

RECEIVED

JUL 08 2003

Department of Water Resources
Eastern Region

GARY L. COOPER
REED W. LARSEN
RON KERL
JAMES P. PRICE
M. ANTHONY SASSER
E. W. "SKIP" CARTER
JAMES D. RUCHTI

COOPER & LARSEN

151 NORTH 3RD AVE. - STE. 210
P.O. BOX 4229
POCATELLO, ID 83205-4229

TELEPHONE (208) 235-1145
FAX (208) 235-1182

Attorneys at Law

July 7, 2003

Department of Water Resources
Attn: Ernest Carlsen, Water Rights Supervisor
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

Re: Fernando and Irene Gonzales
Water Right Nos. 29-7984 and 29-7238

Dear Mr. Carlsen:

On April 20, 2003, I sent you a letter indicating that Fernando and Irene Gonzales were investigating the chain of title to their land to determine if they are the first non-Indians to own it. The Gonzaleses were interested in getting an earlier priority date for their rights.

You will find enclosed a copy of a patent deed, dated March 23, 1916, whereby the United States of America deeded the northeast quarter of Section 17, Township 6 South, Range 33 East to Jean L. Cutler, who is identified as "an Indian of the Fort Hall Indian Reservation." The Gonzaleses' property is located within the parcel deeded to Jean Cutler.

Also enclosed is a Certificate of Competency which was recorded in Bannock County on May 8, 1952 and in Power County on April 19, 1956. The description of the property in the opening paragraph includes the parcel now owned by the Gonzaleses. In the Certificate, Earl E. Cutler is named as one of several heirs of Jean Cutler. By virtue of the Certificate, Earl Cutler is given authority by the Bureau of Indian Affairs to sell and convey the land described in the Certificate. Earl Cutler's status as an Indian is shown on the enclosed Allotment Card, which shows his I.I.M. No. as C-68.

The Gonzaleses purchased their property from Earl Cutler. The conveyances are evidenced by Warranty Deeds, dated May 10, 1974 and May 10, 1976, copies of which are enclosed.

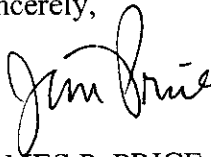
July 7, 2003

Page 2

Earl Cutler is deceased. According to the Gonzaleses, at the time they purchased the property, Mr. Cutler was using a small pump to get water from the well for culinary purposes and to irrigate a small parcel of land. Within a couple years after the Gonzaleses purchased the property, they installed a larger pump and expanded the use of the water to irrigate a number of acres, as claimed in their water rights. They were the first non-Indians to develop and use the water in the manner it is being used today.

Based upon the foregoing, the Gonzaleses request that the priority date of their water rights date back to the establishment of the Fort Hall Indian Reservation. If additional information is necessary, or if our office can be of further assistance, please call me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Price".

JAMES P. PRICE

JPP:mn

Enclosures

98-353

RECEIVED

JUL 08 2007

Department of Water Resources
Eastern Region

4-1067.

496826.
37106-13. I.O.

61 1/2 A.

The United States of America,

On all to whom these presents shall come, Greeting:

WHEREAS, a schedule of allotments approved by the Secretary of the Interior has been deposited in the General Land Office, whereby it appears that Jean L. Cutler,

an Indian of the Fort Hall Reservation, has been allotted the following-described land:

The east half of the southeast quarter of the southeast quarter of Section twenty-two in Township five south of Range thirty-four east and the northeast quarter of Section seventeen in Township six south of Range thirty-three east of the Boise Meridian, Idaho, containing one hundred eighty acres,

according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in accordance with the provisions of the Act of Congress of February 23, 1889 (25 Stat., 688), HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said

Jean L. Cutler

and to her heirs, the lands above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said

Jean L. Cutler

and to her heirs forever, with the provision that the title hereby acquired shall not be subject to alienation, lease, or incumbrance, either by voluntary conveyance of the grantee or her heirs, or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalienable and not subject to taxation for the period of twenty-five years, and until such time thereafter as the President may see fit to remove the restriction. 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,

Woodrow Wilson

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-THIRD

day of MARCH in the year of our Lord one thousand nine hundred and SIXTEEN and of the Independence of the

United States the one hundred and FORTIETH.

By the President:

By

Woodrow Wilson

W. D. Lacey, Secretary.

J. D. Lacey
Recorder of the General Land Office.

RECORDED: Patent Number 520422

RECORDED

281862

1952 MAY -8 PM 3:47

CLERK, JUDITH B. RECORDER
BANK, COUNTY, IDAHO.

RECEPTION
FILE BOOK
FILE BINDER
RECORD REAR
INDEXED

113

Deeds No. 593

RECORDS OF BANNOCK COUNTY
STATE OF IDAHO

Anna Hecker
RECORDED

DEPUTY
AT REQUEST OF
FEE \$ 1.25
107620

Fee 150

Deputy

Recorder

Anna Hecker

at 401

day of April 19 5th and record-
ed in book 113 of Deeds

Filed at 5 minutes past
11 o'clock P. M., this 19th day

Anna Hecker
certify that this instrument was filed
for record at the request of

County of Power } ss. I hereby

State of Idaho,

Instrument No

281862

107620

107620

CERTIFICATE OF COMPETENCY

Allotment No. 61-1/2A

DESCRIPTION: East Half Southeast Quarter SouthEast Quarter Section Twenty-Two, Township Five South, Range Thirty-Four East, B.M., (E/2 SE/4 SE/4 Sec. 22, T. 5 S., R. 34 E., B.M.) and North Half Northeast Quarter Section Seventeen, Township Six South, Range Thirty-Three East, B.M., (N/2 NE/4 Sec. 17, T. 6 S., R. 33 E., B.M.);

The total acreage in the above-described land is One Hundred (100) acres, being all of Allotment No. 61-1/2A except that portion sold to the War Department by condemnation proceedings, date filed March 12, 1943, described as the South Half Northeast Quarter Section Seventeen, Township Six South, Range Thirty-Three East, B.M. (S/2 NE/4 Sec. 17, T. 6 S., R. 33 E., B.M.,) in Power County, Idaho, containing Eighty (80) acres, more or less.

WHEREAS, Andrew F. Cutler, Charles Girard Cutler, Earl E. Cutler, Homer Martin Cutler, Irene C. Crawley, John R. Cutler, Joseph S. Cutler, L. A. Cutler, Maggie Mae Cutler Cates, and Parley Elvin Cutler, heirs of Jean L. Cutler, deceased Fort Hall allottee No. 61-1/2A, have made application for the issuance of a Certificate of Competency under the provisions of Section 1 of the Act of Congress approved June 25, 1910 (36 Stat. L. 855) as Amended; and

WHEREAS, upon the investigation, consideration, and examination of the request, Andrew F. Cutler; Charles Girard Cutler; Earl E. Cutler; Homer Martin Cutler; Irene C. Crawley; John R. Cutler; Joseph S. Cutler; L. A. Cutler; Maggie Mae Cutler Cates; and Parley Elvin Cutler have been found to be fully competent and capable of transacting their own business and caring for their own individual affairs;

NOW, THEREFORE, pursuant to authority delegated to the Area Director by Order No. 551 of the Commissioner of Indian Affairs, dated March 29, 1951 (16 F.R. 2939), he does hereby issue to Andrew F. Cutler, Charles Girard Cutler, Earl E. Cutler, Homer Martin Cutler, Irene C. Crawley, John R. Cutler, Joseph S. Cutler, L. A. Cutler, Maggie Mae Cutler Cates, and Parley Elvin Cutler this Certificate of Competency, and does hereby invest them with full power and authority to sell and convey any or all lands above described.

This Certificate of Competency will become effective thirty days from the date hereof.

Done at the Bureau of Indian Affairs, Portland Area Office, Portland, Oregon, this 11th day of September 1951.

The Portland Area Office Recording
Volume 1 Page 2 of 1
FHX

Area Director
Area Director *TEL*

INDEXED

COMPARED

RECORDED

287863

1952 MAY 20 PM 3:43

CLERK, AND RECORDER
BANK OF AMERICA, N.A.

RECEIVED
FEE RECEIVED
RECORDED
APPROPRIATE
INDEXED

Instrument No.

State of Idaho, } ss. I hereby
County of Power } certify this instrument was filed
for record at the request of

James Crawley

Filed at 9 minutes past
4 o'clock P M., this 19th
day of April 1956 and record-
ed in book 94 of Maps
at 656

W. J. Adams
Recorder

By Deputy

Fee 1.00

1952 MAY 15

Miscel 157
RECORDS OF STEVENSON COUNTY

STATE OF IDAHO

W. J. Adams
RECORDER

DEPUTY

FE \$ 1
FEE OF

1952 MAY 15

ALLOTMENT CARD

Allotment No. 61-1/2-A Original Allottee Jean L. Cutler

Legal Description E/2 SE/4 SE/4 Sec. 22, T 5 S, R 34 E; and NE/4 Sec. 17,

FREE WATER
EARS: T 6 S, R 33 E B M

939-940

180 Acres

STATE OF OWNERSHIP

C-57

Original (x)

Probate No. 17974-46

Heirship ()

Relinquished in lieu ()

Certificate of Competency 9-11-51

Fractional Owners

I.I.M. No.	Al. No.	Name	ID or An. Number	Share
<u>Note- 5th NE 1/4 Sec 17 65 33 sold to U.S. War Department by Condemnation Proceedings.</u>				
<u>C-78</u>	<u>41</u>	<u>Maggie Martin Cutler</u>	<u>mother</u>	<u>1/2</u>
<u>C-75</u>	<u>Unal.-NE *</u>	<u>Andrew O. Cutler</u>	<u>father 5-18-47</u>	<u>1/2 *</u>
<u>Heir of Andrew O. Cutler, Probate State Court-2-2-50</u>				
<u>Instrument No. 68290</u>				
<u>C-78</u>	<u>41</u>	<u>*Maggie Martin Cutler</u>	<u>Wife All of 1/2 or</u>	<u>1/2 *</u>
<u>Heirs of Maggie Martin Cutler, Probate 23168-49 & State Probate 7/1</u>				
<u>C-65</u>		<u>Andrew F. Cutler</u>	<u>Son</u>	<u>1/10</u>
<u>C-60</u>		<u>Maggie May Cutler Cates</u>	<u>Daughter</u>	<u>1/10</u>
<u>C-55</u>		<u>Homer Martin Cutler</u>	<u>Son</u>	<u>1/10</u>
<u>C-53</u>	<u>594</u>	<u>Charles Girard Cutler</u>	<u>Son</u>	<u>1/10</u>
<u>C-74</u>	<u>42</u>	<u>Joseph S. Cutler</u>	<u>Son</u>	<u>1/10</u>
<u>C-68</u>	<u>514</u>	<u>Earl E. Cutler</u>	<u>Son</u>	<u>1/10</u>
<u>C-66</u>	<u>501</u>	<u>Leonard A. Cutler</u>	<u>Son</u>	<u>1/10</u>
<u>C-71</u>	<u>580</u>	<u>Mary Irene Cutler Crawley</u>	<u>Daughter</u>	<u>1/10</u>
<u>C-62</u>	<u>608</u>	<u>Parley Elvin Cutler</u>	<u>Son</u>	<u>1/10</u>
<u>C-58</u>	<u>710</u>	<u>John Robert Cutler</u>	<u>Grandson</u>	<u>1/10</u>

Certificate of Competency issued 9-11-51 for that portion remaining in restricted status, described as E/2 SE/4 SE/4 Section 22, T. 5 S, R. 34 E., B.M. and N/2 NE/4 Section 17, T 6 S, R. 33 E., B.M., Idaho, containing 100 acres

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For Value Received

EARL E. CUTLER and SARAH J. CUTLER, husband and wife
the grantors, do hereby grant, bargain, sell and convey unto

FERNANDO GONZALES and IRENE GONZALES, husband and wife
whose current address is 408 W. 1st, Portland, Idaho

the grantees, the following described premises, in Bannock.....County Idaho, to wit:

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 6 SOUTH, RANGE 33, E. B. M., POWER COUNTY, IDAHO, THENCE ALONG THE SECTION LINE IN AN EASTERLY DIRECTION 264 FEET; THENCE SOUTH 1320 FEET; THENCE WEST 264 FEET; THENCE NORTH 1320 FEET TO THE POINT OF BEGINNING. EXCEPT, BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 6 SOUTH, RANGE 33 E. B. M., THENCE ALONG THE SECTION LINE IN AN EASTERLY DIRECTION 264 FEET; THENCE SOUTH 1320 FEET; THENCE WEST 264 FEET; THENCE NORTH 1320 FEET TO THE POINT OF BEGINNING...

335, 52

STATE OF IDAHO
COUNTY OF POWER

I hereby certify that the foregoing instrument is a full, true and correct copy of the original on file in the office of the undersigned Clerk of the District Court, of the Sixth Judicial District of Idaho, for Power County.

CHRISTINE STEINLICHT

By Marceline M. M. M. M. DEPUTY CLERK

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said 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; that they are free from all incumbrances

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

Dated: May 10, 1974

Earl E. Cutler

Sarah J. Cutler

STATE OF IDAHO, COUNTY OF Bannock

On this 10th day of May, 1974.
Before me, a notary public in and for said State, personally
appeared

Earl E. Cutler & Sarah J. Cutler, h&w

known to be the persons whose names are
subscribed to the within instrument, and acknowledged to
me that they executed the same.

Residing at Pocatello
Comm. Expires 12-24-74

Instrument No. 105628

State of Idaho }
County of Power } SS

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

Filed at 2:44
o'clock P. M., this 13th
day of May 19th 1936 and
Recorded Instrument
133625 in Drawer

Helen Hall, Recorder

By
Deputy

IMPORTED BY THE AMERICAN LAND TILL CO., FORT WORTH, TEXAS

WARRANTY DEED

For Value Received

EARL E. CUTLER AND SARAH J. CUTLER, HUSBAND & WIFE

the grantors, do hereby grant, bargain, sell and convey unto

FERNANDO GONZALES AND IRENE GONZALES, HUSBAND & WIFE

408 North 7th, Pocatello, Idaho

the grantees, the following described premises, in Power County Idaho, to wit:

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER
OF SECTION 17, TOWNSHIP 6 SOUTH, RANGE 33 E.B.M., POWER COUNTY, IDAHO,
THENCE ALONG THE SECTION LINE IN AN EASTERLY DIRECTION 130 FEET, THENCE
SOUTH PARALLEL TO THE MERIDIONAL CENTERLINE OF SAID SECTION 335.5 FEET
THENCE WEST PARALLEL WITH THE NORTH SECTION LINE OF SAID SECTION 17,
130 FEET, THENCE NORTH ALONG THE MERIDIONAL CENTERLINE 335.5 FEET
TO THE POINT OF BEGINNING...

STATE OF IDAHO
COUNTY OF POWER

} ss.

I hereby certify that the foregoing instrument is a full, true
and correct copy of the original on file in the office of the under-
signed Clerk of the District Court, of the Sixth Judicial District of
Idaho, for Power County.

CHRISTINE STEINLICH

By

Marcus Schelke

DEPUTY CLERK

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees,
their heirs and assigns forever. And the said Grantors do hereby covenant to and
with the said Grantees, that they the owners in fee simple of said premises; that they are free
from all incumbrances, except taxes and easements that appear of record.

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

Dated: May 10, 1976

STATE OF IDAHO, COUNTY OF Bannock
On this 10th day of May 1976
before me, a notary public in and for said State, personally
appeared

EARL E. CUTLER & SARAH J. CUTLER
HUSBAND & WIFE

Known to me to be the persons whose names are
subscribed to the within instrument, and who are
not under any legal disability, and they acknowledged the same.

Notary Public
Residing at Pocatello, Idaho
Comm. Expires 12-31-77

RECORDED

105235

PROFESSIONAL LAND SURVEYOR

May 10 1976

105235

3125

RECEIVED

JUL 08 2004

496326.

37106-13. I.O.

Department of Water Resources
Eastern Region

4-1067.

61½ A.

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a schedule of allotments approved by the Secretary of the Interior has been deposited in the General Land Office, whereby it appears that Jean L. Cutler,

an Indian of the Fort Hall Reservation, has been allotted the following-described land:

The east half of the southeast quarter of the southeast quarter of Section twenty-two in Township five south of Range thirty-four east and the northeast quarter of Section seventeen in Township six south of Range thirty-three east of the Boise Meridian, Idaho, containing one hundred eighty acres,

according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in accordance with the provisions of the Act of Congress of February 23, 1889 (25 Stat., 688), HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said Jean L. Cutler

and to her heirs, the lands above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said Jean L. Cutler

and to her heirs forever, with the provision that the title hereby acquired shall not be subject to alienation, lease, or incumbrance, either by voluntary conveyance of the grantee or her heirs, or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalienable and not subject to taxation for the period of twenty-five years, and until such time thereafter as the President may see fit to remove the restriction. 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,

Woodrow Wilson

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-THIRD

day of MARCH in the year of our Lord one thousand

nine hundred and SIXTEEN and of the Independence of the

United States the one hundred and FORTIETH.

By the President: *Woodrow Wilson*

By *W. D. Leary*, Secretary.

J. D. Samson
Recorder of the General Land Office.

6-1067

RECORDED; Patent Number 520422

INDEXED

Instrument No

State of Idaho, } ss.
County of Power

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

James Crawford

Filed at 5 minutes past

4 o'clock P M, this 19th

day of April 19 56 and record-

ed in book 113 of Book 113

at 401

Clark Adams
Recorder

By Free 150 Deputy

RECORDED

0145 # 417

DEPUTY
AT REQUEST OF
\$ 1.25
10 2 20

RECORDER

Anna Heeler

RECORDS OF BANNOCK COUNTY

Book 113

113

RECEPTION
FILE BOOK
RECORDED
INDEXED

RECORDED

287882

1952 MAY -8 PM 3:47

CLERK, JAMES S. RECORDER
BANNOCK COUNTY, IDAHO