



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

Keith Winschell
2225 Rose Road
Blackfoot, Idaho 83221

Bullann

*ownership chg
in file.*

April 23, 2003

Re: Evidence of Priority

Claim No.(s) A27-04097

Dear Claimant (s):

The Idaho Department of Water Resources has begun its water right review in Basin 27. The Notice(s) of Claim identified with the number shown above, 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.

.....
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 May 23, 2003, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter, please feel free to contact me at 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

Enclosure: Brochure on "Evidence of Priority"
Adjudication Claim Report

4/30/03 1pm phone conversation with Beth Ann.

I explained that her father claimed irrigation and stock with a 6-5-1925 priority date, and that it's her responsibility to submit evidence. Affidavit or warranty deeds would work.

She said the land has been in the family for 4 generations and they are all dead now. But she will speak with a step-uncle about the irrigation practice.

AFFIDAVIT

STATE OF MONTANA)
 : ss.
County of Lewis and Clark)

COMES NOW, Marjorie Mihelish, and after first having been duly sworn, deposes, and says:

1. That her married name is Marjorie Mihelish.
2. That her maiden name was Marjorie Winschell.

3 That her father, Lester E. Winschell, owned the real estate currently owned by Beth Ann Winschell. That your affiant can recall as early as 1925 her father utilizing the water right for the irrigation of alfalfa. In later years your affiant can recall her brother, Keith Winschell, utilizing the water right to irrigate grain. More recently and up to the present, the water right has been used by Beth Ann Winschell to water pasture for cattle. Beth Ann Winschell depends upon this cattle crazing revenue for her livelihood.

4. Your affiant actually remembers observing the above-described beneficial uses of the water as opposed to having been told of them by someone else.

Further affiant sayeth not.

DATED this 8th day of May, 2003.

Marjorie Mihelish
Marjorie Mihelish

SUBSCRIBED AND SWORN TO before me this 8 day of May, 2003.

Thomas Q. Jensen
Notary Public for the State of Montana

THOMAS Q. JENSEN
Print Name
Residing at Helena, Montana
Commission expires November 7, 2003

(SEAL)

