



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

April 1, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Walter A. Gay
628 W. 300 S.
Blackfoot, ID 83221

REF: Snake River Basin Adjudication (SRBA)
Claim 27-10844.

Subject: Welch Water

COPY

RESPONSE DATE: APRIL 29, 2004

Dear Walter;

After our phone discussion today I was able to review the documents that you submitted as evidence of ownership of the Welch Water. There are too many wholes in the documents to conclusively determine that you have Welch water. Some of the documents don't refer to your land. You'll need to do some additional research as suggested below:

Exhibit 1: When James V. Burningham purchased the 60 acres from Celia Robinson she conveyed 25 inches of Blackfoot water. But it is not apparent which decree it comes from. You will need to research where Robinson got the water from.

Exhibit 2: Where did James Burningham acquire 40 inches of Welch water to convey to Wallace Wright with the 40 acres?

Exhibit 3: Cyril Wright conveyed to Wallace Wright 1/3 interest in 25 inches of decreed water right. What decree? This land does not fit in the legal description for James W. or Sarah Welch.

Exhibit 4: The water deed to Wallace Wright from James W. and Sarah Welch was for 26 inches alone isn't enough evidence that it was on your piece of property alone. Wallace Wright owned more than 26 acres.

I also checked through the documents that La Verelle Stecklein submitted and can't get to the 21.5 inches of water on your property. You might talk with La Verelle and see if he was able to find any additional documents. I spoke with La Verelle on the 16th of March about the discrepancies and he said he would see what he could find.

If you have any additional questions, please feel free to contact me in Soda at 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

Cc: La Verelle Stecklein

COPY



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

February 24, 2004

COPY

WALTER A AND IRMA M GAY
628 W 300 S
BLACKFOOT ID 83221

RE: SRBA Claim based on decreed water right No. 27-10844

Dear Claimant(s):

I am the Deputy Attorney General assigned to represent the Idaho Department of Water Resources (IDWR or the "Department") in Basin 27 in the Snake River Basin Adjudication.

The Department of Water Resources is currently investigating water right claims in Basin 27. IDWR information indicates that your water right claim is based on a water right decreed in *Stevens v. Eastern Idaho Water Co.*, Judgment Book 1, pp. 106-117 (Bingham County, Idaho August 1, 1891), to James Welch. This water right was decreed for 400 inches (8.0 cfs) with a March 20, 1886, priority date. This water right was numbered sometime after the decree by IDWR as water right no. 27-37.

The Department has received multiple claims to this water right totaling more than 8.0 cfs. In order to make a complete and accurate recommendation of your water right, each element of the water right must be proven. The Department needs information that shows you are a successor to the original James Welch water right. This could be established through deeds or other conveyance documents that show you own a portion of the original water right.

Please provide this information by March 26, 2004, to Cindy Bird at the Soda Springs Office for the Idaho Department of Water Resources. You can contact her at 208-547-3993. If you have any further questions regarding this matter, you can contact Cindy or you can contact me directly at 208-327-5404.

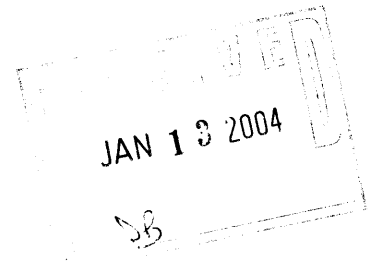
Very Truly Yours,


Candice M. McHugh
Deputy Attorney General
Idaho Dept. of Water Resources

c: electronically Cindy Bird, IDWR

January 12, 2004

Cindy E. Bird
Adjudication Bureau
State of Idaho
Department of Water Resources
15 West Center Street
Soda Springs, ID 83276



Re: Snake River Basin Adjudication (SRBA)
Claim 27-10844

Dear Ms. Bird:

In researching the earliest use of Blackfoot river water on my property (E $\frac{1}{2}$, SW $\frac{1}{4}$, of SE $\frac{1}{4}$, Section 13 Ts 3S R34 east Boise Meridian), the first transaction I found was exhibit #1. Earlier transactions are not available in the Bingham County courthouse.

This is the sale of my property and 40 acres south of me and includes 25 inches of decree water which was part of the Daniel Y. Miller decree in the Fred S. Stevens decree in primary use of Blackfoot River water.

The next transaction exhibit #2 splits the sixty acres into a 40-acre plot with $\frac{2}{3}$ of the Miller water and an undivided interest in $\frac{2}{3}$ of 40 in of Welch water.

The next transaction recombines the original sixty acres the 25 in of the Miller water and $\frac{2}{3}$ undivided interest in the 40 in of Welch water exhibit #3.

Exhibit #4 was a purchase of another 26 in of Welch water.

The recombined sixty acres at this time claimed to have 25 in of Daniel Y. Miller water, $\frac{2}{3}$ undivided interest in 40 in of Welch water and 26 in of additional Welch water. I subsequently purchase 20 of the sixty acres. I should have made claim for a $\frac{1}{3}$ undivided interest in 25 in of Miller water, $\frac{1}{3}$ interest in $\frac{2}{3}$ interest in 40 in of Welch water and $\frac{1}{3}$ interest in another 26 in of Welch water.

I hope this will provide evidence of use of Blackfoot River water as early as 4/1/1883 of at least a portion of my irrigation water right. I am sure but haven't been able to prove the Welch water was being used to irrigate the near by farms when the Welch mine failed in 1891..

Please advise of any further actions. I need to take to protect my rights to use Blackfoot River water.

Sincerely,

A handwritten signature in cursive script, appearing to read "Walter A. Gay".

Walter A. Gay
628 West 300 South
Blackfoot, ID 83221

DEED RE ORD, BINGHAM COUNTY

No. 555

QUITCLAIM DEED

Exhibit #1

BOOK NO. 15

This Indenture, made the fifth day of May

in the year of our Lord one thousand nine hundred and eleven between

Celia Robinson (widow)

of the County of Bingham and State of Idaho

the part y of the first part, and

James V. Burningham

of the County of Bingham and the State of Idaho

the part y of the second part.

Witnesseth, That the said part y of the first part, for and in consideration of the sum of

Sixty two hundred & no/100 (\$6200.00)

DOLLARS, lawful money

of the United States of America, to her in hand paid by the said part y of the second part, the receipt whereof is hereby acknowledged, do by these presents demise, release and forever quitclaim unto the said part y of the second part, and to his heirs and assigns all th certain lot, piece, or parcel of

land situated in the County of Bingham, and State of Idaho, and bounded and particularly described as follows, to-wit:

The east half of the southwest quarter of the southeast quarter of section thirteen, & the east half of the northwest quarter of the northeast quarter & the east half of lot two in section twenty four; all in township three south of range thirty four east of Boise Meridian, containing sixty acres, more or less; together with all ditches, ditch rights of way and water right thereto belonging or in any way appertaining and particularly twenty five inches of the primary right in the Blackfoot river, according to a decree of the Court of the fifth judicial district in Idaho, which was rendered August the first 1891. This indenture is given subject to the second party paying the taxes of the year 1911.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

To Have and to Hold, All and singular, the said premises, together with the appurtenances unto the said part y of the second part, and to his heirs and assigns forever.

In Witness Whereof, The said party of the first part has hereunto set her hand and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of

Frank C. Parkinson

Celia Robinson (SEAL)

(SEAL)

(SEAL)

(SEAL)

State of Idaho

SS

County of Bingham

On this fifth day of May in the year of 1911 before me F. C. Parkinson a Notary Public in and for said county and state personally appeared Celia Robinson (widow) known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires Sept 16th, 1911 Seal F. C. Parkinson, Notary Public

Recorded at request of Parkinson Realty & Invest Co June 6, 1911 at 10:00 AM J. M. Carruth

Recorder.

By J. M. Carruth

DEED RECORD, BINGHAM COUNTY

THE GATSON PRINTERS, LTD., CALDWELL IDAHO 13110

James V. Burningham et ux
TO
Wallace B. Wright

No. 514

Exhibit #2

cf 112 1917
4-10-1917

THIS INDENTURE, Made the 10th day of April in the year of our Lord one thousand nine hundred and Seventeen between James V. Burningham and Annie M. Burningham, his wife

of the County of Bingham and State of Idaho the parties of the first part, and Wallace B. Wright

of the County of Bingham and State of Idaho the party of the second part,

WITNESSETH, That the said part of the first part, for and in consideration of the sum of Five thousand and no/100 (\$5000.00) DOLLARS, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents grant, sell, bargain and convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the certain lot, piece or parcel of land situate, lying and being in the County of Bingham, and State of Idaho, and bounded and described as follows, to-wit:

The east half of the southwest quarter of the southeast quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Thirteen (13) and the East half of the East half of the Northwest quarter of the Northeast quarter (E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) and the East half of the East half of lot 2 (E $\frac{1}{2}$ E $\frac{1}{2}$ lot 2), excepting that part of lot Two lying immediately south of lot One (1), of section twenty-four (24), all in township Three south of range thirty-four (34) east of Boise Meridian in Idaho, containing 40 acres, more or less, together with all ditches, ditch rights of way and water rights thereto appertaining and belonging and particularly a 2/3 undivided interest in and to 25 inches of decreed water right belonging to said land and adjoining land; also a 2/3 undivided interest in and to 40 inches of decreed water right of James G. Welch, deceased, which was transferred to the grantor herein by the Administrator of the estate of James G. Welch, deceased; said decreed water being of the waters of the Blackfoot River as decreed in the suit of Fred S. Stevens, et., al., vs. Eastern Idaho Canal Company.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular, the said premises, together with the appurtenances and privileges thereto incident, unto the said party of the second part, and to his heirs and assigns forever, and the said parties of the first part and their heirs, and the said premises in a quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of
W. H. Stufflebeam
James V. Burningham SEAL
Annie M. Burningham SEAL
SEAL
SEAL

STATE OF IDAHO)
County of Bingham) ss.

On this 10th day of April in the year of 1917, before me W. H. Stufflebeam, a Notary Public, in and for said county and state, personally appeared James V. Burningham and Annie M. Burningham, his 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. In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires Nov. 13th, 1919. (Seal)
W. H. Stufflebeam, Notary Public.
Residence, Blackfoot, Idaho.

Recorded at request of Wallace B. Wright, April 28, 1917 at 3:25 P. M. F. M. Fisher Recorder
Recorder's fees, \$ 1.25
By F. E. Camody Deputy Recorder.

THIS INDENTURE, Made the 15 day of November in the year of our Lord one thousand nine hundred and seventeen, between Cyril J. Wright and Ester A. Wright his wife of the County of Bingham and State of Idaho, the parties of the first part, and Wallace B. Wright of the County of Bingham and State of Idaho, the party of the second part,

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Twenty Seven hundred - - - - - DOLLARS, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged

do by these presents grant, sell, bargain and convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the certain lot, piece or parcel of land situate, lying and being in the County of Bingham and State of Idaho, and bounded and described as follows, to-wit:

The West half the East half of the North east quarter of the northeast quarter and the West half of the east half of the Lot Two, all of Section Twenty-four, in Township Three, South of Range Thirty-four East of the Boise Meridian in Idaho. and Containing Twenty-acres more or less, Together with all Ditch-rights and rights of Way and Water rights thereto appertaining, and be longing, and particularly a 1/3 undivided Interest in and to 25 inches of Decreed water right, belonging to said Land, and adjoining land.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the rents, issues and profits thereof

TO HAVE AND TO HOLD, All and singular, the said premises, together with the appurtenances and privileges thereto incident, unto the said party of the second part, and to his heirs and assigns forever, and the said parties of the first part, and their heirs, and the said premises in a quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals, the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

J. H. McDonald.

Cyril J. Wright

[SEAL]

Esther A. Wright

[SEAL]

[SEAL]

[SEAL]

STATE OF IDAHO,
County of Bingham } ss.

I DO HEREBY CERTIFY, That on this 15 day of November in the year 1917, before me, J. H. McDonald, a Notary Public, in and for said County and State, personally appeared Cyril J. Wright and Ester A. Wright his wife known to me to be the persons whose names are subscribed to the within and foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Blackfoot the day and year first above written.

My commission expires July 8, 1920. J. H. McDonald, Notary Public.

Recorded at the request of Bingham Abstract Co. Ltd. Oct 18, 1919 at 10:36 A. M.

F. M. Fisher,

Recorder.

THIS INDENTURE, made the 28th day of April in the year of our Lord one thousand nine hundred and seventeen between Sarah A. Welch, widow, and James W. Welch, unmarried, sole heirs of James W. Welch, deceased of the County of Bingham and State of Idaho the parties of the first part, and Wallace B. Wright, of the County of Bingham and State of Idaho, the party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of One Hundred ninety DOLLARS, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents demise, release and forever quitclaim unto the said party of the second part, and to his heirs and assigns, all that certain lot, piece, or parcel of land situated in the County of Bingham, and State of Idaho, and bounded and particularly described as follows, to-wit:

Twenty-six (26) inches of the waters of Blackfoot River diverted in Bingham County, Idaho, from the decreed water right of the said James W. Welch, now deceased, said decreed water right being for four hundred inches of the waters of Blackfoot River with date of priority March 20, 1886.

W. H. H. APR. 1 1883

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular, the said premises, together with the appurtenances unto the said party of the second part, and to his heirs and assigns forever.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the presence of

John W. Jones.

Hettie Baker.

James W. Welch. (SEAL)

Sarah A. Welch. (SEAL)

(SEAL)

(SEAL)

State of Idaho,) ss.
County of Bingham.)

On this 28th day of April in the year of 1917, before me John W. Jones a Notary Public in and for said county and state personally appeared James W. Welch, unmarried, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires July 15, 1917. (Seal)

John W. Jones, Notary Public for Bingham County, Idaho, residing at Blackfoot, therein.

State of Oregon,) ss.
County of Baker,)

On this 7th day of May, in the year of 1917, before me Henry J. Baker a Notary Public in and for said county and State personally appeared Sarah A. Welch, widow, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires March 20, 1920. (Seal)

Henry A. Baker, Notary Public for Baker County Oregon, residing at Halfway, Ore.

Recorded at request of W. B. Wright, October 31, 1917, at 2:25 P.M.

Recorder's Fees, \$

By E. K. Fisher, Recorder.



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

9 December 2003

Walter A. Gay
628 West 300 South
Blackfoot, ID 83221

Re: Snake River Basin Adjudication (SRBA)
Claim 27-10844

Subject: EVIDENCE OF PRIORITY DATE

COPY

Response Date: 8 January 2004

Dear Claimant(s):

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

The referenced claim is not a decreed right based on Welch Irrigation. In the Stevens' 1891 decree the Welch water was decreed as mining, not irrigation and cannot be converted to irrigation. The mining purpose is non-consumptive while, irrigation is consumptive. Therefore, it can only be recommended to the Court as a beneficial use claim. However, before we can prepare the recommendation, we need evidence to support when the water was put to beneficial use for irrigation.

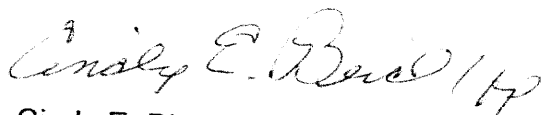
It is important that each element of the Notice be substantiated. For claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place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

If we do not hear from you by the above referenced response date we will recommend to the Court that this claim be disallowed.

If you have any questions not covered by this letter, please feel free to contact me at 547-3993.

Respectfully,

A handwritten signature in cursive script that reads "Cindy E. Bird".

Cindy E. Bird
Adjudication Bureau

CEB/bjp

Enclosure: Evidence of Priority Brochure