	Goose Creek	Sept 21 1888	1	208
Curtis John	Goose Creek	May 18 1889	1	224
Childs H. E.	Lin River	Apr 28 1890	1	242
Craven Jas A	Indian Creek	Aug 4 "	1	254
Campbell John C.	Indian Creek	May 20 1891	1	262
Campbell John C.	Crooked River	Oct. 8 "	"	271
Campbell John	Indian Creek	" "	"	280
Campbell John	Denning Creek	June 20 1892	"	299
Carrick Thomas & Etal.	Bear Creek	Oct 14 1891	"	302
Carewell Wm J	Mud Creek	Aug 1, 1892	"	304
Cookwell L. M.	Bear Creek	May 29 1893	"	321
Cotter Daniel D	Crook Springs	June 12 "	"	326
Campbell J. H.	Spring	July 19 1894	"	330
Cornett, Jacob	"	Aug. 18 "	"	343
Cordell, Rodney	Crane Creek	" 27 "	1	348
Caldwell J. A.	Crane Creek	Nov 30 "	"	348
Campbell J. A.	Bear Creek	May 25 1895	"	358
Campbell J. A.	Little River	Jan 29 1896	"	415
Campbell J. A.	Winer River	July 29 "	"	415
Campbell J. A.	Bear Creek	May 29 1897	"	415

EXHIBIT

D

PAGE

1 OF 1

9504-

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8

Notice is hereby given that we John Cuddy
and Edward D. Tyne have this 16th day of
September A D 1869, claimed and appropri-
ated and we do hereby claim and approp-
riate for irrigating and milling purposes
One thousand cubic feet per minute of
the water of Rush Creek upper Boise
Valley in Ada County Idaho Territory and
that for said purposes it is our intention
to take and turn said 1000 cubic feet of
water per minute from the bed or channel
of said Creek in a flume or Ditch at a
point on said Creek about two miles
above the Lower end of a certain pine
grove near a pine tree marked C & T
and to conduct the same in such flume
or ditch on the Bank of said Creek about
two miles to lower end of said pine grove
and to the place at which we have already
commenced the erection of a water power
mill on said Rush Creek

witness our hands
the day and year first above written

John Cuddy
Edward D. Tyne

Filed for Record at 6 O'clock P.M.
Sept 21st 1869.

W. L. Flippin
Recorder

EXHIBIT E

PAGE 1 OF 1